

**TAMAYA HOUSING, INC.**

**HOMEOWNERSHIP PROGRAM  
ADMISSIONS, OCCUPANCY, COLLECTION, TERMINATION AND GRIEVANCE  
POLICIES AND PROCEDURES**

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THI HOMEOWNERSHIP PROGRAM ADMISSIONS, OCCUPANCY,  
COLLECTION, TERMINATION AND GRIEVANCE POLICIES AND PROCEDURES

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## **SECTION I. INTRODUCTION**

### **A. POLICY STATEMENT**

The Tamaya Housing, Incorporated (“THI”) is the tribally designated housing entity (“TDHE”) of the Pueblo of Santa Ana authorized to administer funds under NAHASDA to provide housing for low income Santa Ana families and to provide other model housing activities.

It is the policy of the THI to provide safe, decent, sanitary, and affordable housing to low-income Santa Ana families. These Policies and Procedures are enacted to govern the actions of the THI and its Homebuyers and ensure that the Homeownership Program is managed consistent with applicable federal laws and regulations and that applicants and Homebuyers are treated fairly and consistently.

These policies and procedures are applicable to all Homebuyers of the THI and have the force and effect of law. A copy of these Policies shall be provided to all Homebuyers. All Homebuyers shall sign an acknowledgment that they have received a copy of, and read, these Policies. A copy of the acknowledgement shall be put in the Homebuyer’s file.

### **B. PURPOSE**

These Policies and Procedures apply to the selection and admission of applicants, collection of required monthly payments, termination of leases and evictions, and hearing of grievances; and set forth occupancy requirements. It is the purpose of the THI to achieve the following goals:

1. To assist in alleviating the shortage of decent, safe, sanitary and affordable housing on the Pueblo of Santa Ana by providing such housing for low income Santa Ana families and other Santa Ana families in need of housing;
2. To plan for future development of housing on the Pueblo of Santa Ana;
3. To generate sufficient revenue to operate a self-sufficient housing entity.

### **C. DESCRIPTION OF HOMEOWNERSHIP PROGRAM**

The THI Homeownership Program provides home ownership opportunities for qualified low-income Santa Ana families. It affords a Santa Ana family (called the “Participant” or “Homebuyer”) an opportunity to purchase decent, safe, sanitary and affordable housing under a Lease Purchase Agreement (“LPA”), which is a lease with an option to purchase. The Homebuyer, in return must fulfill his/her obligations to make monthly payments, to pay for the cost of utilities and to provide all maintenance on the home.

The Homeownership Program may have different requirements depending on the year in which the Participant entered the program. Each Participant should read his/her Agreement to understand his/her obligations under the Program they are in. These Policies apply to all lease purchase agreements unless specifically stated otherwise.

Homes constructed under this Program after the date of adoption of this Policy shall be constructed in accordance with the residential building standards of the International Residential Code.

**D. DEVELOPMENT ON SCATTERED SITES**

1. These Policies are applicable to Homebuyers residing on scattered sites except where specifically noted.
2. A tribal member may request the Pueblo for a land assignment for the purpose of building a home under this Program. If the Pueblo has available land for home sites, it may assign land to the THI for housing and community development. If a Participant has a land assignment that he/she desires to build on, the Participant will be required to transfer his/her land assignment to the Pueblo, who in turn will assign or lease the tract of land to the THI for the construction of a home. When the homebuyer fulfills his/her obligations under his/her LPA, the land will be reassigned to the Participant by the Pueblo in accordance with the customs of the Pueblo. Any leases on scattered sites under this Program shall be no smaller than ¼ acre and have all available infrastructures, and shall include a minimum of a twenty (20) foot road easement to access the property.
3. If an applicant terminates his/her participation from the Homeownership Program after he/she assigns his land assignment to the Pueblo, he/she forfeits any rights he/she may have had to the land assignment.
4. Each Participant will be required to transfer his land assignment to the Pueblo.

**E. APPLICABLE LAWS**

1. The Native American Housing Assistance and Self-Determination Act of 1996 (“NAHASDA”) and its amendments, provides block grant funding to Indian Tribes or their Tribally Designated Housing Entities (“TDHE”) through HUD for the operation and management of housing for low income Indian families residing on Indian reservations and other Indian areas. This Act recognizes the federal government’s trust responsibility to Indian people and recognizes the sovereignty of Indian Tribes to implement their own housing programs consistent with local conditions.
2. The laws of the Pueblo of Santa Ana shall be applied in interpreting these Policies and the Contemporary Courts of the Pueblo of Santa Ana shall have exclusive jurisdiction to decide any disputes arising from the implementation of these Policies or arising under any Agreement required under these Policies. Any disputes shall first be heard under the THI grievance process set forth in these Policies.
3. HUD regulations governing the THI’s housing programs are contained in 24 CFR Part 1000. These regulations require all Indian tribes and their TDHEs administering HUD funding to adopt Admissions, Occupancy, Collection, and Termination Policies.
4. The THI is subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 405e(b) except as allowed under NAHASDA.

5. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d - 2000d-4), which prohibits discrimination in federally assisted programs, and the Fair Housing Act, as amended (42 U.S.C. § 3601 et seq.), which prohibits discrimination in the sale or leasing of housing, do not apply to Indian tribes or their TDHEs, and the THI's restriction in favor of Santa Ana or Indian families is not a violation of any provision of Title VI of the Civil Rights Act of 1964 or the Fair Housing Act. The THI does not discriminate against applicants otherwise eligible for admission.

#### **F. AVAILABILITY OF POLICIES**

A copy of these policies shall be available in the THI Office.

#### **G. MEANING OF DAYS**

All references to days in these policies shall mean working-calendar days, unless specifically stated otherwise. Holidays and ~~any days not open for THI business~~ administrative leave days shall not be counted as working-calendar days.

*This amended section was approved by Resolution 10-R-01 on August 17, 2010 by the Board of Directors.*

#### **H. SERVICE OF NOTICES**

1. All notices from the THI to a Homebuyer required under these policies or under any other THI Policy shall be served by mailing the notice to the Homebuyer's last known address by certified mail, return receipt requested, or by delivering the notice personally to the Homebuyer or to any adult member 18 years of age or older residing in the dwelling unit. The Homebuyer or adult family member should sign and date the Notice. The refusal or failure of a homebuyer or adult family member to sign and date the Notice shall have no effect on the service of the Notice. If no adult is found at the home, the notice may be posted on the door by taping all four corners of the notice to the upper right hand corner of the door. Where service is by mail, the notice shall be deemed to have been delivered and received three (3) days from the date of mailing.
2. Where the notice is served in person, it may be served anywhere the Homebuyer is found, including the Homebuyer's place of employment (if such is allowed by the employer) and any other public place. If the Homebuyer is represented by legal counsel, the notice may be served on the counsel, either in person or by mail.
3. Notice to the THI shall be in writing, and either delivered to a THI employee at the office of the THI or sent to the THI by mail, facsimile or electronic mail.

#### **I. AMENDMENTS/WAIVER**

Upon determination of good cause, the THI Board of Directors may amend or waive any provision of these policies which does not implement federal or tribal statutory requirements. Requests for an amendment or waiver shall be in writing, clearly indicating the provision of the policies requesting to be waived, and shall be supported by documentation of the pertinent facts and grounds.

## SECTION II. DEFINITION OF TERMS

**ADMINISTRATION CHARGE.** The amount budgeted by THI for monthly operating expenses of a dwelling unit, used by THI to cover insurance on the home and other administrative expenses of managing the home. Homebuyers who execute a Lease Purchase Agreement after November 2008 must be able to pay at least the monthly administration charge to qualify for the Homeownership Program, The THI may increase the administration charge consistent with the increased costs of inflation or an increase in administrative expenses, upon Board approval. Homebuyers shall be notified of any proposed change to the administration charge thirty (30) days prior to its effective date.

**ANNUAL FAMILY INCOME AND EXCLUSIONS.** Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets, for the 12-month period following the effective date of the initial determination or reexamination of income, exclusive of certain types of income as provided in paragraph 2 of this definition.

1. Annual income includes, but is not limited to:
  - a. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
  - b. The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
  - c. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for authorization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph 1(b) of this definition. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate as determined by HUD;
  - d. The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability, or death benefits and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph 2(m) of this definition);



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- e. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph 2(c) of this definition);
  - f. Welfare assistance payments. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments qualify as assistance under the TANF program definition at 45 C.F.R. 260.31, and are not otherwise excluded under paragraph 2 of this section. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
    - (1) The amount of the allowance or grant minus the amount specifically designated for shelter or utilities; plus
    - (2) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
  - g. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; and
  - h. All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided in paragraph 2g of this definition.
2. Annual Family Income does not include the following annual income exclusions:
- a. Income from employment of children (including foster children) under the age of 18 years;
  - b. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the household, who are unable to live alone);
  - c. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation) capital gains, and settlement for personal or property losses, except as provided in paragraph 1e of this definition;
  - d. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
  - e. Income of a live-in aide;

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- f. The full amount of student financial assistance paid directly to the student or to the educational institution;
- g. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- h. Amounts received under training programs funded by HUD;
- i. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency;
- j. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;
- k. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by an Indian Housing resident for performing a service for the THI, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to fire patrol, street monitoring, lawn maintenance and resident initiatives coordination. No resident may receive more than one such stipend during a given period of time;
- l. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program.
- m. Temporary, nonrecurring, or sporadic income (including gifts and tribal per capita payments);
- n. Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);
- o. Adoption assistance payments over \$480 per adopted child; Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;
- p. The earnings and benefits to any family member resulting from the participation in a program providing employment training and supportive services in accordance with the Family Support Service Act of 1988, section 22 of the 1937 Act, or any comparable Federal, state, tribal, or local law during the exclusion period. For purposes of paragraph 2(k) of the definition, the following definitions apply:

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- (1) Comparable Federal, state, tribal, or local law means a program providing employment training and supportive services that:
    - (a) Is authorized by Federal, state, tribal, or local law;
    - (b) Is funded by Federal, state, tribal, or local government;
    - (c) Is operated or administered by a public agency; and
    - (d) Has as its objective to assist participants in acquiring employment skills.
  - (2) Exclusion period means the period during which the family member participates in a program described in this definition, plus 18 months from the date the family member begins the first job acquired by the family member after completion of such program that is not funded by public housing assistance under the 1937 Act. If the resident is terminated from employment with good cause, the exclusion period shall end.
  - (3) Earnings and Benefits means the incremental earnings and benefits resulting from a qualifying employment training program or subsequent job.
- q. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;
  - r. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes on the dwelling unit;
  - s. Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
  - t. Amounts specifically excluded by any other Federal Statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 C.F.R. 5.609 (c) apply. A notice is published from time to time in the Federal Register and distributed to recipients identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.
3. Annualization of income. If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the THI believes that past income is the best available indicator of expected future income, the THI may annualize the income anticipated for a shorter period, subject to a re-determination at the end of the shorter period.

**ADJUSTED FAMILY INCOME.** The term “adjusted family income” means the annual income that remains after excluding the following amounts:

1. **YOUTHS, STUDENTS, AND PERSONS WITH DISABILITIES** --- \$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household) ---
  - a. who is under 18 years of age; or
  - b. who is ---
    - (1) 18 years of age or older; and
    - (2) a person with disabilities or a full-time student.
2. **ELDERLY AND DISABLED FAMILIES** --- \$400 for a family, a member of which is elderly or disabled.
3. **MEDICAL AND ATTENDANT EXPENSES** --- The amount by which three percent (3%) of the annual income of the family is exceeded by the aggregate of -
  - a. medical expenses, in the case of an elderly or disabled family member, and
  - b. reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed. See definition of Medical Expenses within this section.
4. **CHILD CARE EXPENSES** --- Child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education. See definition of Child Care Expense within this section.
5. **EARNED INCOME OF MINORS** --- The amount of any earned income of any member of the family who is less than 18 years of age.
6. **TRAVEL EXPENSES** --- Excessive travel expenses, not to exceed \$25 per family per week, for employment or education-related travel.

**BOARD.** The Board of Directors of the Tamaya Housing Incorporated (THI).

**CHILD CARE EXPENSE.** The amount anticipated to be paid by the family for the care of children during the period for which the Annual Income is computed, but only where such care is necessary to enable all Family members to:

1. Be gainfully employed; or
2. Further their education.

The amount deducted shall reflect reasonable charges for child care and, in the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of income received from such employment. All adult members of the family have to be working or in school, leaving no adult member to take care of the children to qualify for this deduction.

**CONTEMPORARY COURTS.** The Courts of the Pueblo of Santa Ana established by the Pueblo to hear cases or disputes relating to matters not involving the traditional laws or customs of the Pueblo.

**CRIMINAL ACT.** Any unlawful activity subject to punishment by any federal, tribal or state criminal code.

**DEPENDENT.** A member of the household (excluding foster children), other than the Family Head or Spouse, who is under eighteen (18) years of age or who is a person with disabilities or handicapped person, or is a full time student. Certification is required for disabilities and student status.

**DWELLING UNIT.** A residential unit covered by the THI's Homeownership Lease.

**ELDERLY FAMILIES.** The term "elderly family" means a family whose head (or his/her spouse), or whose sole member, is an elderly person.

**ELDERLY PERSON.** A person who is at least sixty-two (62) years of age.

**FAMILY.** Any of the following: (1) A group of two or more persons (including members temporarily absent) who have a stable family relationship and whose income and resources are available for use in meeting the living expenses of the group; (2) a single Elderly, Disabled, or Displaced Person; or (3) a Santa Ana family as defined in these Policies; or (4) a person, including a single person, not falling in any of the above 3 categories, whose residency on the Pueblo has been approved by the Tribal Council.

**FULL TIME STUDENT.** A person who is carrying a subject load which is considered full-time for students under the standards and practices of an educational institution or twelve (12) credit hours. An Educational Institution is any school, college, or university that meets one of the following:

1. The institution is operated or directly supported by the United States, by a State or local government, or its subdivisions; or
2. The institution is approved or accredited by a State, or is nationally recognized as an accredited institution; or
3. The institution is unaccredited, but its credits are accepted on transfer by at least three (3) accredited institutions on the same basis as if the credits had been transferred from an accredited institution.

Note: This definition includes public and private schools, trade/vocational schools, and colleges/universities that meet the requirements of (1), (2), or (3) above.

**GRIEVANCE.** Any dispute which a Homebuyer may have with respect to a THI action or failure to act in accordance with the Lease Agreement, THI rules and/or policies which adversely affect the Homebuyer.

**GUEST OR VISITOR.** Any person who is not a member of the family composition and who does not live in the home, but who is at the home to visit a household member with the consent of any member of the family household.

**HANDICAPPED PERSON.** See Person with Disabilities definition.

**HEAD OF HOUSEHOLD.** The Head of Household is the primary or designated adult family member who is held responsible and accountable for the family and the Lease.

**HOMELESS FAMILY.** A family who is without safe, sanitary and affordable housing even though it may have temporary shelter provided by the community, or a family who is homeless as determined by the Pueblo of Santa Ana or government agency.

**HOMEBUYER** The member or members of a household who have executed a Homeownership Lease Agreement with the THI under a Homeownership Program.

**HOMEOWNERSHIP LEASE AGREEMENT.** Also referred to as “Lease Agreement” or “Lease”, an agreement between the THI and a Homebuyer containing the terms and conditions of the Homebuyer’s and the THI’s responsibilities, i.e., the Lease-Purchase Agreement.

**HUD.** The United States Department of Housing and Urban Development.

**LEASE PURCHASE AGREEMENT.** The lease agreement signed by participants.

**LIVE-IN AIDE.** A person who resides with an elderly, disabled, or handicapped person or persons and who:

1. is determined by the THI to be essential to the care and well-being of the person(s)
2. is not obligated for support of the person(s); and
3. would not be living in the unit except to provide necessary supportive services.

**LOW INCOME FAMILY.** A family whose Annual Family Income does not exceed eighty percent (80%) of the median income for the area as determined by HUD with adjustments for smaller and larger families.

**MAINTENANCE.** The work required to be done on the unit and its components (including appliances, water heaters, air conditioners, faucets) on a regular basis so that they may be utilized at their original or designed capacities. Maintenance includes, but is not limited to, adjusting, cleaning and lubricating mechanical components such as furnaces and hot water heaters; painting; patching roofs, gutters, downspouts, and flashing; pest control; repairing plumbing fixtures, replacing worn parts; and caulking. Repair is defined as the restoration of the unit and its components to a condition substantially equivalent to their original capacity. Replacement is defined as the substitution of component parts of the unit or equipment to extend their useful life.

**MEDICAL EXPENSES.** The amount by which 3 percent of the Annual Family Income of the family is exceeded by the aggregate of:

1. Medical expenses, in the case of an elderly or disabled family member; and
2. Reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is person with disabilities) to be employed.
3. A family may claim a deduction for medical expenses that are: (1) not reimbursed or covered by some other source; and (2) exceed 3% of annual family income. Medical expenses include the following:
  - a. Services of physicians or other health care providers
  - b. Services of hospitals or other health care providers
  - c. Medical insurance premiums
  - d. Prescription and non-prescription medicine
  - e. Dental expense
  - f. Eyeglasses and eye examinations
  - g. Medical or health products or apparatus (hearing aids, wheel chairs, etc.)
  - h. Live-in or periodic medical care
  - i. Periodic payments on accumulated medical bills

**MILITARY SERVICE OF THE UNITED STATES.** The armed forces of the U.S. Government consisting of the Army, Navy, Air Force, Marine Corps, and Coast Guard. Such service does not include the Merchant Marines, Red Cross, or any other organization not actually part of the Military or Naval Service of the United States.

**NAHASDA.** The Native American Housing Assistance and Self-Determination Act of 1996, found at 25 U.S.C. 4101. The federal regulations implementing NAHASDA are found at 24 CFR Part 1000.

**“NON-ROUTINE MAINTENANCE .** Means extraordinary maintenance and includes but is not limited to replacement of equipment, betterments, and additions; some major repairs; and rehabilitation involving substantial expenditures. Non-Routine Maintenance often is required as result of disasters such as hurricane, fire, obsolescence, and, in some instances, neglect, although maintenance involving replacement of roofs, replacement of eroded gas and heating lines, and rehabilitation of ground cover would also be considered Non-Routine Maintenance.

**PERSON WITH DISABILITIES.** Person with disabilities means a person who—

1. Has a disability as defined in section 223 of the Social Security Act;

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2. Has a development disability as defined in Section 102 of the Developmental Disabilities Act and Bill of Rights Act;
3. Has a physical, mental, or emotional impairment which—  
Is expected to be of long, continued, and of indefinite duration;  
Substantially impedes his or her ability to live independently; and  
Is of such a nature that such ability could be improved by more suitable housing conditions.
4. The term “person with disabilities” includes persons who have the disease of acquired immunodeficiency syndrome.
5. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for THI housing, solely on the basis of any drug of alcohol dependence.
6. For purposes of this definition, the term “physical, mental, or emotional impairment” has the same meaning as an “individual with handicaps” set forth at 24 CFR 8.3, which includes, but is not limited to:
  - a. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
  - b. Any mental or psychological condition, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
  - c. The term “physical, mental, or emotional impairment” includes, but is not limited to, such diseases and condition as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction and alcoholism.

**PUEBLO.** The Pueblo of Santa Ana.

**RECERTIFICATION.** The process of reviewing and verifying the family income and composition, all applicable deductions that the family may be eligible for, and to recalculating the Required Monthly Payment.

**SANTA ANA FAMILY.** A family whose head of household or spouse is a tribal member.

**SCATTERED SITE.** A site away from a subdivision to which an applicant or Homebuyer has a land assignment.



**SEASONAL EMPLOYMENT.** Temporary work for a period no more than five (5) months.

**SPOUSE.** The husband or wife of the head of household.

**TDHE.** The Tribally Designated Housing Entity designated by an Indian Tribe to receive NAHASDA funds on behalf of the Tribe.

**THI.** The Tamaya Housing, Inc.

**TRIBAL COUNCIL.** The governing and policy making body of the Pueblo of Santa Ana.

**TRIBAL MEMBER.** A person enrolled with the Pueblo with a certificate of Indian blood, or a person adopted or traditionally accepted by the Pueblo.

**VEHICLE.** Any motorized carrier that operates on two or more wheels intended to provide transportation.

**VETERAN.** Any person who has served in the military service of the United States at any time and has been discharged under honorable conditions.

**WELFARE ASSISTANCE.** Welfare or other payments to families or individuals, based on need, that are made under a program funded, separately or jointly, by Federal, State or local governments. See also definition of Annual Family Income.

### SECTION III. ADMISSION REQUIREMENTS

#### A. ADMISSION

The Homeownership Program is primarily for low-income Santa Ana families. Participants must be able to make monthly payments equal to at least the administration charge described in Section V. C of these Policies, except that Participants who entered the Program prior to November 2008 are exempt from this requirement. Participants must have the resources necessary to maintain their unit. Applicants for admission to the Homeownership Program shall meet the following requirements:

1. Be income eligible in accordance with the Income Limits Schedule in Section V. D of these policies.
2. Applicants must have sufficient income to maintain and upkeep a home and pay at least the administrative charge established by the THI Board of Directors. The administrative charge may differ for each project and covers the costs of insurance on the unit and other administrative costs. This provision is not applicable to participants who signed a Lease Purchase Agreement prior to November 2008 and whose Lease Purchase Agreement does not require a minimum payment of the administrative charge.
3. Applicants must have the potential for maintaining at least their current income level.
4. The head of household or spouse/other responsible party must be 18 years of age or older.
5. The applicant must qualify as a family as defined in this Policy.
6. The family must be without safe and sanitary housing.
7. Must not have debts owed to the THI. Applications from previous Homebuyers of the THI who owe money to the THI shall not be considered for admission until the vacated account is paid in full to the THI.
8. The applicant must use the unit as his/her principal place of dwelling.
9. Must be capable and willing to comply with all requirements of Lease Purchase Agreement.
10. Must not be:
  - a. an adverse influence upon other residents; or
  - b. a source of danger to the peaceful occupancy of other residents, the premises, or property of the THI.
11. Must not have obtained prior housing assistance under a Homeownership program either from THI or any other governmental housing agency for the construction of a new house.

Applicants must disclose any applications pending with other governmental housing agencies.

12. Must not have any of the following:
  - a. Unpaid vacated accounts left with the THI or any housing program managed by THI,
  - b. Eviction from THI unit within last five years due to delinquent payments or other reasons,
  - c. Leaving THI property in damaged condition without paying for the costs of repairing the property,
  - d. Abandonment of a THI-managed dwelling unit.
  
13. An applicant or a family member listed as a household member must not have been convicted within the past three (3) years of any of the following offenses:
  - a. Drug felony offenses,
  - b. Sexual abuse of children,
  - c. offenses involving bodily harm, including rape, aggravated assault, manslaughter, attempted murder, and murder,
  - d. Theft or destruction of property, including graffiti.

The three (3) year restriction will not apply if the person has completed a rehabilitation program and has completed all probationary terms imposed by the jurisdiction that convicted the offender.

## **B. CRIMINAL HISTORY BACKGROUND CHECKS**

1. Where THI has received information that an applicant or family member listed as a household member may have been convicted of any of the offenses listed in Paragraph A. 13 of this Section, THI may, at its discretion, obtain or ask the applicant to obtain the criminal history of the questioned applicant or family member from law enforcement agencies or other reliable source.
  
2. The THI shall maintain such records separate from all other housing records. The criminal conviction records shall be kept under lock and key and under the custody and control of the THI's executive director, his lead official, or his designee for such records. The records may only be accessed with the written permission of the above official, and may only be used for the purposes of applicant screening, lease enforcement, and judicial eviction proceedings. The content of the records may be disclosed only to a person who has a job

related need for the information and who is an authorized officer, employee, or representative of the THI or the Pueblo of Santa Ana.

3. In the event of any unfavorable information regarding an applicant or family members, the THI may take into consideration the time, nature, and extent of the occurrences and reasonable probability of future favorable performance in determining further eligibility. Factors which indicate a probability of favorable future conduct or financial prospects may include:
  - a. Completion of rehabilitation treatment or counseling program or other evidence of rehabilitation;
  - b. Evidence of willingness to participate in appropriate counseling service programs;
  - c. Evidence of willingness to participate in training or employment programs in the locality.

### **C. HOMEBUYER EDUCATION PROGRAM**

Each Homebuyer shall be required to participate in and cooperate fully in all pre-occupancy and post occupancy Homebuyer education counseling programs scheduled by THI. Failure without good cause to participate in all sessions shall constitute a basis for disqualification from the program and shall constitute a breach of the Lease Purchase Agreement.

## **SECTION IV. APPLICATION AND SELECTION**

### **A. APPLICATION PROCEDURE**

A family applying for the Homeownership Program must submit a written Application Form available at the THI Office. The applicant shall provide all information necessary for the THI to determine whether the family meets the eligibility requirements for admission. Verification of membership, eligibility for residency, employment and income, earned and non-earned (including appropriate documentation to substantiate the determination of total family income), family composition, and present housing conditions is required. Verification documents (e.g., birth certificates, social security cards, tax returns, family profile, and verification of residence) are essential to substantiate the application and shall be made part of the record of each application along with all other documents relating to eligibility.

1. The filing of an application for any other unit managed by THI, shall not in any way affect the family's status with regard to the Homeownership Program. Such applicant shall not lose his/her place on a Homeownership housing waiting list until the applicant has been selected for a unit under another THI program.
2. Applicants must disclose any applications pending with other governmental housing agencies.
3. The application must be signed and dated by the applicant(s) with the date and time stamped and initialed by THI staff when received.

### **B. VERIFICATION OF INFORMATION**

1. Verification. All statements and information provided in the application are subject to verification by the THI during admission and recertification.
  - a. Applicants must provide social security cards (or another government card with the social security number) for all household members and provide proof of their statements.
  - b. As a condition of admission or continued occupancy, the THI shall require applicants/Homebuyers and family members listed as household members 18 years of age or older to sign the Authorization for the Release of Information form. The form will be used by the THI to verify the applicant's information by any depository, private source of income, or federal, state, or local agency, to determine eligibility and monthly payments.
  - c. Certification of the application by the applicant(s) is sufficient to verify family composition, preference eligibility and housing need.
  - d. The THI may require third party written verification from an employer or public agency, in the review of documentation provided by the family, such as benefits, and employment or other income. Any deductions to adjusted income claimed by a family must be supported by proper proof such as receipts and affidavits.

- e. The THI shall not accept incomplete applications.
2. Income will be verified using any or all of the following:
    - a. The THI's Income Verification form signed by the applicant authorizing the employer to release the Homebuyer's income information;
    - b. A copy of the most current Income Tax Return for self-employed persons and all persons whose earnings are irregular;
    - c. A notarized memorandum from a pertinent source giving authoritative information concerning all amounts of income.
    - d. Other information acceptable to the THI.

### **C. PREFERENCE IN SELECTION**

Preference in the selection of eligible Homebuyers for new or existing dwelling units shall be made in the following order and using the preferences set forth in Section XII of this Policy:

1. Indian Preference. Preference in selection for affordable housing will be provided to (1) Santa Ana families, followed by (2) other Indians.
2. General Preference.
  - a. THI will give preference as set forth in Section XII.
  - b. If two or more eligible applicants for the same unit size have an identical priority status, the applicant filing the earlier application will be offered the first available vacancy. If the applicant rejects the offer other than for a justifiable reason, the applicant's name will be moved to the bottom of the eligible applicant list.
3. Application of preference allowed under this section may result in a change of the Applicant Family's on THI's waiting list.

### **D. NOTIFICATION TO APPLICANTS**

Each applicant shall be personally interviewed and given written notice of their eligibility within thirty (30) days of the determination.

1. Eligible Applicants. Each applicant determined to be eligible will be notified in writing by the THI. The notice shall include the following information:
  - a. A statement that the family has been determined eligible for the Homeownership Program.
  - b. If a dwelling unit is available for the family:

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- (1) information that a unit is available, identifying the location, project number, and unit number;
  - (2) the number of bedrooms the unit has;
  - (3) the approximate date of availability of the unit;
  - (4) a statement that the applicant will be required to sign a Lease Purchase Agreement prior to occupancy, which will describe the family's duties and responsibilities;
  - (5) a statement that the notice is not a contract and does not mean that the THI is legally obligated to provide housing to the applicant;
  - (6) a statement that the family will be required to attend Homebuyer Education sessions; and
  - (7) a statement that the THI will request the Tribal Council for approval of the family's selection.
- c. If a dwelling unit is not available for the family, a statement that the applicant will be placed on a waiting list, that the family will be required to update his/her application annually, and that if the family has an updated application, he/she will be notified when a unit becomes available.
2. Ineligible Applicants. Each applicant determined to be ineligible will be notified in writing by the THI.
    - a. The notice shall state the reasons for the applicant's ineligibility.

Applications declared ineligible shall be kept in the THI's inactive file for at least one (1) year from the date of application.
  3. Eligible applicants shall be put on the Homebuyer waiting list if no housing is available at the time of eligibility.
  4. The THI shall maintain records of eligible applicants.

## **E. WAITING LIST**

The THI shall maintain a Homebuyer waiting list of families who have been determined eligible for admission into the Homeownership Program. Eligible applicants will be placed on the waiting list according to: 1) the selection criteria; and 2) time and date of the initial application.

1. The THI shall update the waiting list and submit the list to the Tribal Council for final approval. On an annual basis, each applicant on file will be notified in writing to update his/her application to reaffirm the applicant's eligibility and interest for housing. The

notice shall inform the applicant that he/she may update his/her application in person, by mail or electronic means, such as by facsimile or electronic mail.

2. The THI waiting list shall remain open for new applicants
3. Applicants who fail to update their application will lose their place on the waiting list and their file will automatically become inactive for lack of interest. Upon re-application, they shall be considered new applicants.
4. Any applicant on the waiting list who wishes to be removed from the waiting list shall submit a written notice to the THI.

#### **F. SELECTION OF HOMEBUYERS**

1. To the extent feasible, selection for units will begin sixty days prior to proposed occupancy. The THI shall submit the selected prospective Homebuyers for Homeownership Projects to the Tribal Council for approval. ..
2. Eligible applicants will be selected for a unit that meets the needs of their family size according to the occupancy standards in Section V of these Policies.
3. The THI may deny selection in the Homeownership Program if the family's gross income changes after the initial determination of eligibility, resulting in ineligibility for the Homeownership Program.
4. If the family's income increases to a point where they become ineligible due to no longer being low-income, the THI may still admit the family under the following conditions:
  - a. THI makes a determination that the family requires housing which cannot otherwise be met without THI assistance; and
  - b. the income of the family does not exceed 100% of the median income (see Section V. D., or the income of the family exceeds 100% and the THI has requested HUD approval, which has not been denied within sixty (60) days of the request; and
  - c. selection of the family does not result in the development having more than 10% of its units occupied by families whose income falls over 80% of the median income; or selection of the family would cause the THI to exceed the 10% limit and HUD approval is obtained.
5. If an eligible applicant is employed by THI or serves as a Board of Commissioner or has a contract with THI, or is involved in the selection of applicants, or is an immediate family member (mother, father, brother, sister, son, daughter, grandparent) of any of the above; THI shall prior to selecting the applicant perform the following:
  - a. determine that there is no conflict of interest under any applicable tribal law;



- b. publicly disclose, by publication, posting or otherwise, the type of assistance the applicant will receive and the specific basis for selection of the applicant;
- c. provide HUD with a copy of the disclosure prior to the applicant occupying the home; and
- d. insert the determination, disclosure and notice to HUD in the applicant file.

## **G. PRE-OCCUPANCY REQUIREMENTS**

### **1. Final Acceptance**

- a. Upon acceptance of the home by the THI from the contractor, the THI shall determine whether the Homebuyer has met all requirements for occupancy and fulfilled mandatory Homebuyer counseling requirements. If so, the Homebuyer shall be notified in writing that the home is available for occupancy as of the date specified in the notice (“Date of Occupancy”).
- b. If the THI determines that the Homebuyer has not fully met any of the conditions for occupancy, the Homebuyer shall be so notified in writing.

The Notice shall:

- (1) specify the conditions that have not been met by the Homebuyer; and
  - (2) specify the date by which all requirements must be satisfied; and
  - (3) advise the Homebuyer that the Lease may be terminated and a substitute Homebuyer may be selected for the unit if the requirements are not satisfied within the specified time.
- 2. **Final Occupancy Interview.** The THI will conduct a Final Occupancy Interview with the family prior to occupancy of the home. At that time the Homebuyer shall complete and sign an updated application and supply current income and other necessary data for determination of the required monthly payment. At the Final Occupancy Interview, the THI shall review for the selected family, the family’s responsibilities as a Homebuyer.
  - 3. **Execution of Homeownership Lease Agreement.** The Homebuyer shall execute a Homeownership Lease Agreement before occupancy. The THI Homeownership Lease Agreement (the Lease-Purchase Agreement) is a contract between the THI and the selected Homebuyer. The Lease describes the rights and responsibilities of the THI and the Homebuyer.
  - 4. The Agreement shall be signed by the Head of Household and Spouse or other responsible party. The Executive Director or his/her designee shall sign the Agreement on behalf of the THI. One copy shall be given to the Homebuyer, and the original shall remain in the Homebuyer file.

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5. Occupancy by non tribal members. Prior to occupancy, THI shall inform the Homebuyer that occupancy of the home by non tribal members of the Homebuyer's household is subject to the consent and laws of the Pueblo of Santa Ana, including the right of the Pueblo to exclude non tribal members from its lands.
6. Successor Requirements. THI shall inform the Homebuyer that he/she may not name a non tribal member as a successor to the Homeownership Lease Agreement, nor shall a non tribal member succeed to the rights of the Homebuyer. Any equitable rights a non tribal member may have in the home are only against the Homebuyer and not the Pueblo of Santa Ana or THI.
7. Pre-Occupancy Move-In Inspection. The THI and the selected Homebuyer shall jointly conduct a formal move-in inspection immediately before occupancy. The Homebuyer shall sign a copy of the inspection upon completion either concurring with the inspection or stating objections, if any. If the Homebuyer makes a statement of objections and notes deficiencies, the THI shall prepare a corrective action plan within five (5) days.

## **SECTION V. OCCUPANCY REQUIREMENTS**

### **A. OCCUPANCY STANDARDS**

1. The home shall be occupied only by the applicant and his/her family members as identified in the application.
2. Four and five-bedroom units shall have a minimum of two bathrooms.
3. In determining the number of bedrooms required, the THI shall give consideration to the sex and age of family members, and to their physical and mental health. In addition, exceptions from the above standards will be made for the following situations:
  - a. Children of the opposite sex will not be required to occupy the same bedroom if one of them is over five (5) years of age.
  - b. A single parent will not be required to occupy the same bedroom as a child.

### **B. PURCHASE OF HOME**

#### 1. Purchase Price

The Homeownership Program provides the family an opportunity to purchase a home under a lease with an option to purchase. The THI shall furnish to the Homebuyer a statement of the initial purchase price of the home. The Homebuyer may exercise his or her option to purchase the home at any time prior to the full term of the Agreement by obtaining financing from an outside source, to cover the remaining purchase price.

- a. Under the Lease-Purchase Agreement, the purchase price of the home is paid over a period set forth in the lease purchase agreement.

#### 2. Conveyance of Home

In accordance with the Lease-Purchase Agreement, the THI shall convey title of the home and any interest to the land held by THI to the Homebuyer when the balance of the purchase price has been paid. The entire monthly payment made by the homebuyer shall be applied towards the purchase price, even if a portion of the payment represents an administrative charge.

#### 3. Applicable Laws Upon Conveyance

When a home has been conveyed to the Homebuyer, the home shall remain subject to all applicable laws and any rules or restrictive covenants enacted by the Pueblo of Santa Ana and resident organizations for the safety of the residents.

**C. CALCULATION OF MONTHLY PAYMENT**

1. Monthly payments shall be calculated as follows:

- a. Homebuyers under a Lease Purchase Agreement occupying their units prior to February 2000 (these units were built with funds under the 1937 Housing Act), will pay 30% of the family's adjusted income or the below listed amounts, whichever is less:

3 bedroom	\$200
4 bedroom	\$240
5 bedroom	\$280

- b. Homebuyers under a Lease Purchase Agreement occupying their units on or after February 2000 through November 2008 (these units were built with funds under NAHASDA) and who are low income, will pay 30% of the family's adjusted income or the below listed amounts, whichever is less.

3 bedroom	\$200
4 bedroom	\$240
5 bedroom	\$280

- c. Homebuyers under a Lease Purchase Agreement occupying their units after November 2008 and who are low income, will pay 30% of the family's adjusted income or the below listed amounts, whichever is less. The payment must be at least equal to the \$125 administration charge. The administrative charge may be increased from time to time by the Board of Directors consistent with increases in insurance of the homes and other administrative expenses.

3 bedroom	\$275
4 bedroom	\$325
5 bedroom	\$355

Monthly lease payments may increase as a result of an increase in the administrative charge.

The homebuyer may pay more than the required monthly payment towards the purchase price. If the Lease Purchase Agreement is terminated, the THI will refund any extra payments made beyond the required monthly payment after deductions have been made to repair any damages to the unit beyond normal wear and tear.

- d. Monthly payments for non-low income families occupying their units after October 1, 2007 will be calculated using the following formula:

- (1) (Income of non low-income family divided by Income of Family at 80% of median income) multiplied by the payment of a family at 80% of median income, but no more than the fair market rent using HUD fair market guidelines.

- e. If the THI determines and documents that the presence of a non low-income family occupying a unit after October 1, 2007, is essential to the well-being of the families in the area, the monthly payment of the family may be the same as that charged low-income families.
  - (1) THI shall use the following criteria to determine whether a non low-income family is essential to the well-being of the families in the area:
    - (a) a household member of the non low-income family is employed in a capacity that protects the public health and safety, such as a medical or dental practitioner, police or security officer, emergency medical technician or firefighter; or
    - (b) a household member of the non low-income family provides some other service not listed above that THI determines provides a service to the area or whose presence benefits the area.

2. Annual Family Income

- a. All verified family income and other information provided by the selected family shall be used to determine Annual Family Income. Annual Family Income and exclusions from income are defined in Section II.
- b. Annual Family Income is the anticipated gross income from all sources received by all family members 18 years of age and older, for the 12 month period following the effective date of initial determination or re-certification, excluding income that is temporary, non-recurring or sporadic. Such income shall be included even if the family member is temporarily absent, and even though part of the income may not be available to the household.
- c. Annual Family Income from full-time employment is obtained by multiplying:
  - (1) hourly wages by 2,080 hours;
  - (2) weekly wages by 52;
  - (3) bi-weekly amounts by 26;
  - (4) semi-monthly amounts by 24; or
  - (5) monthly amounts by 12.
- d. Annual Family Income from other than full-time employment is obtained by multiplying:
  - (1) hourly wages by the number of hours the family expects to work annually;  
or

- (2) average weekly amounts by the number of weeks the family expects to work; or
        - (3) other periodic amounts (monthly, bi-weekly, etc.) by the number of periods the family expects to work.
  - e. If the source of income will not continue for the full 12 months of a year, the annual amount shall still be calculated as if it were to be received for the entire year. For instance, if a family will receive 36 weeks of unemployment at \$100.00 per week, multiply \$100.00 by 52 weeks to arrive at an Annual Family Income. When the income source ends, the family should request an interim adjustment of their monthly payment.
3. Annual Adjusted Family Income. The Annual Adjusted Family Income of a family, as defined in Section II, shall be used to determine the monthly payment.
  - a. Annual Adjusted Family Income is Annual Family Income minus the exclusions in Section II.
  - b. Adjusted Monthly Family Income shall be derived by dividing the Adjusted Annual Family Income divided by 12.
4. Administration Charge. For units occupied after November 2008, a Homebuyer must be able to pay at least the monthly administration charge, used by THI to cover insurance on the home and other administrative expenses of managing the home. The THI may increase the administration charge consistent with the increased costs of insurance, inflation or an increase in administrative expenses, upon Board approval. Homebuyers shall be notified of any proposed change to the administration charge thirty (30) days prior to its effective date.
5. Adjustments to the Monthly Payment. The THI may increase or decrease the amount of the monthly payment in accordance with this Policy or HUD regulations to reflect changes in adjusted income (pursuant to a re-certification by the THI) or an adjustment in the administration charge.

#### **D. INCOME LIMITS**

The HUD income limits will apply to determine income eligibility for the Homeownership Program. These rates are subject to adjustment annually according to HUD guidelines.

1. Families whose income exceeds the above income guidelines may be allowed into the Homeownership Program if the THI determines that the family has a housing need which cannot reasonably be met without such assistance. This determination must be documented. HUD approval is required prior to admitting a non low-income family if: a) the family's income is over 100% of the median income, or b) selection of the family would cause THI to have over 10% of non low-income families in the particular project.

HUD approval is deemed obtained if HUD does not respond to THI's request for approval within sixty (60) days of THI's request.

#### **E. SUCCESSION OF HOMEOWNERSHIP AGREEMENT**

1. Each Homebuyer shall designate a successor of the Homeownership unit, to succeed to the rights and responsibilities under the Lease in the event of death or mental incapacity of all original Homebuyers. The successor shall be named at the time the Lease is executed. This designation may be changed in writing by the Homebuyer at any time upon notice to the THI. A successor must:
  - a. be an immediate family member;
  - b. make the home his or her principal residence;
  - c. satisfy the THI's program eligibility criteria at the time of succession;
  - d. be willing and able to pay the required monthly payments; and
  - e. execute an assumption of the Homebuyer's obligations under the Agreement.
2. If there is no such designation of a successor or the designee is not a family member or does not meet the eligibility requirements for homeownership, the THI may consider as the Homebuyer any other family member who meets the eligibility requirements for homeownership.
3. Where there are minor children of the Homebuyer in the home, and an appropriate adult(s) who has been appointed legal guardian of the children by a court is able and willing to perform the obligations of the Agreement in the minor children's' interest and on their behalf, then in order to protect continued occupancy for ownership of the home by the children, the THI may approve the guardian(s) as occupants of the home until the children have reached the age of eighteen and are eligible to execute a Lease Agreement, with a duty to fulfill the Homebuyer obligations under the Agreement. The income of the guardian(s) shall not be used to determine the required monthly payment. Notwithstanding any other provision in this Policy, the income of the minor children shall be used to determine the required monthly payment.
  - a. Termination in absence of qualified successor. If there is no successor who meets the above requirements of this section, the THI shall terminate the Agreement and select the next person on the waiting list to occupy the unit under a new Agreement.

#### **F. SUBLEASING OF HOME**

1. Policy Statements. THI recognizes that some of the Homebuyers participating in the Homebuyer Program may, from time to time, temporarily need to leave the Pueblo for various reasons. THI therefore sets forth this policy to allow these Homebuyers the

opportunity to vacate their homes temporarily without jeopardizing their Lease Purchase Agreement.

2. General Provisions.

a. The Lease Purchase Agreement requires the homebuyer to use the home as his/her primary place of residence and to abide by all the terms and provisions contained in the Agreement. A homebuyer may permanently leave the Homeownership Program, and the home will be turned over to the THI for assignment to another eligible Family. However, if a Homebuyer determines that he or she must temporarily vacate the home, he or she may do one of the following:

(1) Sublease the unit to a tribal member for the duration of the Homebuyer's absence, subject to prior written approval of THI. Homeowners may be allowed to sublease their homes if absence from the home is necessitated by any of the following conditions:

- (a) Temporary employment outside the Pueblo;
- (b) Pursuit of educational opportunities outside the Pueblo;
- (c) U.S. Military obligations;
- (d) Medical related treatment or confinement;
- (e) Religious obligations or traditional/cultural practices; or
- (f) Other circumstances as approved by the THI Board of Directors ("Board") on a case by case basis.

(2) Submit an alternate proposal to THI, to be approved by THI before the Homebuyer vacates the unit. If the Homebuyer is pursuing education or employment-related opportunities and no suitable sublessee can be found, the Homebuyer may terminate his/her Lease Purchase Agreement or may submit an alternate proposal to THI for its consideration and recommendation. In no event may an alternate proposal violate HUD statutory, regulatory, or contractual (including the Lease Purchase Agreement) documents.

b. A sublease agreement will be for a maximum period of one (1) year, but may be extended, under extraordinary circumstances, for additional terms of one year each, up to a maximum of four (4) years. Such extensions will not be automatic but must be approved on an annual basis by the Board. It will be the sole responsibility of the Homebuyer to request such extensions.

c. The homebuyer must return to occupy the unit at the expiration of the sublease, unless an extension is granted by THI. Absent any such extensions, THI may terminate the Homebuyer's Lease Purchase Agreement if the Homebuyer fails to return to the unit.

d. During the term of any sublease, the Homebuyer shall remain obligated to comply with all other terms of the Homebuyer's Lease Purchase Agreement (with the



exception of occupancy of the unit), including making monthly payments and providing for maintenance. Failure to comply with the terms of the Lease Purchase Agreement on the part of the Homebuyer may, in the absolute discretion of THI, result in termination of the Homebuyer's Lease Purchase Agreement and the subsequent termination of the sublease.

- e. During the term of any sublease, the required monthly payment will continue to be computed or adjusted for the Homebuyer (using the income, including but not limited to rental income received under the sublease, and Family composition of the Homebuyer) in accordance with the requirements of the Homebuyer's Lease Purchase Agreement and THI policies, even though the Homebuyer is not residing in the unit.
- f. THI approval of a sublease does not waive any provisions of the Homebuyer's Lease Purchase Agreement, other than the provision requiring the Homebuyer to reside in the unit during the sublease period.
- g. THI shall review all sublease agreements to ensure that the agreements do not violate or contradict any of the terms of the Homebuyer's Lease Purchase Agreement or any of the policies and procedures of THI. THI shall not be a direct party to any sublease agreement which shall be binding upon, and a contract between, the Homebuyer and the Sublessee only.
- h. A Homebuyer who has a delinquent account will not be eligible to sublease his or her unit, except under extraordinary circumstances, until or unless the account is brought current.
- i. All requests to sublease must be approved by the Board before any sublease goes into effect. If a Homebuyer subleases, in writing or otherwise, a THI unit without approval from the Board, the Homebuyer will be considered to be in breach of his or her Homebuyer's Lease Purchase Agreement.

3. Procedures.

- a. All Homebuyers will be required to abide by the following procedures if they wish to sublease their unit, request an extension of a sublease, or submit an alternative plan:
  - (1) Submit a written statement to the Board requesting permission to sublease the unit or stating the alternate plan for the unit along with a non-refundable fee of one hundred dollars (\$100). The formal request or statement must be submitted to THI at least sixty (60) days prior to the anticipated date of absence from the unit. The formal request must also contain the following information.
    - (a) Reason for the request;

- (b) Anticipated dates of the sublease or alternate plan (not to exceed one year);
  - (c) Identity of Sublessee or relevant other party (if known); and
  - (d) Status of Homebuyer's account.
- b. Along with the formal request to sublease, submit a copy of the intended sublease agreement. A sample sublease agreement is found in the Appendix to this Policy.
- c. Along with the formal statement requesting an alternate plan, submit a copy of any applicable written agreement.
- d. Submit any other information requested by THI.
- e. The Board will review the Homebuyer's request at its next regular scheduled meeting and will notify the Homebuyer, in writing, of its decision within five (5) working days of the meeting.

#### **G. ASSIGNMENT OF HOME**

1. No Homebuyer may voluntarily transfer his/her unit to another person unless the Homebuyer has completed all obligations under the Lease Agreement and has received title to the home.
2. Any transfer of a home to another person in violation of these Policies or without obtaining the permission of the THI is void and will be grounds for the immediate termination of the Lease Agreement and eviction of the person(s) to whom the unit is transferred. Any occupancy of a unit operated and managed by the THI without its permission constitutes an act of criminal trespass.

#### **H. HOMEBUYER EDUCATION COUNSELING PROGRAMS**

Homebuyers shall participate in the THI's Homebuyer Education Counseling programs, including pre-occupancy and post-occupancy counseling and training activities. Failure to attend scheduled sessions shall be cause for termination of the Lease Agreement. .

#### **I. CARE AND MAINTENANCE**

1. Homebuyers are responsible for using reasonable care to keep the dwelling unit and yard in such condition as to prevent health or sanitation problems from arising. The Homebuyer shall notify the THI promptly of known unsafe conditions in any common areas and grounds in the project in which the leased premises are situated, which may lead to damage or injury, including pest problems. The Homebuyer shall keep the sidewalk around the leased premises free from ice, snow, dirt and litter. The Homebuyer shall keep the unit and yard in a clean and sanitary condition and prevent any damage to the landscaping around the unit. Abuse and misuse of the unit and the THI's equipment, such as refrigerators,

ranges, water heaters, furnaces or other physical items within the unit shall be grounds for termination of the Lease Agreement.

2. Yards shall be kept free of weeds and kept in good appearance. Lawns, planting, trees and shrubs are allowed. All personal property stored outside the unit shall be stored in an orderly manner and not be scattered throughout the yard.
3. Loose trash, garbage or unsightly material within the lot and subdivision is prohibited. All garbage, rubbish and other trash is to be placed in appropriate trash containers and taken to the waste transfer station.
4. Pre-cut firewood and coal shall be stored at least twenty (20) feet away from the home. Ashes must be disposed of in a sanitary and safe manner.
5. Gasoline or any other flammable solvents shall not be stored in the home. THI expects all occupants to be familiar with all gas, electric and water cut-off valves to their homes. Water heaters and furnace closets shall be kept clear of oily rags, junk and other flammable materials. Each electrical outlet should be used for only one (1) plug or extension cord. Outlets shall not be overloaded. Foreign objects shall not be placed in fuse boxes. No firearms shall be discharged in the vicinity of the residential area. Fireworks, B.B. guns and pellet guns are strictly prohibited in the subdivision areas.
6. In the event a home needs emergency repairs which the Homebuyer is unable to perform, the Homebuyer shall notify the THI. THI may, but is not required to perform emergency repairs. Any work performed by the THI shall be as allowed under Section VII. B of this Policy and charged to the Homebuyer upon completion of the work.

#### **J. STRUCTURAL CHANGES, ALTERATIONS AND IMPROVEMENTS**

The Homebuyer shall not make any structural changes, additions, alterations or improvements to his home, including the interior, unless the THI has first determined in writing that such change will not: impair the value of the home, the surrounding homes, or the project as a whole; affect the use of the home for residential purposes; or violate HUD requirements as to construction and design; and THI has approved the change in writing. Additions to the home include, but are not limited to, energy conservation items such as solar panels, wood-burning stoves, flues, and insulation; patios, decks, room additions, removing walls, or any other change that impacts the lot; or results in the usage of water beyond the normal consumption, such as large swimming pools. All add-on items and improvements shall become part of the permanent structure and shall not be removed when a Homebuyer vacates the premises. In the event of termination of the Agreement, the Homebuyer shall not be entitled to compensation for any such changes or additions.

#### **K. OPERATION OF SMALL BUSINESS**

Homebuyers may not operate a small business in the home without prior written approval of the THI. A small business shall be defined as any commercial activity (buying and selling) whose primary purpose is to generate income. The Executive Director may approve the operation of a small business in a home when the Homebuyer provides the following assurances in writing:

THI HOMEOWNERSHIP PROGRAM ADMISSIONS, OCCUPANCY,  
COLLECTION, TERMINATION AND GRIEVANCE POLICIES AND PROCEDURES

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1. The unit will remain the Homebuyer's primary residence;
2. The business actively will not disrupt the basic residential nature of the housing site;
3. The business will not require permanent structural changes to the unit that could adversely affect a future Homebuyer's use of the unit;
4. The Homebuyer has received a business permit or is exempt from, under any applicable tribal business permit law;
5. The business shall not be owned or primarily operated by a non tribal member;
6. The business will not require more than the normal consumption of water or generate more than the normal amount of waste or household garbage.

The THI shall rescind this approval upon violation of any of the above assurances. All approved businesses shall comply with all applicable laws, including any Pueblo of Santa Ana business permit law.

## **SECTION VI. THI RESPONSIBILITIES DURING OCCUPANCY**

### **A. WARRANTIES**

1. The THI shall furnish the Homebuyer with a list of applicable contractors', manufacturers' and suppliers' warranties indicating the items covered and the period of the warranties.
2. **Warranty Inspection.** The THI shall inspect the unit prior to occupancy of the unit by the Homebuyer. The inspection shall be in accordance with Subsection C. 2 and 3 of this Section of the Policy.

### **B. RECERTIFICATION OF HOMEBUYER ELIGIBILITY AND FAMILY INCOME**

1. **PURPOSE OF RECERTIFICATION.** To assure that occupancy in the Homeownership Programs is restricted to families meeting the eligibility requirements, and to assure that monthly payments in the Program are consistent with federal requirements and this Policy, THI may periodically re-examine the eligibility and family income status of each Homebuyer to: 1) determine eligibility for continued occupancy; and 2) calculate monthly payments consistent with federal requirements and this Policy.
  - a. A family whose income increases after execution of their Lease Agreement such that they would no longer be low-income, will remain eligible for the Program.
  - b. A family whose gross family income is less than the minimum income requirement for eligibility, may continue occupancy of the unit, provided the family is able to meet all terms of the Agreement, including making the monthly payments, including any required minimum administrative charge, payment of all utility costs, and providing maintenance to the home.
2. **RECERTIFICATIONS.**
  - a. The THI will conduct a recertification of a family's income upon the request of a Homebuyer. A Homebuyer may request a recertification if his/her family composition or income changes and the Homebuyer believes that as a result, his/her required payment exceeds more than 30% of his/her adjusted monthly income. The recertification may result in an adjustment of the Homebuyer's required monthly payment.
    - (1) Changes in family composition are changes affecting the family status, including loss of a family member by relocation, death or divorce, or the addition of a family member.
    - (2) Decreases in monthly payments will be effective on the first day of the month following the month the report of the change in circumstances was made. Payment decreases resulting from changes in family income or composition shall not be retroactive.

- b. If a Homebuyer's monthly payment is decreased as a result of a recertification, the THI shall conduct an annual recertification of the homebuyer's family composition and income until such time the monthly payment returns to the original monthly payment required under the Homebuyer's Lease Purchase Agreement.
  - (1) Increases in monthly payments will be effective on the first day of the month following the month the report of the change in circumstances was made.
  - (2) If the family failed to come in for a scheduled re-certification, any increase in payments shall be retroactive to the scheduled re-certification date.
- c. If it is determined that the Homebuyer has misrepresented to the THI the facts upon which his/her monthly payment/rent is based and the Homebuyer should have paid a higher payment, the Homebuyer will be back charged the proper payment for the period that the misinformation was used.

3. **REQUIRED FORMS FOR RECERTIFICATION:**

The Homebuyer shall complete and sign the following forms:

- a. Application for Continued Occupancy or Recertification;
  - b. Income, Salary and/or Grant Verification;
  - c. Authorization for Release of Information;
  - d. Federal Privacy Act Notice.
4. Homebuyers will be notified by the THI in writing of any payment adjustment, within ten (10) days of the adjustment. The notice will state the effective date of the adjustment.
5. All information provided by Homebuyers during recertification is subject to verification by the THI.

**C. INSPECTIONS**

- 1. The THI has overall responsibility for assuring that each home is kept in a satisfactory, safe and sanitary condition and that the home and grounds are maintained in a manner that will preserve their condition, normal wear and tear excepted, and to identify necessary corrections before problems become severe, dangerous, or expensive.
- 2. Inspection before move-in and identification of warranties. To provide a record of the condition of the home as of the date of occupancy, an inspection of the home by THI (or its designated representative) and the Homebuyer shall be made as close as possible to, but no later than, the date of occupancy. After the inspection, the inspector shall give the Homebuyer a written statement signed by the inspector, of the condition of the home and equipment. If the Homebuyer concurs with the statement, he or she shall sign a copy of

the statement. If the Homebuyer does not concur, he or she shall state his or her objections in writing on the statement.

3. Inspection during Contractor's warranty periods. On or before the date of occupancy of each home, THI will furnish the Homebuyer with a list of applicable contractors', manufactures', and suppliers' warranties, indicating the items covered and the periods of the warranties. Upon the Homebuyer's request, the THI or its designated representative will inspect the home during the warranty period. At each inspection, THI shall obtain a signed statement from the Homebuyer as to any noted deficiencies so that the THI may enforce any rights under the applicable warranties.

Independent of these THI inspections, it shall be the responsibility of the Homebuyer during the period covered by the applicable warranties to inform THI promptly of any deficiencies or breach of warranties so the THI may enforce any rights under the applicable warranties. If a Homebuyer fails to report such a deficiency or breach in time, and THI is subsequently unable to obtain redress under the warranty, correction of the deficiency shall be the responsibility of the Homebuyer.

4. Annual Inspection. The THI shall conduct an interior and exterior inspection of each home ~~at least annually~~ **every two years after the initial warranty inspection**, and furnish a copy of the inspection report to the Homebuyer. Any item requiring repair or replacement will be recorded. This will include but not be limited to plaster repairs, painting, termite inspection, roof deterioration, overloading of electric circuits, and corrosion control. Following the inspection, the THI inspector shall give the Homebuyer a written statement, signed by the inspector, of the condition of the unit. The Homebuyer shall sign a copy of the statement, ~~and indicate the timeline by when the necessary repairs and/or replacements will be made~~ **and upon signing of the statement the Homebuyer shall be responsible for correction of repairs within thirty (30) days**. A copy of the inspection statement will be retained in the Homebuyer's permanent folder, and a duplicate copy shall be given to the Homebuyer. A follow-up procedure will be established to ensure that all required repairs and replacements have been carried out by the Homebuyer within ~~a reasonable period of time~~ **thirty (30) days**. Emergency situations shall be addressed immediately, but at least within ten (10) days.

~~Where the Homebuyer is in complete compliance with the Lease Agreement and the THI's rules and policies, and the home is maintained in satisfactory, safe and sanitary condition, as reflected by the last inspection by the THI, inspections may be done once every three (3) years. However, if at any time the THI determines that the Homebuyer is not in compliance with the Lease Agreement, it will reinstate annual inspections.~~

5. Emergency Inspections. The THI shall conduct an emergency inspection of a home upon receiving notice that the home is in need of maintenance that if left uncorrected would create a hazard to life, health or safety of the occupants, or other residents or would create a risk of damage to the home. Emergency situations shall be addressed immediately, but at least within ten (10) days.
6. Move-Out Inspection upon termination of Agreement. If the Lease Purchase Agreement is terminated for any reason, THI shall conduct a final interior and exterior move out inspection of the home, after notifying the Homebuyer of the time for the inspection, and

shall give the Homebuyer a written statement of the cost of any maintenance work required to put the unit in satisfactory condition for the next occupant. Such cost shall be the sole responsibility of the Homebuyer.

7. Inspections by the THI or its delegated representatives shall occur at reasonable hours upon notification to the Homebuyer. The Homebuyer shall also be notified that he/she or his/her representative may join in the inspection.
8. ~~Within ten (10) days of the conclusion of every inspection, the THI, together with the Homebuyer, shall prepare an Action Plan to address any items requiring correction by the Homebuyer. The Action Plan shall identify the time period within which the item will be addressed, and the method of follow up by THI. Failure to comply with an Action Plan by the Homebuyer shall constitute violation of the Lease Agreement. The THI may, but is not required to, perform any required maintenance work or repairs identified as a result of an inspection, in accordance with Section V.A of the THI Maintenance Policy, with all costs of the required work being charged to the Homebuyer.~~

*Amendments under this section were approved by Resolution No. 14-R-02 on March 5, 2014.*

#### **D. INSURANCE**

1. The THI will carry all insurance on homes not conveyed in an amount sufficient to protect the home from the risk of fire and other risks generally covered by home insurance carriers. In the event the home is damaged or destroyed by fire or other casualty, the Homebuyer shall immediately contact the THI. The THI is not obligated to provide insurance for homes conveyed. Homebuyers are responsible for purchasing insurance covering their personal property.
2. Repair or Rebuilding. In the event the home is damaged or destroyed by fire or other casualty, the THI shall use the insurance proceeds to have the home repaired or rebuilt.
3. Suspension of Payments. If the home must be vacated for repairs due to damage or destruction of the home not caused by the Homebuyer, required monthly payments will be suspended during the vacancy period. .

#### **E. ANNUAL STATEMENTS TO HOMEBUYER**

The THI shall send each Homebuyer an annual statement indicating the remaining purchase balance on the home.

#### **F. ENFORCEMENT OF POLICIES**

THI is responsible for enforcing these Policies and the Lease Agreement. The decision by THI to not act on a breach of these Policies or the Lease Agreement shall not constitute a waiver of THI's rights to act on the continuing breach or any other breach at any future point in time. Except when specifically stated in the Lease Agreement, nothing in these Policies or the Lease Agreement shall be construed to waive the sovereign immunity of the THI.



## SECTION VII. HOMEBUYER'S RESPONSIBILITIES

### A. VOLUNTARY TERMINATION OF LEASE

1. A Homebuyer wishing to voluntarily terminate his/her participation in the Homeownership Program must give the THI thirty (30) days written notice and follow procedures specified in the Lease Agreement.
2. A Homebuyer may voluntarily relinquish his/her rights to the Homeownership unit. Such relinquishment must be made by signing a waiver of all rights under the Lease Agreement. The Lease Agreement will be amended to remove the person relinquishing the unit and a new Lease Agreement will be executed with the remaining Homebuyer, if any, providing he/she continues to remain eligible for the Homeownership Program.

### B. MAINTENANCE AND UTILITIES

In accordance with the Lease Agreement, each Homebuyer must meet the following obligations, which are more fully described in the Lease Agreement:

1. Maintenance of the Home.
  - a. Each Homebuyer shall be responsible for keeping the home in good repair and condition, and for all routine and non-routine maintenance and care of his/her home, including all repairs and replacements resulting from any cause, and excluding repairs and replacements covered by insurance. The THI shall not be obligated to pay for or to provide any maintenance to the home other than the correction of warranty items reported during the warranty periods or insurance repairs. Homeowner maintenance shall be monitored by the THI through inspections conducted at least annually.
  - b. Homebuyer Non-compliance. Failure by the Homebuyer to perform the maintenance obligations constitutes a breach of the Lease. If the THI becomes aware, either during inspections performed in accordance with this Policy or otherwise, that the Homebuyer is in noncompliance with maintenance provisions, the THI shall notify the Homebuyer within ten (10) days of the inspection to remedy the noncompliance through a Plan of Action which shall include assurances of future performance of the Homebuyer's obligations under the Lease. The Plan of Action shall identify any items that are warranty items and the time within which THI will address those items.
    - (1) The Plan of Action shall require the Homebuyer to complete the maintenance work that is the responsibility of the Homebuyer within ~~a reasonable time, but not to exceed~~ thirty (30) days. If the THI determines that the condition of the property creates a hazard to the life, health or safety of the occupants, or if there is an immediate risk of serious damage to the property if the condition is not corrected, the corrective work shall be done promptly by the Homebuyer. Upon failure by the Homebuyer to perform the work within the required time, or the THI may perform the corrective

work and charge the Homebuyer. If the THI performs the corrective work, it may require the payment of a deposit by the Homebuyer. The Lease shall be terminated if the Homebuyer fails to comply with the Plan of Action or fails to reimburse the THI for the cost of the corrective work.

*The amendment in this section was approved by Resolution No. R-14-02 on March 5, 2014.*

2. Utility Payments. Each Homebuyer shall pay for the cost of his/her own utilities to the home and maintain such utilities, including payment of any deposits. The Homebuyer shall avoid disconnection of his/her utilities.

### **C. CHILDREN**

Homebuyers are at all times responsible for the conduct of their children, including the children of household members, guests and visitors. Young children should not be left alone or unattended while in the housing area.

The THI will not be held responsible for accidents or injuries resulting while children are left unattended in the housing area.

### **D. PETS**

1. All Homebuyers are required to abide by the Pueblo of Santa Ana Dog Ordinance and any animal control ordinances.
2. Pig pens and animal corrals are prohibited in the housing area.

### **E. TRAFFIC LAWS**

Housing subdivisions are residential areas with children at play. All Homebuyers and their guests and visitors shall observe speed limits and traffic laws. Speed limits apply to all vehicles including motorcycles and motor bikes. Speeding and racing vehicles within the housing area are prohibited.

### **F. VEHICLES/PARKING**

Parking near fire hydrants is prohibited. The following are not permitted within the lot, in front of the home, or anywhere within the subdivision:

1. Inoperable vehicles (including cars, trucks, vans and farm vehicles). Vehicles shall be deemed inoperable if they cannot start or run on their own engine and have been parked without being moved for more than one month.

### **G. EMERGENCIES**

In case of fire or other emergency, the Homebuyer should immediately contact the local fire or police department or CALL 911.

## **H. UNLAWFUL ACTIVITIES**

1. The Homebuyer is responsible for all actions of residents, guests, and visitors of the home. Homebuyers, household members, and their guests and visitors shall not engage in any unlawful activities including but not limited to bootlegging, alcohol or drug related activities, disorderly conduct or other activities which are hazardous to the health or safety of other Homebuyers or disturb other Homebuyers in the quiet enjoyment of the premises.
2. No loud music is allowed on the premises.
3. Homebuyers shall report all unlawful and suspected criminal activities, including bootlegging and drug sales occurring in their neighborhoods to lawful authorities and to the THI no later than the next business day following the unlawful or suspected criminal activity. Homebuyers should cooperate with law enforcement agencies and the THI in evicting such persons from their home and grounds.

## **I. OTHER OBLIGATIONS AND RULES**

1. The Homebuyer must abide by all conditions of his/her Lease Agreement.
2. Non members that are not a part of the homebuyer's family composition shall not be allowed to live in the home.
3. Homebuyers may not take in boarders or rent out rooms or allow any one not a part of the family composition to occupy the home. Visitors or guests may not reside in the home, nor may they stay in the home for more than three consecutive days, except with written approval of the THI. THI may allow for the temporary overnight accommodations of visitors or guests during holidays or feasts, but in no instance shall visitors or guests be allowed to occupy the home for a time period exceeding two weeks.
4. Homebuyers, guests and visitors shall not destroy, deface or damage any THI or Pueblo property and abide by all tribal laws and rules.
5. Homebuyers shall not abandon the home. The Homebuyer shall notify the THI if all household members will be absent from the dwelling unit for a period of time exceeding thirty (30) days or due to military duty, education or employment purposes. Otherwise, a home may be considered to be abandoned as defined in Section IX.B.2.g of these policies.

## **J. VIOLATIONS**

Any Homebuyer who violates any provision of these Policies or his/her Lease Agreement will be subject to termination of his/her Lease Agreement. Any violation of these Policies will affect the Homebuyer's continued eligibility status for housing and future housing assistance.

## SECTION VIII. COLLECTION

### A. RESPONSIBILITY TO MAKE PAYMENTS

The obligations of Homebuyers to make all monthly payments are outlined in the Lease Agreement. In general, the responsibilities of all Homebuyers regarding payments are as follows:

1. Make monthly payments, including any other charges incurred (utilities, damages, work orders, etc.) on or before the first day of each month.
2. If payments will not be made on time, to contact the THI Homeownership Department to explain the problem.
3. Provide in a timely basis accurate information to THI regarding family composition, family income and employment, as set forth in Section VI.B.3 of these policies.

### B. THI'S RIGHTS AND RESPONSIBILITIES

The THI has the right to take action against any Homebuyer who does not make the required payments. The action will be in accordance with the procedures outlined in these policies.

### C. PAYMENTS

1. All payments are due in full on or before the first (1<sup>st</sup>) day of each month without notice in advance. Payments not received by the THI on or before the fifth (5<sup>th</sup>) day of the month are considered to be delinquent, **except that if the fifth (5<sup>th</sup>) day falls on a day the THI office is closed, payment may be made the next business day without being delinquent.**

*This amended section was approved by Resolution 12-R-02 on September 18, 2012 by the Board of Directors*

2. If any payment is made after the fifth (5<sup>th</sup>) day of the month, the Homebuyer shall be charged and required to pay a late charge of Twenty-Five Dollars (\$25). The late fee is waived for Homebuyers on payroll deduction.
3. Prompt payment is required for continued occupancy.
4. All payments are to be made to "THI" and delivered to the THI office in person or mailed to:

Tamaya Housing Incorporated

**298 Prairie Star Road 51 Jemez Canyon Dam Road, Suite 201F**

Santa Ana Pueblo, NM 87004

*This amended section was approved by Resolution 12-R-02 on September 18, 2012 by the Board of Directors*

5. Payments may be made by check or money order or by payroll deduction. The employer shall be responsible for making the required payment to THI at least once each month. THI shall promptly inform and employer of any change in the amount of payment.
6. THI will charge a fee of Thirty-Five Dollars (\$35) for any check returned from the bank for insufficient funds.

**D. DELINQUENT ACCOUNTS**

1. A Homebuyer who makes his or her payments promptly and in full is more likely to have a higher regard for his/her unit, maintain it in satisfactory condition, and cooperate with other families and with THI in building and maintaining a strong community. Allowing a Homebuyer to become delinquent by failure to enforce collection hinders a Homebuyer and jeopardizes the entire housing program, since the THI relies upon collections to pay operating expenses and maintain services. THI will not tolerate a delinquent account, and will treat delinquent payments as a breach of the Lease Purchase Agreement.
2. Notice of Noncompliance
  - a. If on the 5th day, the Homebuyer has not made full monthly payment, the THI shall serve the Homebuyer with a Notice of Noncompliance.
  - b. A Notice of Noncompliance as a result of a delinquency shall include the following:
    - (1) a statement that the Homebuyer is delinquent, the amount of the delinquency and a demand for immediate payment of the delinquent amount.
    - (2) a statement that prompt payment is a requirement for continued occupancy.
    - (3) a statement that the Homebuyer is required to remit the delinquent amount or meet with the THI on a specified date to discuss and enter into a Plan of Action to cure the noncompliance.
    - (4) a statement that the Homebuyer's failure to respond to or comply with the Notice within the required time will result in termination of the Homebuyer's Lease Purchase Agreement.

## **SECTION IX. TERMINATION OF THE LEASE**

### **A. VOLUNTARY TERMINATION OF LEASE BY HOMEBUYER**

1. A Homebuyer may voluntarily terminate his/her Lease Purchase Agreement by providing the THI thirty (30) days written notice. The Agreement shall terminate on the thirtieth (30) day after THI receives such notice.
  - a. Notice to THI shall be in writing and either delivered to a THI employee at the THI office during normal business hours or sent to THI by certified mail, return receipt requested, properly addressed, postage prepaid.
  - b. If an Occupant vacates a unit without proper notice to THI, he or she shall remain subject to the obligations of the Lease Purchase Agreement, including the obligation to make monthly payments, until THI terminates the Lease Purchase Agreement pursuant to procedures set forth in this Policy.
2. A Homebuyer may voluntarily relinquish his/her rights to the Homeownership unit. Such relinquishment must be made by signing a waiver of all rights under the Lease Agreement. The Lease Agreement will be amended to remove the person relinquishing the unit and a new Lease Agreement will be executed with the remaining Homebuyer, if any, providing he/she continues to remain eligible for the Homeownership Program.

### **B. TERMINATION OF LEASE BY THI**

1. The THI has the authority to terminate a Lease when a Homebuyer has violated the terms or conditions of the Lease.
2. The following constitute a violation of the Lease:
  - a. Failure to provide full and accurate information regarding household composition or household income within ten (10) days after a request is made by the THI.
  - b. Misrepresentation or withholding of material information in applying for admission or in connection with any subsequent reexamination of income and family composition.
  - c. Failure without good cause to participate in the THI's counseling programs or to observe or comply with any of the terms and conditions under the Lease Purchase Agreement.
  - d. Violation of the Drug-Free Housing Policy. The sale, use, possession, purchase, manufacture, or transfer of illegal drugs or other controlled substances or drug related paraphernalia on the premises by a Homebuyer, any member of a Homebuyer's household, or any guest or other person under a Homebuyer's control. A Homebuyer is required to notify THI of any federal, state, or tribal drug statute conviction of any person residing in his or her unit no later than five (5)

days after such conviction. Any violation of this paragraph may subject a Homebuyer to termination of the Lease Purchase Agreement, and will result in the matter being reported to the appropriate law enforcement agencies.

- e. Failure to respond to or comply with a Notice of Noncompliance within the time required in the Notice.
- f. Engagement by the Homebuyer, or any member of the Homebuyer's household, or any guest or visitor of the household, in any activity, including criminal activity, that threatens the health, safety or right to peaceful enjoyment of the housing development by other residents of the THI or that may impair the physical or social environment of the project.
  - (1) The conduct to which this part applies includes, but is not limited to, vandalism, arson, bootlegging, drug sales, assault, threatening with violence, or violation of any criminal laws of the Pueblo of Santa Ana.
  - (2) Termination proceedings due to alleged criminal activities shall begin upon reliable information received of the criminal activity. Information may come from a police report, or a reliable report from Tenants, Homebuyers, or other concerned persons within the housing development, a THI employee, or any other person not mentioned above. Termination proceedings may begin regardless of whether or not criminal proceedings are initiated or are pending.
- g. Abandonment of the home. Abandonment exists when the Homebuyer and his/her family listed as part of the household composition is absent from the unit for a period of thirty (30) consecutive days without notification to the THI, and a monthly payment is delinquent.
  - (1) When the THI has received information that the Homebuyer may have abandoned the unit, the THI shall make an attempt to contact the Homebuyer at the unit, document the period of abandonment, post a Notice of Abandonment on the door, and mail the Notice to the Homebuyer's last known address by certified mail, return receipt requested. All efforts to locate the Homebuyer shall be documented.
  - (2) If, after five (5) days from posting the Notice of Abandonment, the absent Homebuyer does not respond to the Notice, the THI shall send a Notice of Termination to the absent Homebuyer's last known mailing address, and termination of the Lease Purchase Agreement shall be deemed effective as of the date that the Notice of Abandonment was first posted.
  - (3) The THI shall have the unit secured to prevent vandalism to the unit.

- (4) Upon termination of the Lease, all property left behind by the absent Homebuyer shall be disposed of and the costs of disposing the property charged to the Homebuyer.
      - h. Failure to abide by any term or condition of the Lease after being informed in writing by the THI of the breach, or the failure to agree to a reasonable Plan of Action to cure the breach, or the failure to abide by the terms of a Plan of Action.
      - i. Failure to perform maintenance obligations or failure to agree to a reasonable Plan of Action to cure the breach, or failure to abide by the terms of the Plan of Action.
      - j. Violation of any other terms or conditions stated in the Lease or other good cause.
3. Plan of Action. If a Homebuyer breaches any of his or her obligations under a Lease Purchase Agreement, and after such noncompliance comes to the attention of THI, THI shall send the Homebuyer a Notice of Noncompliance [Appendix H], which sets forth any actions the THI proposes to take and requesting a meeting within five (5) days of receipt of said Notice. The Notice of Noncompliance shall provide the Homebuyer an opportunity to provide an explanation or justifications for his/her noncompliance. To cure the noncompliance, a specific Plan of Action shall be agreed upon, indicating specifically how the Homebuyer will come into compliance, and any actions the THI will take. In cases of delinquency, payment shall be due within thirty (30) calendar days of the above meeting unless special arrangements are made to enable payments to be made over a reasonable period of time and to allow the Homebuyer to obtain counseling relating to efficient budgeting of the Homebuyer's household resources. The Plan of Action shall be put in writing and shall be signed and dated by both THI and the Homebuyer. If the Homebuyer refuses or fails to meet with THI or to agree to a Plan of Action or fails at any time to comply with the Plan of Action, THI shall proceed with termination procedures.
4. Records. Records of meetings with Homebuyers, written Plans of Action agreed upon, and all other related steps taken by THI shall be maintained by THI in the Homebuyers' files.
5. Enforcement. If noncompliance is not corrected pursuant to a Plan of Action, THI has a responsibility to terminate the Lease Purchase Agreement pursuant to its terms and conditions and in accordance with terms and conditions of this Policy, and, if necessary, to institute eviction and/or collection proceedings against the Homebuyer.
6. Termination Procedures
  - a. Notice of Termination. The Executive Director shall initiate termination of a Lease Purchase Agreement by giving the Homebuyer a written Notice of Termination [Appendix K]. Such Notice shall state the following:
    - (1) The reason for termination and the existence and availability of this Policy;



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- (2) The Homebuyer's right to request a hearing before the Executive Director before the date of termination to provide information or arguments on why termination should not occur;
  - (3) That, if Homebuyer does not timely request and attend a hearing, the Lease Purchase Agreement shall terminate thirty (30) days from the Notice of Termination;
  - (4) That Homebuyer has the right to examine, before the hearing, and copy at his or her expense, all relevant documents, records, or policies of the THI or HUD regulations that are directly related to the termination. Any documents not made available after request by the Homebuyer may not be relied upon the THI at the hearing.
  - (5) That if, at the hearing before the Executive Director, the Homebuyer provides evidence or assurances satisfactory to the Executive Director that the Homebuyer will cure the breach and continue to carry out his or her Lease Purchase Agreement obligations, the Executive Director may, but is not required to, rescind or extend the Notice of Termination. Absent such rescission or extension, the Lease Purchase Agreement shall terminate, thirty (30) days from the date of the hearing or the Notice of Termination, whichever is later;
  - (6) That Homebuyer has the right to be represented or accompanied by a person of his or her choice and to be afforded due process;
  - (7) That Homebuyer has the right to receive a written decision on the merits responding to the information or arguments presented by Homebuyer;
  - (8) That THI will provide the Tribal Council with a copy of the Notice of Termination, unless the Homebuyer waives in writing THI's obligation to do so; and
  - (9) That, if the Executive Director does not provide the Homebuyer with a written decision within ten (10) days of the hearing, or if the Homebuyer does not agree with the Executive Director's written decision, the Homebuyer may appeal the Executive Director's action/inaction to the Board of Directors ("Board").
- b. Hearing. The Executive Director shall schedule a hearing upon request by a Homebuyer. The hearing shall take place no later than thirty (30) days after the date the Homebuyer's request is received. At the hearing, the Homebuyer must show his or her entitlement to the relief sought.
- c. The Decision of the Executive Director. The Executive Director shall prepare a written decision together with the reasons therefore within ten (10) days after the hearing. Copies of the decision shall be sent to the Homebuyer in the manner

provided in this Policy for giving notice. If the Homebuyer provides evidence or assurances satisfactory to the Executive Director that the Homebuyer will cure the breach and continue to carry out his or her Lease Purchase Agreement obligations, the Executive Director may, but is not required to, rescind or extend the Notice of Termination. The Executive Director's written decision shall inform Homebuyer of his decision to rescind or extend the Notice of Termination or to terminate; the decision shall also provide the Homebuyer with notice of his or her right to appeal to the Board pursuant to this Policy.

- d. Exclusive Remedy. All hearings and appeals challenging termination of the Homebuyer's occupancy shall be governed by the provisions of this Policy. NO Homebuyer shall be afforded the right to challenge or appeal a termination under any other THI's Grievance Policy or any other THI policy or procedure.

7. Expedited Termination Procedures.

- a. THI may use expedited procedures for any termination of any Lease Purchase Agreement that involves:
  - (1). Criminal activity that threatens the health, safety, or right to peaceful enjoyment of the housing development by other residents or employees of THI; or
  - (2). Drug-related activity in violation of this Policy (particularly Section IX.B.2.d.).
- b. The THI shall serve the Homebuyer with a written Notice of Termination. The Homebuyer shall have five (5) days from the date on the Notice to respond and request for a hearing before the THI. THI shall inform the Homebuyer that he or she has the right, before any court hearing or trial, to examine any relevant documents, records or policies of the THI or HUD regulations directly related to the termination or eviction.
- c. The THI shall schedule the hearing to be held within 48 hours after receipt of the request for a hearing, and provide the Homebuyer with a notice of the date and time of the hearing.
- d. The hearing shall be in accordance with the grievance procedures in this Policy. The Executive Director shall issue a written decision immediately upon the conclusion of the hearing.
- e. When THI evicts an individual or Family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, THI shall notify the local post office serving that dwelling unit that the evicted individual or Family is no longer residing in the dwelling unit (so that the post office will terminate delivery

of mail for such persons, and such persons will not return to the unit to pick up mail).

8. If the Homebuyer does not respond to the Notice of Termination and no request for a hearing is made, the THI shall begin eviction and/or collection proceedings. At the THI's option, a criminal complaint for criminal trespass may be filed against the Homebuyer.
9. Homebuyers shall be responsible for any attorney fees incurred by THI in enforcing the Lease Agreement.

### **C. SERVICE OF NOTICES**

All notices required under this Section shall be in writing and served in accordance with Section I. H. of these policies.

### **D. EFFECT OF TERMINATION OF LEASE**

1. Termination of the Lease terminates all rights of possession a Homebuyer may have had in a unit.
2. Payments made to the THI after termination of a Lease for delinquent payments or charges does not change the status of the termination, but will be applied to the former Homebuyer's delinquent account to decrease the amount of restitution owed the THI.

### **E. APPEAL PROCEDURES**

1. Notice of Appeal.
  - a. If, after requesting and participating in a hearing, a Homebuyer is not satisfied with the decision of the Executive Director, or if the Executive Director fails to issue a written decision within the specified time, the Homebuyer may file in writing his or her notice of appeal with the Board within five (5) working days of the Homebuyer's receipt of the written decision of the Executive Director or, in the case of inaction, within fifteen (15) days after the date of the hearing before the Executive Director. A copy of the notice must be served on the Executive Director.
  - b. The notice of appeal shall:
    - (1) Include the name, address, and phone number of the Homebuyer;
    - (2) Be clearly labeled or titled with words "NOTICE OF APPEAL";
    - (3) Have on the face of the envelope in which the notice is mailed or delivered, in addition to the address, the clearly visible words "NOTICE OF APPEAL";

- (4) Contain a statement of the decision being appealed that is sufficient to permit identification of the decision;
- (5) Attach a copy of the final decision of the Executive Director, if one exists;
- (6) Contain a statement of the reasons for the appeal; and
- (7) State that a copy of the notice of appeal has been served on the Executive Director.

2. Procedures on Appeal.

- a. The Executive Director must file with the Board a written answer responding to the notice of appeal within five (5) working days after the Executive Director's receipt of the notice of appeal, and a copy shall be served upon the Homebuyer in accordance with Section I. (H). The Homebuyer shall be permitted an additional five (5) working days after receipt of the Executive Director's answer to file a reply.
- b. The Executive Director shall provide the Board with all relevant documentation concerning the appeal based upon the administrative record and including the factual information presented at the hearing. The Board shall decide the appeal based solely upon this administrative record, and no new evidence shall be considered.
- c. There shall be no right to a hearing before the Board; however the Board may schedule a hearing at its sole discretion.
  - (1) If the Board grants a hearing, the hearing shall be conducted informally, and pertinent oral or documentary evidence may be received without regard to whether that evidence would be admissible under the rules of evidence employed in judicial proceedings.
  - (2) If the Board grants a hearing, the Homebuyer shall be afforded a fair hearing providing the basic safeguards of due process which shall include:
    - (a) The opportunity to examine before the hearing, and copy at his or her expense, all documents, records, and policies of THI and HUD regulations that are directly related to the hearing. Any document not made available after request by the Homebuyer may not be relied upon by THI at the hearing;
    - (b) The right to be represented by a person of his or her choosing;
    - (c) The right to cross-examine THI's witnesses and to present arguments in favor of the Homebuyer's position;

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- (d) The right to a private hearing unless the Homebuyer, in writing, requests a public hearing; and
  - (e) The right to a written decision on the merits.
- 3. Final Order.
  - a. The Board shall issue a written decision on the appeal within thirty (30) days after its receipt of the notice of appeal, or within fifteen (15) days of the hearing, whichever is later. Copies of the decision shall be sent to the Executive Director and to the Homebuyer in the manner provided in this Policy for giving notice. Such decision shall be final and binding upon the parties.

## **SECTION X. EVICTION PROCEEDINGS; COLLECTION OF ARREARAGES**

### **A. EVICTION**

Upon termination of the Lease Purchase Agreement, failure of the Homebuyer to vacate the premises by the date specified in the notice of termination or notice of eviction will result in the THI filing an eviction action in the Contemporary Courts of the Pueblo.

### **B. COLLECTION**

Upon termination of the Lease Purchase Agreement, the Homebuyer fails or refuses to pay to THI any delinquent amounts, arrearages, and utility or other charges, as appropriate, THI may file a civil complaint with the Contemporary Courts of the Pueblo to recover such payments.

### **C. OBLIGATIONS OF HOMEBUYERS UPON VACATING A DWELLING UNIT**

Upon vacating the dwelling unit, the Homebuyer is required to leave the premises clean and in good condition, excepting normal wear and tear.

### **D. DUTIES OF THE THI DURING VACATING OF A UNIT**

The THI shall perform the following duties at the time a Homebuyer is vacating a unit:

1. Conduct a move-out inspection and properly document the inspection.
2. Take immediate possession of the unit and have the unit secured by THI personnel.
3. Be present on site and change all locks on all doors and secure the house by boarding up the windows
4. Make sure all personal belongings are removed from within and around the unit. Any property left behind by the vacating Homebuyer shall be disposed of by the THI with the cost of disposal charged to the vacating Homebuyer.

### **E. VACATED ACCOUNTS**

A Vacated Account is an outstanding account left by a former occupant. It may consist of delinquent payments and/or renovation and utility costs.

1. Vacated accounts remain the responsibility of the former occupant and shall be collected by the THI. Collection efforts shall include if necessary the filing of a complaint against the former occupant in the Santa Ana Contemporary Courts.
2. A former occupant may dispute the amount of his/her vacated account in accordance with the grievance procedures in this Policy.

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3. A former occupant with a vacated account, even if written off, shall not be eligible for future housing assistance from the THI until he/she has cleared the debt.

## SECTION XI. GRIEVANCE POLICIES AND PROCEDURES

### A. STATEMENT OF PURPOSE

These policies and procedures are intended to standardize Homebuyer grievance procedures against THI, and **do not apply to grievances arising out of THI's termination procedures.** A Homebuyer's sole rights and remedies in termination actions are described in Section IX of this Policy.

### B. DEFINITIONS

Unless otherwise provided, the following definitions shall apply throughout this Section:

1. "Adverse Action" means any of the following actions by THI concerning a Homebuyer:
  - a. a decision requiring the Homebuyer to move to another dwelling unit;
  - b. a determination of rent, or the amount of other charges, due and/or payable to THI by Homebuyer;
  - c. a determination of the amount of the Homebuyer's monthly payment;
  - d. any action contrary to the Homebuyer's interests; or
  - e. a determination of the amount of the settlement amounts upon termination of the Lease Purchase Agreement or purchase of the home by Homebuyer.

**"Adverse Action" does not include termination of a Lease Purchase Agreement, which is addressed in a separate Section of this Policy, nor does it include THI's action or non-action concerning general policy issues or class grievances, including determinations by THI of the administration charge.**

2. "Grievance" means a complaint concerning any proposed or actual Adverse Action that affects the rights, duties, welfare, or status of Homebuyer. Except as otherwise provided herein, all disputes arising out of THI's termination of a Lease Purchase Agreement shall be dealt with **exclusively** in the manner provided for and according to the procedures described in Section IX of this Policy. No Homebuyer shall have any right or recourse under this Grievance Policy to augment, supplement, or contradict the Collection and Termination sections of this Policy.
3. "Hearing Officer" means one or more persons selected by the THI Board of Directors ("Board") to hear the Grievance. A Hearing Officer may not be the person who made or approved the decision under review, or a subordinate of such person, and may be a Board member.



### **C. GRIEVANCE PROCEDURES**

1. A Homebuyer may file a Grievance with THI and challenge any Adverse Action within thirty (30) days from the date of the Adverse Action at issue.
2. Homebuyer's written request for a hearing must specify the reason for the Grievance and the action or relief sought.
3. Upon the filing of a written Grievance and request for hearing, a Homebuyer shall be entitled to a hearing before a Hearing Officer; however, THI is not required to commence or continue a hearing if the Homebuyer is delinquent in payment of any amounts owed to THI. The THI shall provide the Homebuyer with a notice of a hearing providing information on the date, time and location of the hearing. The notice shall be in the format described in Appendix I of this Policy.
4. The Hearing Officer shall hold a hearing within thirty (30) days after receipt of a written request for a hearing.
5. THI shall afford the Homebuyer an opportunity for a fair hearing with basic elements of due process by assuring that;
  - a. Homebuyer will have reasonable opportunity to examine, before the hearing, and copy at his or her expense, all relevant documents, records, or policies of THI or HUD regulations that are directly related to the Adverse Action. Any document, record, or regulation not made available after request by the Homebuyer may not be relied upon by THI at the hearing:
  - b. Homebuyer will have a right to be represented by another person of his or her choice at the hearing:
  - c. Homebuyer will have a reasonable opportunity to present evidence, arguments, and affirmative legal or equitable defense in support of his or her Grievance; to dispute evidence relied on by THI; to ask question of, confront, and cross-examination witnesses; and to have others make statements on his or her behalf; and
  - d. Homebuyer will receive a written decision on the merits.
6. At the hearing, Homebuyer first must show an entitlement to the relief sought, and thereafter, THI must justify the action toward which the Grievance is directed.
7. If the Hearing Officer determines that the issue raised by Homebuyer in his or her Grievance has been previously decided in another proceeding, the Hearing Officer may refuse to hold or continue with the hearing.
8. If the Hearing Officer conducts the hearing informally, he/she may receive pertinent oral or documentary evidence without regard to whether that evidence would be admissible under the rules of evidence employed in judicial proceedings.

9. If Homebuyer or THI fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for a period not to exceed five (5) business days or may make a determination that the non-appearing party has waived the right to a hearing. Both the Homebuyer and THI shall be notified of the determination.
10. THI may not require the Homebuyer to pay any hearing fees or hearing costs.
11. The Hearing Officer shall base his or her decision solely and exclusively on facts presented at the hearing and upon all relevant contracts, THI polices, and applicable laws, regulations, and HUD requirements.
12. The Hearing Officer shall prepare a written decision together with the reasons for his decision within ten (10) days after the hearing. The Hearing Officer shall cause copies for the decision to be sent to the Homebuyer and to THI.
13. The decision of the Hearing Officer shall be final and binding, provided that a decision, in whole or in part, may be overturned or modified by a majority vote of the THI Board of Directors, if the Board shall determine that the decision of the Hearing Officer is contrary to law, HUD requirements, or THI policies.

#### **D. APPEAL**

Either party may request that the Board review the decision of the Hearing Officer by filing a request within then ten (10) days of receipt of the Hearing Officer's decision. The Board shall consider the matter at a meeting within fifteen (15) days of receipt of a request for review. At its discretion and with appropriate notice, the Board may schedule a hearing and receive arguments from the Homebuyer and THI. The Board shall decide the matter based exclusively on its record and the record before the Hearing Officer.

#### **E. RECORDS**

The THI shall keep in the Homebuyer's file a copy of the relevant information relating to the grievance and final decision. The following form may be used to record the information:

**TAMAYA HOUSING INCORPORATED**

**GRIEVANCE CHECKLIST**  
*(TO BE KEPT IN PARTICIPANT'S FILE)*

**HEARING**

1. Date of Request \_\_\_\_\_
2. Reason for Grievance \_\_\_\_\_
3. Relief Sought \_\_\_\_\_
4. Hearing Officer (or Hearing Panel member) \_\_\_\_\_  
\_\_\_\_\_
5. Date of Notice of Hearing \_\_\_\_\_
6. Date of Hearing \_\_\_\_\_
7. Witness Present \_\_\_\_\_

**DECISION**

1. Date of Decision \_\_\_\_\_
2. Decision and Reasons \_\_\_\_\_
3. Date and Nature of Action, if any, by Board of Directors \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DESCRIBE ANY ADDITIONAL FACTS OR OCCURRENCES THAT ARE RELEVANT  
TO THIS CASE BUT THAT ARE NOT SPECIFICALLY PROVIDED FOR ABOVE.

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## **SECTION XII. PREFERENCE SELECTION**

### **A. METHOD OF APPLYING PREFERENCE POINTS**

1. This section outlines selection priorities for housing based on federal and local preferences. Meeting a preference does not guarantee selection for a unit, but rather identifies priority groups for first consideration. All eligible applicants will be ranked according to preference points.
2. All claims for preference must be documented and certified, where applicable, by a governmental agency. The preference status must be re-verified prior to selection for occupancy or when a unit becomes vacant and available, to confirm the applicant's qualification for the priority at the time of selection or availability of a unit.
3. If the preference ratings for several applicants appear equal, the date and time stamp on the completed application with all supporting documentation shall be used to determine who shall get the next available unit on a first-come, first-serve basis.

### **B. PREFERENCE POINTS**

1. Preference points will be given for each of the following that apply:
  - a. A Santa Ana Family with a certificate of Indian blood – 25 Points
  - b. Income Status – 10 points – very low income (income below 50% of median income)  
5 points – low income (income between 50 and 80% of median Income)
  - c. Handicapped – 5 Points  
A family whose head or spouse, or sole member is a person with a handicap.
  - d. Tribal Elder (Head of Household or spouse, 62 years +) – 5 Points
  - e. Family Size – 5 points per dependent
  - f. Family without housing – 15 Points
  - g. Family paying more than 50% of income for current housing costs-10 Points
  - h. Family living in substandard conditions – 5 Points  
A family is living in substandard conditions if any of the following exists:

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- (1) The dwelling unit does not provide safe and adequate shelter and in its present condition, it endangers the health, safety or well-being of a family; or
  - (2) The dwelling unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect, lack of repair, or serious damage to the structure.
  - (3) Housing unit currently has no plumbing or domestic water.
  - (4) Housing unit does not have a kitchen or an operating sink or a proper stove connection in kitchen.
  - (5) Housing unit has no electrical system or has inadequate or unsafe electrical service.
  - (6) Housing unit has no safe heating system or adequate source of heat.
- i. Overcrowded housing - 5 Points

The number of persons occupying a dwelling unit exceeds the maximum occupancy standards or two (2) or more families are occupying a unit designed for single family occupancy.

~~j. Years on waiting list (with continuous updated application each year)~~

~~3 years + 30 points~~

~~2 years 20 points~~

~~1 year 10 points~~

**The deletion of j. above was BOD Approved on July 15, 2014 – RESOLUTION NO. 14-R-05**

**SECTION XIII. APPENDIX**

APPENDIX A – Homebuyer’s Acknowledgement of Receipt of Policies

APPENDIX B - Collateral Assignment

APPENDIX C - Application for Housing

APPENDIX D - Authorization for Release of Information

APPENDIX E - Homebuyer Lease-Purchase Agreement

APPENDIX F - Selection Criteria

APPENDIX G - Authorization for Payroll Deduction

APPENDIX H - Sample Plan of Action

APPENDIX I - Notice of Rights (*Filing of Grievance under Section XI of this Policy*)

APPENDIX J - Notice of Noncompliance

APPENDIX K - Notice of Termination

APPENDIX L - Sample Sublease Agreement

# Tamaya Housing Incorporated

298 Prairie Star Road  
Santa Ana Pueblo, NM 87004  
Phone: 505-771-2060 / Fax: 505-771-2090

## ACKNOWLEDGEMENT OF RECEIPT OF POLICIES

I, \_\_\_\_\_, do hereby acknowledge that I have received a copy of the  
ADMISSIONS, OCCUPANCY, COLLECTION, TERMINATION AND GRIEVANCE POLICIES AND  
PROCEDURES for the THI Homeownership Program.

I understand that these policies and procedures are applicable to all Homebuyers of the THI and have the  
force and effect of law.

My signature below signifies that I have read these policies.

\_\_\_\_\_  
Homebuyer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Homebuyer

\_\_\_\_\_  
Date

cc: Homebuyer File

**APPENDIX A**

**COLLATERAL ASSIGNMENT**

**APPENDIX B**



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## TAMAYA HOUSING INCORPORATED

298 Prairie Star Road  
Santa Ana Pueblo, NM 87004  
Phone: (505) 771-2060 / Fax: (505) 771-2090

Prospective Participant

**Mailing Address**

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone \_\_\_\_\_

Work Phone \_\_\_\_\_

**APPLICATION FOR HOUSING**

**A. Persons who will live in the unit:**

Do you have a land assignment (circle one) Yes No

	Name of Family Members	Social Security Numbers	Relation to Head	Birth Dates	Age	Sex	Occupation
1.			<b>HEAD</b>				
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

**B. Anticipated changes in family composition:** \_\_\_\_\_

**C. INCOME:** \_\_\_\_A) Weekly \_\_\_\_B) Bi-Weekly \_\_\_\_C) Semi-Monthly \_\_\_\_D)Monthly

Name of Family Member	Rate of Pay	Source of Income or Employer's Name & Address	Estimated Income
	A B C D		
	A B C D		
	A B C D		

Child Care Expenses \$ \_\_\_\_\_ Per \_\_\_\_\_ (Submit attached form/letter of verification.

Name of Baby-sitter \_\_\_\_\_ Phone # \_\_\_\_\_

**D. PRESENT HOUSING CONDITIONS AND NEED:**

1. Without Housing? \_\_\_\_Yes \_\_\_\_No

a. Present living arrangements: \_\_\_\_\_

b. Monthly Rent Charge: \_\_\_\_\_

**APPENDIX C**

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2. About to be without housing? \_\_\_\_\_ Yes \_\_\_\_\_ No  
a. Reason: \_\_\_\_\_

b. Type of Notice & Effective Date: \_\_\_\_\_

3. Living under substandard housing conditions? (Explain) \_\_\_\_\_  
\_\_\_\_\_

4. Other conditions and factors of housing need (specify): \_\_\_\_\_  
\_\_\_\_\_

**E. CURRENT RESIDENCE**

County \_\_\_\_\_ Lifetime Resident \_\_\_\_\_ Yes \_\_\_\_\_ No Pueblo of \_\_\_\_\_  
If "No" indicate length of residency in locality: \_\_\_\_\_

**F. DISABLED OR HANDICAP**

1. Disabled family member(s): \_\_\_\_\_  
Nature and extent of disability: \_\_\_\_\_  
2. Physically handicapped family member(s): \_\_\_\_\_  
Nature and extent of disability: \_\_\_\_\_

**G. MILITARY SERVICE OR VETERAN DATA**

1. Family member(s) previously or presently enlisted in service: \_\_\_\_\_  
2. Relationship to Head of Household: \_\_\_\_\_  
3. Discharged: \_\_\_\_\_ Yes \_\_\_\_\_ No If "Yes", Type of discharge: \_\_\_\_\_  
4. Disabled: \_\_\_\_\_ Yes \_\_\_\_\_ No If "Yes", % \_\_\_\_\_ Service Related? \_\_\_\_\_ Yes \_\_\_\_\_ No  
5. Deceased: \_\_\_\_\_ Yes \_\_\_\_\_ No If "Yes", Date \_\_\_\_\_ Service Related? \_\_\_\_\_ Yes \_\_\_\_\_ No  
6. If presently in service: Rank: \_\_\_\_\_ Service No.: \_\_\_\_\_ Branch: \_\_\_\_\_  
Mailing Address of Company: \_\_\_\_\_

**H. Have you or a family member ever been convicted of a felony, or crimes against children and families?**

Yes No If Yes, explain: \_\_\_\_\_  
\_\_\_\_\_

*I understand that this is not a contract and does not bind either party. The above information is true and complete to the best of my knowledge. I do not object to inquiries made for the purpose of verifying the statements made herein.*

*I hereby agree to participate in and cooperate fully in the THI Housing Program and I understand that failure to participate without good cause may result in revocation of the notice of selection or termination of any further housing.*

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date of Application

*For Office Use Only*

Date received by THI \_\_\_\_\_  
Date

By \_\_\_\_\_  
Time

THI HOMEOWNERSHIP PROGRAM ADMISSIONS, OCCUPANCY,  
COLLECTION, TERMINATION AND GRIEVANCE POLICIES AND PROCEDURES

8/24/2015

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Authorization for the Release of Information/

**Privacy Act Notice**

to the U.S. Department of Housing and Urban Development (HUD)  
and the Housing Agency/Authority (HA)

U.S. Department of Housing

**and Urban Development**

Office of Public and Indian Housing

PHA requesting release of information; **(Cross out space if none)**  
(Full address, name of contact person, and date)

HA requesting release of information; **(Cross out space if none)**  
(Full address, name of contact person, and date)

**Tamaya Housing Incorporated**  
**298 Prairie Star Road**  
**Santa Ana Pueblo, NM 87004**

**Authority:** Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by Section 903 of the Housing and Community Development Act of 1992 and Section 3003 of the Omnibus Budget Reconciliation Act of 1993. This law found at 42 U.S.C. 3544.

This law requires that you sign a consent form authorizing: (1) HUD and the Housing Agency/Authority (HA) to request verification of salary and wages from current or previous employers; (2) HUD and the HA to request wage and unemployment compensation claim information from the state agency responsible for keeping that information; (3) HUD to request certain tax return information from the U.S. Social Security Administration and the U.S. Internal Revenue Service. The law also requires independent verification of income information. Therefore, HUD or the HA may request information from financial institutions to verify your eligibility and level of benefits.

**Purpose:** In signing this consent form, you are authorizing HUD and the above-named HA to request income information from the sources listed on the form. HUD and the HA need this information to verify your household's income, in order to ensure that you are eligible for assisted housing benefits and that these benefits are set at the correct level. HUD and the HA may participate in computer matching programs with these sources in order to verify your eligibility and level of benefits.

**Uses of Information to be Obtained:** HUD is required to protect the income information it obtains in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. HUD may disclose information (other than tax return information) for certain routine uses, such as to other government agencies for law enforcement purposes, to Federal agencies for employment suitability purposes and to HAs for the purpose of determining housing assistance. The HA is also required to protect the income information it obtains in accordance with any applicable State privacy law. HUD and HA employees may be subject to penalties for unauthorized disclosures or improper uses of the income information that is obtained based on consent form.  
**Private owners may not request or receive information authorized by this form.**

**Who Must Sign the Consent Form:** Each member of your household who is 18 years of age or older must sign the consent

form. Additional signatures must be obtained from new adult Persons who apply for or receive assistance under the following programs are required to sign this consent form:

- PHA-owned rental public housing
- Turnkey III Homeownership Opportunities
- Mutual Help Homeownership Opportunity
- Section 23 and 19(c) leased housing
- Section 23 Housing Assistance Payments
- HA-owned rental Indian housing
- Section 8 Rental Certificate
- Section 8 Rental Voucher
- Section 8 Moderate Rehabilitation

**Failure to Sign Consent Form:** Your failure to sign the consent form may result in the denial of eligibility or termination of assisted housing benefits, or both. Denial of eligibility or termination of benefits is subject to the HA's grievance procedures and Section 8 informal hearing procedures.

**Sources of Information To Be Obtained**

State Wage Information Collection Agencies. (This consent is limited to wages and unemployment compensation I have received during period(s) within the last 5 years when I have received assisted housing benefits.)

U.S. Social Security Administration (HUD only) (This consent is limited to the wage and self employment information and payments of retirement income as referenced at Section 6103(1)(7)(A) of the Internal Revenue Code.)

U.S. Internal Revenue Service (HUD only) (This consent is limited to unearned income [i.e., interest and dividends].)

Information may also be obtained directly from: (a) current and former employers concerning salary and wages and (b) financial institutions concerning unearned income (i.e., interest and dividends). I understand that income information obtained from these sources will be used to verify information that I provide in determining eligibility for assisted housing programs and the level of benefits. Therefore, this consent form only authorizes release directly from employers and financial institutions of information regarding any period(s) within the last 5 years when I have received assisted housing benefits.

Original is retained by the requesting organization  
ref. Handbooks 7420.7, 7420.8, & 7465.1

form HUD-9886 (7/94)

**APPENDIX D**

THI HOMEOWNERSHIP PROGRAM ADMISSIONS, OCCUPANCY,  
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Consent: I consent to allow HUD or the HA to request and obtain income information from the sources listed on this form for the purpose of verifying my eligibility and level of benefits under HUD's assisted housing programs. I understand that HAs that receive income information under this consent form cannot use it to deny, reduce or terminate assistance without first independently verifying what the amount was, whether I actually had access to the funds and when the funds were received. In addition, I must be given an opportunity to contest those determinations.

This consent form expires 15 months after signed.

Signatures:

_____	_____	_____	_____
Head of Household	Date		
_____	_____	_____	_____
Social Security Number (if any) of Head of Household		Other Family Member over age 18	Date
_____	_____	_____	_____
Spouse	Date	Other Family Member over age 18	Date
_____	_____	_____	_____
Other Family Member over age 18	Date	Other Family Member over age 18	Date
_____	_____	_____	_____
Other Family Member over age 18	Date	Other Family Member over age 18	Date

**Privacy Act Notice.** Authority: The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19). The Housing and Community Development Act of 1987 (42 U.S.C. 3543) requires applicants and participants to submit the Social Security Number of each household member who is six years old or older. Purpose: Your income and other information are being collected by HUD to determine your eligibility, the appropriate bedroom size, and the amount your family will pay toward rent and utilities. Other Uses: HUD uses your family income and other information to assist in managing and monitoring HUD-assisted housing programs, to protect the Government's financial interest, and to verify the accuracy of the information you provide. This information may be released to appropriate Federal, State, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. Penalty: You must provide all of the information requested by the HA, including all Social Security Numbers you, and all other household members age six years and older, have and use. Giving the Social Security Numbers of all household members six years of age and older is mandatory, and not providing the Social Security Numbers will affect your eligibility. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

Penalties for Misusing this Consent:

HUD, the HA and any owner (or any employee of HUD, the HA or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form.

Use of the information collected based on the form HUD 9886 is restricted to the purposes cited on the form HUD 9886. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000.

Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the HA or the owner responsible for the unauthorized disclosure or improper use.

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Original is retained by the requesting organization ref. Handbooks 7420.7, 7420.8, & 7465.1 form HUD-9886 (7/94)

## **PARTICIPANT LEASE PURCHASE AGREEMENT**

THIS PARTICIPANT LEASE PURCHASE AGREEMENT ("Agreement") is entered into in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ ("Homebuyer"), and TAMAYA HOUSING INCORPORATED ("THI").

### **RECITALS**

**WHEREAS** Homebuyer wishes to lease purchase from THI the Housing Unit identified below; and

**WHEREAS** THI desires to sell the Housing Unit to Homebuyer on a lease to purchase basis for the Purchase Price set forth below.

**NOW THEREFORE** in consideration of the terms, conditions, covenants, and warranties hereinafter mentioned to be kept, honored, and performed by the parties, it is hereby agreed as follows.

### **TERMS AND CONDITIONS**

**1. Premises.** The Premises subject to this Agreement are more particularly described as Unit # \_\_\_\_\_, Project \_\_\_\_\_ located at \_\_\_\_\_ ("Housing Unit").

**2. Term.** The term of this agreement is \_\_\_\_\_, unless it is terminated earlier, or extended.

**3. Purchase Price.** The Purchase Price of the Housing Unit is \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

**4. Monthly Payments.**

**A.** The required Monthly Payment, unless reduced pursuant to the terms and conditions of this Lease, is \$\_\_\_\_\_, which shall not be less than the administrative charge amount determined by the THI.

**B.** The Monthly Payment is payable on or before the first day of the month and is considered delinquent after the fifth (5th) day of the month. THI will treat delinquent payments as a breach of this Agreement and may proceed against Homebuyer in accordance with the Collection and Termination Policy.

**APPENDIX E**

THI HOMEOWNERSHIP PROGRAM ADMISSIONS, OCCUPANCY,  
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**C.** If, in any given month, a payment is made after the fifth (5th) day of the month, Homebuyer shall pay a late charge of Twenty-Five Dollars (\$25).

**D.** All payments are to be delivered to the business office in person or mailed to THI at the address below, or at such other address as THI may later specify for that purpose by Notice to Homebuyer.

Tamaya Housing Incorporated,  
298 Prairie Star Road  
Santa Ana Pueblo, NM 87004

**E.** Payments may be made by cashier's check, personal check, money order, or payroll deduction.

**5. Suspension of Monthly Payments.** Monthly Payments may be suspended, at the discretion of the THI, should the Homebuyer have to vacate the Housing Unit due to damage or destruction. Upon rehabilitation or reconstruction of the Housing Unit, the Monthly Payment shall recommence and the payoff schedule under the Term of this Agreement shall remain the same.

**6. Changes to Price and Payments.**

**A.** The Purchase Price will not increase even if Homebuyer's income increases. If Homebuyer's income increases such that Homebuyer is no longer low income, his or her payments may increase in accordance with the THI occupancy policies. Increase in payments will result in the Homebuyer paying off the purchase price sooner. If Homebuyer's income decreases and he or she believes that the required Monthly Payment exceeds thirty percent (30%) of his or her adjusted monthly income, he or she may request a reduction. If 30% of the Homebuyer's adjusted monthly income results in a reduction of the Monthly Payment which is less than the administrative charge, the Homebuyer shall no longer be eligible for the Homeownership Program, and the THI may terminate this Agreement.

**B.** If requested by Homebuyer, THI will review Homebuyer's household income to determine if the adjusted household monthly income has changed. If THI certifies that the monthly house payment is more than thirty percent (30%) of the adjusted household monthly income, the Monthly Payment will be reduced to thirty percent (30%) of the adjusted monthly household income so long as the reduction does not fall below the administrative charge amount, which is an eligibility requirement of the Homeownership Program.

**C.** Should the Monthly Payment be reduced or increased, THI shall conduct an annual recertification of household income and will modify the Monthly Payment as appropriate until the monthly payment returns to that originally required under this Agreement.

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**D.** If the Monthly Payment is changed because of income recertification, the number of Monthly Payments required will be adjusted as soon as practicable to reflect such change.

**7. Statement of Balance Owed.** THI shall provide Homebuyer an Annual Statement of Balance Owed, on or before July 1 of each year.

**8. No Penalty for Early Payment.** Once an initial Monthly Payment has been established, Homebuyer may purchase the Housing Unit by paying an extra amount each month or by paying off some or all of the entire Purchase Price at any time. There will be no penalty for the early purchase of a Housing Unit. THI shall be responsible to maintain records to determine the date the Purchase Price is paid.

**9. False, Incomplete, or Inaccurate Information.** If, at any time, it is determined that Homebuyer may have provided false, incomplete, or inaccurate information concerning any eligibility factor, family size, occupancy, or income, the THI will investigate the information. Upon determination by the Board that such information was false, incomplete, or inaccurate, Homebuyer will be considered in breach of this Agreement.

**10. THI Policies.** Upon execution of this Agreement, THI will provide a copy of its Homeownership Program Admissions, Occupancy, Collection Termination and Grievance Policies and Procedures. Homebuyer hereby agrees to comply with the terms and conditions of these Policies. Failure to comply with the terms and conditions of these Policies shall be considered a breach of this Agreement.

**11. Transfer of Ownership of the Housing Unit.** The Housing Unit shall remain the property of THI until the Purchase Price is paid in full; then THI shall convey the Housing Unit to Homebuyer. Homebuyer will then have the right to occupy the land underlying the home for the term of the underlying lease. After the lease expires, Homebuyer will have only those use rights the Pueblo of Santa Ana may allow.

**12. Homebuyer's Responsibility for Maintenance and Upkeep.**

**A.** Homebuyer is responsible for all maintenance and upkeep of the Housing Unit. Failure to maintain and upkeep the Housing Unit is a breach of this Agreement.

**B.** Although from time to time THI may provide modernization services to the Housing Unit, THI is under no obligation to do so or to provide assistance to do so. THI's decision to undertake such modernization does not relieve the Homebuyer from his or her obligation to maintain or upkeep the Housing Unit.

**13. Homebuyer's Responsibility for Utilities.** The Homebuyer is solely responsible for the cost of furnishing utilities for the home.

**14. Inspections.**

**A.** To ensure the timely periodic maintenance of the Housing Unit by Homebuyer, THI shall conduct a periodic interior and exterior examination of each home as required by its Policies and shall furnish a copy of the inspection report to the Homebuyer.

**B.** It is understood and agreed by the parties hereto that THI reserves, and shall have, the right through its agents and employees to enter on the premises of the Housing Unit at any and all reasonable times to inspect the premises, in accordance with policies and rules established by THI.

**15. Improvements.** Homebuyer must notify THI, provide written plans and specifications, and gain written approval prior to making any additions or structural changes to the Housing Unit. Any additions or structural changes will be done at Homebuyer's expense, unless THI agrees in writing to pay for the work. Additions to the Housing Unit that are not approved by THI will be considered a breach of this Agreement and will not be covered under the basic hazard insurance for the Housing Unit.

**16. Operation of Business Within Home.** With prior approval of the THI, Homebuyer may operate a small business within the home provided that the Homebuyer gives the following assurances and the small business is in accordance with the requirements found in the THI occupancy policies. THI reserves the right to rescind such authority should the Homebuyer violate any such assurances.

**A.** The home will remain Homebuyer's principal residence;

**B.** The business activity will not disrupt the basic residential nature of the housing site; and

**C.** The business will not require permanent structural changes to the home that could adversely affect a future homebuyer's use of the home.

**17. Insurance.** The Monthly Payment includes the cost of basic hazard insurance for the Housing Unit. The insurance covers damage to the structure from fire or other hazard, but does not cover the loss of household or personal items in the Housing Unit. If Homeowner wants additional insurance to cover household or personal items in the Housing Unit, he or she must acquire and pay for the additional insurance at his or her own expense. THI is not responsible for obtaining insurance beyond the basic hazard insurance, and Homebuyer acknowledges this



and will not seek to hold THI liable for any damage for household or personal items or unapproved additions to the Housing Unit.

**18. Use of Housing Unit as Primary Residence.** Homebuyer must use the Housing Unit as his or her primary residence. Failure to do so constitutes a breach of this Agreement. Any business activity in the Housing Unit must first be approved by the THI and will be subject to federal and tribal law, and may not adversely affect the health or safety of any persons, or the right of any homebuyer to the quiet enjoyment of the unit and any related premises. For the purposes contained in this provision, “primary residence” means the place where a Homebuyer usually lives.

**19. Authorized Occupants of Housing Unit.** Occupancy of the Housing Unit is limited to those individuals listed on the original application for participation in THI’s housing program, provided however, Homebuyer may, subject to the approval of THI, modify occupancy by providing written notice to THI and upon approval of the new occupants by the THI.

**20. Subleasing of Housing Unit.**

**A.** If a Homebuyer determines that he or she must temporarily vacate the home, he or she may sublease the Housing Unit to another person who is a tribal member for the duration of the Homebuyer’s absence, subject to prior written approval of THI. Homebuyers may be allowed to sublease their homes if absence from the housing is necessitated by any of the following conditions:

1. Temporary employment outside the Pueblo of Santa Ana;
2. Pursuit of educational opportunities outside the Pueblo of Santa Ana;
3. U.S. military obligations;
4. Medical related treatment or confinement;
5. Religious obligations or traditional/cultural practices; or
6. Other circumstances as approved by THI on a case-by-case basis.

**B.** During the term of any sublease, Homebuyer remains obligated to comply with all other terms of this Agreement (with the exception of occupancy of the unit), including making monthly payments and providing for maintenance. Failure to comply with the terms of this Agreement on the part of Homebuyer may, in the absolute discretion of THI, result in termination of this Agreement.

THI HOMEOWNERSHIP PROGRAM ADMISSIONS, OCCUPANCY,  
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**C.** Homebuyer must return to occupy the Housing Unit at the expiration of the sublease, unless an extension is granted by THI. Absent any such extension, THI may terminate this Agreement if Homebuyer fails to return to the Housing Unit.

**D.** THI's approval of a sublease does not waive any provisions of this Agreement, other than the provision requiring the Homebuyer to reside in the Housing Unit during the sublease period.

**E.** The Housing Unit may only be subleased to another member of the Pueblo of Santa Ana.

**F.** Any sublease executed by Homebuyer shall be on a form approved by THI.

**G.** Payments under the sublease may be paid either to Homebuyer or directly to THI.

**1.** If payment under the sublease is made to Homebuyer, Homebuyer shall be required to pay his or her required monthly payment to THI in full.

**2.** Payments made directly to THI shall be first applied to any past due balances owed to THI by Homebuyer, then to Homebuyer's required Monthly Payment. Any remaining amount shall be applied to the balance of the purchase price remaining. If payments made directly to THI under the sublease are less than Homebuyer's required Monthly Payment, Homebuyer shall pay the balance due.

**H.** If Homebuyer is subject to a recertification during the term of an approved sublease, the sublease payment shall be included in the determination of annual/monthly income as income.

**I.** Sublessee must comply with all THI Housing Policies and Procedures, which may be amended from time to time and are available at the THI business offices for review.

**21. Abandonment of the Housing Unit.**

**A.** If Homebuyer does not live in the Housing Unit for more than thirty (30) consecutive days without notification to the THI, THI will consider the Housing Unit abandoned.

**B.** If Homebuyer abandons the Housing Unit, he or she shall be responsible for maintenance costs in accordance with this Agreement, plus the cost of securing the vacant building and any Monthly Payments owed up until the date of written termination of this Agreement by THI.

22. **Homebuyer's Rights to Designate a Successor to this Agreement.** Homebuyer may name a designated successor to this Agreement in writing, pursuant to the THI occupancy policies established by THI.

23. **Noncompliance; Termination.**

A. **Breach.** Failure to comply with the terms and conditions of this Agreement or any relevant THI policy shall be considered a material breach of this Agreement and may result in termination of this Agreement and eviction of Homebuyer from the premises.

B. **Notice of Termination and/or Eviction.** If a material breach of this Agreement occurs, THI shall provide adequate notice to Homebuyer prior to initiation of termination and/or eviction procedures.

C. **Termination and Eviction.** In any proceeding to terminate this Agreement or to evict Homebuyer from the Housing Unit, THI shall comply with the terms and conditions of its collection and termination policies.

D. **Homebuyer's Rights.** THI may not terminate occupancy except upon noncompliance with this Agreement or its Policies.

E. **Disturbance of Others Rights to Quiet Enjoyment.** Any action or conduct of Homebuyer that disrupts others' right to quiet enjoyment of their residences or that adversely affects the health or safety of any person may be grounds for termination of this Agreement.

F. **Expedited Termination for Criminal or Drug-Related Activity.** THI may use expedited procedures as provided in its Policies to terminate this Agreement for any actions involving criminal activity threatening the health, safety, or right to peaceful enjoyment of the housing community by other residents or employees of THI or any drug-related activity.

G. **Termination of Agreement by Homebuyer.** Homebuyer may terminate this Agreement by giving THI written notice of termination, and this Agreement shall terminate on the thirtieth (30th) day after THI receives such notice. If Homebuyer fails to give proper notice, Homebuyer will be charged the following month's Monthly Payment.

H. **Vacating.** Homebuyer agrees to vacate the Housing Unit on or before the date of termination contained in any notice of termination. If Homebuyer fails to vacate on or before the required date, he or she shall be liable to THI for any and all losses incurred by THI, including attorney's fees and court costs.

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**24. Equity of Homebuyer Housing Unit.** Should either Homebuyer or THI terminate this Agreement prior to payoff, THI shall return to Homebuyer any payments made by Homebuyer beyond the required Monthly Payment that were intended to pay off the principal balance of the purchase price of the Housing unit, after administrative costs are paid and after deducting the *cost to return the Housing Unit to a safe and habitable condition*. *If the costs to return the Housing Unit to a safe and habitable condition exceed the amount owed the Homebuyer, the excess costs shall be charged to the Homebuyer.*

**25. Damage or Injury to Homebuyer or Homebuyer's Property.**

**A.** THI is not responsible for any damage, injury, or harm that is done to Homebuyer or his or her property or to Homebuyer's guests or their property not resulting from a willful or negligent act or omission of THI. THI is not responsible for the actions, or for any damages, injury, or harm caused by actions of third parties (such as other residents, guests, intruders, or trespassers) that are not under the direct control of THI.

**B.** Any personal property found in the Housing Unit after abandonment or vacating by Homebuyer may be stored in any reasonably secure place, including the Housing Unit itself. THI will provide Homebuyer with a written notice of where the personal property is being stored and who to contact regarding its retrieval. The notice will also state that THI will give Homebuyer thirty (30) days to claim the property. If property is still unclaimed after thirty (30) days, THI will, at its discretion, sell or dispose of property. The costs related to the disposal of property will be charged to Homebuyer, and any proceeds will be applied to Homebuyer's account.

**26. Notice.** All notices shall be given pursuant to the Notice provisions in the Collection and Termination Policy.

**27. Delay or Omission.** No delay or omission to exercise any right, power, or remedy accruing under this Agreement shall impair such right, power, or remedy, nor shall it be construed to be a waiver of or acquiescence in a breach of or default under this Agreement. **BOTH PARTIES SPECIFICALLY AND AFFIRMATIVELY AGREE NOT TO CONSTRUE THE CONDUCT, DELAY, OR OMISSION OF THE OTHER PARTY AS ALTERING IN ANY WAY THE PARTIES' AGREEMENTS AS DEFINED IN THIS AGREEMENT.** Any waiver, permit, or approval of any breach of or default under this Agreement must be in writing, and, because the language of this paragraph was negotiated and intended by both parties to be binding and is not a mere recital, both parties hereby agree that they will not raise waiver or estoppel as affirmative defenses so as to limit or negate the clear language and intent of this paragraph. All remedies, either under this Agreement, by law, or otherwise afforded to either party shall be cumulative, not alternative.

**28. Attorneys' Fees.** Upon determination of default under this Agreement by one of the parties, the other party shall have the right to recover from the defaulting party all reasonable

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attorneys' fees, expert witness fees, and court costs incurred in enforcing its rights hereunder or in successfully defending itself against the claims by the defaulting party.

**29. Severability.** In the event that any provision in this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

**30. Construction; Forum.** This Agreement shall be deemed to have been negotiated and written by both parties and to have been entered into on the Pueblo of Santa Ana which shall be the appropriate legal forum. This Agreement shall be governed by and construed in accordance with the laws of the Pueblo of Santa Ana.

**31. Entire Agreement; Modification.** This Agreement and any amendments signed by both parties constitutes the final and entire agreement between the parties, and there is no agreement or promise on the part of either party to do or omit to do any act or thing not herein mentioned and supercedes all prior agreements. This Agreement and any properly executed amendments are intended as a complete and exclusive statement of the terms and conditions of the parties' agreement and may not be effectively amended, changed, modified, or altered without the written consent of both parties.

**32. Headings.** The headings to the various paragraphs of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed, to modify, define, limit, or expand the intent of the parties.

**33. Assignment of Agreement.** Homebuyer shall not assign this Agreement or his or her interest hereunder. Any attempt to assign shall be a breach of this Agreement.

THI and Homebuyer agree to the terms of this Agreement as stated in this Agreement. Homebuyer understands that, if he or she does not abide by the terms of this Agreement, this Agreement may be terminated. Homebuyer also understands that this Agreement is a legal and binding document and agrees to the jurisdiction of the Pueblo of Santa Ana Tribal Court in all matters or disputes pertaining to this Agreement.

**IN WITNESS WHEREOF**, the foregoing Agreement was executed as of the date first set forth above.

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Executive Director of THI

Homebuyer

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Date Signed

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Homebuyer

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Date Signed

THI HOMEOWNERSHIP PROGRAM ADMISSIONS, OCCUPANCY,  
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**NOTICE OF NONCOMPLIANCE**

**CERTIFIED MAIL/  
RETURN RECEIPT REQUESTED**

TO: \_\_\_\_\_

DATE: \_\_\_\_\_

It has come to our attention that you have breached your obligations under your Lease Purchase Agreement in the following manner:

\_\_\_ You have failed to make your required monthly payments. Your monthly payment of \$\_\_\_\_\_ is due on or before the first of the month. Payments not received by Tamaya Housing Incorporated (“THI”) on or before the fifth day of the month are considered to be delinquent. You are now delinquent in the amount of \$\_\_\_\_\_.

\_\_\_ You have otherwise failed to comply with the terms and conditions of your Lease Purchase Agreement by: \_\_\_\_\_

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You are required to make an appointment with THI within five (5) days from your receipt of this notice. At that meeting you will be given an opportunity to state any explanations, justifications, or complaints that you may have. You will also be required to agree to a specific plan of action indicating how you plan to come into compliance. In case of delinquency, payment is due within thirty (30) days of the above meeting unless special arrangements are made to enable payments to be made over a reasonable period of time and to obtain counseling relating to efficient budgeting of your resources. If you fail to respond to this Notice of Noncompliance, fail to meet with us as scheduled, fail to agree to a plan of action, or fail at any time to comply with the plan of action, THI will proceed with termination procedures.

TAMAYA HOUSING INCORPORATED

By: \_\_\_\_\_

[Name], Executive Director

**APPENDIX J**

**NOTICE OF TERMINATION  
OF  
LEASE PURCHASE AGREEMENT**

**CERTIFITED MAIL/  
RETURN RECEIPT REQUESTED**

TO: \_\_\_\_\_

DATE: \_\_\_\_\_

Tamaya Housing Incorporated (“THI”) hereby serves notice that it is the intention of THI to terminate your Lease Purchase Agreement on Unit No. \_\_\_\_\_, Project No.\_\_\_\_\_.

- The reason(s) for termination of your Lease Purchase Agreement is as follows:

\_\_\_\_\_ You have failed to make your required monthly payments. Your monthly payment of \$\_\_\_\_\_ is due on or before the first (1<sup>st</sup>) day of the month. Payments not received by THI on or before the fifth (5<sup>th</sup>) day of the month are considered delinquent. You are now delinquent in the amount of \$\_\_\_\_\_.

\_\_\_\_\_ You have otherwise failed to comply with the terms and conditions of your Lease Purchase Agreement by: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- The Collection and Termination Policy is applicable to all occupants of THI units, whether pursuant to a Homebuyer’s or Renter’s Lease Purchase Agreement and is available at the THI office for your review;

- You have the right to request a hearing before the Executive Director before the date of termination t provide information or arguments on why termination should not occur;

- If you do not timely request and attend hearing, the Lease Purchase Agreement shall terminate thirty (30) days after receipt of this Notice of Termination;

**APPENDIX K**



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- You have the right to examine, before the hearing or any subsequent court action, and copy at your expense, all relevant documents, records, or regulations of THI that are directly related to the termination. Any document not made available after request therefore by you may not be relied upon by THI at the hearing or any subsequent court action;
  
- If, at the hearing before the Executive Director, you provide evidence or assurances satisfactory to the Executive Director that you will cure the breach and continue to carry out your Lease Purchase Agreement obligations, the Executive Director may, but is not required to, rescind or extend the Notice of Termination. Absent such rescission or extension, the Lease Purchase Agreement shall terminate thirty (30) days after the date of the hearing of the Notice of Termination, whichever is late;
  
- You have the right to be represented or accompanied by a person of your choice and to be afforded due process;
  
- You have the right to receive a written decision on the merits responding to the information or arguments presented by you; and
  
- If the Executive Director does not provide you with a written decision within ten (10) days of the hearing, or if you do not agree with the Executive Director's written decision, you may appeal the Executive Director's action/inaction to the Board of Directors, as provided in the Collection and Termination Policy. An appeal must be filed within five (5) days of receipt of the Executive Director's decision or within fifteen (15) days of the hearing if the Executive Director fails to provide you with a written decision.

TAMAYA HOUSING INCORPORATED

By: \_\_\_\_\_  
[Name], Executive Director

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**SAMPLE SUBLEASE**

THIS Sublease is entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_, by and between \_\_\_\_\_, whose address is \_\_\_\_\_ (“Sublessor”) and \_\_\_\_\_, whose address is \_\_\_\_\_ as (“Sublessee”).

**RECITALS**

**WHEREAS** Sublessor is a Participant and Homebuyer in the Tamaya Housing Incorporation (“THI”) Homebuyer program; and

**WHEREAS** Sublessor entered into a Homebuyer’s Occupancy Document, dated \_\_\_\_\_, for the occupancy of a certain housing unit located on the Pueblo of \_\_\_\_\_ (“Reservation”) and more particularly identified as Project No. \_\_\_\_\_, Unit \_\_\_\_\_ (“Premises”); and

**WHEREAS** Sublessor finds it necessary to be away from Reservation for an extended period of time for the purpose of \_\_\_\_\_; and

**WHEREAS** Sublessor has shown to the satisfaction of Sublessor that he or she is willing and able to pay periodic rent as described herein; and

**WHEREAS** Sublessor wishes to lease the Premises to Sublessee, and Sublessee wishes to lease the premises from Sublessor;

**NOW, THEREFOR**, in consideration of the Recitals hereinabove mentioned and the terms, conditions, covenants, and warranties hereinafter mentioned to be kept, honored, and performed by the parties, it is hereby agreed as follows.

**TERMS AND CONDITIONS**

1. Sublessor hereby leases to Sublessee the Premises.
2. This Sublease shall be effective commencing on \_\_\_\_\_ and expiring on \_\_\_\_\_, (sates not to exceed one year), subject to written approval of THI, as indicated at the end of this Sublease.
3. Sublessee will abide by **ALL** the provisions of Sublessor’s Homebuyer’s Occupancy Document, a copy of which is attached hereto and incorporated herein by reference.

**APPENDIX L**

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4. Sublessee shall use and occupy the Premises as a private Family residence and uses normally incident thereto and for no other purpose, for the duration of the Sublease or until such time as the Sublease is terminated, whichever comes first.
5. Occupancy of the Premises shall be limited to Sublessee's immediate Family members or unrelated individuals identified in writing by Sublessee and provided to and approved by Sublessor and THI. Other than temporary residency of less than two weeks, occupancy of the Premises by non-Family members without prior written notice shall be deemed a breach of this Sublease.
6. Sublessor may immediately terminate this Sublease upon Sublessee's breach of any of the terms and provisions contained in this Sublease or the Homebuyer's Occupancy Document; *or* either party may terminate this Sublease upon thirty (30) days written notification to the other party.
7. Sublessee agrees to pay directly to Sublessor the sum of \_\_\_\_\_ upon execution of this Sublease and the sum of \_\_\_\_\_ on the first day of each month thereafter, as rent, for the duration of the Sublease.
8. Sublessee shall deliver up the Premises to Sublessor peaceably and quietly upon expiration or termination of this Sublease.
9. Sublessee shall, during the term hereof, pay all charges for telephone, gas, electricity, and water used in or on the Premises and for the removal of rubbish therefore, before any such charges shall become delinquent and Sublessee shall hold Sublessor harmless for any liability therefore.
10. Sublessee will be charged for any damages resulting from failure to maintain sufficient heat, unless failure results from conditions beyond the control of Sublessee, such as unusually severe weather and general failure of the utility company to supply heat to the entire area.
11. It is understood and agreed by the parties hereto that THI reserves, and shall have, the right throughout its agents and employees to enter on the Premises at any and all reasonable times to inspect the Premises, in accordance with polices and rules established by THI.
12. Sublessee shall not assign this Sublease or any interest therein and shall not sublet the Premises or any part thereof. Any assignment or subletting shall be void and shall be considered a material breach of this Sublease.
13. Sublessee agrees that, if any default be made in the payment of rent or of any part thereof, or if any default be made in the performance of any other covenant herein contained,

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this Sublease at the option of Sublessor shall terminate, and Sublessor and/or THI may re-enter the Premises and remove all persons there from.

14. THI's approval of this Sublease does not waive any provisions of the Homebuyer's Occupancy Document other than the provision requiring Sublessor to reside in the unit.

15. No delay or omission to exercise any right, power, or remedy accruing under this Sublease shall impair such right, power, power or remedy, nor shall it be construed to be a waiver of or acquiescence in a breach of or default under the Sublease or Homebuyer's Occupancy Document. ***BOTH PARTIES SPECIFICALLY AND AFFIRMATIVELY AGREE NOT TO CONSTRUE THE CONDUCT, DELAY, OR OMISSION OF THE OTHER PARTY AS ALTERING IN ANYWAY THE PARTIES' AGREEMENTS AS DEFINED IN THIS SUBLEASE.*** Any waiver, permit, or approval of any breach of or default under this Sublease must be in writing, approved by THI, and, because the language of this paragraph was negotiated and intended by both parties to be binding and is not a mere recital, both parties hereby agree that they will not raise waiver or estoppels as affirmative defenses so as to limit or negate the clear language and intent of this paragraph. All remedies, either under this Sublease, by law, or otherwise afforded to either party shall be cumulative, not alternative.

16. Notice shall be deemed to have been given when deposited in the United States mail, postage prepaid, and addressed to the other party at the address indicated on the first page of this Sublease, or at such other address as either party shall hereafter furnish the other in writing.

17. Upon determination of breach or default of this Sublease by one of the parties, the other party and/or THI shall have the right to recover from the breaching party all reasonable attorneys' fees, expert witness fees, and court costs incurred in enforcing its rights hereunder or in successfully defending itself against the claims by the breaching party.

18. If any provision in this Sublease shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Sublease.

19. This Sublease shall be deemed to have been negotiated by both parties and to have been entered into on the land of the Pueblo of \_\_\_\_\_, which shall be the appropriate legal forum.

20. This Sublease constitutes the final and entire agreement between the parties, and there is no agreement or promise on the part of either party to do or omit to do any act or thing not herein mentioned. This Sublease is intended as a complete and exclusive statement of the

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terms and conditions of the parties' agreement and may not be effectively amended, changed, modified, or altered without the written consent of both parties, and approved by THI.

**21.** Any noun or pronoun used herein shall refer to any gender and to any number as the context requires or permits.

**22.** Both parties understand and agree that THI is not a party to this Sublease and that THI's signature below is evidence only of THI's acceptance of this Sublease and does not bind THI in any way.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

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SUBLESSOR

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SUBLESSEE

APPROVED:

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Executive Director  
TAMAYA HOUSING INCORATED

ATTEST:

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Secretary  
TAMAYA HOUSNG INCORATED

**TAMAYA HOUSING INCORPORATED**

**NOTICE OF RIGHTS**

**(Filing of Grievance under Section XI of THI Admission... Policies)**

**You have submitted a request for hearing to Tamaya Housing Incorporated (“THI”), and a hearing has been scheduled for \_\_\_\_\_ .m on \_\_\_\_\_, 20\_\_, at the offices of THI. You are entitled to a fair hearing providing the basic safeguards of due process.**

**In particular, the rights you have include:**

1. The opportunity to examine before the hearing, and to copy at your own expense, all documents, records, and regulation of THI that are relevant to the hearing.
2. The right to be represented by another person of your choosing.
3. The right to present evidence and arguments in support of your grievance/termination, to dispute evidence relied upon by THI, to confront and cross-examine witness upon whose testimony THI relies, and to have others make statements on your behalf.

**A copy of the Tamaya Housing Incorporated Homebuyer Grievance Policy and Procedure is posted in THI’s office for your review, and you will be provided with your own copy of the policy if you request it and pay for the copying cost.**

**You may have rights in addition to those specified, and THI encourages you to seek legal advice in order best to present your grievance and preserve your rights.**