

**SUNDOWN HEIGHTS**  
*Option to Purchase Policy*

**Table of Contents**

**SECTION 1: DESCRIPTION OF PROGRAM----- 3**

**SECTION 2: COVENANTS ----- 5**

**SECTION 3: APPLICATION----- 8**

**SECTION 4: WAITING LISTS ORGANIZATION ----- 10**

**SECTION 5: APPLICANT FILES ----- 12**

**SECTION 6: ELIGIBILITY----- 13**

**SECTION 7: BASIS FOR INELIGIBILITY ----- 17**

**SECTION 8: VERIFICATION----- 18**

**SECTION 9: SELECTION OF FAMILIES FOR A NPTHA HOUSE----- 19**

**SECTION 10: OP PROGRAM RENT & OTHER PAYMENTS ----- 23**

**SECTION 11: RECERTIFICATION PROCESS ----- 24**

**SECTION 12: INCOME ----- 26**

**SECTION 13: OCCUPANCY----- 27**

**SECTION 14: SECURITY, DAMAGE AND CLEANING DEPOSIT----- 28**

**SECTION 15: CLIENT ACTION PLAN & HOUSING COUNSELING----- 29**

**SECTION 16: MOVE-IN PROCESS----- 30**

**SECTION 17: MOVE-OUT PROCESS ----- 31**

<b>SECTION 18: MAINTENANCE AND REPAIR</b>	<b>32</b>
<b>SECTION 19: HOUSEKEEPING STANDARDS</b>	<b>32</b>
<b>SECTION 20: UTILITIES</b>	<b>34</b>
<b>SECTION 21: INSPECTION</b>	<b>34</b>
<b>SECTION 22: ALTERATIONS AND IMPROVEMENTS</b>	<b>36</b>
<b>SECTION 23: ASSIGNMENT AND SUBLETTING</b>	<b>36</b>
<b>SECTION 24: TRANSFERS</b>	<b>36</b>
<b>SECTION 25: NPTHA POLICIES</b>	<b>36</b>
<b>SECTION 26: RISK OF LOSS/INSURANCE</b>	<b>36</b>
<b>SECTION 27: FIRE</b>	<b>37</b>
<b>SECTION 28: PERSONAL PROPERTY</b>	<b>37</b>
<b>SECTION 29: ABANDONMENT OF PERSONAL PROPERTY</b>	<b>37</b>
<b>SECTION 30: ABANDONMENT</b>	<b>37</b>
<b>SECTION 31: OPTION TO PURCHASE &amp; PURCHASE PRICES</b>	<b>38</b>
<b>SECTION 32: SECESSION DURING RENTAL PHASE</b>	<b>42</b>
<b>SECTION 33: LIFE ESTATE</b>	<b>43</b>
<b>SECTION 34: RELINQUISHMENT</b>	<b>43</b>
<b>SECTION 35: TERMINATION</b>	<b>44</b>
<b>SECTION 36: NOTICES</b>	<b>45</b>
<b>SECTION 37: WAIVERS</b>	<b>46</b>
<b>SECTION 38: MODIFICATION</b>	<b>46</b>
<b>SECTION 39: NUMBER AND GENDER</b>	<b>46</b>

## SECTION 1: DESCRIPTION OF PROGRAM

- A. Summary: This program is an Option to Purchase Program and will be referred to as the OP Program hereafter. At least one of the applicants must be an enrolled member of the Nez Perce Tribe, although preference will be given to all Nez Perce Families who are enrolled members of the Nez Perce Tribe. Participants are renting until a specified time by which they will exercise the option to purchase or otherwise terminate their Use & Occupancy Agreement. Participants during the term of this program do not have and will not accumulate any equity in the property until such time that the option to purchase is exercised. No Homebuyer shall have any right to a refund of rents upon termination by expiration of the term of the occupancy agreement or termination for any other reason. All applicants must be able to pay the minimum rent and achieve mortgage readiness according to their Client Action Plan but not to exceed three (3) years.
- B. The purchase of a home under this program is a leasehold purchase. It only includes the house and does NOT include the purchase of the land on which the home is located. The Homebuyer may be required to surrender and vacate the home being purchased under the OP Program upon expiration of the land lease or in the event of relinquishment of enrollment in the Nez Perce Tribe without payment or other compensation. **The Option to Purchase must be exercised within the specified time frame established in the Use & Occupancy Agreement, but not to exceed 36 months.** This program is designed to assist primarily low-income families and moderate-income families who are willing to comply with the non low-income assistance requirements. Generally, Homebuyers must comply with the following:
1. Be committed to purchasing the leasehold property;
  2. Have sufficient income required to meet the minimum rent and the other financial obligations of maintaining and buying a home;
  3. Be able to overcome the obstacles to mortgage readiness in a period of time not to exceed 36 months except in extreme circumstances;
  4. Be committed to schedule the time to participate in the required group counseling and the one-on-one counseling tailored to the individual family's needs.
  5. Participants entering this program must be reminded regularly that this is not a substitute low-rent program. Additionally, failure to exercise the option or to comply with any of the other terms and conditions of the program will result in termination of participation, termination of Participant's Use & Occupancy Agreement, and loss of benefits. In the event that the Participant decides not to exercise their option or in the event that NPTHA determines that the Homebuyer will not be able to exercise their option, then the Homebuyer shall have three months to vacate the premises and find alternative housing.
  6. The house payments made under the OP Use & Occupancy Agreement will be applied to the purchase of the home to cover debts service when the option is exercised successfully. If the option is not exercised, the total amount paid will be retained by the NPTHA as rent and the Homebuyer must secure other housing.

7. The success of this homeownership opportunity is contingent upon an intense Housing Counseling and Homebuyer Education program. It will consist of Homebuyer education classes and one-on-one counseling individualized to meet each family's needs. Needs vary from family to family. Income, employment, education, debt, the number in a family, etc., all contribute to the differences that make each family unique. Although each family's uniqueness must be addressed, it is imperative that policies are applied equitably.

C. The Lease with Option to Purchase Program seeks to respond to the following goals:

- a. To promote affordable homeownership opportunities for those low-income enrolled members who need assistance in qualifying for mortgage financing.
- b. To provide homeownership opportunities for low-income enrolled members to better access the private mortgage market for homeownership on tribal trust property.
- c. To promote self-sufficiency of tribal members.

D. Purpose of Policies: Policies have been prepared to provide direction to staff for admission of applicants into the housing program and for administering the requirements governing their occupancy. The OP Program will be implemented by NPTHHA Housing Management through a staff of Housing Counselors. Staff will conduct a reasonable and broad based effort to solicit and accept applications from all interested parties. After determining eligibility, a waiting list of potential OP Program applicants will be maintained according to the time and date of application and other pertinent factors as outlined in these policies. These waiting lists will be used by staff in selecting Homebuyer.

E. Applicability of Policies: All Participants are subject to the policies of the NPTHHA as they now exist or as they may hereafter be revised or added by the NPTHHA. The NPTHHA Client Action Plan, NPTHHA Underwriting Procedures, the NPTHHA Housing Counseling Policy, the NPTHHA Collection & Eviction Policy, the NPTHHA Grievance Policy, the NPTHHA Non Low-Income Assistance Policy, the NPTHHA Home Business Use Policy, the Rules and Regulations for Living on the Reservation, and the Assignment Policy, as they may hereafter be amended, and are by this reference made a part hereof.

1. The Board of Commissioners and staff will comply with all applicable laws and regulations of the Department of Housing and Urban Development (HUD), particularly CFR 1000. Additionally, commissioners and staff must be in compliance with the Nez Perce Tribal codes and Ordinances, applicable state and federal laws and regulations, and NPTHHA policies. Failure for staff to be in compliance will be addressed through disciplinary action that could result in termination of employment or removal from the Board.

F. Codes: Applicants as well as occupants are required to adhere to the Nez Perce Tribal Code and other applicable laws with regard to their personal conduct when it impacts their housing obligations and the rights of others. Participants in this program agree to adhere to the following covenants as long as they reside on the premises as a renter and/or subsequently as a homeowner.

## SECTION 2: COVENANTS

The following covenants apply to any and all programs operated in the Sundown Heights Subdivision.

### A. Sweat Houses

The structure of your sweat house needs to demonstrate that you have pride and dignity in your culture.

### B. Home & Homesite Requirements & Maintenance

1. The Resident is responsible for planting and maintaining a yard.
2. Each resident will be responsible to maintain and keep clean and in good repair the exterior of their home as well as all appurtenant resident structures such as decks, steps, carports, storage buildings, and fences at all times. All wooden structures such as decks, handrails, etc., shall be painted or stained as necessary to prevent their visual and/or physical deterioration.
3. Driveways, streets, and Resident's homesite, including porches and decks, are to be kept clean and free from trash and litter at all times. Garbage cans, gardening tools, equipment, bicycles and other personal belongings must be stored in the Resident's carport, garage, storage shed.
4. Furniture left outside a home shall be limited to outdoor or patio furniture. No household appliance or upholstered furniture can be placed outside of the home. Storage of any type beneath the home including any material of an illegal or explosive nature is prohibited.
5. Dead animals or dead animal parts are not to be stored outside the premises.
6. Any unallowable items left out may be removed by the NPTHA at the residents – homeowner's expense after complying with any notice requirements.

### C. Residents & Guests

1. Residents shall respect the peace of the Subdivision and see that their guests do the same. It is the responsibility of the Resident to keep their children under control at all times. Neither Resident, their children, guests nor any other person staying or visiting the Resident shall cause unreasonably loud or disturbing noise between the hours of 10 p.m. to 8 a.m.
2. Residents are responsible for the actions of occupants of their home, as well as guests, licensees and invitees.
3. Residents shall conduct themselves and cause other persons who are on the premises with their consent to conduct themselves in a manner which will not disturb his neighbors' peaceful enjoyment of their accommodations and will be conducive to

maintaining the neighborhood in a decent, safe and sanitary condition. Excessive alcohol abuse, partying, fighting, quarreling and any other action or activities that interferes with or disturbs the health, safety, or right to peaceful enjoyment of the premises by other residents are prohibited.

4. Home Occupations are permitted, provided they are consistent with the NPTHA Home Business Policy.
5. Residents shall refrain from, and to cause his household and guests to refrain from destroying, defacing, damaging, or removing any part of the home or grounds.

#### D. Parking Vehicles

1. No vehicle or equipment over 10,000 pounds gross vehicle weight is allowed to be parked on the street other than for service to the Resident. Inoperable vehicles or vehicle parts may not be stored or left on driveway, Homesite or anywhere in the Subdivision. Inoperable vehicles will be impounded or towed after 30 days of written notice. The expense of such removal shall be assessed against the Resident. Resident parking is restricted to the Resident's driveway, carport, or garage.
2. Vehicles may not be parked on the street or parked in such a way as to extend into the street. Vehicles may not be parked in yards. Guests may park their vehicles in a Resident's driveway, carport, or garage or other designated parking areas when visiting a Resident but must ensure that they are parked in a location so as not to block any neighbor's access, or restrict traffic flow within the Subdivision.
3. Three wheelers, all terrain vehicles, dirt bikes or the like are not allowed to operate in the Subdivision.

#### E. Pets

1. Residents and owners shall keep no vicious animals. All pets shall be confined to the yard and not interfere with neighbors' peaceful enjoyment.
2. Residents and owners shall not keep farm animals, including horses, on the property.
3. NPTHA Policies and Tribal Ordinances shall apply as they now exist or hereafter are amended.
4. Residents shall keep no domestic animals on or about the leased premises without the prior, express and written consent of NPTHA and evidence of registration with the Nez Perce Tribe. There shall be a non-refundable pet deposit due to the NPTHA.

#### F. Landscaping

1. The Resident is responsible for keeping all landscaping mowed, trimmed, watered, and due to fire hazard, weeded and well maintained within their Homesite. If landscaping is not properly maintained and has reached 6 inches, the NPTHA or the Tribe reserves the right to perform whatever landscape maintenance may be required and charge the Resident per established policy.

2. Each Resident shall install a sufficient amount of landscaping to prevent erosion and run off onto neighboring homesites, as well as to provide a pleasant environment.
3. The installation of fencing is subject to approval by the NPTHA. A request with sufficient information must be made to the NPTHA before a decision can be made by the NPTHA. Fencing is not permitted between the street and the front of the home if it blocks visibility for auto traffic. All homes will be fenced in a similar design upon NPTHA approval.
4. Barbed wire, electrical fencing or any type that could be hazardous is prohibited.

#### **G. Utilities**

1. Payment for electrical, telephone, cable TV, natural gas, propane and kerosene is the responsibility of each Resident.
2. Garbage, water and sewer will be paid by the Resident including any deposits.
3. Each Resident is required to provide their own garbage cans. These cans are to be in a form acceptable to the local trash collection agency. If the Resident fails to remove trash on a regular basis, arrangements will be made to have the trash picked up at the Resident's expense.
4. Each Resident shall be responsible for ensuring that there be no obstructions to access to any water meter, water shut off valve, sewer clean-out, electrical/telephone/cable TV pedestal which may be located on their Homesite.

#### **H. Preserve Land Corners**

1. The NPTHA has expended funds to place pins marking the corners of the lots. Land corners are to be preserved and maintained by the resident. Disturbance of land corners is subject to prosecution and penalties.

#### **I. Owner Homesite Improvements**

1. Owner shall be responsible for installing all improvements in accordance with Section I, Item 2. Any additional improvements which the Owner wishes to construct on his homesite must show the size, design and materials to be used and be approved by the NPTHA.
2. All alterations are to be made according to applicable building codes. Any electrical and major plumbing work must be performed by a licensed contractor. Plans must be approved prior to commencement of any construction or lease assignment.

#### **J. New Construction**

1. New construction on lots is subject to review and approval by the NPTHA. All construction activities must be in accordance with the Uniform Building Code. Plans and specification must be made available for evaluation. Inspection by a qualified building inspector will also be required.

#### **K. Manufactured/Modular Homes**

1. A structure that is multi-sectional, encloses a space of not less than one thousand square feet, consists of a minimum of 28 feet wide, and was built after 1998.
2. The home must meet the additional standards required by the lender and/or the NPTHA, including but not limited to the following:
  - a. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve (12) inches above grade; and comply with all FHA regulations regarding permanent foundations.
  - b. A vapor barrier shall be installed.

#### **L. Unlawful Conduct**

1. The resident is prohibited from using, causing to be used or allowing to be used any part of said rented or leased premises for any unlawful conduct or purposes. Any unlawful conduct is prohibited and may result in eviction and termination of the Use & Occupancy Agreement or assignment.
2. Nez Perce Tribal Law Enforcement is responsible for receiving and investigating any suspicious or illegal acts. Residents are requested to notify the local law enforcement agency for investigation and prosecution.
3. The Nez Perce Tribal Court shall have exclusive jurisdiction over any dispute that arises.

#### **M. Amendment of Rules**

NPTHA reserves the right to make reasonable modifications to these rules if needed for health or safety purposes or necessitated by a change in Tribal Code or Federal law. Residents will be given at least 30 days notice of any such modification.

### **SECTION 3: APPLICATION**

All enrolled members of the Nez Perce Tribe are encouraged to submit applications as soon as possible because of the extensive requirements for qualifying. They also must be informed that if they need assistance in completing the application, staff are available to assist them. Federal law prohibits discrimination based on race, color, creed, religion, national origin, sex, age or handicap, although selection for the OP Program is limited to applicants who are enrolled members of the Nez Perce Tribe in accordance with the provisions of NAHASDA, Title II, Section 201 (b) 4.

- A. Application Forms: There are specific forms that must be used to complete an application depending on the type of assistance for which one is submitting an application. The application forms will be designed by staff to gather enough information to allow a full assessment of the family's background to determine and verify eligibility, consistent with any applicable federal and NPTHA requirements and the requirements of any other funding

entity that are applicable at the time of admission. These forms may be supplemented with additional forms as deemed necessary by the Executive Director for clarification purposes. The minimum application forms generally required by the NPTHA include, but are not limited to the following:

1. Intake, the Uniform Residential Loan Application (URLA) or program specific application.
2. Consent for Credit Report
3. Homebuyer Counseling Agreement
4. Goal Statement
5. Budget Worksheets
6. Applicable Verifications
7. Client Action Plan
8. Applicable Consents to Release Information

**B. Application Process:** Families must submit a full and complete application, including authorizations and evidence of prior attendance in Housing Counseling and Homebuyer Education classes and sessions, before they can be determined eligible or placed on a waiting list.

1. In order to be considered for occupancy in any housing program offered by the NPTHA, a written (legible) application must be completed in consultation with a NPTHA staff member.
2. All applications processed by NPTHA staff are entered in a database.
3. The staff member preparing an application must note the date and time when the application was received.
4. All information provided in the application must be verified and documented before an application is considered complete. In the event there are concerns regarding the information obtained, the Housing Counselor will report the concerns to the Executive Director. The Executive Director will request information for review purposes from Board members and staff to either make a decision or to refer the issue to the Board for Board action.
5. After reviewing the application data, the Housing Counselor will submit the file with a written recommendation for action to another Housing Counselor who will review the file and document in the file the concurrence or non-concurrence with the action to be taken. If there is no agreement regarding the action to be taken, the information will be forwarded to the Executive Director for review and action. All recommendations and actions are to be in the form of written documentation.

6. Once the application is complete and eligibility has been determined, the applicant data will be entered into the appropriate Waiting List database.
  7. In the event of a rejection, the staff will notify the applicant in writing (certified mail return receipt requested) of the basis of the determination and the right to appeal the decision in accordance with the Grievance Policy.
  8. The Housing Counselor will prepare a letter notifying the applicant of the resultant placement on the Waiting List.
  9. The Waiting Lists will be updated to the greatest extent feasible on a bi-weekly basis; however, a minimum of a monthly update is required. The Housing Counselor will provide the Waiting Lists on a monthly basis to the Executive Director for inclusion in the report to the Board at the next regularly scheduled meeting.
  10. Waiting Lists (indicating applicants' last four digits of their social security number, bedroom size, lot preference, and points) are to be posted for public view in the NPTHA office.
- C. Charges: There is no application fee for NPTHA program assistance, although the applicant will be responsible for other fees assessed by lenders in the event the Participant successfully exercises their option to purchase. Also, the applicant is not responsible for the cost of the initial credit report obtained by the NPTHA for the purposes of qualifying for the OP Program.
- D. Communications: All communications with the applicant must adhere to the following requirements:
1. All official notices must be in writing and signed by a Housing Counselor with a copy to the Executive Director
  2. All verbal communications are to be documented in the applicant file, indicating date, time, content, and disposition.
  3. All written communications or major inquiries from an applicant are to receive a written response within 5 working days from the date of receipt.
  4. All phone calls are to be returned within a maximum of two working days.
  5. All appointments are to be confirmed in writing.
  6. All phone reminders of appointments are to be documented in the applicant file, indicating date, time, content, and disposition.

## **SECTION 4: WAITING LISTS ORGANIZATION**

- A. Preferences: It is the goal of the NPTHA to provide decent, safe, and sanitary housing for all enrolled members. In accordance with this goal, homeownership opportunities will be made available in accordance with NPTHA established preferences. The waiting list will be organized based on the established preferences.

1. Preferences are established to ensure that the benefits accrue to enrolled members of the Nez Perce Tribe. Consequently, the following definitions will apply:
  2. ALL NEZ PERCE FAMILY means the head or heads of household and at least one child are enrolled members of the Nez Perce Tribe. Nez Perce couples are also included in the definition of all Nez Perce family. Only an enrolled member of the Nez Perce can be the applicant.
  3. AN INDIAN FAMILY means at least one of the heads of household is an enrolled member of the Nez Perce Tribe. Only an enrolled member of the Nez Perce can be the applicant.
  4. Single enrolled Nez Perce members are considered a family only for the purpose of applying for a lot.
- B. Waiting Lists Organization:** The NPTHHA requires that Waiting Lists are established and maintained for each type of housing assistance program. The NPTHHA must maintain a separate Waiting List for the OP Program and for each preference. Preliminary selection of applicants for a NPTHHA-built home who meet all eligibility requirements of the OP Program will be based on preferences established by the Board of Commissioners. *Placement on the Waiting List does not guarantee selection.* It indicates that at the time of verification and certification, the applicant is eligible for the program and is to be considered for selection.
- C. Maintaining Waiting Lists:** The following information is required to properly maintain the waiting list:
1. Minimum Information:
    - a. record number
    - b. name and address
    - c. community preference
    - d. lot preferences
    - e. family size
    - f. income
    - g. date/time of application
    - h. Tribal Affiliation/non-Indian
    - i. offers (2) (date/status)
    - j. notification to update

- k. recertification date
  - l. mortgage readiness date
2. Optional information:
- a. source of income
  - b. place of employment
  - c. length of employment
  - d. Federal IRS Form 4506 or 4506T
  - e. previous federal housing assistance
  - f. financing capability
  - g. disabled
  - h. veteran
- D. The Waiting List will be updated to the greatest extent feasible on a bimonthly basis; however, a minimum of a monthly update is required.
1. Waiting List applicants must update their application on a yearly basis or they will be removed and placed in the inactive file. Applicants on the waiting list will be notified in writing one year after the date of the initial application to update their application within a specified time period. The efforts to notify the applicant must be noted on the Waiting List by date.
  2. Yearly updates by applicants will be noted on the Waiting Lists by date.
  3. Applicants who fail to respond to the request to update their applications will be removed from the Waiting List and transferred to the Inactive File.
- E. Reporting Requirement: A summary of the Waiting List using social security numbers for confidentiality must be prepared and submitted to the Executive Director on a monthly basis.

## **SECTION 5: APPLICANT FILES**

- A. Filing Requirement: All applications are filed as Active or Inactive.
- B. File Management: When an applicant is placed on the Waiting List, the application and all the supporting documentation is maintained in the Active file. All applicant files are organized alphabetically.

- C. Inactive File: Applicants who are determined to be ineligible for whatever reason are placed in the Inactive File, organized alphabetically by fiscal year. Inactive files will be set up in a data base indicating the name, bedroom size, income, and date.
- D. File Retention: All Inactive Files are retained for a minimum of 3 years. All active files where the option to purchase is not successfully exercised are retained for five years after move-out in accordance with HUD Handbook 4350.3 Rev. 1, whichever is less. In the event of home purchase, the files will be retained for the length of the leasehold mortgage.
- E. Inactive File Placement: Waiting List applicants will be placed on the inactive waiting list when treated as follows:
  1. Staff has made a determination of ineligibility.
  2. An applicant will be offered no more than 2 homes. Only a maximum of 15 days will be allowed for an applicant to accept or reject an offer of a home. When an applicant refuses 2 offers of a home, the applicant will be ineligible for a period of 1 year from the date of refusal of the second site of home offer.
- F. Confidentiality: Information contained in the NPTHA files is confidential. Only those with a need to know have the right to review the contents of client files. Staff is prohibited from discussing the contents of a client's file with anyone other than NPTHA staff. NPTEC and other Tribal officials must have a court order to access applicant or occupant information unless the applicant or occupant has signed a consent to release the information to the requesting party.

## SECTION 6: ELIGIBILITY

The following eligibility requirements must be met at a minimum prior to persons being considered for the OP Program.

- A. Only those who are eligible under the laws and customs of the Nez Perce Tribe to lease tribally owned land for residential purposes or who otherwise obtain the specific approval of the Nez Perce Tribal Executive Committee shall be eligible. Non-Indian and non-member spouse may join in the application process and have their income and credit considered; however, non-Indian and non-member spouses may not inherit property pursuant to the Laws and Customs of the Nez Perce Tribe. Therefore, once the option is exercised if the Tribal member dies or becomes divorced from the non-Indian or the non-member, the non-Indian or non-member spouse may not inherit the property in the case of death or be granted the property by consent of the parties or by the Courts in the event of a divorce. Likewise during the rental phase of the program if the Nez Perce Tribal member dies or relinquishes Nez Perce membership, the non-Indian or non-member spouse can not be the beneficiary or remain in possession of the rental unit; nor may the parties or the Courts allow the non-Indian or non-member spouse to remain in possession of the rental unit in the event of divorce.
- B. Applicants who are an "Indian Family" will only be considered if they can comply with the following: at least one of the qualifying applicants must be an enrolled member of the Nez Perce Tribe. **Eligible Family/Individual Composition** means:

1. ALL NEZ PERCE FAMILY means the head or both heads of household and at least one child are enrolled members of the Nez Perce Tribe. All Nez Perce family includes a Nez Perce couple. Only an enrolled member of the Nez Perce can be the applicant.
  2. AN INDIAN FAMILY means at least one of the heads of household is an enrolled member of the Nez Perce Tribe.
  3. Single enrolled Nez Perce members are considered a family only for the purpose of applying for a lot.
- C. Enrollment documentation must be provided by a third party source. Nez Perce enrollment must be documented and verified through the Nez Perce Tribal Enrollment Office. Other Indian applicants must have third party enrollment documentation and verification provided by the Bureau of Indian Affairs (BIA). A BIA Certificate of Degree of Indian Blood (CIB) and verification of enrollment from a federally recognized tribe.
- D. "FAMILY" means two or more persons related by blood, marriage, or adoption, or who have evidenced a stable family relationship by living regularly together in the same dwelling unit for at least two years or a single adult enrolled member of the Nez Perce Tribe for consideration of a lot only.
- E. The applicant must use the home as their principal residence.
- F. The applicant family must have sufficient income to meet and maintain the minimum payment and be within the income limits established and approved by HUD annually (see Appendix A: Income Limits). A Homebuyer applicant's family income must be high enough to afford the minimum monthly house payment and the applicant's family income must demonstrate, through a detailed client action plan, that the family will be able to achieve mortgage readiness within an established time frame not to exceed 3 years. Mortgage readiness qualifying ratios as set forth by the NPTHA, the specific lending institution, or the specific program will be applied. Factors governing the analysis and verification of income are set forth in the applicable Underwriting Procedures of the NPTHA or the Section 184 Guaranteed Loan as they now exist or as they may hereafter be revised or added to by the NPTHA.
- G. The Executive Director may allow participants whose family income exceeds the income levels established for lower income families to be admitted to the OP Program in accordance with the guidelines established by the Non-Low Income Assistance Policy. The determination to provide such assistance must demonstrate that there is a documented need for housing for such families that cannot reasonably be met without such assistance, consistent with the applicable regulations and policies governing that program. In all instances, assistance and benefit can not be the same as for a Low-Income family. Payment requirements and any other assistance will be according to rates established by the NPTHA for moderate and above moderate-income families and affordability.
- H. Employment Stability: For an applicant to be financially eligible for the OP Program, they must have at least two years stable income and also demonstrate the ability to maintain at least their present level of income. This will be verified by staff and may be satisfied by a written statement from the applicant's employer. If it is not feasible to determine income potential from an employer, this verification may come from copies of the applicant's income

tax returns for the last three years prior to the application date. The applicant must sign a IRS Form 4056, authorizing the IRS to release the information to the NPTHA. These income tax returns will be kept on file and new ones will be submitted each year thereafter until the option is exercised.

- I. Ability to Enter Into an Agreement: For a family to be eligible for admission to the OP Program, they must be at least 21 years of age and have the legal capacity to enter into a Use & Occupancy Agreement and be willing and able to meet all obligations of the Use & Occupancy Agreement. The applicant family must be willing to commit the time required to comply with all of the housing counseling and education requirements.
  
- J. Admission of Single Persons in the Process of Securing Legal Custody: An applicant in the process of securing legal custody through other means than adoption must provide evidence that success of obtaining legal custody is likely. This determination of reasonable likelihood of success will be made at the time an offer of a unit is to be made to an individual. If at that time it is determined that there is not a likelihood of success, then that individual nonetheless shall be allowed to retain his place on the waiting list, with any preference for which he remains eligible and with his original date and time of application until custody is secured. At that time the individual will be offered an appropriate unit in accordance with his position on the waiting list.
  
- K. Credit, Use & Maintenance History: All applicants must have a satisfactory credit, use, and maintenance history. The following will be required at a minimum. Additional requirements and specifics pertaining to analysis are governed by the NPTHA Underwriting Procedures or the Section 184 underwriting procedures.
  - 1. Credit history will be verified by a credit report and any or all of these sources or other means as determined by the NPTHA:
    - a. Two or more landlord or lender references detailing previous house payment history.
    - b. Non-traditional means.
  
  - 2. Use and maintenance history will be documented by one or both of these sources:
    - a. Landlord references from the previous 5 years.
    - b. Police/Court record check.

If negative reference on either the credit or use/maintenance history are obtained, staff will notify the applicant in writing of the negative items found. The applicant will be afforded an opportunity to respond in writing within 5 working days of the postmarked date of the notice regarding any negative information derived from any source. The response will be taken into consideration in determining the applicant's eligibility.

- L. Habits & Practices: An applicant must be of good character and possess habits and practices that promote safe, clean and healthy homes, property and communities. This also applies to applicant's household members as they appear on the application or as they are requested to be added to the occupancy agreement.

- M. Social Security Numbers:** To be eligible, the families must disclose and verify social security number for all family members.
- N. Privacy Act Statement:** Participants must sign the Privacy Act Statement initially and each year thereafter until the option to purchase is exercised. Eligibility for admission or continued occupancy will be denied for failure to comply with the Privacy Act requirement.
- O. Previous Assistance from Other Housing Authority:** Participants in other housing authority programs may apply for housing and be placed on the waiting list. Verification that the applicant has terminated the other assisted unit agreement and terminated in good standing must be obtained before the applicant will be allowed to participate in the OP Program.
- P. Previously Assisted NPTHA Resident:** No applicant or applicant's household member who has an outstanding debt to the NPTHA or whose participation was terminated by the NPTHA will be eligible for assistance until the following conditions are satisfied:
- 1. Voluntary Terminations:** Any outstanding debt from an applicant or an applicant's household member must be paid in full prior to consideration.
  - 2. Involuntary Terminations:** Any applicant whose assistance was terminated by the NPTHA or who was evicted for nonpayment will not be considered eligible for a period of one (1) year **from date of full payment** and verification from a landlord who verifies that the applicant had a satisfactory payment history.
- Q. Compensating Factors:** In rare circumstances, and only with supporting documentation, may an applicant family be selected if the projected house payment and other projected housing costs (i.e., monthly maintenance reserve, utilities, etc.) would exceed the income limits defined and established by the specific program assisting the Homebuyer or the family income just barely meets the minimum requirements. Compensating factors will be considered in accordance with the Underwriting Procedures of the NPTHA as they now exist or as they may hereafter be amended. The Housing Counselors will submit a recommendation with supporting documentation to the Executive Director for a final decision. There must be compelling factors documenting that the family would be able to fully meet the obligations of homeownership, such as, but not limited to, the following:
- 1.** Documented family income from sources which are not counted towards computation of adjusted monthly income, i.e., per capita payments, etc.
  - 2.** The family's ability to supplement income by providing its own foods, fuel, or other necessities.
  - 3.** Prior history indicating rental payments exceeding the NPTHA house payment.
  - 4.** The family will be required to sign a statement verifying that they are aware they are below income and that they feel they are able to meet and maintain the payment calculated by staff and pay for all maintenance expenses.
  - 5.** History of excellent repayment of all debt obligations.
  - 6.** Good landlord, creditor references.

7. Stable savings account.

## **SECTION 7: BASIS FOR INELIGIBILITY**

The reasons for a determination of ineligibility are based on NPTHA policies and other applicable program regulations. Although an applicant may meet the basic criteria for eligibility, any one of a number of reasons can form the basis of a determination of ineligibility. Families who have applied for housing or who have applied to add an additional occupant, and who, for any reason, have been determined to be ineligible will be notified by staff in writing, stating the reasons for their ineligibility. The family would then be entitled to an informal hearing under the provisions of the Grievance Policy. All information relative to the rejection of an applicant family must be documented and placed in the applicant family's file for future reference.

- A. The following does **not** represent an exhaustive list of reasons an applicant may be denied final selection as a Homebuyer; however, it is illustrative of many common reasons for a determination of ineligibility.
  1. Failing to repay previous debts owed to any housing authority or other HUD program.
  2. Conviction of fraud in connection with any HUD program, or failing to disclose previously committed fraud in connection with any HUD program.
  3. Prior conviction of crime(s) of a sexual nature.
  4. Non-cooperation. Refusing or failing to complete required forms or to supply requested information.
  5. Applicants who appear on HUD's List of Suspensions, Debarments, and Limited Denial of Participation.
  6. The applicant family does not qualify as a family according to the applicable program requirements.
  7. The applicant family does not meet the income requirements.
  8. Lack of verifiable information
  9. The applicant previously participated in the program.
  10. Family composition is not compatible with the occupancy standards applicable to the vacant unit.
  11. The applicant family has a record of unsatisfactory performance in meeting past financial obligations.
  12. NPTHA records indicate that the applicant family has an outstanding debt.

13. Applicant family has a record of destruction of property, acts which would imperil the health, safety or peaceful occupancy of neighbors, and/or disregard for the rights of others and the rules of occupancy.
  14. The applicant family has a pattern of violent behavior. This includes evidence of repeated acts of violence on the part of a member of the family or a pattern of conduct constituting danger to peaceful relationships with neighbors.
  15. The applicant family has a record of any illegal activity which would impair the physical or social environment of the surrounding neighbors, including but not limited to trafficking in drugs, use and/or possession of drugs, prostitution, possession of explosives, illegal possession of firearms, crimes of violence against persons or property.
  16. The applicant family has a history of unsanitary or poor housekeeping habits.
  17. The applicant family has provided false information on the application or other application on file with NPTHA.
  18. The applicant family has a history of lease violations.
  19. NPTHA Participants who were evicted for non-payment of any financial obligation to NPTHA will be denied participation in NPTHA housing assistance programs for at least one year from the date on which all NPTHA debt has been retired and evidence of a good credit history is verifiable.
  20. NPTHA Participants who were evicted for violations due to acts which threatened the health, safety and welfare or peaceful enjoyment of others will be denied participation in NPTHA housing assistance programs for at least three (3) years and references are positive.
- B. Consideration of Derogatory Findings:** One minor derogatory finding will not be used as a basis for denial of eligibility or participation. However, a combination of derogatory findings may be used as a basis for denial. The inability to achieve mortgage readiness within 3 years is a major derogatory finding. In this event, the applicant will be advised to pursue housing through a rental program until such time as the obstacles to mortgage readiness can be overcome within a maximum of 3 years.

## **Section 8: VERIFICATION**

Procedures for verification will be in accordance with the verification guidelines outlined in HUD Handbook 4350.3 Rev. 1 as it now exists or is hereafter amended.

- A. Verifiable Information: All information must be verifiable. Verification must be obtained through a third party and in accordance with HUD Handbook 4350.3, as it now exists or is hereinafter amended. Handbook 4350.3 is hereby incorporated by reference. The procedures for income verification are detailed in Handbook 4350.3 in Appendix 3, Acceptable forms of Verification and Appendix 15, Verification and Consent Guidance and Sample Formats, although the NPTHA reserves the right to develop their own forms.

- B. Verification of Annual Income: Anticipated annual family income for admission will be determined by staff on the basis of verification of income at the time of initial application, unless otherwise stated in the program policy or regulations. To remain on the waiting list, applicants must inform staff in writing of any changes in income, as they occur. Staff will reverify eligibility of the applicant based on any change of income and ensure that the applicant meets all eligibility requirements for admission. Should an applicant become ineligible based on a change in income, staff will notify the applicant in writing by certified mail that he no longer qualifies for admission into the program. In addition to income changes, disqualification may also be caused by program and policy changes.
- C. Verification Time Frame: Applicant information will be verified as soon as possible after submission of an application. However, if there is a long waiting list, staff may do an initial assessment of a family's eligibility and suitability at the time of application and wait to do a more complete evaluation until shortly before admission. By doing this, staff will avoid the time and expense involved in evaluating applicants who may withdraw from the waiting lists before their names can be reached. Verifications are only good for 90 days and must be recertified 30 days prior to occupancy. See HUD Handbook 4350.3 Rev. 1 for additional guidance.
- D. Verification Data: Verification data are to be reviewed and evaluated as they are received for completeness, adequacy, and conclusiveness. Where the information received is not completely adequate in all respects, follow-ups or new efforts to obtain such information are to be made and carried through to conclusion. The NPTHA has the right to ask for any information from the applicant that the NPTHA deems necessary to completing the process. See HUD Handbook 4350.3 Rev. 1 for additional guidance.
- E. Verification Summary: As verification of all necessary items for each application are completed, a summary of the verified information is to be prepared and filed in the tenant's folder. The summary is to cover at least the following determinations and the basis for such determinations:
- a. Family Status;
  - b. Nez Perce Enrollment;
  - c. Eligibility as a low-income family;
  - d. Eligibility of the family with respect to Section 6 of this policy;
  - e. Counseling requirements/Client Action Plan;
  - f. Rent Calculation;
  - g. Management or administrative fee, if applicable.

See HUD Handbook 4350.3 Rev. 1 for additional guidance.

## **SECTION 9: SELECTION OF FAMILIES FOR A NPTHA HOUSE**

**A. Selection includes a three step process.**

1. Applicants must first be determined to be eligible which includes completing the initial HBE class. Applicants must be able to qualify for mortgage readiness within a maximum of three years (36 months).
2. Once eligibility and qualification requirements have been met, applicants are placed on a waiting list according to established preferences.
3. Selections from the preference list will be made according to the targeted number of mortgage ready applicants. The schedule of targeted dates is governed by NPTHA requirements to meet debt service and to provide additional services resulting from the sale of units. Those who can immediately secure a mortgage for a NPTHA built home will be selected first.

Thereafter, applicants will be selected for a NPTHA built-home as follows: (NPTHA RESERVES THE RIGHT.)

	Mortgage Readiness Range	Targeted # of Selections	Future OP Assistance Potential	Projected FY
1	0 to 1 month (immediate)	3	-	-
2	2 to 6 months	0	0	-
3	7 to 12 months	1	0	2005
4	13 to 24 months	5	2	2006
5	25 to 30 months	4	2	2007
6	31 to 36 months	7	5	2008
	TOTAL (2-6)	20	25*	5 Years**

\*Subject to the availability of lots

\*\*Depends on the availability of funds

Those who can immediately qualify for a mortgage for a NPTHA built-home will obtain the construction financing in their own name with NPTHA's contractor as the builder. This section of the Sundown Heights Policy only refers to applicants who can qualify for a NPTHA built-home within targeted time frames. It does not apply to those who desire to build their own home with their own plans and specifications on a lot other than NPTHA designated lots.

All selections will be made from the established waiting list preferences. If the targeted number of selections can not be satisfied from the Waiting List for Preference 1, consideration will be given to those wait listed for Preference 2, and so forth. Replacements will also be selected to facilitate meeting the above targets.

- B. Eligibility at the time of selection:** The applicant must be an enrolled member of the Nez Perce Tribe, meet the other eligibility requirements pursuant to Section 6 and 7.
- C. Qualifications:** In order to qualify for the OP applicants must be eligible applicants, execute and participate in completing a Client Action Plan (CAP), and meet the qualifications for mortgage readiness within a maximum of 3 years. The factors to be used in making this

determination include credit history, household income, employment, character, and ability to afford a mortgage payment and meet all other obligations of homeownership.

D. Preferences: Preferences are established for 2 categories of preferences. The NPTHA will give first preference to families consisting of all Nez Perce members enrolled in the Nez Perce Tribe. A second category of preference will be given to enrolled members of the Nez Perce Tribe whose family composition includes non-enrolled Nez Perce members. There are a total of 8 waiting lists. See the definitions for family type and composition in Section 6, B. Waiting lists are established for each preference as follows:

1. Waiting List Preference 1: All Nez Perce families who have never been assisted, do not own a home, are Low- or moderate income and meet all qualifications.
2. Waiting List Preference 2: All Nez Perce families who do not own a home, have been previously assisted but did not achieve homeownership for acceptable reasons, are Low- or moderate-income, and meet all qualifications;
3. Waiting List Preference 3: All Nez Perce families who do not own a home, are currently assisted by a NPTHA homeownership opportunity program but have not yet achieved homeownership, are Low- or moderate-income, and can meet all qualifications and the following requirements:

a. MUTUAL HELP

- (1) Able and willing to relinquish rights under the MHOA to apply for an OP Program house in order to meet HUD occupancy standards
- (2) Existing MH residence does not comply with HUD occupancy standards.
- (3) Family must have a good payment history
- (4) Any equity remaining after all costs associated with the existing mutual help have been met must be applied to the new unit or remain with the NPTHA as determined by the NPTHA, and;
- (5) Any costs exceeding the equity balance must be paid prior to acceptance.

b. STARTER HOME

- (1) Family must have a good payment history;
- (2) Family must leave the home in good condition for resale;
- (3) Family must be able to qualify for mortgage assumption within six (6) months, and
- (4) Any costs to bring the home to resale condition exceeding the deposit must be paid prior to acceptance.

4. Waiting List Preference 4: An Indian family with a Nez Perce applicant who has never been assisted, does not own a home, is Low- or moderate-income, and meets all qualifications;
5. Waiting List Preference 5: An Indian family with a Nez Perce applicant who does not own a home, has been previously assisted but did not achieve homeownership for acceptable reasons, and is Low- or moderate-income and meets all qualifications;
6. Waiting List Preference 6: An Indian family with a Nez Perce applicant who does not own a home, is currently assisted by a NPTHA homeownership opportunity program but has not yet achieved homeownership, is Low- or moderate-income, and can meet all qualifications and the following conditions:
  - a. MUTUAL HELP
    - (1) Able and willing to relinquish rights under the MHOA to apply for an OP Program house in order to meet HUD occupancy standards
    - (2) Existing MH residence does not comply with HUD occupancy standards.
    - (3) Family must have a good payment history
    - (4) Any equity remaining after all costs associated with the existing mutual help have been met must be applied to the new unit or remain with the NPTHA as determined by the NPTHA, and;
    - (5) Any costs exceeding the equity balance must be paid prior to acceptance.
  - b. STARTER HOME
    - (1) Family must have a good payment history;
    - (2) Family must leave the home in good condition for resale;
    - (3) Family must be able to qualify for mortgage assumption within six (6) months, and
    - (4) Any costs to bring the home to resale condition exceeding the deposit must be paid prior to acceptance.
7. Waiting List Preference 7: All Nez Perce families who do not own a home and do not meet any of the above Waiting List categories, are Low- or moderate-income, and meet all qualifications.
8. Waiting List Preference 8: An Indian family with a Nez Perce applicant who does not own a home, does not meet any of the above Waiting List Categories, is Low- or moderate-income, and meets all qualifications. The preference waiting lists must be considered in descending order for each number of applicants targeted for each interval or mortgage readiness identified.

- E. Rejection of Offer: An applicant will be offered no more than 2 homes. Only a maximum of 15 days will be allowed for an applicant to accept or reject an offer. When an applicant refuses two (2) offers of a home or homesite, the applicant will be ineligible for a period of one (1) year from the date of refusal of the second site offer. However, the applicant can apply for other NPTHA assistance.

## **SECTION 10: OP PROGRAM RENT & OTHER PAYMENTS**

This section describes the rental payments required during the rental phase of the program and, if applicable, any additional required payments. Once the Homebuyer exercises the option to purchase, recertification requirements will not apply.

- A. Rent Payment for Low-Income Families: During the rental phase of the OP program, low income families will be charged a monthly rent payment based upon the following:
1. Debt service on the underlying NPTHA loan for the home,
  2. An income based management fee of a minimum of \$130 or an amount determined by the NPTHA.
- B. Rent Payments for Moderate-Income Families:
1. Families who are moderate-income either during their tenancy or at the time of application are not eligible for the same benefits as low-income families and must have their rental payment calculated in accordance with the NPTHA policy for non-low-income families. Monthly rental payments will be based on the following, whichever is greatest:
    - a. The Fair Market Rent published by HUD in the Federal Register
    - b. The debt service payment based on the purchase price of the home utilizing the same interest rate in effect on the underlying NPTHA loan.
- C. Rent Payments for Above Moderate-Income Families:
1. Families who become above moderate-income during their tenancy are not eligible for the same benefits as low-income families and must have their rental payment calculated in accordance with the NPTHA policy for non-low-income families. Monthly rental payments will be based on the following, whichever is greatest:
    - a. The Fair Market Rent published by HUD in the Federal Register
    - b. The debt service payment based on the purchase price of the home utilizing the same interest rate in effect on the underlying NPTHA loan.
- D. Late Payments: If the required rental payment is not received by close of business on the 15<sup>th</sup> day of the month, NPTHA staff will issue a Delinquency Notice, sent by regular mail, and a \$10 fee will be added to the amount due to cover the costs of preparation and mailing of the delinquency notice. Continued delinquencies will be assessed charges in accordance with the NPTHA Collection and Eviction Policy.

- C. Application of Payments: Payments made as rent will be applied at the NPTHA Discretion to any outstanding balances which may include rent, or any other balances owed.
- D. Partial Payments Conditions: The NPTHA retains the right to accept partial payments after a delinquency notice or termination notice has been issued. NPTHA's acceptance of any such partial payments does not constitute a waiver of NPTHA's rights under any such notice.
- E. Management Fee: A management fee of a minimum of \$130 will be assessed to each resident. Management fees will be used to ensure coverage of operating expenses and to recover buy-down expenses. The NPTHA will prepare a schedule annually to reflect increases in the management fee if necessary.

## **SECTION 11: RECERTIFICATION PROCESS**

Procedures for recertification will be guided by the recertification guidelines outlined in HUD Handbook 4350.3 Rev. 1 as it now exists or is hereafter amended. Once the Homebuyer exercises the option to purchase, recertification requirements will not apply.

- A. Purpose: Recertification is conducted to assist Homebuyers in achieving homeownership and to meet the obligations of the Client Action Plan. It is not for the purpose of rent reduction anytime a Homebuyer's income is reduced. Income is anticipated income. Consequently, monthly recertifications are not to be performed. Staff is to counsel applicants and Homebuyers frequently about the requirements for homeownership and the family's responsibility to budget personal finances accordingly.
- B. Frequency: All OP Homebuyers must complete an annual recertification or whenever a change in income or family composition occurs until such time they either terminate or exercise their option to purchase. Recertification is scheduled to occur on an annual basis in the quarter in which the initial move-in occurred.
- C. Interim Redetermination of Family Income: No rent adjustments are to be offered between dates of periodic re-examinations or pre-scheduled re-examinations (as set forth above), except as provided in Subparagraphs 1 and 2 below.
  1. In addition to submitting such information as may be required at time of periodic re-examinations (or special re-examination) of eligibility and redetermination of family income, Homebuyers are required to report the loss of lessee through death, divorce or other continuing circumstances.
  2. Any new additions to the household must apply as a new occupant to determine if they meet the requirements of the program.
  3. Any tenant who reports a significant continuing change in family circumstances (such as permanent loss of employment, death of the applicant, income increases) shall be given an interim income redetermination. In the event the minimum rent requirements can not be met, the NPTHA will assist the Homebuyer family in finding a rental in another program.

4. Interim redeterminations may be conducted as required by the NPTHA and are to be used to check progress according to the Client Action Plan.
  5. Failure to report the occurrences of the changes set forth above will require a retroactive rent charge or other action appropriate to the violation.
- D. Process:** To assure that the data upon which the determination of eligibility for continued occupancy, rent to be paid, and size of dwelling required are to be based full, true, and complete, the information submitted by each tenant is to be verified before any changes can take effect. Complete and accurate verification records are to be maintained in the tenant's folder.
- E. Release of Information:** When verifying and certifying income for eligibility, all adult family members shall provide appropriate authorizations for release of information, so staff can obtain third party verification. Each family must furnish information about the amounts and sources of all income to the household and may be required to produce tax returns, paycheck stubs and any other evidence of income.
- F. Adjustments:** Adjustments will be made only after a thorough review of the household's anticipated income and will be made on a case-by-case basis. Because this is a homeownership program, adjustments resulting in a decrease in the rental payment will only be considered for very extreme circumstances that have long-term impact. The management fee will not be reduced if the amount of the buy down assistance exceeds the amount needed at the time of application.
- G. Verification Data:** Verification data is to be reviewed and evaluated as they are received for completeness, adequacy, and conclusiveness. Where the information received is not completely adequate in all respects, follow-ups or new efforts to obtain such information are to be made and carried through to conclusion. The NPTHA has the right to ask for any information from the applicant that the NPTHA deems necessary to completing the process.
- H. Verification Summary:** As verification of all necessary items for each application are completed, a summary of the verified information is to be prepared and filed in the Homebuyer's folder. The summary is to cover at least the following determinations and the basis for such determinations:
1. Family status;
  2. Nez Perce enrollment;
  3. Eligibility as a low-income family;
  4. Eligibility of the family with respect to Sections 7 and 8 of this Policy;
  5. Counseling requirements/Client Action Plan;
  6. Rent calculation;
  7. Management fee calculation.

- I. Certification: As part of the record of each family reexamined, a designated staff member is to complete and sign an eligibility certification which is to be filed in the Homebuyer's folder.
- J. Action Required Following Re-examination: Within 30 days after the tenant has submitted all the information required of the Homebuyer to comply with continued occupancy, he is to be informed concerning:
  - 1. Eligibility status and, if ineligible, the action to be taken;
  - 2. Any adjustments with instructions for making changes if necessary (e.g., executing a new lease or amendment if required; payment arrangements; etc.); and
  - 3. Any instances of misrepresentation or non-compliance with the terms of the Use and Occupancy Agreement revealed through reexamination and any corrective action which is to be taken.
- K. Retroactive: If the reexamination discloses that the tenant, at the time of admission or at any previous reexamination, made misrepresentations, intentional or unintentional, which have resulted in the paying of a lower rent and fee than he should have paid, the Homebuyer is required to pay the differences between what was paid and what should have been paid. If it is found at the time of reexamination or at any other time that the Homebuyer has failed to report other changes in family circumstances and such changes would have required the Homebuyer to pay a higher rent, the increased rent is to be made retroactive to the second rent payment period after the date on which the change of circumstances occurred.
- L. Concerns: In the event there are concerns regarding the information obtained, the staff will report the concerns to the Executive Director. The Executive Director will review the information and make a determination.
- M. Quality Control: After reviewing the application data, the Housing Counselor will make a written recommendation for action and submit the file to a second Housing Counselor. The Housing Counselor will provide a second review of the file and document in the file the action to be taken. If there is no agreement regarding the action to be taken, the information will be forwarded to the Executive Director for review and action. All recommendations and actions are to be in the form of written documentation.
- N. Notices: The Homebuyer will be notified in writing when they are required to recertify.
- O. Reporting: A monthly report of the status of recertifications will be completed by the Housing Counselors to the Executive Director.

## **SECTION 12: INCOME**

- A. Policy: It is the policy of the NPTHA to use the definition of income (e.g., IRS, Census, Section 8) most advantageous to the family or to the housing entity as provided by NAHASDA.

- B. Verification: Section 1000.128 of NAHASDA requires the NPTHA to verify that the family is income eligible based on anticipated annual income. The family household's annual income may not exceed the applicable income limits (NAHASDA Guidance No. 2004-03 Income Limits dated February 10, 2004). Each year these guidance numbers are revised and supersede the previous year's guidance.
- C. Documentation: The family is required to provide verifiable income documentation to verify this determination. The NPTHA is required to maintain the documentation on which the determination of eligibility is based. The NPTHA will require a family to periodically verify its income in order to determine housing payments, fees, household composition, or continued occupancy.
- D. Income Limits: Whenever HUD funds are used to assist a family, the NPTHA will utilize the HUD national median income limits as amended annually as the applicable income limits.
- E. Applicable Definition: The NPTHA will use the meaning of annual income as defined for HUD's Section 8 programs in 24 CFR, part 5, subpart F. In using the HUD's Section 8 program definition of annual income the NPTHA will exclude from annual income any amounts that are on the list of Federally Mandated Exclusions as amended from time to time in the Federal Register.
- F. Meaning of Annual Income: Annual income is defined in accordance with Section 8 and 24 CFR Part 5, Subpart F (Section 5.609).
- G. Calculation of Income: Income will be calculated in accordance with the procedures outlined in HUD Handbook 4350.3 as it now exists or is hereafter amended.

## **SECTION 13: OCCUPANCY**

- A. Only the persons listed on the Use & Occupancy Agreement will be permitted to occupy the unit. The NPTHA must be immediately notified if changes to the household should occur. Occupancy by any persons is subject to the eligibility requirements of the relevant NPTHA Program. Eligibility **MUST** be certified **PRIOR** to any additional persons taking occupancy.
- B. **Exclusive Use** : The premises is intended for the exclusive use and occupancy of those on the Use and Occupancy Agreement. Guests or visitors of the tenant may be accommodated no longer than a period of **two (2)** weeks. "Guest" means a person in the unit with the consent of the tenant. If any visit will extend beyond two (2) weeks, the tenant must notify the NPTHA, stating the reasons for the extended visit, which must be authorized in writing by the NPTHA.
- C. **Occupancy Standards** : In order to prevent overcrowded conditions and wasted space, homes shall be assigned, to the greatest extent feasible, in accordance with the following schedule. The NPTHA may make exceptions due to unusual circumstances which will be assessed on a case by case basis. Factors to be considered include age and sex of children, potential changes in family composition, availability of unit sizes, etc.

NUMBER OF BEDROOMS	NUMBER OF PERSONS
2 BR	1-3
3 BR	3-6
4 BR	5-8
5 BR	7 & up

*Note: The TDHE may modify this chart as needed.*

**D. Other Occupancy Factors :**

1. Dwellings will be assigned so as not to require use of the living room for sleeping purposes.
2. Every family member regardless of age is to be counted as a person. An unborn child will be counted as a person.

**E. Use of the Home**

1. The tenant and the NPTHA are jointly responsible to the Tribe and future generations for ensuring that homes are used properly and are well maintained.
2. It is the responsibility of each tenant to take pride in their home by keeping it and the grounds in a decent, safe and sanitary condition at all times.
3. Tenant are responsible for all home repairs and are expected to perform necessary maintenance in a timely manner.
4. Instances of serious abuse or misuse of a home by a tenant, or failure by the tenant to provide basic routine or non-routine maintenance are causes for termination from the housing program.
5. A condition for selection is that the family agrees to use the home as their principal residence or for at least nine months of the year during the term of the Use and Occupancy Agreement.

- F. Home Business Use :** A tenant must request prior written approval from the Executive Director to operate a small home business in their unit. The request is subject to the conditions specified in the NPTHA Home Business Use Policy.

**SECTION 14: SECURITY, DAMAGE AND CLEANING DEPOSIT**

- A. Condition of Premises:** Participants in the NPTHA OP Program must stipulate that they have examined the premises, including the grounds, buildings, improvements and

appliances (if any), and that they are, at the time of move-in, in good order, good repair, safe, clean and tenable condition, and Homebuyer accepts the same as is and with all faults. A Move-In Inspection form will be used to determine the condition and cleanliness of the premises at the beginning of tenancy and a Move-Out Inspection form will be used at the termination of tenancy.

**B. Deposit:** Participants are required to provide a deposit of Five Hundred Dollars (\$500.00) as a security, damage and cleaning deposit. Deposit is to be paid in full prior to move-in. Payback arrangements are not permitted. Release of said deposit is subject to the following terms and conditions:

1. At the expiration of the term of the Use & Occupancy Agreement or other termination, except for a termination by the Homebuyer's exercise of the option to purchase, there is no damage to the property beyond ordinary wear and tear, no parts or household fixtures require replacement, and the property is in the same condition of cleanliness:
2. The Move-In Inspection form will be used to determine the condition and cleanliness of the premises at the beginning and termination of the tenancy;
3. There are no unpaid late charges, delinquent rents, or any other unpaid charges;
4. All keys are returned (Rental charges will continue until all keys are returned or a written, signed letter from the lessee(s) stating that the keys are lost is received at the NPTHA office);
5. All debris, rubbish and discards are placed in proper disposal containers;
6. Forwarding address is left with NPTHA;
7. The deposit or remainder thereof, if any, after any required cleaning and repair, will be refunded within ninety (90) days by check made payable to each person signing the Use & Occupancy Agreement as the lessees, and mailed to the forwarding address; and
8. If the Homebuyer exercises the option to purchase, the deposit will be applied to the purchase price.

## **SECTION 15: CLIENT ACTION PLAN & HOUSING COUNSELING**

- A. Completion of Required Actions:** All Homebuyers and each occupant of the premises will complete all "Required Actions" as described in the Client Action Plan (CAP), which shall become a part of the Use & Occupancy Agreement. The Homebuyers must agree that all actions will be completed in a period of time not to exceed 36 months from the effective date of the Use & Occupancy Agreement.
- B. Condition of Participation:** As a condition of participation in the NPTHA housing programs the Homebuyer will attend and satisfactorily complete Housing Education/Counseling provided by the NPTHA in accordance with the NPTHA Housing Counseling Policy.

- C. One-on-One Housing Counseling: If NPTHA deems it advisable or necessary, the Homebuyer will attend as many One-on-One Housing Counseling sessions as needed to meet the requirements with respect to property maintenance, financial management, compliance with the Client Action Plan, and such other matters as may be appropriate.
- D. Failure to Comply: with the Housing Counseling requirements or the Client Action Plan is a matter of non-compliance which will result in termination of participation in the OP Program.

## **SECTION 16: MOVE-IN PROCESS**

- A. Move-In Inspection: A Move-In Inspection will be conducted on the date of admission into the Program by a Housing Counselor and the tenant to verify the unit is in standard condition and is ready for occupancy. The Move-In Inspection provides the information that is used to compare to the information gathered during the Move-Out Inspection process. A comparison of both inspections forms the basis for determining whether or not the unit is in the same condition as it was when it was first rented.
- B. Documentation Requirements: A NPTHA Move-In Inspection Form must be used to document the move-in process. The tenant must sign and date the Move-In Inspection Form to verify the tenant's acceptance of occupancy and the condition of the premises. The Housing Counselor must also sign the Move-In Inspection form. Minor deficiencies that are readily repairable must be noted and a work order issued to make the repairs at the NPTHA expense. Any major deficiency must be corrected before occupancy can be permitted.
- C. Punch list Items: Minor deficiencies that are readily repairable must be noted and a work order issued to make the repairs. The tenant is not responsible for any charges related to the repair of noted punch list items. Any major deficiency must be corrected before occupancy can be permitted.
- D. Warranty Period: The NPTHA has a one-year warranty period for items which have been replaced or required major repair by the NPTHA prior to the move-in of the tenant. These costs are not charged to the tenant; however, any additional items reported during the warranty period which are not deemed a warranty item are items for which the tenant is responsible for the expense of repair or replacement. The one-year warranty period commences on the date of the Move-In Inspection documenting acceptance of occupancy.
- E. Warranty Information: Copies of suppliers' names and addresses and other relevant information for which there are warranty certificates (i.e., warranty certificates cover specific time periods or specific parts of an item) are to be provided to the tenant. Originals are to be provided to program participants. The NPTHA maintenance staff is to maintain this information in the unit file until a tenant terminates or purchases the unit.
- F. Participant Responsibility: The Homebuyer is responsible for contacting the supplier or manufacturer directly when the Homebuyer experiences problems with any of the items for which a warranty certificate has been provided. Participants are to be advised that the warranted certificate items do not include the cost for a service call and for the labor cost for repairs unless it is specifically noted in the warranty. Maintenance staff should provide the Homebuyer with assistance in understanding maintenance obligations.

## SECTION 17: MOVE-OUT PROCESS

- A. Move-Out Inspection: A Move-Out Inspection will be conducted within 24 hours of obtaining legal possession of the unit. The Move-Out Inspection provides the information that is used to compare to the information gathered during the Move-In Inspection process. A comparison of both inspection forms provides the basis for determining whether or not the unit is in the same condition as it was when it was first rented except for normal wear and tear.
- B. Documentation Requirements: A NPTHA Move-Out Checklist and an Inspection Form must be used to document the move-out process. The tenant must sign and date the Move-Out Inspection Form to verify any tenant damage, document any needed routine repairs, etc. The Housing staff must also sign the Move-Out Inspection form. Deficiencies and an estimate of all costs are noted. A work order is issued to make the repairs.
- C. Punch List Items: Minor deficiencies that are readily repairable must be noted and a work order issued to make the repairs. The participant is not responsible for any charges related to the repair of noted punch list items. Any major deficiency must be corrected before occupancy can be permitted.
- D. Executive Director shall prepare and implement procedures to ensure a smooth transition from the move-out process to the move-in process. Below is an outline of essential procedures which may be amended by the Executive Director as needed.
1. Move out checklist prepared and distributed.
  2. Work Order prepared.
  3. Move out inspection completed within 24 hours.
  4. Maintenance Department changes locks.
  5. Cost estimate prepared.
  6. Cost estimate reviewed and approved.
  7. Order appraisal if applicable.
  8. Schedule.
  9. Inspect and prepare punch list.
  10. Conduct final inspection.
  11. Complete processing and forward applicable information to appropriate departments/staff and document approvals.
  12. Process for billing.

## SECTION 18: MAINTENANCE AND REPAIR

- A. **Responsibility** : The Homebuyer will, at his sole expense, keep and maintain the leased premises, including the grounds, buildings, improvements and appliances in good order, good repair, safe and clean and sanitary. The Homebuyer shall make all necessary repairs, alterations and improvements to the dwelling with reasonable promptness at his own cost and expense, including repairs and replacements necessitated by damage from any cause. The NPTHA shall not be obligated to pay for or to provide any maintenance of the home other than the correction of warranty items for NPTHA workmanship reported during the applicable warranty period, which is one year from move-in.
- B. **Notification**: Although the tenant is responsible for all maintenance, the tenant shall notify the NPTHA promptly of all known need for repairs and of any known unsafe conditions on the premises or grounds, which may either lead to damage or to injury. The NPTHA staff can assist the tenant through inspection and counseling. Any repairs made by the NPTHA are to be charged directly to the tenant.
- C. Failure of the tenant to perform his maintenance obligations constitutes a breach of this policy and is grounds for termination of program assistance. Upon a determination by the NPTHA that a breach has occurred, the NPTHA shall require the tenant to agree to a specific plan of action to cure the breach and to assure future compliance. The plan shall provide for maintenance work to be done within a reasonable time by the tenant in a good workmanlike manner in accordance with the Uniform Building Code. If the tenant fails to carry out the plan, the NPTHA shall have the work done and charge the cost to the tenant thereof. Such charges will be billed by the NPTHA to the tenant as additional rent.
- D. If the condition of the property creates a hazard to the life, health or safety of the occupants and the tenant fails to correct the deficiency in an expeditious manner, the NPTHA shall have the work done, and charge the cost thereof to the tenant.
- E. **Work Order** : Any work performed by the NPTHA shall be documented by a work order stating the nature of and the charge for the work.
- F. **Charges** : The tenant will be charged for any work performed by the NPTHA.

## SECTION 19: HOUSEKEEPING STANDARDS

In an effort to improve the livability and conditions of the units owned and managed by the NPTHA, uniform standards for resident housekeeping have been developed for all resident families.

- A. **NPTHA Responsibility** : The standards that follow will be applied fairly and uniformly to all Homebuyers. The NPTHA will inspect each unit **at least** annually, to determine compliance with the standards. Upon completion of an inspection, the NPTHA will notify the tenant in

writing if he/she fails to comply with the standards. The NPTHA will advise the tenant of the specific correction(s) that the tenant will be required to perform to establish compliance, and indicate whether or not mandatory counseling is required. Within a reasonable period of time, the NPTHA will schedule a second inspection. Failure to comply with (3) three requests for unit inspection within 30 days will constitute a violation of the Policy terms and is grounds for termination of the Use & Occupancy Agreement and may result in eviction. Training will be available at no cost to the tenant requesting or needing assistance in complying with the Housekeeping Standards.

**B. Participant Responsibility** : The tenant is required to abide by the standards set forth below. Failure to abide by the Housekeeping Standards that result in the creation or maintenance of a threat to health or safety is a violation of the Use & Occupancy Agreement terms and can result in eviction.

**C. Housekeeping Standards: Inside the Unit**

**General--**

- Walls should be clean, free of dirt, grease, holes, cobwebs, and fingerprints.
- Floors should be clean, clear, dry and free of hazards
- Ceilings should be clean and free of cobwebs.
- Windows should be clean and not nailed shut with shades or blinds intact.
- Woodwork should be clean, free of dust, gouges, or scratches.
- Doors should be clean, free of grease and fingerprints, with functional locks.
- Heating units should be dusted and access uncluttered.
- Trash shall be disposed of properly and not left in the unit.
- Entire unit should be free of rodent or insect infestation.

**Kitchen--**

- Stove should be clean and free of food and grease.
- Refrigerator should be clean. Freezer door should close properly and gaskets should be clean.
- Cabinets should be clean and neat. Cabinet surfaces and counter tops should be free of grease and spilled food. Cabinets should not be overloaded. Storage under the sink should be limited to small or lightweight items to permit access for repairs.
- Exhaust fan filters should be free of grease and dust.
- Sink should be clean, free of grease and garbage. Dirty dishes should be washed and not stored in the sink.
- Food storage areas should be neat and clean without spilled food.
- Trash/garbage should be stored in a covered container until removed to the disposal area.

**Bathroom--**

- Toilet and tank should be clean and odor free. Condensation should be wiped regularly.
- Tub and shower should be clean and free of mold and mildew. Where applicable, shower curtains should be in place, and of adequate length to prevent spillage.
- Sink should be clean.
- Vanities should be kept clean and free of water leakage.

- Exhaust fan should be free of dust.
- Floor should be clean and dry.

Storage Areas--

- Linen closet should be clean.
- Other closets should be clean.
- No highly flammable materials should be stored in the unit.
- Other storage areas should be clean and free of hazards.

**D. Housekeeping Standards: Outside the Unit**

- Yards are to be free of debris, trash, and inoperable vehicle and vehicle parts.
- Exterior walls should be free of graffiti.
- Porches (front and rear) should be clean and free of hazards. No items are to be stored on the porch. Outdoor porch furnishings shall not impede access to the unit.
- Steps (front and rear) should be clean and free of hazards.
- Sidewalks should be clean and free of hazards.
- Storm doors should be clean, with glass or screens intact.
- Hallways should be clean and free of hazards.
- Yards are to be maintained at the tenant's expense.
- Laundry areas should be clean and neat. Lint should be removed from dryers after use.
- Utility room should be free of debris, motor vehicle parts, and flammable materials.

**SECTION 20: UTILITIES**

- A. Homebuyer Responsibility:** The Homebuyer shall be responsible for arranging and paying for all utility services required on the premises, including water, sewer, solid waste assessment, and gas and electric charges. Promptly upon execution of the Use & Occupancy Agreement, the Homebuyer shall furnish to the NPTHA evidence that all arrangements with the proper utility companies for commencing services in the Homebuyer's name have been completed.
- B. Non-Compliance:** Failure on the part of the Homebuyer to provide all the necessary utility services, including payment for utilities or deposits for utility services, during any part of the term of this Use & Occupancy Agreement is grounds for immediate termination of the Use & Occupancy Agreement. Homebuyers will have three (3) business days to provide evidence to the NPTHA that any or all of the services have been fully restored. Failure to comply will initiate a notice to vacate.

**SECTION 21: INSPECTION**

- A. Right of Inspection:** NPTHA's agents shall have the right at all reasonable times during the term of this OP Program Agreement, with reasonable prior notice, to enter the premises for the purposes of inspecting the premises and all buildings and improvements thereon to

verify that the Homebuyer is meeting his maintenance obligations and to provide maintenance counseling.

- B. Without Notice: NPTHA shall have the right to enter the Homebuyer's premises without prior notice if NPTHA reasonably believes that an emergency exists that requires such entrance. NPTHA will promptly notify the Homebuyer in writing of the date, time and purpose of such entry, and of the emergency which necessitated it.
- C. Frequency: Inspections will be conducted at least annually to ensure that the Homebuyer is meeting his responsibility for providing routine and non-routine maintenance. In the event it is found that the Homebuyer is not satisfactorily meeting his maintenance responsibilities, the NPTHA will follow the procedures described below:

- 1. New Homebuyers

- a. Schedule monthly inspections for at least the next three months and mandatory attendance at the maintenance counseling class.
- b. Upon a satisfactory determination that the Homebuyer is meeting his maintenance obligations, schedule inspection every 3 months.
- c. Upon a satisfactory determination that the Homebuyer is meeting his maintenance obligations, schedule inspection every 6 months.
- d. Upon a satisfactory determination that the Homebuyer is meeting his maintenance obligations, schedule inspection every year.

- 2. Existing Homebuyers

- a. Schedule annual inspection. Upon a satisfactory determination that the Homebuyer is meeting his maintenance obligations, schedule the next inspection for next year.
- b. Upon a dissatisfactory determination, apply appropriate level of scheduled inspections to ensure that corrected action has been taken. Depending on the severity, the NPTHA will prescribe a schedule accordingly.
- c. Upon a serious finding of non-compliance, follow procedure for new Homebuyers.

- D. Corrective Action: Any items that are found to be missing or in need of repair, whether intentional or unintentional, are to be repaired or replaced at the Homebuyer's expense. The following procedure will be followed:

- 1. A letter will be sent to the Homebuyer indicating the corrective action the resident needs to make within a set time frame. The Homebuyer will also be notified that the NPTHA will make the repair and charge the resident directly.
- 2. The NPTHA reinspects and verifies that the repair has been made and no further action may be necessary. If the resident fails to make the repair, then the NPTHA will proceed to the next step.

3. A work order is issued and the NPTHA proceeds to make arrangements for the repairs to be made with labor and materials charged to the resident. Inspections of the unit are then scheduled in accordance with the need as determined by the NPTHA.
- E. Non-Compliance: Participant's refusal to allow NPTHA to enter the premises and all buildings as described in the NPTHA policies is a serious violation of the OP Program and action to terminate program participation will be initiated by the appropriate staff.

## **SECTION 22: ALTERATIONS AND IMPROVEMENTS**

- A. The tenant shall make no alterations to the buildings on the premises, or construct any building or make other improvements on the premises, including painting of the interior or exterior, without the prior, express and written consent of NPTHA.
- B. All alterations, changes, and improvements built, constructed or placed on the premises by the tenant, with the exception of fixtures removable without damage to the premises, and removable personal property, shall, unless otherwise provided by written agreement between NPTHA and the tenant, be the property of NPTHA and remain on the premises at the expiration or earlier termination of the OP Program Agreement.

## **SECTION 23: ASSIGNMENT AND SUBLETTING**

Subletting and assignment of the home is not permitted.

## **SECTION 24: TRANSFERS**

Transfers will not be permitted.

## **SECTION 25: NPTHA POLICIES**

Tenant under the Program are subject to the policies of the NPTHA as they now exist or as they may hereafter be revised or added by the NPTHA. The NPTHA Client Action Plan, NPTHA Underwriting Procedures, the NPTHA Housing Counseling Policy, the NPTHA Collection & Eviction Policy, the NPTHA Grievance Policy, the NPTHA Non-Low Income Assistance Policy, and the NPTHA Maintenance Policy which are attached hereto, or as they may hereafter be amended, are by this reference made a part hereof. Violation of the same is grounds for termination of the Use & Occupancy Agreement.

## **SECTION 26: RISK OF LOSS/INSURANCE**

Responsibility for the provision of fire and other peril insurance on the premises is as follows:

- A. NPTHA shall provide fire and other peril insurance on the premises during the rental phase, however, NPTHA shall not be responsible for the loss of the tenant's personal property by

fire, theft or any other reason. In the event of any loss, the tenant shall pay the insurance deductible.

- B. It shall be the sole responsibility of the tenant during the rental phase to obtain fire and other peril insurance covering their personal property.
- C. Once the renter has exercised his option to purchase the property and has become a homeowner it shall be the responsibility of the homeowner to obtain hazard insurance sufficient in amount and kind as required by the Mortgage. Upon final payment on their mortgage it shall remain the responsibility of the Homeowner to maintain Hazard insurance on their home and property.
- D. Staff responsibility for educating Homebuyer about Hazard Insurance will include discussions during CAP meetings as well as a Written Requirements Letter provided to the Homebuyer detailing their responsibilities during the various phases of the OP Program.
- E. Evidence of the Homebuyer's understanding of the requirements for insurance shall be documented by a statement signed by the Homebuyer attesting to the receipt of information from the NPTHA staff regarding insurance requirements.

## **SECTION 27: FIRE**

In the event the leased premises shall become untenable during the rental phase of the OP Program by reason of fire or other casualty, participation under the Use & Occupancy Agreement shall terminate and each party shall be relieved of all future liabilities hereunder.

## **SECTION 28: PERSONAL PROPERTY**

All appliances provided with the unit will remain the property of the NPTHA until such time as the option to purchase is exercised.

## **SECTION 29: ABANDONMENT OF PERSONAL PROPERTY**

Upon **non-option** termination of a Use & Occupancy Agreement, the NPTHA may dispose of any item of personal property abandoned by the Homebuyer in any manner deemed suitable by the NPTHA. Proceeds, if any, after such disposition, may be applied to the payment of amounts owed by the Homebuyer to NPTHA.

## **SECTION 30: ABANDONMENT**

- A. If at any time during the term of the Use & Occupancy Agreement, the Homebuyer abandons the premises or any part of the premises, NPTHA may, at its option, enter the premises by any means without being liable for any prosecution for such entering, and without becoming liable to the tenant for damages or for any payment of any kind whatever, and may, at NPTHA's discretion, as agent for the Homebuyer, relet the premises, or any part of the

premises, for the whole or any part of then unexpired term, and may receive and collect all rent payable by virtue of such reletting, and, at NPTHA's option, hold the Homebuyer liable for any difference between the rent that would have been payable under the Use & Occupancy Agreement during the balance of the unexpired term, if the Use & Occupancy Agreement had continued in force, and the net rent for such period realized by NPTHA by means of such reletting; or terminate the Use & Occupancy Agreement by sending Notice of Termination to the Homebuyer as required by the Use & Occupancy Agreement.

- B. If NPTHA's right of re-entry is exercised following abandonment of the premises by the Homebuyer, then NPTHA may consider any personal property belonging to the Homebuyer and left on the premises to also have been abandoned, in which case NPTHA may dispose of all such personal property in any manner NPTHA shall deem proper and is hereby relieved of all liability for doing so.

### **SECTION 31: OPTION TO PURCHASE & PURCHASE PRICES**

A. Option to Purchase: NPTHA in consideration of the Use & Occupancy Agreement grants to the Homebuyer the exclusive option to purchase the home and other improvements on the leased premises, provided that the Homebuyer shall have duly fulfilled all of the provisions and conditions of the Use & Occupancy Agreement, pursuant to the terms and provisions hereinafter stated:

1. The option to purchase shall be available for a specific period as determined by the NPTHA, taking into consideration the Client Action Plan process. The NPTHA will set the option period any where from immediate assignment up to assignment within 36 months depending on the NPTHA's debt capacity and the need to assist other Homebuyers. The option period can not exceed the limits set forth by the NPTHA.
2. The Sundown Heights Covenants, as incorporated by reference in each Use & Occupancy Agreement, apply at all times, both during the rental phase and during homeownership. Furthermore, pursuant to the Use & Occupancy Agreement, each lot in the subdivision shall be held, transferred, sold and conveyed subject to these covenants.
3. If the Homebuyer fails to exercise the option to purchase within the designated option period, the Use & Occupancy Agreement will terminate and NPTHA shall retain all rental payments received and the Homebuyer shall have no right to receive back any part of the rent and shall have no further rights or claims hereunder.

B. The option may be exercised at any time during the option period, but it is mandatory by the end of the option period set forth by the NPTHA. The exercise must be executed by written notice to the NPTHA, either delivered or mailed to the following address:

Nez Perce Tribal Housing Authority  
P.O. Box 188  
Lapwai, ID 83540

A notice which is mailed shall be deemed to be timely in the event the notice is mailed within the option period as evidenced by the U.S. postmark.

- C. The closing date shall occur within ninety (90) days of the exercise of the option. The purchase shall be subject to the following terms and conditions:
1. The Use & Occupancy Agreement shall not be terminated prior to the exercise of the option;
  2. The Homebuyer shall not have the right to assign the option to purchase;
  3. No portion of the rental payments, shall be refunded to the Homebuyer in the event the Homebuyer fails to exercise said purchase option;
  4. In the event the Homebuyer exercises the option to purchase, the Homebuyer shall pay all settlement costs incidental to acquiring ownership, including but not limited to, costs and fees for credit report, field survey, title examination, title insurance, inspections, attorney fees, closing, recording, transfer taxes, finance fees, mortgage loan discount and appraisals.
  5. The Homebuyer will obtain financing from sources other than the NPTHA for the purchase of the home.

**D. Purchase Price:**

1. Purchase Price. The purchase price of the premises shall equal any outstanding mortgage balances plus the NPTHA's equity in the property and shall be referred to as the Contract Purchase Price. NPTHA's equity will be determined by the NPTHA Executive Director in either of the following manners:
  - a. The total cash amount invested in the home and the property by the NPTHA;
  - b. For subsequent homebuyers, the value of the home determined by an appraisal.
2. The original contract purchase price for each style of the NPTHA built homes is as follows:
 

a.	3	1350	\$103,000.00
b.	3/4	1750	\$128,510.00
c.	4/5	2000	\$144,100.00

**E. Purchase Price Formula:**

1. First mortgage. The Homebuyer shall assume the remaining balance of the NPTHA mortgage attributable to that Homebuyer's homesite or the Homebuyer may obtain their own mortgage in an amount sufficient to satisfy the current NPTHA loan. Likewise, the Homebuyer may pay cash in an amount sufficient to satisfy the NPTHA loan.
2. Subordinate Forgivable Mortgage. Based upon income, certain low income Homebuyers may be eligible for forgivable Buy Down Assistance pursuant to the NPTHA Mortgage Financing Assistance Policy. The amount of said assistance shall be determined according to an income based affordability analysis. If the eligible Homebuyer successfully exercises their option and remains in the home for the affordability period

(Minimum Recapture Period), then the Buy Down Assistance will be forgiven. If however, the homeowner sells the home prior to the expiration of the affordability period they are required to reimburse NPTHA for the prorated share of the Buy Down Assistance through the use of a recapture formula as stipulated in the promissory note. The NPTHA Buy Down Assistance reimbursement shall be secured to the NPTHA through a second mortgage entered into at the time of the original Homebuyer's closing.

3. Minimum Period of Repayment, Recapture or Resale Provisions: The period of repayment or recapture of the MFA funds depends on the amount of funds invested for down payment assistance or buy down in the home purchase:

<b>Per Unit MFA Investment</b>	<b>Minimum Recapture Period</b>	<b>Secured by:</b>	<b>Financing Terms</b>
<\$5,000	5 years	Second Mortgage and/or Assignment of trust/lease income, land as determined by the Executive Director with concurrence of the Board of Commissioners	Contingent upon Affordability, income
\$5,000 - \$10,000	10 years	Second Mortgage and/or Assignment of trust/lease income, land	Contingent upon Affordability, income
\$10,000 - \$15,000	15 years	Second Mortgage	Contingent upon Affordability, income
\$15,000 - \$25,000	20 years	Second Mortgage	Contingent upon Affordability, income
\$25,000 - \$40,000	30 years	Second Mortgage	Contingent upon Affordability, income

**C. Purchase Price for Moderate Income:**

1. In all cases involving moderate income families, repayment terms will be in accordance with the 24 CFR Part 1000.110, NAHASDA Final Rule. Non low-income Indian families cannot receive the same benefits provided low-income Indian families.
2. Purchase price for Moderate-Income families includes the following:
  - a. First mortgage. The Homebuyer shall assume the remaining balance of the NPTHA mortgage attributable to that Homebuyers homesite or the Homebuyer may obtain their own mortgage in an amount sufficient to satisfy the current NPTHA loan or the. Likewise the Homebuyer may pay cash in an amount sufficient to satisfy the NPTHA loan, and
  - b. Second mortgage. The second mortgage is not deferred and payments begin at the same time as when the first mortgage is assumed. The amount of the second

mortgage repayment will be based on affordability, income, and NPTHA costs. Non-low income families will receive buy down assistance in accordance with the MFA policy.

- (1) FORGIVABLE SUBORDINATE. Pursuant to the NPTHA Mortgage Financing Assistance Policy, if the buyer remains in the home for the affordability period (Minimum Recapture Period), then the down payment assistance buy down will be forgiven and stipulated in a promissory note. If, however, the homeowner sells the home prior to the expiration of the recapture period, the homeowner is required to reimburse NPTHA for the prorated share of the Buy Down Assistance through the use of a recapture formula. The NPTHA Down Payment Assistance reimbursement shall be secured to the NPTHA through an unforgivable subordinate mortgage entered into at the time of the original Homeowner's closing.
- (2) Minimum Period of Repayment, Recapture or Resale Provisions: The period for repayment or recapture of the MFA funds depends on the amount of funds invested for down payment assistance or buy down assistance in the home purchase:

Per Unit MFA Investment	Minimum Recapture Period	Secured by:	Financing Terms
<\$5,000	5 years	Third mortgage and/or Assignment of trust/lease income, land as determined by the Executive Director with concurrence of the Board of Commissioners	Contingent upon Affordability, income
\$5,000 - \$10,000	10 years	Third mortgage and/or Assignment of trust/lease income, land	Contingent upon Affordability, income
\$10,000 - \$15,000	15 years	Third Mortgage	Contingent upon Affordability, income
\$15,000 - \$25,000	20 years	Third Mortgage	Contingent upon Affordability, income
\$25,000 - \$40,000	30 years	Third Mortgage	Contingent upon Affordability, income

**D. Purchase Price for Families at 100% of Median Income:** In all cases involving over moderate-income families, repayment terms will be in accordance with the 24 CFR Part 1000.110, NAHASDA Final Rule. Non low-income Indian families cannot receive the same benefits provided low-income Indian families.

## **SECTION 32: SUCCESSION DURING RENTAL PHASE**

- A. Applicability of Beneficiary:** A beneficiary is only applicable when the rental Homebuyer designates a qualifying beneficiary in writing with the NPTHA, is current in meeting all his obligations, and has lived in the home for at least two (2) years. The only circumstances upon which a beneficiary is considered is upon the death of the Homebuyer.
- B. Death of Participant:** Upon the death of the eligible Rental Homebuyer, the Rental Homebuyer's interest in the Use & Occupancy Agreement may be inherited, pursuant to the Beneficiary Agreement, by the beneficiary of the Homebuyer. Only a beneficiary who is eligible under the laws and customs of the Nez Perce Tribe to enter into a Use & Occupancy Agreement shall be eligible to assume the Homebuyer's interest in and obligations under the Use & Occupancy Agreement.
- C. Beneficiary:** The NPTHA shall not be responsible for determining or designating who the beneficiary of the Homebuyer may be. The Homebuyer must designate in writing a beneficiary who is a qualifying adult who is:
1. Eligible and willing to assume all the obligations of the Use & Occupancy Agreement and exercise the option to purchase in the allowable time frame.

2. Is not an existing homeowner or a Homebuyer in a NPTHA Program.
  3. Willing to pay all debt associated with the Use & Occupancy Agreement property.
- D. No Designated Beneficiary: When the Homebuyer has died and there is no designated beneficiary and there are no heads of households remaining, the NPTHA shall consider the Use & Occupancy Agreement as having been terminated by the Homebuyer and will select another Homebuyer from the waiting list.
- E. Remaining Family: Any person claiming to be an heir of the Homebuyer who seeks to remove personal property from the deceased's home must present a court order authorizing the person to enter and remove personal property from the premises.

### **SECTION 33: LIFE ESTATE**

- A. Death of Homeowner: In the event of the death of the homeowner, the provisions of the Nez Perce Life Estate Code may apply.
1. Enrolled members of the Nez Perce Tribe, with a leasehold interest in Trust lands, may bequeath by a Will a life estate in their leasehold Trust land and any improvements thereon to their non-enrolled spouse and or their non-enrolled children. The non-enrolled spouse and or the non-enrolled children shall be permitted to use and occupy the holding during the course of their lifetime subject to the same terms and conditions of the enrolled deceased member, which may include any outstanding mortgage. The non-enrolled spouse and or non-enrolled children can never inherit the land or any improvements thereon. Upon the expiration of these life estates the leasehold interest in the land and any improvements thereon shall be transferred and conveyed to an enrolled member pursuant to the terms of the deceased enrolled member's Will.
  2. In the event that an enrolled member dies intestate (without a will), his non-enrolled surviving spouse and or non-enrolled children may elect to take a life estate in the leasehold lands and any improvements thereon. The non-enrolled spouse and or the non-enrolled children shall be permitted to use and occupy the holding during the course of their lifetime subject to the same terms and conditions of the enrolled deceased member, which may include any outstanding mortgage.
  3. The non-enrolled spouse and or non-enrolled children can never inherit the land or any improvements thereon. Upon the expiration of these life estates the leasehold interest in the land and any improvements thereon shall be transferred, conveyed and sold to the Tribe pursuant to 43 CFR Part 4 at the appraised value. The non-enrolled spouse and or non-enrolled children may decline to take a life estate in the Leasehold and sell to the Tribe that leasehold interest pursuant to 43 CFR Part 4, Tribal Purchase of Interests Under Special Statutes.

### **SECTION 34: RELINQUISHMENT**

In the event that a member of the tribe relinquishes their membership in the Nez Perce Tribe while being the Lessee or Assignee of a residential Lease from the Tribe, then said member Lessee or Assignee of a residential Lease from the Tribe shall be responsible for making monthly Lease payments to the Tribe in the amount of \$400.00 per month during the duration of the Lease period. These payments are in addition to any monthly mortgage payment or other contractually obligated payments owed by Lessee-Assignee for which the Leasehold is collateralized. Failure to make said Lease payments on a monthly basis shall constitute a default of the Lease or Assignment which may result in foreclosure on the Lessee or assignee's interest in the leased premises and any and all real improvements located thereon.

## **SECTION 35: TERMINATION**

- A. In the event of the default of any material provision of the OP Program Policy and the Use & Occupancy Agreement by the Homebuyer (and each covenant, provision, term and condition herein is considered a material provision and a consideration for the execution of a Use & Occupancy Agreement, and time is of the essence of each and every of the foregoing), the Use & Occupancy Agreement and the option to purchase, at the option of NPTHA, shall terminate and be forfeited and NPTHA shall be entitled to possession of the premises. The Homebuyer shall be given thirty (30) days written notice of any default or breach, and shall have thirty (30) days from service of said notice within which to cure or correct said breach of Section II, L is not cured within thirty (30) days, NPTHA may immediately terminate the Use & Occupancy Agreement and bring an action for the Homebuyer's unlawful detainer and/or pursue any other remedy which may be available under the law or in equity.
- B. With respect to any Notice provided the Homebuyer is entitled prior to any court hearing or trial to examine any relevant documents, records, or regulations directly related to the termination or eviction.
- C. Grounds for termination of the OP Program include any violation of this policy, applicable NPTHA policies. The following list is not intended to be comprehensive but to serve as a listing of typical serious Use & Occupancy Agreement violations warranting termination that are to be specifically cited in the Use & Occupancy Agreement.
1. The Homebuyer fails to pay when due any payment required to be paid under this agreement.
  2. The Homebuyer attempts to sell, transfer or convey any ownership interest in the right to acquire a home in violation of this agreement.
  3. The Homebuyer or any member of the Homebuyer's household has misrepresented or withheld material information in connection with the initial application of the Homebuyer to participate in the OP Program or in connection with the initial determination of the adjusted monthly income of the family or any redetermination of adjusted monthly income.
  4. The Homebuyer allows any person to reside in the home who is not eligible to do so under the policies of the NPTHA.
  5. The Homebuyer or any member of the Homebuyer's household fails to comply with all applicable building and housing codes.

6. The Homebuyer uses the home for any purpose other than as the principal residence of the Homebuyer.
7. The Homebuyer fails to dispose of all ashes, garbage, rubbish and other waste from the home in a sanitary and safe manner or in violation of the Housekeeping Standards cited in this policy.
8. The Homebuyer, any member of the Homebuyer's household, or any guest or other person who has been permitted to be on the premises destroys, defaces, damages or removes the home or any part of the home.
9. The Homebuyer, any member of the Homebuyer's household, or any guest or other person who has been permitted to be on the premises by the Homebuyer fails to use any electrical, plumbing, sanitary, heating, ventilating, air-conditioning or other facilities or appurtenances in a reasonable manner.
10. The Homebuyer, any member of the Homebuyer's household, or any guest or other person who has been permitted to be on the premises by the Homebuyer engages in any activity that threatens the health or safety of any other person while on or near the Homebuyer's premises.
11. The Homebuyer maintains or allows any condition which threatens the health or safety of persons who are members of the Homebuyer's household, persons residing in the vicinity of the Homebuyer or any member of the public.
12. The Homebuyer fails to provide needed repairs or necessary maintenance to the home or fails to keep and use the home in a clean and safe condition.
13. The Homebuyer fails to comply with the policies and the rules and regulations of the NPTHA as now in effect or as hereafter amended.
14. The Homebuyer fails to comply with or abide by any agreement entered into between the NPTHA and the Homebuyer to cure a breach or default under the OP Program Use & Occupancy Agreement and/or the Sundown Heights Policy, or fails to comply with or abide by any decision on an appeal filed by the Homebuyer in which terms or conditions are imposed on the Homebuyer for the cure of a breach or default under the Use & Occupancy Agreement and the Sundown Heights Policy.

### **SECTION 36: NOTICES**

Any notices or demand to be given, served, or made shall be validly and sufficiently given, served, or made, if from the NPTHA to the Homebuyer, if the same is deposited in the United States mail, by certified mail, return receipt, postage prepaid, addressed to the Homebuyer at::  
 ; and, if from the Homebuyer to the NPTHA, if the same is deposited in the United States Mail, by certified mail, return receipt, postage prepaid, addressed to the NPTHA at: \_\_\_\_\_.  
 The service of such notice shall be deemed complete by the said deposit thereof in the United States Mail as aforesaid. Either party, may, by notice to the other in writing, designate a different place to which notices shall be sent.

## **SECTION 37: WAIVERS**

No waiver by the NPTHA of any term, covenant or, condition of this Sundown Heights Hills Subdivision Policies shall be construed as a continuing waiver thereof, nor a waiver of any other term, covenant, or condition of this Policy. Each and every default on the part of the Homebuyer shall be considered a separate and a new breach of the Policy, irrespective of whether or not other defaults exist at that time.

The Executive Director will have the authority to waive this policy as it relates to compensating factors.

## **SECTION 38: MODIFICATION**

Modifications of the Sundown Heights Policy is subject to approval by the Board of Commissioners. Matters incorporated in the Policy by reference shall be publicly posted in a conspicuous manner in the NPTHA's office and a copy shall be furnished to the Homebuyer on request. If such schedules, rules and regulations are modified, the NPTHA shall give at least 30-days written notice to each affected Homebuyer through a mass mailing setting forth the proposed modification, the reasons therefore, and provide the Homebuyer an opportunity to present written comments which shall be considered by the NPTHA prior to the effective date of the proposed modification.

## **SECTION 39: NUMBER AND GENDER**

Whenever used throughout this policy, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.