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## **TINY HOME LEASE-PURCHASE HOMEOWNERSHIP PROGRAM OPERATING POLICY AND PROCEDURE**

<b>These policies and procedures were adopted by the Board of Commissioners of the Absentee Shawnee Housing Authority by Resolution # <u>2021-23</u> on <u>November 17, 2021</u></b>
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# **Table of Contents**

**Section 1 General Provisions**

**Section 2 Limitations**

**Section 3 Conditions of Eligibility**

**Section 4 Application Procedures**

**Section 5 Selection of Participants**

**Section 6 Occupancy; Lease Agreement**

**Section 7 Computation and Collection of Payments**

**Section 8 Rules and Conditions of Continued Occupancy**

**Section 9 Examination and Re-Examination of Participant Status**

**Section 10 Conveyance**

**Section 11 Successorship**

**Section 12 Termination of Occupancy**

**Section 13 Miscellaneous Provisions**

## SECTION 1

### GENERAL PROVISIONS

A. Introduction; Tribal Preference. The Board of Commissioners (“Board”) of the Absentee Shawnee Housing Authority (“TDHE”) hereby enacts this Tiny Home Lease-Purchase Homeownership Program Operating Policy (“Policy”) in order to provide decent, safe, sanitary and affordable housing to income-eligible tribal members living within its housing service area, as same may change from time to time. Participation in the Tiny Home Lease-Purchase Homeownership Program (“Program”) is limited to enrolled members of the Absentee Tribe of Indians of Oklahoma (the “Tribe”) with preference given to members who are elderly or near-elderly as defined in this Policy.

B. Interpretation; Applicability. This Policy supersedes any and all ordinances, policies, laws or resolutions regarding its subject matter. This Policy shall not apply to participants in any other homeownership program of the Tribe.

C. Compliance with Applicable Law. This Policy shall be implemented and may be conformed to comply with applicable provisions of the Native American Housing Assistance and Self-Determination Act of 1996, as amended (“NAHASDA”), the rules and regulations of the United States Department of Housing and Urban Development (“HUD”), and other applicable tribal, state and federal laws. This Policy shall not be construed or applied to prevent the TDHE from complying with the terms and conditions of any federal grant or contract, including any rules or regulations applicable to HUD-assisted programs.

D. Sovereign Immunity. The Tribe specifically retains all governmental immunities associated with its sovereign status. The Tribe’s subsidiaries, employees, officers and agents shall share in its sovereign immunity from suit. The Tribe does not waive its sovereign immunity in any respect and this Policy shall not be construed as such waiver.

E. Notice. All Program participants shall receive a copy of this Policy, and shall acknowledge receipt in writing. The TDHE shall post a copy of this Policy in the lobby of its headquarters.

## SECTION 2

### LIMITATIONS

A. Status of Program Participants. Program Participants are considered Lessees and do not acquire any legal or equitable interests in the property that is the subject of the Lease Agreement (“Program Unit”) or other attributes of homeownership until the option to purchase is exercised. This Policy and any Lease Agreement executed pursuant thereto shall not be construed as a land contract, contract for deed or constructive mortgage.

B. Disposition of Unit Upon Death or Divorce. In the event of death or divorce, there

is no right of succession to the Lease Agreement. Subject to Section 11 of this Policy, the TDHE shall have the right and discretion to transfer or reassign program units in the best interests of the Program and the Tribe. The Participant's spouse must execute the form of acknowledgement set forth at Appendix "A" of this Policy.

C. Remedies of the TDHE. In the event that any Participant fails to comply with any provision of this Policy, the TDHE may terminate his or her participation in the Program pursuant to the provisions of Section 12 of this Policy.

### SECTION 3

#### CONDITIONS OF ELIGIBILITY

A. Participant Eligibility Criteria. The following criteria shall govern eligibility for Program participation.

1. The Applicant must be an enrolled member of the Absentee Shawnee Tribe of Indians and the head of his/her household;
2. The Applicant may have a spouse or caregiver residing within his or her household. No more than three (3) persons may reside in the assigned tiny home (also referred to herein as the "Program Unit" or "Dwelling Unit");
3. The Applicant must be ready, willing and able to meet all obligations of participation in the Program, including but not limited to financial and maintenance obligations;
4. The Applicant must meet minimum income guidelines at the time of move-in,
5. The Applicant must be a first-time recipient of homeownership assistance from the TDHE;
6. The Applicant presently must occupy, as his/her principal residence, real estate: (i) that does not meet the definition of a standard home (as that term is defined in the Code of Federal Regulations), (ii) that is not in compliance with applicable building codes or (iii) that is overcrowded, especially in relation to risks imposed by COVID-19 or other contagious disease;
7. The Applicant meet the median income for the County where the Dwelling Unit is located, as established by HUD, at the time of move-in. Income limits are adjusted for family size and updated on an annual basis. The HUD income guidelines, as same may change from time to time, hereby are adopted and incorporated by reference;

8. The Applicant must own the property where the tiny home is to be located (“Home Site”). The Applicant must present proof of ownership of the Home Site in the form of a warranty or quitclaim deed. Owners or lessees of restricted land are eligible, provided that they present proof of ownership or leasehold rights in the form of a deed or validly-approved lease for a period of not less than 15 years;
9. The Applicant must have or assume responsibility for providing any and all connections to water, sewer, electric, home heating and utility service. The TDHE is not required to furnish or improve water, sewer or utility systems if such accommodation would impose an undue financial or administrative burden on the TDHE;
10. The Home Site must not be subject to zoning, restrictive covenants or other regulations that would prohibit the installation of a tiny home within the designated area;
11. The Home Site must be a clear, level location that is suitable for the installation of a tiny home. The TDHE cannot demolish existing structures or clear lots in connection with this Program;
12. The Home Site must be located within the TDHE’s designated housing service area for the Program as defined by the Tribe’s Indian Housing Plan. The housing service area for the Program presently includes Pottawatomie, Lincoln, Oklahoma and Cleveland County;
13. The Home Site must pass an appropriate environmental inspection, including flood plain, wetland, and historic preservation clearances;
14. The tiny home must be the primary residence of the Participant and must remain his/her primary residence for a period of not less than fifteen (15) years following completion of construction; and
15. The Applicant must publicly disclose any conflicts of interest arising from immediate family ties to any employee of the TDHE, member of the Board, Tribal Executive Committee members and/or other elected tribal official.

B. Computation of Income. The Applicant’s annual income shall be determined by estimating anticipated total income from all sources received by any and all household members, either in their own names or on behalf of another household member. Income attributable to any and all household member(s), excluding children under the age of eighteen (18) years, shall be included in the total household income, provided that the following amounts may not be considered as income under this paragraph:

1. Any amounts not actually received by the family;

2. Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act; and
3. Any amounts received by any member of the family as disability compensation under chapter 11 of title 38, United States Code, or dependency and indemnity compensation under chapter 13 of such title.

C. Ineligible Applicants; Participant Exclusion Criteria.

1. Ownership, use, or acquisition of an additional residence that is decent, safe, and sanitary before or during occupancy of a Program Unit shall disqualify an Applicant or Participant from the Program.
2. Previous Participants or homeowners who owe a debt to the TDHE or Tribe will not be eligible for Program participation until: (i) the owed monies are paid in full as evidenced by appropriate documentation or (ii) the debt is forgiven by action of the Board.
3. Applicants who are current participants in any homeownership program administered by the TDHE and/or the Tribe (including but not limited to the Mutual Help and Lease-Purchase programs) are ineligible to participate in the Program.
4. The TDHE, in its sole discretion, may withhold admission to the Program if it is determined during the application verification process that the Applicant and/or any adult household member(s):
  - a. Have been evicted from any public or Indian Housing Authority or private rental property within the past five (5) years;
  - b. Have previously abandoned, relinquished and/or damaged a unit owned by this or another tribal housing program;
  - c. Owe a debt to the TDHE or Tribe for past-due rent or damages to a program unit;
  - d. Owe debts incurred from prior occupancy of a unit at any other Housing Authority or private rental property; and/or
  - e. Have a history of conduct which indicates that the Dwelling Unit would not be properly used or maintained.

Such Applicant(s) shall be referred to the Board pursuant to Sub-section 5, below.

5. In the event that adverse background information is discovered during the verification process, the Board, in its sole discretion, shall determine whether the Applicant(s) is suitable for Program participation. The Board

may consider factors which indicate a probability of favorable future conduct or financial prospects, including evidence of rehabilitation and of willingness to participate in appropriate counseling service programs.

D. Additional Limitations. The following additional limitations apply to the Program:

1. All projects shall be subject to applicable tribal, local and State building codes and ordinances and HUD building standards. The TDHE cannot install tiny homes on Home Sites where such improvement would violate any rule, ordinance or regulation of the unit of government where the property is located (including zoning ordinances and restrictive covenants);
2. No moneys will be expended to develop projects on Home Sites that do not pass an appropriate environmental inspection or are located in areas designated as having special flood hazards under the Flood Disaster Protection Act of 1973 (unless suitable flood insurance is obtained at the participant's expense);
3. Factors such as weather, location and participant cooperation may affect anticipated start and completion dates for individual projects;
4. The TDHE is not required but may on case by case furnish or improve skirting, permanent foundations, site work, utility services, repairs, handicap accessibility ramps or other modifications to the Dwelling Unit only if such modifications would not impose an undue financial or administrative burden on the TDHE;
5. Participants in the Program will be ineligible to participate in the Repair and Rehabilitation Program or receive any rehabilitation assistance from the TDHE for a period of three (3) years following the date of completion of the construction; and
6. If the Participant sells or conveys the tiny home within fifteen (15) years following the completion of the construction, the grant is voided and the amount of assistance must be repaid to the TDHE in accordance with the Useful Life and Binding Commitment Policy of the TDHE.

## SECTION 4

### APPLICATION PROCEDURES

A. Application Requirement. The application is the basic record of each family applying for admission to the Program. Each Applicant is required to provide any and all information requested and to sign the application and related forms. All information and statements made by the Applicant are subject to verification. **Providing false statements renders the Applicant ineligible.** Incomplete applications will not be accepted.

B. Application Procedure.

1. Applications are accepted by the Intake Clerk. Each application shall reflect the date and time received. Copies of the front page may be provided to the Applicant upon request as receipt of application.
2. All adult household members must sign an authorization for release of information, which is required for third party verification.
3. In the event it is determined that an Applicant has an immediate family tie to any TDHE employee, Board member, Executive Committee member or elected tribal official, the TDHE will publish a “Public Disclosure” in accordance with its Conflict of Interest Policy.
4. The application and all information relating to the family's eligibility shall be maintained in a file, along with all relevant correspondence. Files will be placed in one of three categories, as follows:
  - a. **“Eligible”** - Applicant has met initial eligibility requirements and has been placed on the waiting list for the program;
  - b. **“Ineligible”** - Applicant has not met initial eligibility requirements and/or has been determined to be ineligible for the program; or
  - c. **“Inactive”**– Applicant has not updated the application within thirty (30) days of notification and has been removed from the waiting list pursuant to Section 4(E), below.
5. If during the application intake and screening process it is determined that the Applicant is ineligible for program participation, the Applicant will be informed of such determination and the application classified as ineligible. In such instances, sufficient information and findings pertaining to the denial of services will be documented for the file. A notice will be mailed to the Applicant within thirty (30) days of the date of denial. The notice shall specify the grounds for the denial of service and notify the Applicant of his/her right to appeal the decision pursuant to the Grievance Policy and Procedure of the TDHE.

C. Verification and Documentation of Application Information. Information submitted by each Applicant shall be verified to ensure that the information is true and correct. Complete and accurate verification records will be maintained. Each Applicant shall provide the following documents to substantiate his or her tribal membership, identity, income and other conditions of eligibility within thirty (30) days of the application intake, provided that the TDHE may permit Applicants to provide alternative sources of proof or to self-certify income or other conditions of eligibility during such time as the Tribe actively is combating the COVID-19 crisis.



Supporting documents include:

1. The tribal membership card of the Applicant;
2. Social Security cards and birth certificates for all household members;
3. A deed or long-term, duly-approved lease in the Applicant's name for the Home Site;
4. Federal tax returns or transcripts filed for the previous year or a notarized statement from the Applicant explaining why a tax return was not filed;
5. Statements or award letters from agencies documenting unearned income (including but not limited to Social Security, General Assistance, Retirement, Unemployment Benefits, Department of Human Services Assistance, Oil and Gas Royalty and Veterans benefits); and/or
6. Certified statements from self-employed persons or persons whose earnings are irregular, setting forth gross receipts, itemized expenses and net income.

D. Waiting List.

1. Waiting lists shall be maintained for the Program. All eligible applicants shall be placed on the waiting list according to the selection preferences set forth in Section 5 of this Policy.
2. The waiting list shall be updated on a regular basis. Any Applicant wishing to be removed for the list must submit a written request; otherwise, no eligible applicant may be removed from the waiting list except for failure to update his or her application in accordance with Section 4(E), below.

E. Application Updates. Applicants shall update their applications and supporting documents and maintain current contact information on file on an annual basis. This is the responsibility of the Applicant and not the TDHE. Applicants who have not updated their applications within **thirty (30) days** of notification of the duty to update will be removed from the waiting list and will have to re-apply to be placed back on the waiting list. These Applicants will receive a new approval date.

F. Additional Limitations. The TDHE reserves the right to close the waiting list and to suspend the intake of new applications when the need of selected participants exceeds available resources under the Program.

## SECTION 5

### SELECTION OF PARTICIPANTS

A. General Selection Process. The TDHE will accept applications for participation in the Program from January until the close of business on the last day of March. In April of each year, the TDHE will select up to three (3) eligible applicants to participate in the Program based upon the selection preferences set forth below. The TDHE will review and rank all eligible applicants who submit completed applications and all supporting documents on or before that date, and this list may be subject to approval of the Board. The TDHE will initiate a new program cycle on or before January of the following year, depending upon the activities set forth in the TDHE's approved Indian Housing Plan and other budgetary limitations.

B. Preference Categories and Point System. The TDHE reserves the right to reconfigure the rank order when an Applicant's living environment presents an imminent health or safety risk, *especially in relation to COVID-19 or other contagious disease*. In all other cases, the TDHE shall allocate Program assistance to the qualifying Applicant(s) receiving the highest number of points as outlined below.

1. **Priority Preference.** *First preference* shall be given to an elderly enrolled member of the Absentee Shawnee Tribe of Indian of Oklahoma. If there is at least one elderly member of the household, the household shall receive a total of fifty (50) point's priority consideration. For purposes of this Policy, elderly means and refers to persons who are sixty-two (62) years of age or older.
2. **Second Priority Preference** shall be given where the applicant(s) is an enrolled member of the Absentee Shawnee Tribe (qualified applicant-households shall receive a total of forty (40) points priority consideration.
3. Other Preferences within Preference Groups. Other preferences include, but shall not be limited to:
  - a. **Near-Elderly.** If the Applicant is near-elderly, the household shall receive a total of twenty (20) points priority consideration. For purposes of this Policy, near-elderly means and refers to persons who are at least fifty-five (55) years of age;
  - b. **Disabled.** If the Applicant is disabled, the household shall receive a total of twenty (20) points priority consideration. For purposes of this Policy, "disabled" means and refers to any person who has a physical or developmental disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423) or the Disabilities Assistance and Bill of Rights Act (42 U.S.C.6001(7)). Disability status must be verified by at least two acceptable sources, such as medical professionals, the Social Security Administration and/or the Veterans Affairs Administration;
  - c. **Veterans.** If at least one veteran lives in the household on a permanent basis, the household shall receive a maximum of five (5) points priority consideration; and

4. Preference among Applications with Same Ranking Score. In the case of two or more Applicant-households having equal preference, the date and time the application was received by the TDHE shall determine which Applicant-household is selected.

C. Notification of Selected Applicants. The TDHE shall notify Applicants who are selected for Program participation in writing. The notification shall include, at a minimum, the following information:

1. A statement that the Applicant has been documented as eligible for participation in the Program;
2. If applicable, the time and place for training activities and execution of the Lease Agreement; and
3. Notification that the Applicant has fifteen (15) days in which to respond to the notice, either by accepting or rejecting the unit offered. Failure to respond shall be regarded as a rejection of the offer.

D. Forfeiture. In the event that the Applicant fails to reply to the offer notice from the TDHE for the Tiny Home Purchase Program within thirty (30) days of the date of the notice, the TDHE may rescind the award and offer the home to another eligible applicant.

## SECTION 6

### OCCUPANCY; LEASE AGREEMENT

A. Occupancy Standards; Method of Determining Household Size. To avoid overcrowding, no more than three (3) persons may reside in the assigned tiny home. Every household member regardless of age shall be included by name on the application and counted as a person for purposes of applying the occupancy standards set forth in this section. **Any person occupying the home in excess of thirty (30) days in any one (1) year period shall be reported as a household member and made subject to all required verifications, eligibility criteria and standards of participation.**

B. Attributes of Tiny Home. Selected Participants shall receive a tiny home not to exceed the size of 1,000 square feet. The total development cost (including site, transportation and infrastructure costs) of the unit shall not exceed \$100,000.00. The size and cost of the tiny home may be subject to change depending on the local zoning, restrictive covenants or other regulations applicable to the Home Site. The tiny home is provided on an “as is” basis, and will lack many of the attributes of a conventional home. The TDHE shall not be liable for any repairs that may be necessary to restore the unit to standard condition.

C. Lease Agreement; Promissory Note. A lease agreement and promissory note shall be executed by the Executive Director of the TDHE (or his/her designee) and the Participant(s)

prior to commencement of any work. The form of Lease set forth at Appendix “A” of this Policy hereby is adopted and incorporated by reference. The form of Promissory Note appears at Appendix “B” of this Policy. The Participant shall receive copies of the lease agreement and note, and the originals shall be retained by the TDHE. Failure to execute the lease agreement or promissory note, to secure utility service or to take occupancy of an assigned program unit may constitute grounds for termination of participation in the Program.

D. Construction Cooperation. Participant(s) shall cooperate and shall cause their household members and guests to cooperate fully with the contractor and the TDHE with respect to completing the work. The Participant(s) shall not direct the work. The Participant(s) shall not enter and shall prohibit their household members and guests from entering the working areas designated by the contractor. The TDHE may suspend or terminate the work if the Participant’s failure to comply with this section presents a health or safety risk and/or interferes with the work.

E. Principal Residency/Useful Life Restriction. The Participant shall occupy the tiny home as his/her principal residence for a period of at fifteen (15) years following the date of completion of the work. The Participant shall not use the tiny home for commercial purposes during the 15-year useful life period. The TDHE shall file an appropriate lien or restrictive covenant in the land records office of the County wherein the real property is located to ensure the home is not conveyed in violation of this Policy. If the Home Site is under federal supervision, the deed restriction shall be filed with the Bureau of Indian Affairs or its designee for realty services. The Participant also shall sign the form of Grant Repayment Agreement set forth in the Useful Life Policy of the TDHE, which hereby is adopted and incorporated by reference.

## SECTION 7

### COMPUTATION AND COLLECTION OF PAYMENTS

A. Base Rent. The monthly base rent payment of the Participant shall equal fifteen percent (15%) of the Participant-household’s adjusted gross income as established pursuant to Section 3(B) of this Policy, provided that the lease payment shall not exceed the Maximum Payment established in Section 7(B), below, under any circumstances.

B. Maximum Payment A household’s Monthly Payment shall not exceed the amount of \$450.00 under any circumstances.

C. Determination of Purchase Price. The purchase price of the unit shall be an amount equal to the Total Development Cost of the unit. The Total Development Cost of the unit shall be: (i) the initial acquisition price of the unit in addition to (ii) the cost of any repairs or renovations, transportation, site and infrastructure costs performed by the TDHE. The TDHE shall determine the Total Development Cost prior to execution of the lease agreement. The Participant also shall receive periodic statements detailing the payments made, balance owed and anticipated pay-off amount.

D. Application of Rent Payments; Limitations. Payments made as rent shall be applied to the purchase price of the dwelling unit. The payment shall not exceed thirty percent (30%) of

the monthly adjusted income of the Participant's household under any circumstances. The Participant shall not be required to: (i) make more than one hundred eighty (180) consecutive, full payments or (ii) pay more than the Total Development Cost of the Dwelling Unit under any circumstances. After the Participant (i) makes one hundred eighty (180) full, consecutive payments or (ii) pays the Total Development Cost of the unit (as established in the purchase price/amortization schedule) in full, the dwelling unit shall be considered eligible for conveyance pursuant to Section 10 of this Policy. A Participant may purchase the program unit at any time during occupancy by paying the balance of the purchase price owed in full.

E. House Payment. All payments are due and owing on the first (1<sup>st</sup>) day of each month and shall be considered delinquent if not paid on or before the fifth (5<sup>th</sup>) day of the month. A late fee of fifteen dollars (\$15.00) shall be assessed for any payment received after the fifth (5<sup>th</sup>) day of the month, unless waived by the Executive Director in accordance with the provisions of this Policy. Monthly house payments will be accepted between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays. Payment may be made in the form of money order, cashier's check or personal check. If, however, a personal check made payable to the TDHE is returned by the bank, that Participant will be charged a return check fee in the amount of \$25.00 and thereafter, all future payments shall be by money order or cashier's check. No cash payments will be accepted. Rent should be paid at the TDHE Office or mailed to:

Absentee Shawnee Housing Authority  
107 North Kimberly Avenue  
Shawnee, Oklahoma 74801

F. Acceptable Payment Arrangements Prior to Delinquency.

1. *Delayed Payment.* The Executive Director, in his or her sole discretion, may approve an arrangement for the delayed house payment prior to delinquency under circumstances including, but not limited to:

- a. **Unusual and unexpected** family expenses, such as a death in the family or extraordinary medical expenses not covered by insurance. **This does not include changes in normal living expenses, such as grocery bills, utility bills, store bills, etc.;**
- b. **Extraordinary** expenses incurred as a consequence of natural disaster or otherwise uncontrollable circumstances; and/or
- c. **Sudden loss of income.**

2. *Partial Payment.* A partial payment may be accepted at the time rent is due, provided that the balance is paid in full by the end of that same month.

3. *Self-Help Opportunity.* A Participant experiencing difficulty making rental payments as scheduled may request counseling and assistance from credit management, social service and/or employment agencies at his or her own expense. The TDHE may provide such services when practical and/or necessary.

G. Payment Arrangements Subsequent to Delinquency. Payback Agreements following delinquency are discouraged and shall be submitted in writing to the TDHE. The TDHE may, but is not required to, authorize a Payback Agreement upon a showing of one or more of the circumstances set forth in Sub-section F(1), above. **Installment payments on Pay-back Agreements are subject to the collection procedures set forth in Section 7(E), above, and the Termination Procedures set forth in Section 12, below.**

H. Zero Income Determination. Participants must have income sufficient to meet any and all financial obligations of the Program at all times, and cannot incur a material loss of earned and/or unearned income for a period of more than sixty (60) consecutive days. If material income loss is reported by a Participant more than once in a twelve (12) month period, this constitutes grounds for termination of participation in the Program. For purposes of this Section, “material” means that the loss of income is significant enough to cause the Participant’s base monthly rent to equal less than \$65.00 per month. During this 60-day period, the Participant(s) will be required to attend monthly meetings with TDHE staff in order to review the Participant’s income status, budget and his/her efforts to increase household income. The TDHE may require the Participant to obtain counseling and assistance from social service and/or employment agencies at his or her own expense. The TDHE may provide such services when practical and/or necessary. If the Participant is unable to obtain verifiable income during this period, participation in the Program shall be terminated thirty (30) days from the date of notice that the Participant no longer qualifies for participation in the Program.

## SECTION 8

### RULES AND CONDITIONS OF CONTINUED OCCUPANCY

A. Participant Code of Conduct. All Participants, household members and guests must comply with all rules and regulations affecting the use or occupancy of the premises and abide by all laws of the Tribe, including but not limited to:

1. *Principal Residency Requirement.* Program participants are required to use the Program Unit as their principal place of residence and shall not use the home for commercial purposes. A unit which has been unoccupied for a period of **thirty (30) days** or more may be determined to be abandoned. Abandonment of the unit constitutes grounds for termination of participation in the Program pursuant to Section 12 of this Policy.
2. *Maintenance/Repairs.* The Tiny Home Lease-Purchase Program is designed to facilitate homeownership. Therefore, the Participant is responsible for maintaining, repairing and improving the Program Unit at his/her own expense. Participants are responsible for maintenance and repairs to windows, doors, paint, sheet rock, plumbing fixtures, carpet and other floor coverings. The Participants shall provide all maintenance and basic upkeep of the program unit, keeping it in an acceptable condition at all times. Participants are responsible for the cost and completion of any repairs caused by the Participants or their guest(s). Participants shall report any maintenance needs and/or problems with items that may be covered under

manufacturer's warranties (including but not limited to appliances, roofs and HVAC systems) to the TDHE, so that arrangements for repair or replacement of these items may be arranged. Participants who fail to report such problems to the TDHE within the warranty period or who undertake repairs of covered items may void the manufacturer's warranty and shall be responsible for repairing or replacing such items at their own expense. A list/packet of the applicable warranties for a particular unit may be provided to the Participant upon request.

3. *Utilities.* The Participant(s) shall activate and pay any required deposits for utility services (including, but not limited to, water and electricity) in the Participant's name prior to occupancy. Participants are responsible for paying for utility services directly to the service providers. Documentation of such services shall be provided to the TDHE upon request. Disconnection of utility services to the unit for a period in excess of ten (10) days constitutes grounds for termination of participation in the Program.

B. Conduct Prohibited. Participant(s), household members and guests shall not:

1. Disturb the peace of the community or disturb or harass other Program participants;
2. Engage in domestic violence;
3. Possess, consume or distribute illegal drugs, drug paraphernalia or any other controlled substances; and/or
4. Destroy, deface, disturb or interfere with the use of any structure, unit, building, or other property (real or personal) of the TDHE, the Tribe or other Program Participant.

C. Use Restrictions. All Participants, household members and guests must abide by the following restrictions on property use.

1. *Structural Modifications.* The unit is the property of the TDHE, and all structural modifications and major improvements must be pre-approved by the TDHE in writing prior to actual construction. Any activities approved pursuant to this section must be paid for in full by the Participant and comply with any and all applicable construction/building codes. No liens or other encumbrances may be placed on the unit as a result of the work undertaken.
2. *Public Nuisances.* Participants shall keep the premises in a clean and sanitary condition and shall not create or permit any unsightly conditions or offensive activity.

3. *Yard Maintenance.* Participants are responsible for maintenance of their yards and the cost of any enhancements or modifications, such as fences and roadways.
4. *Municipal Laws.* In addition to the standards set forth in this section, Participants also are subject to any and all applicable rules, ordinances and regulations of the unit of government within which the property is located.

D. Inspections. The TDHE may periodically inspect the unit/home and grounds and the Participant shall facilitate such inspections, as follows:

1. *Initial Move-in Inspection.* At the time of initial occupancy, a move-in inspection shall be conducted by a TDHE representative and the Participant. The Participant may have a representative of his/her choice present at the initial inspection. At the conclusion of the initial inspection, the Participant shall sign an inspection report detailing any deficiencies in the unit.
2. *Recurring Inspections.* The TDHE may inspect the unit at any time for any reasonable purpose, including suspicion of damage or misuse of the unit. The TDHE shall provide the Participant(s) with prior notice of the inspection when possible under the circumstances and shall use its best efforts to minimize any disruption or inconvenience to the Participant(s). The Participant shall make the premises available for inspection by the TDHE upon request, or be subject to termination of participation in the Program.
3. *Opportunity to Cure Deficiencies.* If the inspection reveals any deficiencies in the condition of the unit, the Participant shall be given thirty (30) days to correct the deficiencies, at which time a follow-up inspection shall be scheduled.
4. *Follow-up Inspection.* The TDHE shall conduct a follow-up inspection to determine if the deficiencies identified in a previous inspection have been corrected. The Participant shall be notified in writing, and given the opportunity to be present at the follow-up inspection. If the Participant has not corrected the deficiencies, the lease agreement may be terminated in accordance with this Policy, or the TDHE may perform the necessary work and charge the Participant for the repair of any damages caused by the Participants or his/her guest(s).

E. Counseling/Continuing Education. Participants may be required to participate in ongoing educational programs regarding maintenance obligations, financial responsibility and other aspects of Program participation. Attendance is mandatory for all counseling sessions scheduled by the TDHE and participation in such programs is a condition of continued occupancy. Participants may be required to participate in budget and/or maintenance counseling if it becomes evident that the Participant is not meeting his or her financial or maintenance obligations under



the Program.

F. Insurance. The TDHE shall provide required insurance on the unit structure, including fire and extended coverage, during the 10-year useful life period. The Participant shall report all damages to the unit in a timely manner for claims processing. The TDHE's insurance coverage does not include damages to the Participant's personal property and/or the contents of the unit. The Participant may obtain insurance for personal property/contents at his or her own expense.

## SECTION 9

### EXAMINATION AND RE-EXAMINATION OF PARTICIPANT STATUS

A. Re-examination Procedure. For the purpose of determining the Participant's rent payment and eligibility, the TDHE shall examine the Participant-household's earnings and other income prior to initial occupancy and shall re-examine such income regularly thereafter.

1. Re-examination Frequency, Schedule. The TDHE shall re-examine the Participant's income at least once every two (2) years. The Participant's "re-examination schedule" shall coincide with the date of initial occupancy. The Participant will be notified of the need to re-certify and set a date/time for the re-certification. Monthly payments shall not be adjusted between dates of annual re-examination except as provided in Section B, below.
2. Personal Declaration. The Participants shall be required to complete and sign a personal declaration at the time of the recertification interview.
3. Records Retention. Data assembled at the time of the re-examination is to be filed in the folder set up for the Participants at the time of admission.

B. Interim Re-examination of Income and/or Household Status/Composition. In addition to submitting such information as may be required at the time of annual re-examination, **Participant(s) have an affirmative duty to report immediately any changes in income or household composition to the TDHE.**

1. *Circumstances Requiring Immediate Re-examination*. Participant(s) are required to report immediately the occurrence of one or more of the following circumstances:
  - a. any changes in income;
  - b. the loss of any household member through death, divorce or other circumstance; and/or
  - c. the addition of a household member by marriage, birth or other circumstance.

2. Adjustments. Any Participant who reports a change in family circumstances (such as a decrease in income or a change in family composition) shall be given an interim income determination and, upon verification, the monthly payment shall be adjusted.
3. Effective Date of Adjustment. Adjustments in monthly payments are to be made effective on the first day of the month following the income change, provided that no downward monthly payment adjustments are to be processed until the alleged changes in circumstance have been substantiated.

C. Verification and Documentation of Re-examination Data. To ensure that the data upon which determinations as to eligibility for continued occupancy and changes in required monthly payments are made (either by scheduled re-examination or an interim re-examination) are complete and accurate, the information submitted by the Participant household shall be verified. Verification procedures are the same as those described in Section 4(C), above.

D. Action Required Following Re-examination. Within thirty (30) days of receiving the Personal Declaration and all required supporting documentation, the TDHE shall notify the family in writing of: (i) any change to be made in the Participant's rent payment and the effective date thereof and/or (ii) any instances of misrepresentation or non-compliance with the Program Policy, HUD regulations or housing policy and of any corrective or disciplinary action which is to be taken.

E. Failure to Comply With Re-certification Requirements. If the Participant fails to respond to the letter requesting re-certification information, a written notice will be mailed with a deadline for submission of information. If the Participant fails to provide the information requested by the due date, it shall be deemed a violation of this Policy, which may result in termination of participation. In addition, Participant(s) who fail to report upward changes in income may be liable for additional amounts due to the TDHE. Participant(s) who fail to report downward changes in income within a reasonable time period shall not be entitled to any retroactive adjustment of rent.

## SECTION 10

### CONVEYANCE

A. Purchase Option. Participants will be given the opportunity to purchase their home in accordance with this section and when all obligations of participation in the Program have been satisfied.

B. Conveyance Eligibility. A unit shall be eligible for conveyance to the Participant(s), and the TDHE shall convey such unit, when the Participant(s) have met all of the obligations of participation in the Program set forth in this Policy. The TDHE shall convey the unit to the Participant after the Participant makes 120 consecutive monthly payments to the TDHE, pursuant to the monthly payment computation set forth in Section 7 of this Policy, and resides in the unit

for ten (10) full years, even if the established purchase price or Total Development Cost of the unit has not been paid. The unit shall be conveyed solely to the tribal member(s) who initially qualified for Program participation based in part on such tribal membership, regardless of whether the lease agreement also was executed by a spouse or co-habitant. The conveyance shall be effectuated through a bill of sale signed by the TDHE and a release signed by the Participant. Because the Home Site is owned or leased by the Participant, the TDHE cannot provide a Deed to the Participant.

## SECTION 11

### SUCCESSORSHIP

A. Manner of Designation. At the time the lease agreement is executed, the Participant(s) shall designate a successor in interest who would assume all rights and obligations of participation in the Program upon the occurrence of a recognized event. The Participant also may designate an alternate successor, who would succeed in the event that the designated successor is unable or unwilling to participate in the Program. The designation may be changed at any time, provided that such changes must be made in writing and submitted to the TDHE on the prescribed form. Designation of a successor and alternate successor is the exclusive method used to transfer the lease with option to purchase the program unit. A transfer of interest through a Will is not valid and will not be recognized by the TDHE.

B. Events Authorizing Successorship. In the event of death and/or physical or mental incapacity of the Participant(s), the person(s) designated as the successor may succeed to the rights and responsibilities of the Participant(s), provided that all eligibility and other requirements set forth in this Policy are met. A family may transfer a unit to another person, provided that the Board consents to such transfer.

C. Situations where Successorship will not be Recognized. Subject to Section 11(F), below, the designated successor shall not succeed if the lease agreement is terminated for any reason other than death and/or physical or mental incapacity of the Participant(s). A spouse of a Participant (who does not otherwise qualify for program participation) shall have the option to purchase the unit from the TDHE in the event of the Participant's death, which shall be superior to the rights of any designated successor(s), provided that the spouse was residing in the unit at the time of the Participant's death and further provided that the option to purchase is executed within six (6) months of the date of the Participant's death. The purchase price shall be the amount remaining on the Participant's established payment schedule, and such amount must be paid in full within the six (6) month period.

D. Additional Requirements. The designated successor shall assume all rights and obligations of the former Participant(s), including all outstanding amounts owed. The designated successor shall execute a new lease agreement prior to occupancy and must meet all eligibility and selection requirements at the time the agreement is executed. The successor must: (i) be a first-time recipient of homeownership assistance from the TDHE, (ii) intend to occupy the program unit as his/her primary residence, (iii) meet all eligibility and other requirements set forth in this Policy and (iv) be related to the Participant(s). Although the designated successor must be a family

member of the Participant, the designated successor is not required to be a household member or resident of the program unit prior the Participant's death or incapacity.

E. Procedure in the Event of Disqualification of the Designated Successor. In the event that the successor is not eligible/qualified to succeed the original Participant(s), the TDHE may allow the successor to purchase the unit for the amount remaining on the Participant's established payment schedule. Such amount must be paid in full within six (6) months of the date of the original participant's death or incapacity. If the designated successor is not eligible or does not meet admissions standards and is unable to purchase the unit for the unpaid amount, the TDHE may designate an alternate successor.

F. Special Provision Regarding Trust, Restricted or Donated Land. In case of trust, restricted or other special land considerations, the TDHE shall review applicable statutes and requirements prior to approving a successor or designating a subsequent participant. The lease agreement may be modified to accommodate any special land status considerations. When succession occurs on a home built on donated land, the TDHE shall use its best efforts to keep the home in possession of that family.

G. Special Provision Regarding Divorce. The Participant(s) shall notify the TDHE in writing within ten (10) days of the filing of a divorce action, and such notice shall advise the TDHE that an action has been filed, the jurisdiction of the proceeding and the case number. The program unit is the sole property of the TDHE and shall not be considered part of the parties' marital estate. Subject to Section 11(D) of this Policy, the Board may reassign the unit to one of the parties according to the following factors:

1. The basis of the initial determination to award housing assistance (i.e., considerations such as tribal membership and age);
2. Whether the unit is on a donated land site and, if so, whether the adjoining land remains in the possession of one party's extended family; and
3. Each party's respective ability to satisfy all terms and conditions of program participation, including financial and maintenance obligations.

H. Additional Limitations. Because the Home Site is owned or leased by the Participant, the TDHE cannot provide a Deed to the Participant or to any successor or transferee of Participant. Further, the Program Unit may be considered as personal property and not as a fixture to the real estate. Accordingly, the TDHE reserves the right to remove the Program Unit from its inventory and to extinguish any remaining debt owed by the Participant(s) in accordance with its Useful Life Policy and/or where succession or transfer of the Program Unit cannot be accomplished.

## SECTION 12

### TERMINATION OF OCCUPANCY

A. Termination of Participation; Court Action. In the event of non-compliance with any of the provisions set forth in this Policy or in the event it is discovered that the Participant misrepresented any information upon which the TDHE relied to establish Program eligibility, the TDHE may terminate the Participant's participation in the Program regardless of whether the work is completed at the time of termination. In addition, the TDHE may seek to recover any and all amounts paid on behalf of the Participant by filing a civil action in a court of competent jurisdiction. The District Court of the County where the Dwelling Unit is located, the District Court of the Absentee Shawnee Tribe (hereinafter referred to as the "Tribal Court") and such other court as the Tribe may hereinafter establish shall be considered courts of competent jurisdiction for purposes of enforcement of this Policy. The Participant irrevocably consents to the jurisdiction of the Tribal Court as a condition of participation in the Program.

B. Grounds. Participant(s) may be subject to termination of occupancy and Program participation for reasons including, but not limited to, the following:

1. Non-payment of rent or installment payments pursuant to a Pay-back Agreement;
2. The acquisition or occupancy of another home or failure to continue to use the Program Unit as the family's principal residence;
3. Failure to comply with income re-examination requirements;
4. More than three (3) unexcused absences from scheduled appointments with TDHE staff for inspections, counseling, recertification or any other purpose;
5. Failure to supply any requested certification, release, information, or documentation as the TDHE determines to be necessary;
6. Selling, sub-leasing, conveying or abandoning the Dwelling Unit;
7. Interference, obstruction or non-compliance with inspection requirements;
8. Misrepresentation of income, household composition or other material fact(s), regardless of whether the Participant is or is not eligible to participate at the time the misrepresentation is discovered; and/or
9. Other material violation of any term or provision of this Policy or other tribal, state, or federal law or regulation.

C. Termination Procedure. In the event of non-compliance with any of the provisions set forth in this Policy, the TDHE may terminate the Participant's participation in the Program, according to the following action steps:

1. The TDHE shall send a letter stating that the household is not in compliance with a specific provision of the Policy, describing the satisfactory means of

resolving the violation and providing that such violation must be cured within ten (10) calendar days of the date of the notice.

2. If the Participant(s) do not cure the violation within the timeframe specified, the TDHE shall issue a final notice of default by certified mail.
3. If the Participant(s) do not cure the violation within ten (10) calendar days of the date of the notice of default, the TDHE may commence court proceedings against the Participant(s).
4. Participant(s) whose conduct constitutes fraud or presents an imminent threat to the health, safety and/or welfare of the community shall not be entitled to the due process standards set forth in this section.

D. Enforcement Subsequent to Court Action. The following provisions apply to the collection of any court-ordered payments due to the TDHE:

1. Repayment of delinquent amounts subsequent to a court order shall be in full unless otherwise authorized by the Board.
2. The TDHE may collect judgment debts from previous or current Participant(s) by:
  - a. Garnishing wages; and/or
  - b. Placing liens on property.
3. Should written arrangements be made and the provisions thereof breached, the account may be referred to an attorney without further notice or action on the part of the TDHE.

E. Additional Payments Due to the TDHE. Additional charges to the Participant may include, but are not limited to:

1. Charges for extraordinary maintenance and other services;
2. Repayments of past due accounts;
3. Attorney's fees and court costs; and/or
4. Other charges specified under any applicable tribal, state, or federal law or regulation.

F. Additional Remedies. The TDHE may refer instances of suspected fraud, property damage and other criminal law violations for investigation and prosecution by law enforcement and other prosecutorial authorities.

## SECTION 13

### MISCELLANEOUS PROVISIONS

A. Replacement Keys. Participant(s) shall be charged a fee in the event a mail box key is lost and must be replaced. The cost for a replacement house key fee will be the amount according

to the labor charge book adopted by the TDHE. In the event that the locking mechanism of a unit must be replaced due to no fault of the TDHE, the Participant(s) shall be assessed additional fees according to the charge book adopted by the TDHE.

B. Confidentiality. Pursuant to Part 256 of 25 CFR, all information obtained by the TDHE in order to establish suitability for program participation shall be kept strictly confidential. Additional disclosures of the information may occur during program reviews or audits, investigations by authorized law enforcement personnel or as necessary to comply with any reporting requirements of the Tribe or its funding agencies.

C. Limitation of Liability; Indemnification. The TDHE and/or the Tribe shall not be liable to the Participant or any of the Participant's household members, visitors or patrons for any damage to person or property caused by any action, omission or negligence of the Participant or any other Participant of the Program. Further, the Participant(s) agree to hold the TDHE and the Tribe harmless from any claim, obligation, liability, loss, damage or expense, including without limitation attorney's fees and court costs, arising from any condition or natural feature -- known or unknown -- affecting the premises.

D. Appeals. Participants may appeal a denial of service or any other qualifying decision or action relating to implementation of this Policy pursuant to the Grievance Policy and Procedure of the TDHE.