

## Mutual Help and Occupancy Agreement

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**Do not send this form to the above address.**

This revised form of MHO Agreement shall be used for all Mutual Help Projects placed under ACC on or after October 1, 1992. This MHO Agreement should be used in conjunction with 24 CFR, Part 905, Indian Housing: Revised Consolidated Regulations; Rule. When a unit is converted to the Mutual Help program, the participant shall execute this form of Mutual Help and Occupancy Agreement.

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## Article I Parties: Definitions

### 1.1 Parties.

This Mutual Help and Occupancy Agreement ("Agreement") is entered into by and between

\_\_\_\_\_ ("IHA") and the Homebuyer whose signature(s) appears below. The IHA has entered into an Annual Contributions Contract ("ACC") with the U.S. Department of Housing and Urban Development ("HUD") under which the IHA will develop a Project under the HUD Mutual Help Homeownership Opportunity Program in compliance with HUD requirements. Under this Agreement, the IHA will give the homebuyer an opportunity to achieve ownership of a home in the Project in return for fulfilling the homebuyer's obligations to make a contribution to the development of the Project, to make monthly payments based on income, to provide all maintenance of the home and to satisfy all other program requirements including an annual certification of income and family composition. The terms and conditions of this Agreement are attached hereto and made a part hereof. This Agreement has been executed in duplicate original, and the Homebuyer hereby acknowledges receipt of one such original.

IHA: \_\_\_\_\_

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

(Official Title) \_\_\_\_\_

\_\_\_\_\_  
(Homebuyer)

\_\_\_\_\_  
(Homebuyer's Spouse)

\_\_\_\_\_  
(Project #)                      (Unit #)

- Initial Homebuyer  
 Subsequent Homebuyer

Date: \_\_\_\_\_

### 1.2 Definitions.

In addition to the definitions listed below, certain Construction Contract terms as used herein shall have the same meaning as in the Construction Contract.

**Administration Charge.** The amount budgeted by the IHA for monthly operating expenses covering the following categories (and any other operating expense categories included in the IHA's HUD-approved operating budget for a fiscal year or other period, excluding any operating cost for which operating subsidy is provided): (a) administrative salaries, payroll, taxes, etc; travel, postage, telephone

and telegraph, office supplies; office space, maintenance and utilities for office space; general liability insurance or risk protection costs; accounting services; legal expenses; and operating reserves requirements; and (b) General expenses, such as premiums for fire and related insurance, payments in lieu of taxes, if any, and other similar expenses.

**Construction Contract.** The contract for construction in the case of the Conventional method, or the Contract of Sale in the case of the Turnkey method.

**Home.** The dwelling unit covered by this MHO Agreement.

**Homebuyer.** The person(s) who has executed this MHO Agreement and who has not yet achieved homeownership.

**Homeowner.** A former homebuyer who has achieved ownership of his or her home and acquired title to the home.

**HUD.** The U.S. Department of Housing and Urban Development.

**HUD Field Office.** The HUD Offices in Chicago, Oklahoma City, Denver, Phoenix, Seattle, and Anchorage, which have been delegated authority to administer programs under the United States Housing Act of 1937 for the area in which the IHA is located.

**IHA.** Indian Housing Authority. An entity that is authorized to engage in or assist in the development or operation of low income housing for Indians that is established either (1) by exercise of the power of self-government of an Indian Tribe independent of State law; or (2) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

**IHA Homeownership Financing.** IHA financing for purchase of a home by an eligible homebuyer who gives the IHA a promissory note and mortgage for the balance of the purchase price.

**MEPA.** Monthly Equity Payments Account. A homebuyer account in the Mutual Help Homeownership Opportunity Program credited with the amount by which each required monthly payment exceeds the administration charge.

**MH.** Mutual Help.

**MH Contribution.** Land, labor, cash materials or equipment - or a combination of these - contributed toward the development cost of a project in accordance with a homebuyer's MHO Agreement, credit for which is to be used toward purchase of a home.

**MHO Agreement.** A Mutual Help and Occupancy Agreement between the IHA and a homebuyer. The MHO Agreement constitutes a lease-option agreement. The homebuyer is a lessee during the term of the Agreement and acquires no equitable interest in the home until the option to purchase is exercised.

**MH Program.** The MH Homeownership Opportunity Program.

**Project.** Housing developed, acquired, or assisted by an IHA under the Act and the improvement of this housing.

**Subsequent Homebuyer.** Any homebuyer other than the homebuyer who first occupies a home pursuant to an MHO Agreement.

**VEPA.** Voluntary Equity Payment Account. A homebuyer account in the MH Program credited with the amount of any periodic or occasional voluntary payments in excess of the required monthly payments.



## Article II Special Provision.

2.1 This Agreement shall be subject to revocation by the IHA if the IHA or HUD decides not to proceed with the development of the project in whole or in part. In such event, any contribution made by the homebuyer or Tribe shall be returned. If the contribution was a land contribution, it will be returned to the contributor.

## Article III Change in Income.

3.1 If a family's income changes after the MHO Agreement is executed but before the unit is occupied so that it no longer qualifies for the program, the IHA may reject the family for this program. If it becomes evident that a family's income is inadequate to meet its obligations, the IHA may counsel the family about other housing options, such as its rental program. Inability of the family to meet its obligations under the homebuyer Agreement is grounds for termination of the Agreement.

## Article IV MH Contribution

The MH contribution may consist of land, labor, cash materials, equipment, or any combination thereof. Contributions other than labor may be made by an Indian tribe on behalf of a family. The value of the contribution must be \$1,500.

### 4.1 Land Contributions.

Land contributed to satisfy this requirement must be owned in fee simple by the homebuyer or must be assigned or allotted to the homebuyer for his or her use before application for an MH unit. Contributions of land donated by another person on behalf of the homebuyer will satisfy the requirement for an MH contribution.

Land as identified in Exhibit A of this Agreement has been leased or conveyed to the IHA, or will be so leased or conveyed before execution of the Construction Contract, as a contributed site for the home. This land is valued at \$\_\_\_\_\_. The IHA shall determine the market value of the land, but in no case will the land credit exceed \$1,500 per homesite.

### 4.2 MH Work Contribution.

(a) Amount. The homebuyer shall provide work of a total value of \$\_\_\_\_\_ as a contribution to the development of the Project.

(b) Homebuyer's Work Obligation.

(1) The homebuyer shall provide the work obligation under the direction of the construction contractor on jobs assigned to the homebuyer by the contractor. The work shall be performed in a diligent and workmanlike manner. The work obligation of the homebuyer may be performed by members of the family. The work may also be performed by an arrangement for others (relatives or friends, for example) to work on the homebuyer's behalf, but only with the approval of the IHA and the contractor.

(2) Prior to the submission of a proposal or a bid for construction of the Project, or prior to execution of the Construction Contract, the bidder or contractor shall be permitted to review information relating to the ability and capacity of the homebuyer to provide MH work, and to interview those who are to perform the work, with regard to this information.

(c) Assignment and Valuation of Jobs.

(1) The specific jobs to be performed by homebuyers, and the value of each job, shall be listed in an appendix to the Construction Contract, which shall be available for inspection by the homebuyer. The homebuyer may be assigned to any of the listed jobs, and may be reassigned from one job to another during the course of construction. However, the total value of the jobs assigned to the homebuyer's credit will not exceed \$1500 per homesite of the MH work the homebuyer is required to provide as stated in Section 4.2(a) of this Agreement.

(2) The homebuyer shall provide as many hours of work, recorded in accordance with the contractor's system approved by the IHA, as necessary to complete the assigned jobs. The credit (not to exceed \$1500 per homesite) given the homebuyer shall be the value of the assigned jobs, regardless of the number of hours actually worked to perform the jobs.

(3) As an alternative, the contractor may make assignments to the homebuyer in terms of numbers of hours of work. In that event, the homebuyer shall be credited (not to exceed \$1500 per homesite) with the full MH work contribution when the number of hours of work assigned to the homebuyer has been completed.

(d) Failure to Provide MH Work.

(1) The IHA may terminate this Agreement if the homebuyer is unable or unwilling to provide, or for any other reason fails to provide, the MH work obligation.

(2) If in the judgment of the contractor a homebuyer is not meeting his/her MH work obligations, the contractor may request the assistance of the IHA. Where the deficiency cannot otherwise be remedied, the contractor may request the IHA to terminate this Agreement and select another homebuyer to provide the MH work.

(3) If the contractor calls upon the IHA to terminate this Agreement and the contractor furnishes to the IHA sufficient proof of the alleged nonperformance by the homebuyer, the IHA shall then take the action called for by the contractor.

(e) Workmen's Compensation Insurance. The contractor shall provide Workmen's Compensation Insurance for members of the homebuyer's family or others who perform MH work. If such insurance is not available, the contractor shall obtain private insurance of substantially comparable coverage.

### 4.3 Cash Contribution.

(a) The homebuyer agrees to make a cash contribution to the project in the amount of \$\_\_\_\_\_ which shall be paid in full to the IHA not later than the date the home is available for occupancy in accordance with the following schedule:

Dates for Payment	Amounts
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- (b) If a cash contribution to the Project is to be made by the tribe, as evidenced by a tribal resolution given to the IHA, the homebuyer's share (MH credit) of this contribution is \$\_\_\_\_\_.

#### 4.4 Materials or Equipment Contribution.

If any part of the Contribution is to be provided by furnishing materials or equipment to the Project, such contribution shall be provided and accounted for in accordance with the special provisions of the Construction Contract covering such contribution. In accordance with the special provisions of the Construction Contract, the amount of the MH Contribution credit to the homebuyer is \$\_\_\_\_\_.

#### 4.5 Disposition of Contributions on Termination Before Date of Occupancy.

If this Agreement is terminated by the IHA or the homebuyer before the date of occupancy, the homebuyer may receive reimbursement of the value of the MH contribution made plus other amounts contributed by the homebuyer in accordance with Article IX.

### Article V Commencement of Occupancy

#### 5.1 Notice.

- (a) Upon acceptance by the IHA from the contractor of the home as ready for occupancy, the IHA shall determine whether the homebuyer has met all requirements for occupancy, including meeting the MH Contribution requirements and fulfillment of mandatory homebuyer counseling requirements. In the event of an affirmative determination, the homebuyer shall be notified in writing that the home is available for occupancy as of a date specified in the notice ("Date of Occupancy").
- (b) If the IHA determines that the homebuyer has not fully provided the MH Contribution or met any of the other conditions for occupancy the homebuyer shall be so notified in writing. The Notice:
- (1) must specify the date by which all requirements must be satisfied; and
  - (2) shall advise the homebuyer that the MHO Agreement will be terminated and a substitute homebuyer selected for the unit if the requirements are not satisfied.

#### 5.2 Lease Term.

The term of the homebuyer's lease under this Agreement shall commence on the first day of the calendar month following the Date of Occupancy and shall expire when the Initial Purchase Price has been fully amortized in accordance with the homebuyer's Purchase Price Schedule (see Sections 10.2(b) and 10.3(b)) unless this Agreement is previously terminated or the homebuyer previously acquires ownership of the Home.

#### 5.3 Credits to MH Accounts and Reserves.

Promptly after the date of occupancy, the IHA shall credit the amount of the MH contributions to the appropriate reserves and accounts in accordance with Article IX and shall provide the homebuyer a statement of the amounts so credited.

### Article VI Inspections: Responsibility for Items Covered by Warranty.

#### 6.1 Inspection before Move-In and Identification of Warranties.

- (a) To establish a record of the condition of the home on the date of occupancy, the homebuyer (including a subsequent homebuyer) and the IHA shall make an inspection of the home as close as possible to, but not later than, the date the homebuyer takes occupancy. (The record of this inspection shall be separate from the certificate of completion, but the inspections may, if feasible, be combined.) After the inspection, the IHA representative shall give the homebuyer a signed statement of the condition of the home and equipment and a full written description of all homebuyer responsibilities. The homebuyer shall sign a copy of the statement, acknowledging concurrence or stating objections; and any differences shall be resolved by the IHA and a copy of the signed inspection report shall be kept at the IHA.
- b) Within 30 days of commencement of occupancy of the home, the IHA shall furnish the homebuyer with a list of applicable contractors', manufacturers' and suppliers' warranties indicating the items covered and the periods of the warranties, and stating the homebuyer's responsibility for notifying the IHA of any deficiencies that would be covered under the warranties.

#### 6.2 Inspections during contractors' warranty periods, responsibility for items covered by contractors', manufacturers' or suppliers' warranties.

In addition to inspection required under Section 6.1(a), the IHA will inspect the home regularly in accordance with paragraph 8.3(a). However, it is the responsibility of the homebuyer, during the period of the applicable warranties, to promptly inform the IHA in writing of any deficiencies arising during the warranty period (including manufacturers' and suppliers' warranties) so that the IHA may enforce any rights under the applicable warranties. If a homebuyer fails to furnish such a written report in time, and the IHA is subsequently unable to obtain redress under the warranty, correction of the deficiency shall be the responsibility of the homebuyer.

#### 6.3 Annual Inspections.

The IHA shall perform inspections annually in accordance with Section 8.3(a).

#### 6.4 Inspection Upon Termination of Agreement.

If this Agreement is terminated for any reason after commencement of occupancy, the IHA shall inspect the home, after notifying the homebuyer of the time for the inspection, and shall give the homebuyer a written statement of the cost of any maintenance work required to put the home in satisfactory condition for the next occupant (see Section 12.4(a)(1)).

#### 6.5 Homebuyer Permission for Inspections; Participation in Inspections.

The homebuyer shall permit the IHA to inspect the home at reasonable hours and intervals during the period of this Agreement in accordance with rules established by the IHA. The homebuyer shall be notified of the opportunity to participate in the inspection made in accordance with this section.



## Article VII Homebuyer Payments

7.1 The amount of the required monthly payment for a homebuyer admitted to occupancy in an existing or converted project is determined in accordance with Section 7.2 through 7.4 below.

### 7.2 Establishment of Payment.

- (a) Each homebuyer shall be required to make a monthly payment ("required monthly payment") as determined by the IHA and approved by HUD. The payment will provide that the minimum required monthly payment equal the administration charge.
- (b) Subject to the requirement for payment of at least the administration charge, each homebuyer shall pay an amount of required monthly payment computed by:
  - (1) Multiplying adjusted income by a specified percentage; and
  - (2) Subtracting from that amount the utility allowance determined for the unit. The specific percentage shall be no less than 15 percent and no more than 30 percent, as determined by the IHA and approved by HUD.
- (c) The IHA's schedule shall provide that the required monthly payment may not be more than a maximum amount. The maximum shall not be less than the sum of:
  - (1) The administration charge; and
  - (2) The monthly debt service amount shown on the homebuyer's purchase price schedule.
- (d) If the "required monthly payment" exceeds the administration charge, the amount of the excess shall be credited to the homebuyer's Monthly Equity Payments Account (MEPA) (see Section 9.2(a)).

### 7.3 Administration Charge.

The administration charge should reflect differences in expenses attributable to different sizes or types of units. It is the amount budgeted by the IHA as defined in Section 1.2.

### 7.4 Adjustments in the Amount of the Required Monthly Payment.

- (a) After the initial determination of the homebuyer's required monthly payment, the IHA shall increase or decrease the amount of such payment in accordance with HUD regulations to reflect changes in adjusted income (pursuant to a reexamination by the IHA), adjustment in the administration charge or in any of the other factors affecting the computation of the homebuyer's required monthly payment.
- (b) In order to accommodate wide fluctuations in required monthly payments due to seasonal conditions, an IHA may agree with any homebuyer for payments to be made in accordance with a seasonally adjusted schedule which assures full payment of the required amount for each year.

### 7.5 Homebuyer Payment Collection Policy.

Each IHA shall establish and adopt written policies, and use its best efforts to obtain compliance to assure the prompt payment and collection of required homebuyer payments. A copy of the policies shall be posted prominently in the IHA office, and shall be provided to the homebuyer upon request.

## Article VIII Maintenance, Utilities, and Use of Home

8.1 Each IHA shall establish and adopt, and use its best efforts to obtain compliance with, written policies to assure full performance of the respective maintenance responsibilities of the IHA and homebuyers. A

copy of such written policies shall be posted prominently in the IHA office, and shall be provided to an applicant or homebuyer upon entry into the program and upon request.

### 8.2 Provision for MH projects.

For a MH Project, the written maintenance policies shall contain provisions on at least the following subjects:

- (a) The responsibilities of homebuyers for maintenance and care of their dwelling units and common property;
- (b) Procedures for providing advice and technical assistance to homebuyers and to enable them to meet their maintenance responsibilities;
- (c) Procedures for IHA inspections of homes and common property;
- (d) Procedures for IHA performance of homebuyer maintenance responsibilities (where homebuyers fail to satisfy such responsibilities), including procedures for charging the homebuyer's proper account for the cost thereof;
- (e) Special arrangements, if any, for obtaining maintenance services from outside workers or contractors; and
- (f) Procedures for charging homebuyers for damage for which they are responsible.

### 8.3 IHA Responsibility in MH Project.

- (a) The IHA shall enforce those provisions of this Agreement under which the homebuyer is responsible for maintenance of the home. The IHA has overall responsibility to HUD for assuring that the housing is being kept in decent, safe, and sanitary condition, and that the home and grounds are maintained in a manner that will preserve their condition, normal wear and tear excepted. Failure of a homebuyer to meet the obligations for maintenance shall not relieve the IHA of responsibility in this respect. Accordingly, the IHA shall conduct a complete interior and exterior examination of each home at least once a year, and shall furnish a copy of the inspection report to the homebuyer. The IHA shall take appropriate action, as needed, to remedy conditions shown by the inspection, including steps to assure performance of the homebuyer's obligations under this Agreement. The IHA may inspect the home once every three years, in lieu of annual inspection where the homebuyer:
  - (1) Is in full compliance with the original terms of this Agreement, including payments, and
  - (2) The home is maintained in decent, safe, and sanitary condition, as reflected by the last inspection by the IHA. However, if at any time the IHA determines that the homebuyer is not in compliance with this Agreement, it must reinstitute annual inspections.

### 8.4 Homebuyer's Responsibility in MH Program.

- (a) The homebuyer shall be responsible for routine and nonroutine maintenance of the home, including all repairs and replacements (including those resulting from damage from any cause). The IHA shall not be obligated to pay for or provide any maintenance of the home other than the correction of warranty items reported during the applicable warranty period.
- (b) Homebuyer's Failure to Perform Maintenance.
  - (1) Failure of the homebuyer to perform the maintenance obligations constitutes a breach of this Agreement and grounds for its termination. Upon a determination by the IHA that the homebuyer has failed to perform its maintenance obligations, the IHA shall require the homebuyer 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 homebuyer, with such use of the homebuyer's account as may be necessary, or to be done by the IHA and charged to the homebuyer's account. If the homebuyer fails to carry out the agreed-to plan, this Agreement shall be terminated in accordance with Sections 12.1 and 12.2.

(2) If the IHA determines that the condition of the property creates a hazard to the life, health or safety of the occupants, or if there is a risk of damage to the property if the condition is not corrected, the corrective work shall be done promptly by the IHA with such use of the homebuyer's accounts as the IHA may determine to be necessary, or by the homebuyer with a charge of the cost to the homebuyer's accounts in accordance with Section 9.3(a).

(3) Any maintenance work performed by the IHA shall be accounted for through a work order stating the nature of and charge for the work. The IHA shall give the homebuyer copies of all work orders for the home.

### 8.5 Homebuyer's Responsibility for Utilities.

The homebuyer is responsible for the cost of furnishing utilities for the home. The IHA shall have no obligation for the utilities. However, if the IHA determines that the homebuyer is unable to pay for the utilities for the home, and that this inability creates conditions that are hazardous to life, health or safety of the occupants, or threatens damage to the property, the IHA may pay for the utilities on behalf of the homebuyer and charge the homebuyer's accounts for the costs in accordance with Article IX. When the homebuyer's accounts have been exhausted, the IHA shall pursue termination of the homebuyer Agreement and may offer the homebuyer a transfer into the rental program if a unit is available.

### 8.6 Obligations with Respect to Home and Other Persons and Property.

- (a) The homebuyer shall agree to abide by all provisions of this Agreement concerning homebuyer responsibilities, occupancy and use of the home.
- (b) The homebuyer may request IHA permission to operate a small business in the unit. An IHA shall grant this authority where the homebuyer provides the following assurances and may rescind this authority upon violation of any of the following assurances:
- (1) The unit will remain the homebuyer's principal residence;
  - (2) The business activity will not disrupt the basic residential nature of the housing site; and
  - (3) The business will not require permanent structural changes to the unit that could adversely affect a future homebuyer's use of the unit. The IHA may rescind such authority whenever any of the above assurances are violated.

### 8.7 Structural Changes.

- (a) A homebuyer shall not make any structural changes in or additions to the home unless the IHA has determined that such change would not:
- (1) Impair the value of the home, the surrounding homes, or the project as a whole; or
  - (2) Affect the use of the home for residential purposes.
- (b) Additions to the home include, but are not limited to, energy-conservation items such as solar panels, wood-burning stoves, flues and insulation. Any changes made in accordance with this section

shall be at the homebuyer's expense, and in the event of termination of this Agreement the homebuyer shall not be entitled to any compensation for such changes or additions.

- (c) If the homebuyer is in compliance with the terms of this Agreement, the IHA may agree to allow the homebuyer to use the funds in the MEPA for betterments and additions to the MH home. In such event, the IHA shall determine whether the homebuyer will be required to replenish the MEPA or if the funds are to be loaned to the homebuyer at an interest rate determined by the IHA. The homebuyer cannot use MEPA funds for luxury items, as determined by the IHA.

## Article IX Homebuyer Reserves and Accounts

### 9.1 Refundable and Nonrefundable MH reserves ("Reserves").

The IHA shall establish separate refundable and nonrefundable reserves for each homebuyer effective on the date of occupancy.

- (a) The refundable MH reserve represents a homebuyer's interest in funds that may be used to purchase the home at the option of the homebuyer. The IHA shall credit this account with the amount of the homebuyer's cash MH contribution or the value of the labor, material or equipment MH Contribution.
- (b) The nonrefundable MH Reserve represents a homebuyer's interest in funds that may be used to purchase the home at the option of the homebuyer. The IHA shall credit this account with the amount of the homebuyer's share of any credit for land contributed to the project and the homebuyer's share of any credit for non-land contributions by a terminated homebuyer.

### 9.2 Equity Accounts.

- (a) Monthly Equity Payments Account ("MEPA"). The IHA shall maintain a separate MEPA for each homebuyer. The IHA shall credit this account with the amount by which each required monthly payment exceeds the administration charge. Should the homebuyer fail to pay the required monthly payment, the IHA may elect to reduce the MEPA by the amount owed each month towards the administration charge, until the MEPA has been fully expended. The MEPA balance must be comprised of an amount backed by cash actually received in order for any such reduction to be made.
- (b) Voluntary Equity Payments Account ("VEPA"). The IHA shall maintain a separate VEPA for each homebuyer. The IHA shall credit this account with the amounts of any periodic or occasional voluntary payments (in excess of the required monthly payment) that the homebuyer may desire to make to acquire ownership of the home within a shorter period of time. The IHA may amend an individual homebuyer's MHO Agreement to permit a more flexible use of the VEPA for alterations of the unit, cosmetic changes, additions, betterments, etc.
- (c) Investment of Equity Funds. Funds held by the IHA in the equity accounts of all homebuyers in the project shall be invested in HUD-approved investments. Income earned on the investments of such funds shall periodically, but at least annually, be prorated and credited to each homebuyer's equity accounts in proportion to the amount in each such account on the date of proration.

### 9.3 Charges for Maintenance.

- (a) If the IHA has maintenance work done in accordance with Section 8.4(b)(2), the cost thereof shall be charged to the homebuyer's MEPA.



- (b) At the end of each fiscal year, the debit balance, if any in the MEPA shall be charged, first to the VEPA; second, to the refundable MH reserve; and third, to the nonrefundable MH reserve, to the extent of the credit balances in that account and those reserves.
- (c) In lieu of charging the debit balance in the MEPA to the homebuyer's refundable MH reserve and/or nonrefundable MH reserve, the IHA may allow the debit balance to remain in the MEPA pending replenishment from subsequent credits to the homebuyer's MEPA.
- (d) The IHA shall at no time permit the accumulation of a debit balance in the MEPA in excess of the sum of the credit balances in the homebuyer's refundable and nonrefundable MH reserves, unless the expenditure is required to alleviate a hazard to the life, health or safety of the occupants, or to alleviate risk of damage to the property.

#### 9.4 Disposition of Reserves and Accounts.

When the homebuyer purchases the home, the balances in the homebuyer's reserves and accounts shall be disposed of in accordance with Section 10.5(c) and (d). If this Agreement is terminated by the homebuyer or the IHA, the balances in the homebuyer's reserves and accounts shall be disposed of in accordance with Section 12.4.

#### 9.5 Use of Reserves and Accounts; Nonassignability.

The homebuyer shall have no right to receive or use the funds in any reserve or account except as provided in this Agreement, and the homebuyer shall not, without the approval of the IHA and HUD, assign, mortgage or pledge any right in this Agreement or to any reserve or account.

## Article X Purchase of Home

### 10.1 General.

The IHA provides the family an opportunity to purchase the dwelling under this Agreement (a lease with an option to purchase), under which the purchase price is amortized over the period of occupancy, in accordance with a purchase price schedule. For acquisition under this Agreement see Section 10.5. If a homebuyer wants to acquire ownership in a shorter period than that shown on the purchase price schedule, the homebuyer may exercise the option to purchase the home on or after the date of occupancy, but only if the homebuyer has met all obligations under this Agreement. The homebuyer may obtain financing, from the IHA or an outside source, at any time, to cover the remaining purchase price. The financing may be provided using such methods as a mortgage or a loan agreement. If the homebuyer is able to obtain financing from an outside source, the IHA will release the homebuyer from this Agreement and terminate the homebuyer's participation in this program. For acquisition under methods other than under this Agreement, see Section 10.4 and Article XI.

### 10.2 Purchase Price and Purchase Price Schedule.

- (a) Initial Purchase Price. The IHA shall determine the initial purchase price of the home for the homebuyer who first occupies the home, pursuant to this Agreement as follows (unless the IHA, after consultation with the homebuyer, has developed an alternative method of apportioning among the homebuyers, the amount determined in Step 1 and the alternative method has been made a part of the HUD-approved development program):

#### Step 1:

From the estimated Total Development Cost (TDC) (including the full amount for contingencies as authorized by HUD) of the project as shown in the development cost budget in effect at the time of execution of the construction contract, deduct the amounts, if any, not directly attributable to the dwelling cost and equipment, including, but not limited to:

- (1) Relocation costs,
- (2) Counseling costs,
- (3) The cost of any community, administration or management facilities, including the land, equipment and furnishings attributable to such facilities as set forth in the development program for the project, and
- (4) the total amount attributable to land for the project,
- (5) Off-site water and sewer,
- (6) Other administrative costs associated with the development of the project.

#### Step 2:

Multiply the amount determined in Step 1 by a fraction of which the numerator is the development cost standard for the size and type of home being constructed for the homebuyer, and the denominator is the sum of the unit development cost standards for the homes of various sizes and types comprising the project.

#### Step 3:

Determine the amount chargeable to development costs, if any, for acquisition of the homesite.

#### Step 4:

Add the amount determined in Step 3 to the amount determined in Step 2. The sum determined under this step shall be the initial purchase price of the home.

- (b) Purchase Price Schedule. Promptly after execution of the construction contract, the IHA shall furnish to the homebuyer a statement of the initial purchase price of the home and a purchase price schedule that will apply, based on amortizing the balance (purchase price less the MH contribution) over a period, not less than 15 years or more than 25 as determined by the IHA, at an interest rate determined by the IHA, provided that the rate does not exceed the prevailing interest rate for Veterans Administration (VA) guaranteed mortgage loans at the time the schedule is established. The IHA may choose to forego charging interest and calculate the payment with interest rate of zero.

### 10.3 Purchase Price Schedule for Subsequent Homebuyer.

- (a) Initial Purchase Price. When a subsequent homebuyer executes this Agreement, the purchase price for the subsequent homebuyer shall be determined by the IHA based on one of the following procedures:
  - (1) The current appraised value;
  - (2) The current replacement cost of the home or;
  - (3) The remaining purchase price of the unit.
- (b) Purchase Price Schedule. Each subsequent homebuyer shall be provided with a purchase price schedule, showing the monthly declining purchase price over the term of this Agreement, commencing with the first day of the month following the effective date of this Agreement.



#### 10.4 Notice of Eligibility for Financing.

If the IHA offers IHA homeownership financing in accordance with Article XI and has funds available for that purpose, it shall determine, at the time of each examination or reexamination of the family's earnings and other income, whether the homebuyer is eligible for that financing. If the IHA determines that the homebuyer is eligible, the IHA shall notify the homebuyer in writing that IHA homeownership financing is available to enable the homebuyer to purchase the home, if the homebuyer wishes to do so and, that if the homebuyer chooses not to purchase the home at that time, all the rights of a homebuyer shall continue (including the right to accumulate credits in the equity accounts) and all obligations under this Agreement shall continue (including the obligations to make monthly payments based on income). The IHA shall convey ownership of the home when the homebuyer exercises the option to purchase and has complied with all the terms of this Agreement. The homebuyer can exercise the option to purchase only by written notice to the IHA, in which the homebuyer specifies the manner in which the purchase price and settlement costs will be paid.

#### 10.5 Conveyance of Home.

- (a) Purchase Procedure. In accordance with this Agreement, the IHA shall convey title to the homebuyer when the balance of the purchase price can be covered from the amount in the two equity accounts (MEPA and VEPA). The homebuyer may supplement the amount in the equity accounts with reserves or any other funds of the homebuyer.
- (b) Amounts to be Paid. The purchase price shall be the amount shown on the purchase price schedule for the month in which the settlement date falls.
- (c) Settlement Costs. Settlement Costs are the costs incidental to acquiring ownership, including, the costs and fees for credit report, field survey, title examination, title insurance, inspections, attorneys other than the IHA's attorney, closing, recording, transfer taxes, financing fees and mortgage loan discount. Settlement costs shall be paid by the homebuyer who may use equity accounts or reserves available for the purchase in accordance with Section 9.4.
- (d) Disposition of Homebuyer Accounts and Reserves. When the homebuyer purchases the home, the net credit balances in the homebuyer's equity accounts (MEPA and VEPA) as described in Article IX, supplemented by the nonrefundable MH reserve and then the refundable MH reserve, shall be applied in the following order:
  - (1) For the initial payment for fire and extended coverage insurance on the home after conveyance, if the IHA finances purchase of the home in accordance with Article XI;
  - (2) For Settlement costs, if the homebuyer so directs;
  - (3) For the purchase price; and
  - (4) The balance, if any, for refund to the homebuyer.
- (e) Settlement. A home shall not be conveyed until the homebuyer has met all the obligations under this Agreement, except as provided for in (h) below. The settlement date shall be mutually agreed upon by the parties. On the settlement date, the homebuyer shall receive the documents necessary to convey to the homebuyer the IHA's right, title and interest in the home, subject to any applicable restrictions or covenants as expressed in such documents. The required documents shall be approved by the attorneys representing the IHA and by the homebuyer or the homebuyer's attorney.

- (f) IHA Investment and Use of Purchase Price Payments. After conveyance, all homebuyer funds held or received by the IHA from the sale of a unit in a project financed with grants shall be held separate from other project funds, and shall be used for purposes related to low-income housing use, as approved by HUD. Homebuyer funds held or received by the IHA from the sale to a homebuyer of a unit in a project financed by loans are subject to loan forgiveness. Homebuyer funds include the amount applied to payment of the purchase price from the equity accounts (MEPA and VEPA), any cash paid by the homebuyer for application to the purchase price and, if the IHA finances purchase of the home in accordance with Article XI, any portion of the mortgage payments by the homeowner attributable to payment of the debt service (principal and interest) on the mortgage.
- (g) Removal of the Home from MH Program. When a home has been conveyed to the homebuyer, whether or not with IHA financing, the unit is removed from the IHA's MH project under its ACC with HUD. If the IHA has provided financing, its relationship with the homeowner is transformed by the conveyance to that of lender, in accordance with documents executed during settlement.
- (h) Homebuyers with delinquencies. If a homebuyer has a delinquency at the end of the amortization period, the unit is no longer available for assistance from HUD or the IHA, even though the unit has not been conveyed. The IHA must take action to terminate this Agreement or to develop a repayment schedule for the remaining balance to be completed in a reasonable period, but not longer than three years. The payment should be equal to a monthly pro-rated share of the remaining balance owed by the homebuyer, plus an administrative fee consisting of the cost of insurance and the IHA's processing cost. If the homebuyer fails to meet the requirements of the repayment schedule, the IHA should proceed immediately with eviction.

### Article XI IHA Homeownership Financing

#### 11.1 Eligibility.

If the IHA offers homeownership financing, the homebuyer is eligible for it when the IHA determines that:

- (a) The homebuyer can pay (from the balance in the homebuyer's reserves or accounts, or from other sources):
  - (1) The amount necessary for settlement costs; and
  - (2) The initial payment for fire and extended coverage insurance carried on the home after conveyance; and
  - (3) Maintenance reserve (at the option of the IHA).
- (b) The homebuyer's income has reached the level, and is likely to continue at such level, at which 30 percent of monthly adjusted income is at least equal to the sum of the monthly debt service amount shown on the homebuyer's purchase price schedule and the IHA's estimates of the following monthly payments and allowances:
  - (1) Payment for fire and extended coverage insurance;
  - (2) Payment for taxes and special assessments, if any;
  - (3) The IHA mortgage servicing charge;
  - (4) Amount necessary for maintenance of the home; and
  - (5) Amount necessary for utilities for the home.

(Additional information relative to IHA Financing will be provided to homebuyer upon request.)



## Article XII Termination of MHO Agreement

### 12.1 Termination Upon Breach.

- (a) In the event the homebuyer fails to comply with any of the obligations under this Agreement, the IHA may terminate the Agreement by written notice to the homebuyer, enforced by eviction procedures applicable to landlord-tenant relationships. Foreclosure is an inappropriate method for enforcing termination of this Agreement, which constitutes a lease (with an option to purchase). The homebuyer is a lessee during the term of this Agreement and acquires no equitable interest in the home until the option to purchase is exercised.
- (b) Misrepresentation or withholding of material information in applying for admission or in connection with any subsequent reexamination of income and family composition constitutes a breach of the homebuyer's obligations under this Agreement. "Termination," as used in this Agreement, does not include acquisition of ownership by the homebuyer.

### 12.2 Notice of Termination of MHO Agreement by IHA, Right of Homebuyer to Respond.

Termination of this Agreement by the IHA for any reason shall be by written notice of termination. Such notice shall be in compliance with the terms of this Agreement and, in all cases, shall afford a fair and reasonable opportunity to have the homebuyer's response heard and considered by the IHA. Such procedures shall comply with the Indian Civil Rights Act, if applicable, and shall incorporate all the steps and provisions needed to comply with State, local, or Tribal law, with the least possible delay.

### 12.3 Termination of MHO Agreement by Homebuyer.

The homebuyer may terminate this Agreement by giving the IHA written notice in accordance with the Agreement. If the homebuyer vacates the home without notice to the IHA, the homebuyer shall remain subject to the obligations of this Agreement including the obligation to make monthly payments, until the IHA terminates the Agreement in writing. Notice of the termination shall be communicated by the IHA to the homebuyer to the extent feasible and the termination shall be effective on the date stated in the notice.

### 12.4 Disposition of Funds Upon Termination of the MHO Agreement.

If this Agreement is terminated, the balances in the homebuyer's accounts and reserves shall be disposed of as follows:

- (a) The MEPA shall be charged with:
- (1) Any maintenance and replacement costs incurred by the IHA to prepare the home for the next occupant;
  - (2) Any amounts the homebuyer owes the IHA, including required monthly payments;
  - (3) The required monthly payment for the period the home is vacant, not to exceed 60 days from the date of receipt of the notice of termination, or if the homebuyer vacates the home without notice to the IHA, for the period ending with the effective date of termination by the IHA; and
  - (4) The cost of securing a vacant unit, the cost of notification and associated termination tasks, and the cost of storage and/or disposition of personal property.
- (b) If, after making the charges in accordance with Section 12.4(a), there is a debit balance in the MEPA, the IHA shall charge that debit balance, first, to the VEPA; second, to the refundable MH reserve;

and third, to the nonrefundable MH reserve, to the extent of the credit balances in these reserves and accounts. If the debit balance in the MEPA exceeds the sum of the credit balances in these reserves and accounts, the homebuyer shall be required to pay to the IHA the amount of the excess.

- (c) If after making the charges in accordance with Section 12.4(a) and (b), there is a credit balance in the MEPA, this amount shall be refunded, except to the extent it reflects the value of land donated on behalf of the family. Similarly, any credit balance remaining in the VEPA after making the charges described above shall be refunded.
- (d) Any credit balance remaining in the refundable MH reserve after making the charges described above shall be refunded to the homebuyer.
- (e) Any credit balance remaining in the nonrefundable MH reserve after making the charges described above shall be retained by the IHA for use by the subsequent homebuyer.

### 12.5 Settlement Upon Termination.

- (a) Time for Settlement. Settlement with the homebuyer following a termination shall be made as promptly as possible after all charges provided in Section 12.4 have been determined and the IHA has given the homebuyer a statement of such charges. The homebuyer may obtain settlement before determination of the actual cost of any maintenance required to put the home in satisfactory condition for the next occupant, if the homebuyer is willing to accept the IHA's estimate of the amount of such cost. In such cases, the amounts to be charged for maintenance shall be based on the IHA's estimate of the cost thereof.
- (b) Disposition of Personal Property. Upon termination, the IHA may dispose of any item of personal property abandoned by the homebuyer in the home, in a lawful manner deemed suitable by the IHA. Proceeds, if any, after such disposition, may be applied to the payment of amounts owed by the homebuyer to the IHA.

### 12.6 Responsibility of IHA to Terminate.

- (a) The IHA is responsible for taking appropriate action with respect to any noncompliance with this Agreement by the homebuyer. In cases of noncompliance that are not corrected as provided further in this section, it is the responsibility of the IHA to terminate this Agreement in accordance with the provisions of this section and to institute eviction proceedings against the occupant.
- (b) As promptly as possible after a noncompliance comes to the attention of the IHA, the IHA shall discuss the matter with the homebuyer and give the homebuyer an opportunity to identify any extenuating circumstances or complaints which may exist. A plan of action shall be agreed upon that will specify how the homebuyer will come into compliance, as well as any actions by the IHA that may be appropriate. This plan shall be in writing and signed by both parties.
- (c) Compliance with the plan shall be checked by the IHA not later than 30 days from the date thereof. In the event of refusal by the homebuyer to agree to such a plan or failure by the homebuyer to comply with the plan, the IHA shall issue a notice of termination of this Agreement and evict the homebuyer in accordance with the provisions of this section on the basis of the noncompliance with this Agreement.
- (d) A record of meetings with the homebuyer, written plans of action agreed upon and all other related steps taken in accordance with Section 12.6 shall be maintained by the IHA for inspection by HUD.



**12.7 Subsequent Use of Unit.**

After termination of a homebuyer's interest in the unit, it remains as part of the MH project under the ACC. The IHA must follow its policies for selection of a subsequent homebuyer for the unit under the MH program.

**Article XIII Succession upon Death or Mental Incapacity**

**13.1 Definition of "Event".**

Event means the death or mental incapacity of all of the persons who have executed this Agreement as homebuyers.

**13.2 Designation of Successor by Homebuyer.**

- (a) A homebuyer may designate a successor who, at the time of the event would assume the status of homebuyer, provided that at that time he or she meets the conditions stated in Section 13.3. The designation shall be made at the time of execution of this Agreement, and the homebuyer may change the designation at any later time by written notice to the IHA.
- (b) The designated successor as of the date of execution of this Agreement is:

First Name: \_\_\_\_\_ Initial: \_\_\_\_\_ Last Name: \_\_\_\_\_

Street & Number: \_\_\_\_\_

City, State: \_\_\_\_\_

Relationship: \_\_\_\_\_

are living in the home, the IHA may, in order to protect their continued occupancy and opportunity for acquiring ownership of the home, approve as occupant of the home an appropriate adult who has been appointed legal guardian of the children with a duty to perform the obligations of this Agreement in their interest and behalf.

**13.6 Succession and Occupancy on Trust Land.**

In the case of a home on trust land subject to restrictions on alienation under federal (including federal trust or restricted land and land subject to trust or restriction under State law), or under State or Tribal law where such laws do not violate federal statutes, a person who is prohibited by law from succeeding to the IHAs interest on such land may, nevertheless, continue in occupancy with all the rights, obligations and benefits of this Agreement, modified to conform to these restrictions on succession to the land.

**13.7 Termination in Absence of Qualified Successor or Occupant.**

If there is no qualified successor in accordance with the IHA's approved policy, the IHA shall terminate this Agreement and select a subsequent homebuyer from the top of the waiting list to occupy the unit under a new MHO Agreement. If a new homebuyer is unavailable or if the home cannot continue to be used for low-income housing in accordance with the Mutual Help program, the IHA may submit an application to HUD to approve a disposition of the home.

**13.3 Succession by Person Designated by Homebuyer.**

- (a) Upon occurrence of an "event," the person designated as the successor, in Section 13.2(b), shall succeed to the former homebuyer's rights and responsibilities under this Agreement if the designated successor meets the following conditions:
  - (1) The successor is a family member and will make the home his or her primary residence;
  - (2) The successor is willing and able to pay the administration charge and to perform the obligations of a homebuyer under this Agreement;
  - (3) The successor satisfies program eligibility requirements; and
  - (4) The successor executes an assumption of the former homebuyer's obligations under this Agreement.
- (b) If a successor satisfies the requirements of Section 13.3(a), except for 13.3(a)(3), the successor may execute an outright purchase of the home.

**13.4 Designation of Successor by IHA.**

If at the time of the event there is no successor designated by the homebuyer, or if any of the conditions in Section 13.3 are not met by the designated successor, the IHA may designate, in accordance with its occupancy policy, any person who qualifies under Section 13.3.

**13.5 Occupancy by Appointed Guardian.**

If at the time of the event there is no qualified successor designated by the homebuyer or by the IHA in accordance with the foregoing provisions of this Article, and a minor child or children of the homebuyer

**Article XIV Miscellaneous**

**14.1 Annual Statement to Homebuyer.**

The IHA shall provide an annual statement to the homebuyer that sets forth the credits and debits to the homebuyer's equity accounts and reserves during the year and the balance in each account at the end of each IHA fiscal year. The statement shall also set forth the remaining balance of the purchase price.

**14.2 Insurance Before Transfer of Ownership, Repair or Rebuilding.**

- (a) Insurance. The IHA shall carry all insurance prescribed by HUD, including fire and extended coverage insurance upon the home.
- (b) Repair or Rebuilding. In the event the home is damaged or destroyed by fire or other casualty, the IHA shall consult with the homebuyers as to whether the home shall be repaired or rebuilt. The IHA shall use the insurance proceeds to have the home repaired or rebuilt unless there is good reason for not doing so. In the event the IHA determines that there is good reason why the home should not be repaired or rebuilt and the homebuyer disagrees, the matter shall be submitted to the HUD field office for final determination. If the final determination is that the home should not be repaired or rebuilt, the IHA shall terminate this Agreement, and the homebuyer's obligation to make required monthly payments shall be deemed to have terminated as of the date of the damage or destruction.
- (c) Suspension of Payments. In the event of termination of this Agreement because of damage or destruction of the home, or if the home must be vacated during the repair period, the IHA will use its best efforts to assist in relocating the homebuyer. If the home must be vacated during the repair period, required monthly payments shall be suspended during the vacancy period.



### 14.3 Notices.

Any notices by the IHA to the homebuyer required under this Agreement or by law shall be delivered in writing to the homebuyer personally or to any adult member of the homebuyer's family residing in the home, or shall be sent by certified mail, return receipt requested, properly addressed, postage prepaid. Notice to the IHA shall be in writing, and either delivered to an IHA employee at the office of the IHA, or sent to the IHA by certified mail, return receipt requested, properly addressed, postage prepaid.

## Article XV Counseling of Homebuyers

### 15.1 General.

The IHA shall provide counseling to homebuyers in accordance with this section. The purpose of the counseling program shall be to develop:

- (a) A full understanding by homebuyers of their responsibilities as participants in the MH Program.
- (b) Ability on their part to carry out these responsibilities, and
- (c) A cooperative relationship with the other homebuyers. All homebuyers shall be required to participate in and cooperate fully in all official pre-occupancy and post-occupancy counseling activities. Failure without good cause to participate in the program shall constitute a breach of this Agreement.

## Article XVI Cross-References to Defined Terms

ACC. Sec. 1.1.  
Administration Charge. Sec. 1.2., 7.3  
Agreement. Sec. 1.1.  
Counseling of Homebuyers. Sec. 15  
Date of Occupancy. Sec. 5.1  
Event. Sec. 13.1  
Home. Sec. 1.2  
Homebuyer. Sec. 1.2  
Homeowner. Sec. 1.2  
HUD. Sec. 1.2  
HUD Field Office. Sec. 1.2  
IHA. Sec. 1.1, Sec. 1.2  
IHA Homeownership Financing. Sec. 1.2, Sec. 11.1  
Initial Purchase Price. Sec. 10.2(a), 10.3(a)  
Maintenance Credit. Sec. 8.4  
Maintenance Reserve. Sec. 9.3(a)  
MEPA. Sec. 1.2, 9.2(a)  
MH. Sec. 1.2.  
MH Contribution. Sec. 1.2, Sec. 4  
MHO Agreement. Sec. 1.2  
MH Program. Sec. 1.2  
Nonrefundable MH Reserve. Sec. 9.1(b)  
Notice of Termination. Sec. 12.2  
Project. Sec. 1.2  
Purchase Price Schedule. Sec. 10.2(b), 10.3(b)  
Refundable MH Reserve. Sec. 9.1(a)  
Required Monthly Payment. Sec. 7  
Settlement Costs. Sec. 11.5(c)  
Subsequent Homebuyer. Sec. 1.2, Sec. 10.3(a)  
Succession. Sec. 13  
Termination. Sec. 12.1  
Utilities. Sec. 8.5  
Utility Allowance. Sec. 7.2  
Voluntary Equity Payments Account. Secs. 1.2, 9(b)  
Work Order. Sec. 8.4(b)(3)