



No. 2007-07  
September 7, 2007

# PROGRAM GUIDANCE

---

**PROGRAM:** Indian Housing Block Grant

**FOR:** Tribal Government Leaders and Tribally Designated Housing Entities

for

**FROM:** Rodger J. Boyd, Deputy Assistant Secretary, PN

**TOPIC:** Useful Life and Binding Commitments

---

**Background:** Section 205(a)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), requires that housing units remain affordable for either (1) the remaining useful life of the property (as determined by the Secretary) or (2) such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of the Act. The Act also requires that this affordability be secured through binding commitments satisfactory to the Secretary.

**Purpose:** This Program Guidance transmits a sample form to document useful life for each unit assisted with Indian Housing Block Grant funds.

**Record of Use Restrictions:** The Record of Use Restrictions is a form that can be used by recipients to record both NAHASDA and other useful life/use restrictions. Restrictions can vary both in how they are imposed and their length. Since recipients may have properties that are subject to other use restrictions, this model reporting form is designed to be the registry of all of the various use restrictions that are placed on recipient properties.

**Binding Commitments:** There are a number of different ways to place both NAHASDA and other use restrictions on assisted properties. The four attached sample Useful Life/Use Restriction Agreements can be used for this purpose. Whichever form is used, it must be properly recorded with the appropriate land records offices. Additional use restrictions may be imposed on such properties as long as they do not contradict the NAHASDA useful life restrictions.

- Useful Life/Use Restriction Agreements for Use on Fee Land. When a restriction is placed on fee land, a covenant running with the land is imposed on the property to enforce the restriction:

- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION (Indian Housing on Fee Land with Single Recovery Amount). This covenant requires in all cases of default that the full amount of NAHASDA funds invested in the property be refunded.
- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION (Indian Housing on Fee Land with Prorated Recovery Amount). This covenant requires that the amount of NAHASDA funds invested in the property be prorated over the life of the restriction. In the event of a default, only the current prorated amount must be refunded.
- Useful Life/Use Restriction Agreements for Use on Trust Land. When restrictions are placed on trust land, a lease amendment or addendum to the lease is used to enforce the restriction:
  - NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION LEASE ADDENDUM/AMENDMENT (Trust Land with Single Recovery Amount). This lease document requires in all cases of default that the full amount of NAHASDA funds invested in the property be refunded.
  - NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION LEASE ADDENDUM/AMENDMENT (Trust Land with Prorated Recovery Amount). This lease document requires that the amount of NAHASDA funds invested in the property be prorated over the life of the restriction. In the event of a default, only the current prorated amount must be refunded.

If you have any questions, please contact your Area ONAP.

Attachments



**RECORD OF USE RESTRICTIONS  
AS OF [date]  
FOR  
[NAHASDA IHBG Recipient]**

12. Date use restriction begins
13. Date use restriction ends

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

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-  
DETERMINATION ACT  
USEFUL LIFE/USE RESTRICTION,**

(Indian Housing on Fee Land with Single Recovery Amount)

---

THE FOLLOWING PROPERTY (HEREIN AFTER THE **Property**) IS HEREBY  
MADE SUBJECT TO A LIEN AND COVENANT RUNNING WITH THE  
LAND:

Address: \_\_\_\_\_  
Located at: \_\_\_\_\_  
Lot \_\_\_\_\_, in the subdivision known as \_\_\_\_\_,  
shown by map on file in Book No. \_\_\_\_\_, pages \_\_\_\_\_ through  
\_\_\_\_\_ of Maps \_\_\_\_\_, Records of County of \_\_\_\_\_,  
and State of \_\_\_\_\_.

or

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

This Useful Life/Use Restriction, a covenant running with the land (hereinafter the **Land Restriction**), dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, for good and valuable consideration, is hereby declared covenanted and made by \_\_\_\_\_ (hereinafter the **Owner**), who is the owner(s) of the Property. The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by \_\_\_\_\_, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. DEED RESTRICTED

1.1 Use Restrictions. The Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are either (i) members of, or are headed by a member of, a federally recognized tribe or an eligible State recognized tribe who are low-income, or (ii) a surviving non-tribal spouse(s) or child(ren) of such a person who shared in the occupancy of that property at the time of the death of such a person. The terms “federally recognized tribe,” “State recognized tribe” and “low-income” are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.

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

- 1.2 Restricting Owner and Subsequent Owners. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a deed restriction placed on the Property and Owner and binding and enforceable against the Owner and other subsequent owners of the Property.
- 1.3 Covenant Running With the Land. The Owner declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land.
- 1.4 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire \_\_\_\_\_ (\_\_\_\_) years from the date of this Land Restriction agreement (hereinafter the **Term**).

## 2.0 ENFORCEMENT

- 2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.
- 2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of \_\_\_\_\_ (\$\_\_\_\_\_) to the Owner or Property and shall be entitled to recover this amount in its entirety for any violation of the Land Restriction agreement during the Term of the Land Restriction.
- 2.3 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property, shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

## 3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.

- 3.1 Notice. The Owner, and any subsequent owner of the Property, is obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: \_\_\_\_\_, that they intend to change occupancy, lease, sell, or convey the Property. This Notice shall be given no less than sixty (60) days prior to the Owner binding itself to such action(s).
- 3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Owner of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.
- 3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Owner and subsequent owners in finding individuals eligible under this Land Restriction agreement to occupy, rent, lease, purchase, or obtain title to the property.
- 3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe

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

approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

4.0 USEFUL LIFE.

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the Secretary of the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to its Secretary, 25 U.S.C. § 4135(a)(2). In section 1.4 of this Land Restriction agreement, a Term has been set for this Land Restriction and that Term should not be less than what is acceptable to the Secretary of HUD based on the nature and the amount of IHBG funds to this Property. The Tribe should ensure that a Land Restriction has been obtained for a Term that meets HUD’s standards.

5.0 MISCELLANEOUS

5.1 Amendment. Any amendment to this Land Restriction by an Owner of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement. However, other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement.

5.2 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.3 Homestead Waiver. This Land Restriction is prior and superior to any Owner right to a homestead exemption under applicable law. Owners of the Property waive their homestead rights to extent that they are in conflict with the rights and remedies set out in this Land Restriction.

Executed as of the date first written above.

OWNER:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONCURRED IN BY THE TRIBE (IF DIFFERENT FROM OWNER):  
Tribe: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name & Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT**  
**USEFUL LIFE/USE RESTRICTION**  
(Indian Housing on Fee Land with Pro-rated Recovery Amount)

---

THE FOLLOWING PROPERTY (HEREIN AFTER THE **Property**) IS HEREBY MADE SUBJECT TO A LIEN AND COVENANT RUNNING WITH THE LAND:

Address: \_\_\_\_\_  
Located at: \_\_\_\_\_  
Lot \_\_\_\_\_, in the subdivision known as \_\_\_\_\_,  
shown by map on file in Book No. \_\_\_\_\_, pages \_\_\_\_\_ through  
\_\_\_\_\_ of Maps \_\_\_\_\_, Records of County of \_\_\_\_\_,  
and State of \_\_\_\_\_.

or

Legal description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

This Affordable Native American Useful Life/Use Restriction, a covenant running with the land (hereinafter the **Land Restriction**), dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, for good and valuable consideration, is hereby declared covenanted and made by \_\_\_\_\_ (hereinafter the **Owner**), who is the owner(s) of the Property. The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by \_\_\_\_\_, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. DEED RESTRICTED

1.1 Use Restrictions. The Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are either (i) members of, or are headed by a member of, a federally recognized tribe or an eligible State recognized tribe who are low-income, or (ii) a surviving non-tribal spouse(s) or child(ren) of such a person who shared in the occupancy of that property at the time of the death of such a person. The terms “federally recognized tribe,” “State recognized tribe” and “low-income” are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.

1.2 Restricting Owner and Subsequent Owners. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a deed restriction placed on the Property and Owner and binding and enforceable against the Owner and other subsequent owners of the Property.

1.3 Covenant Running With the Land. The Owner declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land.

1.4 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire \_\_\_\_\_ (\_\_\_\_) years from the date of this Land Restriction agreement (hereinafter the **Term**).

2.0 ENFORCEMENT

2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.

2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of \_\_\_\_\_ (\$\_\_\_\_\_) to the Owner or Property and shall be entitled to recover some or all of this amount as follows:

(a) If the Property consists of a single family unit, the Tribe shall be entitled to recover the following declining amounts for any violation of the Land Restriction agreement during the duration of this Land Restriction:

100% until expiration of seventy-five percent of the Term, then  
75% until expiration of fifty percent of the Term, 50% until  
expiration of twenty-five percent of the Term and 25% until  
expiration of the Term.

(b) If the property is not a single family unit, the Tribe shall be entitled to recover the full amount contributed for any violation of the Land Restriction agreement during the duration of this Land Restriction

2.3 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property, shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.

3.1 Notice. The Owner, and any subsequent owner of the Property, is obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: \_\_\_\_\_, that they intend to change occupancy, lease, sell, or convey the Property. This Notice shall be given no less than sixty (60) days prior to the Owner binding itself to such action(s).

3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Owner of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.

3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Owner and subsequent owners in finding individuals eligible under this Land Restriction agreement to occupy, rent, lease, purchase, or obtain title to the property.

3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

4.0 USEFUL LIFE

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the Secretary of the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to its Secretary, 25 U.S.C. § 4135(a)(2). In section 1.4 of this Land Restriction agreement, a Term has been set for this Land Restriction and that Term should not be less than what is acceptable to the Secretary of HUD based on the nature and the amount of IHBG funds to this Property. The Tribe should ensure that a Land Restriction has been obtained for a Term that meets HUD’s standards.

5.0 MISCELLANEOUS

5.1 Amendment. Any amendment to this Land Restriction by an Owner of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement. However, other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement.

5.2 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.3 Homestead Waiver. This Land Restriction is prior and superior to any Owner right to a homestead exemption under applicable law. Owners of the Property waive their homestead rights to extent that they are in conflict with the rights and remedies set out in this Land Restriction.

Executed as of the date first written above.

OWNER:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONCURRED IN BY THE TRIBE (IF DIFFERENT FROM OWNER):

Tribe: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name & Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-  
DETERMINATION ACT  
USEFUL LIFE/USE RESTRICTION  
LEASE ADDENDUM/AMENDMENT  
(Trust Land with Single Recovery Amount)**

---

This useful life/use restriction (hereinafter the **Land Restriction**), dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, for good and valuable consideration, is hereby declared, covenanted and made by \_\_\_\_\_ (hereinafter the **Lessee**), and \_\_\_\_\_ (hereinafter the **Lessor**), by adding to/amending a land lease between the same parties dated \_\_\_\_\_, Lease No. \_\_\_\_\_, Contract No. \_\_\_\_\_, and the portion of the leased property being restricted is described in Attachment A to this Land Restriction and is also imposed on any dwelling unit and other improvements thereon, (hereinafter the **Property**).

The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by \_\_\_\_\_, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. LEASE RESTRICTED

- 1.1 Use Restrictions. Each dwelling unit in or on the Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are either (i) members of, or are headed by a member of, a federally recognized tribe who are low-income, or (ii) a surviving non-tribal spouse(s) or child(ren) of such a person who shared in the occupancy of that property at the time of the death of such a person. The terms “federally recognized tribe” and “low-income” as used herein are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.
- 1.2 Restricting Lessor and Subsequent Lessors. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a restriction placed on the Property and Lessor and binding and enforceable against the Lessor and other subsequent Lessors of the Property.
- 1.3 Restricting Lessee and Subsequent Lessees. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be added to the lease and binding and enforceable against the Tribe, the Lessee, and any successor, heir, or sublessor of the Property.
- 1.4 Covenant Running With the Land. The Lessor declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land.
- 1.5 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire \_\_\_\_\_ (\_\_\_\_) years from the date of this Land Restriction agreement (hereinafter the **Term**).

2.0 ENFORCEMENT

- 2.1 Right to Enforce or Recover Damages. The Lessor and the Tribe have all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of a federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction. The Tribe also has the option of levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Lessor, or to the Lessee, by the Tribe under its low-income Native American housing programs.
- 2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of \_\_\_\_\_ (\$\_\_\_\_\_) to the Lessor or Lessee or Property and shall be entitled to recover this amount in its entirety for any violation of the Land restriction agreement during the Term of the Land Restriction.
- 2.3 Rights to Recover Other Costs by the Tribe. The Lessor and Lessee, as well as subsequent Lessors and Lessees of the Property, individually or together, shall be additionally liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.
- 3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.
- 3.1 Notice. The Lessor and Lessee, and any subsequent Lessor and Lessee of the Property, are each obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: \_\_\_\_\_, that they intend to change occupancy, lease, sell, or convey the Property. Such Notice(s) shall be given no less than sixty (60) days prior to the Lessor or Lessee binding itself to such action(s).
- 3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Lessor and Lessee of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.
- 3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Lessor and Lessee and subsequent Lessors and Lessees in finding individuals eligible under this Land Restriction agreement to occupy, rent, or lease the property.
- 3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.
- 4.0 USEFUL LIFE.
- 4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to HUD, 25 U.S.C. § 4135(a)(2). In section 1.5 of this Land Restriction agreement, a Term has been set for this Land Restriction and the Tribe has determined and additionally warrants that the Term is not be less than what is acceptable to the HUD for this property and the nature of the NAHASDA assistance given.

## 5.0 MISCELLANEOUS

- 5.1 Amendment. Any amendment to this Land Restriction by a Lessor or Lessee of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement.
- 5.2 Other Use Restrictions. Other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement and its terms.
- 5.3 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.
- 5.4 Notice of Foreclosure. A lender shall give the Tribe sixty (60) days notice of its intent to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure. During the sixty (60) day period, the Tribe, its successors or assigns, shall have the right, but not the obligation, to purchase the mortgage for the amount due hereunder (including applicable expenses), and in such event the lender shall deliver to the purchaser such assignments and other evidentiary documents as the purchaser shall reasonably request.
- 5.5 Termination of Land Restriction. If a lender acquires the Property by foreclosure or by deed in lieu of foreclosure under its mortgage, after giving the Tribe the required sixty (60) days notice, the right and restrictions contained in this Land Restriction shall terminate, and the Property shall become free from the rights and restrictions in this Land Restriction. Notwithstanding the foregoing, nothing shall prevent a lender from selling the Property subject to this Land Restriction to an eligible buyer in any foreclosure proceeding or after acquisition of title to the Property. The Tribe shall, upon request, provide a determination as to a purchaser's qualifications as an eligible buyer. In such case, the lease shall indicate that the Property is being conveyed subject to this Land Restriction. In addition, if the Tribe, or its successors or assigns, purchases the Property at a foreclosure sale or from a lender, the Tribe, or its successors or assigns may resubject the Property to this Land Restriction by supplemental recording.

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

Executed as of the date first written above.

LESSOR:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LESSEE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONCURRED IN BY THE TRIBE:

Tribe: \_\_\_\_\_

Signature: \_\_\_\_\_

Name & Title: \_\_\_\_\_

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

APPROVED:

SECRETARY OF THE INTERIOR

BY: \_\_\_\_\_

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

**ATTACHMENT A**

**Legal Description of Portion of the Property Covered by Land Restriction**  
(which includes any dwelling and other improvements thereon)

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-  
DETERMINATION ACT  
USEFUL LIFE/USE RESTRICTION  
LEASE ADDENDUM/AMENDMENT  
(Trust Land with Pro-rated Recovery Amount)**

---

This useful life/use restriction (hereinafter the **Land Restriction**), dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, for good and valuable consideration, is hereby declared, covenanted and made by \_\_\_\_\_ (hereinafter the **Lessee**), and \_\_\_\_\_ (hereinafter the **Lessor**), by adding to/amending a land lease between the same parties dated \_\_\_\_\_, Lease No. \_\_\_\_\_, Contract No. \_\_\_\_\_, and the portion of the leased property being restricted is described in Attachment A to this Land Restriction and is also imposed on any dwelling unit and other improvements thereon, (hereinafter the **Property**).

The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by \_\_\_\_\_, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. LEASE RESTRICTED

- 1.1 Use Restrictions. Each dwelling unit in or on the Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are either (i) members of, or are headed by a member of, a federally recognized tribe or an eligible State recognized tribe who are low-income, or (ii) a surviving non-tribal spouse(s) or child(ren) of such a person who shared in the occupancy of that property at the time of the death of such a person. The terms “federally recognized tribe,” “State recognized tribe” and “low-income” as used herein are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.
- 1.2 Restricting Lessor and Subsequent Lessors. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a restriction placed on the Property and Lessor and binding and enforceable against the Lessor and other subsequent Lessors of the Property.
- 1.3 Restricting Lessee and Subsequent Lessees. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be added to the lease and binding and enforceable against the Tribe, the Lessee, and any successor, heir, or sublessor of the Property.
- 1.4 Covenant Running With the Land. The Lessor declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land.
- 1.5 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire \_\_\_\_\_ (\_\_\_\_) years from the date of this Land Restriction agreement (hereinafter the **Term**).

2.0 ENFORCEMENT

- 2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.
- 2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of \_\_\_\_\_ (\$\_\_\_\_\_) to the Owner or Property and shall be entitled to recover some or all of this amount as follows:
- (a) If the Property consists of a single family unit, the Tribe shall be entitled to recover the following declining amounts for any violation of the Land Restriction agreement during the duration of this Land Restriction:
- 100% until expiration of seventy-five percent of the Term, then  
75% until expiration of fifty percent of the Term, 50% until  
expiration of twenty-five percent of the Term and 25% until  
expiration of the Term.
- (b) If the property is not a single family unit, the Tribe shall be entitled to recover the full amount contributed for any violation of the Land Restriction agreement during the duration of this Land Restriction
- 2.3 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property, shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.
- 3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.
- 3.1 Notice. The Lessor and Lessee, and any subsequent Lessor and Lessee of the Property, are each obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: \_\_\_\_\_, that they intend to change occupancy, lease, sell, or convey the Property. Such Notice(s) shall be given no less than sixty (60) days prior to the Lessor or Lessee binding itself to such action(s).
- 3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Lessor and Lessee of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.
- 3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Lessor and Lessee and subsequent Lessors and Lessees in finding individuals eligible under this Land Restriction agreement to occupy, rent, or lease the property.
- 3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

#### 4.0 USEFUL LIFE.

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to HUD, 25 U.S.C. § 4135(a)(2). In section 1.5 of this Land Restriction agreement, a Term has been set for this Land Restriction and the Tribe has determined and additionally warrants that the Term is not be less than what is acceptable to the HUD for this property and the nature of the NAHASDA assistance given.

#### 5.0 MISCELLANEOUS

5.1 Termination, Transfer or Amendment. Any transfer of the subject Property, termination of or amendment to this Land Restriction by a Lessor or Lessee of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement.

5.2 Other Use Restrictions. Other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement and its terms.

5.3 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.4 Notice of Foreclosure. A lender shall give the Tribe sixty (60) days notice of its intent to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure. During the sixty (60) day period, the Tribe, its successors or assigns, shall have the right, but not the obligation, to purchase the mortgage for the amount due hereunder (including applicable expenses), and in such event the lender shall deliver to the purchaser such assignments and other evidentiary documents as the purchaser shall reasonably request.

5.5 Termination of Land Restriction. If a lender acquires the Property by foreclosure or by deed in lieu of foreclosure under its mortgage, after giving the Tribe the required sixty (60) days notice, the right and restrictions contained in this Land Restriction shall terminate, and the Property shall become free from the rights and restrictions in this Land Restriction. Notwithstanding the foregoing, nothing shall prevent a lender from selling the Property subject to this Land Restriction to an eligible buyer in any foreclosure proceeding or after acquisition of title to the Property. The Tribe shall, upon request, provide a determination as to a purchaser's qualifications as an eligible buyer. In such case, the lease shall indicate that the Property is being conveyed subject to this Land Restriction. In addition, if the Tribe, or its successors or assigns, purchases the Property at a foreclosure sale or from a lender, the Tribe, or its successors or assigns may resubject the Property to this Land Restriction by supplemental recording.

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

Executed as of the date first written above.

LESSOR:

LESSEE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONCURRED IN BY THE TRIBE:

Tribe: \_\_\_\_\_

Signature: \_\_\_\_\_

Name & Title: \_\_\_\_\_

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

APPROVED:

SECRETARY OF THE INTERIOR

BY: \_\_\_\_\_

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

**ATTACHMENT A**

**Legal Description of Portion of the Property Covered by Land Restriction**  
(which includes any dwelling and other improvements thereon)