

ONEIDA INDIAN NATION
HOUSING CODE

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CHAPTER 1 GENERAL PROVISIONS

101. SHORT TITLE

This Code shall be known as the "Housing Code".

102. DEFINITIONS

As used in this Code, the following words will have the meanings given them in this section unless the context clearly requires otherwise:

- A. "Action, suit or lawsuit, claim, complaint or defense" means any dispute between persons or entities which relates to the sale, rental, use or occupancy of any dwelling unit, including claims for the payment of monies for such dwelling unit, damages to such units, condition of such units or the relationship between owners and occupiers of such units, including the right to occupy them.
- B. "Adult person" means any person eighteen (18) years of age or older.
- C. "Borrower/Mortgagor" means the Nation, the Housing Entity, or any individual Indian or any heir, successor, executor, administrator, or assign of the Nation or such Indian or non-Indian who has executed a Mortgage, Leasehold Mortgage or Use Mortgage, as those terms are defined in this Code.
- D. "Building" means a structure, and any appurtenances or additions thereto, designed for habitation, shelter, storage and the like.
- E. "Building codes or housing codes" mean any law, ordinance, regulation, or policy of the Nation which deals with fitness for habitation, health conditions, or the safety, construction, maintenance, operation, occupancy, use, or appearance of any dwelling unit.
- F. "Court" means the Oneida Nation Court.
- G. "Court Clerk" means the Clerk of the Oneida Nation Court. The Court Clerk is the person designated by the Nation to perform the recording functions required by this Code or any deputy or designee of such person.
- H. "Distribution Proceeds" mean any grant of money by the Nation to its members from the revenues of Nation businesses other than gaming under the Indian Gaming Regulatory Act.

- I. "Dwelling unit" means a house or other building or any portion thereof, which are rented, leased, permitted or otherwise used as a residence or sleeping place by any person, not including public transient accommodations, such as hotel rooms.
- J. "Ground Lease" means a written agreement, including rules and regulations, regarding the terms and conditions of the use and occupancy of land located in a designated area.
- K. "Guest" means any person, other than the Homeowner, owner or tenant, in or around a dwelling unit with the permission and consent of the Homeowner, owner or tenant.
- L. "He/His" means the masculine as well as the feminine gender and the singular includes the plural.
- M. "Homeowner" means a person who has the right pursuant to a valid Use Rights and Homeowner Agreement to use and occupy a Home.
- N. "Home" means a dwelling unit located on Nation land that is used as a principal residence.
- O. "House Trailer" means any enclosed building or structure built on a chassis and at any time mounted on wheels.
- P. "Housing Entity" means the Oneida Housing Corporation, established by Nation Ordinance 0-97-03, its predecessors, its successors or any other entity or agency established by the Nation for the purpose of developing, or overseeing dwelling units within the territorial jurisdiction of the Nation.
- Q. "Landlord" means the Nation, the Housing Entity, a person, an entity or government agency which is the owner, lessor, or sublessor of a dwelling unit intended for the use of tenants.
- R. "Leasehold Mortgage" means the mortgage of a Ground Lease given to secure a loan, and may be created under the auspices of any federal agency homebuyer program, programs administered by the Housing Entity, or any other agreement entered between a Borrower/Mortgagor and a Lender/Mortgagee.
- S. "Lender designated assignee" means any Lender, as defined in this Code, who may receive an assignment or transfer of an interest in a Mortgage or Lease and/or Leasehold Mortgage. A Lender must seek written approval from the Nation of a proposed Lender designated assignee any time prior to such assignment, transfer or assumption, except where the U.S. government and federal agencies guaranteeing or insuring the Mortgage or Leasehold Mortgage acts as the Lender designated assignee.

- T. “Lender/Mortgagee” or “Lender” means any private lending institution established to primarily loan funds and not to invest in or purchase properties; the Nation; the Housing Entity; a U.S. government agency which loans money, guarantees or insures loan to a Borrower for construction, acquisition, or rehabilitation of a dwelling unit.
- U. “Lessor” means the Nation or any legal, beneficial, or suitable owner of property under a Ground Lease, including the heir, successor, executor, administrator, or assign of the lessor.
- V. “Lessee” means any person who uses and/or occupies real property under a Ground Lease. The lessee may, for purposes of federal agency home mortgage programs, be the Housing Entity.
- W. “Mortgage” means a lien as is commonly given to secure advances on, or the unpaid purchase price of a building or land, or the use of such building or land and may refer both to a security instrument creating a lien, whether called a mortgage, Leasehold Mortgage, Use Mortgage, deed of trust, security deed, or other term, as well as the credit instrument, or note, secured thereby.
- X. “Mortgage foreclosure proceeding” means a proceeding in the Court:
1. To foreclose the interest of a Borrower/Mortgagor, and each person or entity claiming through the Borrower/Mortgagor, in real property, or a building, or in the case of a Leasehold Mortgage, a Lease for which a Mortgage has been given under a home purchase program of any governmental agency, or in the case of a Use Mortgage, a Use Rights and Homeowner Agreement for which a Mortgage has been given under a loan program of the Nation; and
 2. To assign, where appropriate, the Borrower/Mortgagor’s interest to a designated assignee.
- Y. “Mortgagor/Borrower” - see Borrower/Mortgagor.
- Z. “Mortgagee/Lender” - see Lender/Mortgagee.
- AA. “Nation” means Oneida Indian Nation and its authorized representatives and agents.
- AB. “Native American” or “Indian” means any person recognized as being a Native American or Indian or Alaska Native by any Indian Nation, or by the government of the United States.
- AC. “Nuisance” means maintenance or allowance on real property of a condition which unreasonably threatens the health or safety of the public or neighboring

persons or unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of the property.

- AD. "Person" means the Nation, its agents, including the Housing Entity, or any individual, or other organization or entity. "Person" includes persons unless the context in which "person" is used requires otherwise.
- AE. "Premises" means a dwelling unit and, where applicable, the structure of which it is a part, and all facilities and areas connected with it, including grounds, common areas, and facilities intended for the use of tenants or Homeowners.
- AF. "Purchaser" means any person who is eligible to buy the right to enter into a Use Rights and Homeowner Agreement for a Home and who does so.
- AG. "Rent" means all payments to be made to a landlord or lessor under a lease.
- AH. "Rental Agreement" means a written agreement including valid rules and regulations, regarding the terms and conditions of the use and occupancy of dwelling units, buildings, or premises including lease-to-purchase agreements such as the Mutual Help Occupancy Agreement.
- AI. "Subordinate lienholder" means the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a mortgage under this Code, except the Nation shall not be considered a subordinate lienholder with respect to any claim regarding a Nation tax on real property.
- AJ. "Tenant" means any person entitled under a rental agreement or Lease to use or occupy a dwelling unit or premises, including a homebuyer under any federal lease-to-purchase programs such as the Mutual Help Program.
- AK. "Territorial jurisdiction" means all lands possessed, occupied or held by or for the Nation within the exterior boundaries of the reservation recognized by the 1794 Treaty of Canandaigua between the Nation and the United States of America.
- AL. "Use Mortgage" means a lien on the Homeowner's interest in a Use Rights and Homeowner Agreement.

103. APPLICABILITY

- A. This Code shall apply to any and all arrangements, formal or informal, written or oral or by the practice of the parties, in selling, buying, renting, leasing, occupying, or using any and all housing, dwellings, building or premises for human occupation and residence. This Code shall also apply to any and all mortgages, leasehold mortgages, Use Mortgages, and agreements to secure an interest in real property, premises, a building or a dwelling unit, or the use thereof.

- B. The following arrangements are not governed by this Code:
1. Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service; or
 2. Occupancy in a hotel, motel, or other commercial lodging.

104. JURISDICTION

- A. Jurisdiction is extended over all buildings and lands intended for human dwelling, occupation or residence which may lie within the territorial jurisdiction of the Nation.
- B. Jurisdiction is extended over all persons or entities within the territorial jurisdiction of the Nation who sell, rent, lease, or allow persons to occupy any dwelling, building or premises for the purpose of human dwelling, occupation, or residence, and all persons who buy, rent, lease, or occupy any such dwelling, building, or premises. Jurisdiction is extended over all persons or entities within the territorial jurisdiction of the Nation who lease, mortgage, or otherwise secure an interest in a building, premises, or real property or in the use thereof. Such personal jurisdiction is extended over all persons and entities, whether or not they are members of the Nation, whether or not they are Native American, and whether or not they have a place of business within the territorial jurisdiction of the Nation. Any act dealing with the subject matter of this Code shall be subject to the exclusive jurisdiction of the Nation.
- C. Jurisdiction over all matters arising within the jurisdiction of the Nation with respect to the subjects of this Code, and jurisdiction with respect to any person or entity acting or causing actions which arise under this Code shall be exercised by the Oneida Nation Court.

105. PURPOSES AND INTERPRETATION

This Code shall be interpreted and construed to fulfill the following purposes:

- A. To simplify the law governing the use and occupation of dwelling units, buildings, premises, or real property for primarily residential use and to protect the rights of Homeowners, landlords, and tenants.
- B. To preserve the peace, harmony, safety, health and general welfare of the people of the Nation and those permitted to enter or reside within the territorial jurisdiction of the Nation.
- C. To avail the Nation, Nation entities, and Nation members of financing for the construction, rehabilitation and/or purchase of family residences on land within

the jurisdiction of the Nation by prescribing procedures for the recording, priority and foreclosure of mortgages given to secure loans made by or through any government agency or private lending institution.

- D. To establish laws and procedures which are necessary in order to obtain federal, state, or private funding for Nation housing programs or loan guarantees for private or Nation housing construction, purchase, or renovation.

106. RELATION TO OTHER LAWS

To the extent that this Code may conflict with Nation laws or ordinances which have been enacted to comply with statutes or regulations of any agency of the United States, such Nation laws or ordinances shall govern over the provisions of this Code if such laws or ordinances have specific applicability and they are clearly in conflict with the provisions of this Code.

CHAPTER 2 LANDLORD/TENANT RESPONSIBILITIES AND REMEDIES

201. RENTAL AGREEMENTS

- A. Effect of Rental Agreements. The provisions of this Code establish the minimum rights and responsibilities of landlords and tenants. Unless inconsistent with this Code, rental agreements may supplement these minimum rights and responsibilities.
- B. Terms Prohibited in Rental Agreements. No rental agreement shall provide that the tenant agrees: (1) to waive or forfeit his rights or remedies under this Code or any other applicable Nation law or ordinance; (2) to exculpate or limit the liability of the landlord or to indemnify the landlord for that liability or the costs connected therewith; (3) to permit the landlord to dispossess him without resort to court order; or (4) to pay a late charge prior to the expiration of the grace period set forth in this Code. A provision prohibited by this subsection shall be unenforceable.
- C. Term of Tenancy. In the absence of a definite terms in the rental agreement, the tenancy shall be month-to-month.
- D. Payment of Rent. In the absence of definite terms in the rental agreement, rent is payable at the landlord's office or collectable at the dwelling unit. In the absence of definite terms, the amount of rent shall be the fair market value of the rental unit.

202. RULES AND REGULATIONS

- A. The landlord may promulgate reasonable rules and regulations regarding the use and occupancy of the premises.
- B. Such rules and regulations are enforceable against the tenant only if:
 - 1. their purpose is to promote convenience, safety or welfare, preserve the landlord's property from abusive use or make a fair distribution of services and facilities held out for all tenants generally;
 - 2. the rules and regulations are reasonably related to the purpose for which they are adopted;
 - 3. the rules and regulations apply to all tenants in a fair manner;

4. the rules and regulations are sufficiently explicit in their prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant of what shall or shall not be done to comply; and
5. the tenant has notice of the rules and regulations at the time the rental agreement is entered into or when they are adopted.

203. LANDLORD RESPONSIBILITIES

Except as otherwise provided in a rental agreement, each landlord shall:

- A. Maintain the dwelling unit in a decent, safe, and sanitary condition;
- B. Comply with applicable Nation building and housing codes;
- C. Make all repairs necessary to maintain the premises in a fit and habitable condition, except where the premises are intentionally rendered unfit or uninhabitable by a tenant or a guest of the tenant, in which case payment for repairs shall be the responsibility of the tenant;
- D. Keep common areas clean and safe;
- E. Maintain in good condition and safe working order all electrical, plumbing, sanitary, heating, ventilation, air-conditioning, and other facilities and appliances, where such things are not the responsibility of a tenant or are generated by an installation within the exclusive control of such tenant or supplied by a direct public service utility connection;
- F. Provide and maintain proper and appropriate receptacles and facilities for the disposal of ashes, garbage, rubbish, and other waste;
- G. Provide running water, hot water, and heat in accordance with applicable building and housing codes, except to the extent a tenant is required to provide such for himself;
- H. Guarantee the right of quiet enjoyment of a dwelling unit to a tenant;
- I. Give sole possession of the dwelling unit to a tenant in accordance with the rental agreement and refrain from: (1) entering the unit, except as authorized in this Code; (2) making repeated demands for entry otherwise lawful under this Code but which have the effect of unreasonably harassing a tenant; (3) sexually harassing or physically assaulting a tenant in or around his dwelling unit, or (4) locking a tenant out of a dwelling without such tenant's consent.
- J. Disclose, in writing, the name, address, and telephone number of the person responsible for receiving rent, notices and demands under this Code, the person

authorized to manage the premises, the owner of the premises or his agent, and the person responsible for making required repairs.

204. TENANT RESPONSIBILITIES

Except as otherwise provided in a rental agreement each tenant shall:

- A. Pay rent to the landlord without demand or notice;
- B. Immediately notify the landlord of any defects in the premises which are hazardous to life, health, or safety;
- C. Keep the dwelling unit reasonably clean and dispose of all ashes, garbage or other waste, rubbish, junk, and abandoned vehicles in a proper, sanitary, and safe manner;
- D. Use all electrical, plumbing, sanitary, heating, ventilation, air-conditioning, and other facilities and appliances which are part of the dwelling unit or premises, in a proper, safe, sanitary, and reasonable manner;
- E. Refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or premises and to require guests to act in a like manner.
- F. Pay reasonable charges for the repair of damages, other than normal wear and tear, to the dwelling unit or premises caused by a tenant or tenant's guests, or to repair such damages as required under the rental agreement, within thirty (30) calendar days of such damage.
- G. Conduct himself, and require his guests to conduct themselves, in a manner which does not disturb the quiet enjoyment of others or cause a breach of the peace.
- H. Not give up the dwelling unit to others, assign a rental agreement, or sublease the dwelling unit without the permission of the landlord.
- I. Use the dwelling unit only for residential purposes or other lawful purposes, and not to use the unit or permit its use for any other purpose, including illegal conduct or any other activity which may harm the physical or social environment of the premises or the area around it.
- J. Abide by all rules and regulations promulgated by the landlord in accordance with this Code.
- K. Provide the landlord access to the dwelling unit to perform maintenance and repairs, inspect the premises, supply necessary or agreed services, or show the dwelling unit to prospective buyers or tenants, provided that such access shall be at reasonable times when the tenant is present, and upon reasonable written or oral

notice from the landlord, except in emergency situations where the health, safety or welfare of the tenant or the tenant's neighbors is in immediate danger or where the tenant consents. No tenant who unreasonably denies access to a landlord for these purposes may pursue an action or grievance on the grounds that any services or repairs were not provided.

205. TENANT REMEDIES

Where a landlord has not complied with this Code or the agreement of the parties, a tenant has the following rights:

- A. To give reasonable notice to the landlord to comply with its obligations;
- B. To demand repairs or maintenance which are the responsibility of the landlord. Should landlord fail to make repairs within a reasonable time after such demand, tenant may make necessary repairs and deduct the cost from the rent payment;
- C. To terminate the rental agreement under which the tenant occupies the premises;
or
- D. To seek a Court order or judgment for the payment of monies or costs, compliance with the rental agreement and other obligations of landlord, termination of the rental agreement, payment of damages, or any other relief to which tenant may be entitled by law or equity, or by agreement of the parties.

206. LANDLORD REMEDIES

Where a tenant has not complied with this Code or the agreement of the parties, the landlord has the right to:

- A. Give reasonable notice to the tenant to comply with tenant's obligations, pay any monies due and owing under the agreement of the parties, make repairs which are the responsibility of the tenant, and comply with rules and regulations for occupancy.
- B. Terminate the agreement under which the tenant occupies the premises, and demand that the tenant and any guests or occupants leave the premises.
- C. Seek a court order or judgment for the payment of monies or costs, compliance with the rental agreement and other obligations of tenant, termination of the rental agreement, payment of damages, eviction of tenant, or any other relief to which landlord may be entitled by Nation law, or agreement of the parties.

207. ABANDONED DWELLING UNITS

A landlord may regain possession of an abandoned dwelling unit in accordance with this section. The landlord need not comply with the procedures set forth in Chapter Three of this Code to obtain possession of a dwelling unit which has been abandoned.

- A. A dwelling unit will be deemed abandoned when the tenant has vacated the unit without notice to the landlord and does not intend to return, which is evidenced by the removal by the tenant or his agent of substantially all of his possessions and personal effects from the premises and either: (1) nonpayment of rent for two or more months, (2) terminated water or electrical utility service for more than one month, or (3) an express statement by the tenant that he does not intend to occupy the premises after a specified date.
- B. The landlord must send notice to the tenant at his last-known address by both regular mail, postage prepaid, and certified mail, return receipt requested, stating that: (1) landlord has reason to believe that the tenant has abandoned the dwelling unit, (2) landlord intends to reenter and take possession of the dwelling unit unless the tenant contacts him within ten (10) days of receipt of the notice, (3) if the tenant does not contact him, landlord intends to remove any possessions and personal effects remaining in the premises and to rent the premises, and (4) if the tenant does not reclaim such possessions and personal effects within thirty (30) days after the notice, they will be disposed of in accordance with section 415(c) of this Code. The notice shall be in clear and simple language and shall include a telephone number and a mailing address at which the landlord can be contacted. If the notice is returned as undeliverable, or if the tenant fails to contact the landlord within ten (10) days of the receipt of the notice, the landlord may reenter and take possession of the dwelling unit, at which time any rental agreement in effect shall terminate.

208. SECURITY DEPOSITS

- A. Security Deposit Limits. A landlord may demand a security deposit of an amount equal to one-hundred dollars (\$100) or one month's periodic rent, whichever is greater, in addition to the current month's rent. Additional security deposits may be allowed for special circumstances such as animals or pets or prior tenant history of property damage.
- B. Payment of Security Deposit at Termination of Tenancy. The person who is the landlord at the time a tenancy is terminated shall pay to the tenant, within thirty days of such termination the amount of the security deposit that was deposited by the tenant with the person who was landlord at the time such security deposit was deposited less the value of any damages resulting from tenant's failure to comply with its obligations. Damages shall not include normal wear and tear.

- C. Action to Reclaim Security Deposit. Any tenant may bring an action in the Nation Court to reclaim any part of his security deposit which may be due.

209. RETROACTIVE EFFECT

This Code shall apply to all rental agreements subject to the provision of this Code no matter when the rental agreement commenced.

CHAPTER 3 GROUNDS FOR EVICTION/NOTICE TO QUIT/
PRE-EVICTION OPTIONS

301. GROUNDS FOR EVICTION

A tenant may be evicted for:

- A. Nonpayment of rent under a rental agreement when such payments are not made after ten (10) calendar days of the date of payment set forth in the agreement, or ten (10) calendar days following the first day of the month in a month-to-month tenancy.
- B. Any arrearage in rent, costs, or damages which have been due and owing for thirty (30) calendar days or more. The receipt by a landlord or partial payments under an agreement shall not excuse the payment of any balance due upon demand.
- C. Nuisance, damage, or destruction of property, injury to any person, or disturbance of peace of other tenants.
- D. Violation of the Housing Code or any rule or regulation adopted in accordance with this Code.
- E. Noncompliance with any Nation building, health or safety code or other Nation law.
- F. Occupation of any premises without permission or agreement, following any reasonable demand by a person in authority over the premises to leave.
- G. Failure to comply with any term in the rental agreement which does not conflict with the provisions of this Code.

302. NOTICE TO QUIT REQUIREMENTS

- A. When Notice to Quit is Required. When a landlord desires to obtain possession of a dwelling unit or premises, and when there exists one or more legally cognizable reasons to evict a tenant from the dwelling unit or premises, the landlord shall give written notice to the tenants to quit possession of such dwelling unit or premises in accordance with the provisions of this Chapter.

B. Statement of Grounds for Eviction Required. The notice to quit shall be addressed to the known tenants of the dwelling unit or premises and shall state the reason(s) for termination of the tenancy and the date by which the tenant is required to quit possession.

C. Form of Notice. The notice shall be in writing substantially in the following form:

I (or we) hereby give you notice that you are to quit possession or occupancy of the dwelling unit or premises now occupied by you at (here insert the address or other reasonable description of the location), on or before the (here insert the date) for the following reason (here insert the reason or reasons for the notice to quit possession using the statutory language or words of similar import). Signed, (here insert the signature, name and address of the landlord, as well as the date and place of signing).

D. Time Requirements for Notice. The notice must be delivered within the following periods of time:

1. No less than seven (7) calendar days prior to the date to quit specified in the notice for any failure to pay rent or other payments required by the rental agreement.
2. No less than five (5) calendar days prior to the date to quit specified in the notice for nuisance, serious damage to property, or injury to persons. In situations in which there is an emergency, such as a fire or condition making the dwelling unit unsafe or uninhabitable, or in situations involving an imminent or serious threat to public health or safety, the notice may be made in a period of time which is reasonable under the circumstances;
3. No less than fourteen (14) calendar days in all other situations.

303. SERVING THE NOTICE TO QUIT

Any notice to quit must be in writing, and must be delivered to the tenant in the following manner:

- A. Delivery must be made by (1) a law enforcement officer of the Nation, or (2) any person, not a party to the action, over the age of 18 years.
- B. Delivery will be effective when it is:
 1. Personally delivered to the tenant; or

2. Personally delivered to an adult living in the premises with a copy delivered by certified mail to the tenant, or
 3. Personally delivered to an adult agent or employee of the tenant with a copy delivered by certified mail to the tenant.
- C. If the notice cannot be given by means of personal delivery, or the tenant cannot be found, the notice may be delivered by means of:
1. Certified mail, return receipt requested, at the last known address of the tenant, or
 2. Securing a copy of the notice to the main entry door of the premises in such a manner that it is not likely to blow away, posting a copy of the notice in some public place near the premises, including a Nation office, or other commonly-frequented Nation facility, and sending a copy first class mail, postage prepaid, addressed to the tenant at the premises.
- D. The person serving the notice must return the proof of service to the landlord.

304. PRE-EVICTION OPTIONS

- A. Negotiated Settlement. After a Notice to Quit is served upon a tenant, the landlord and tenant may engage in discussions to settle the issues between the parties and avoid an eviction proceeding. The agreement to enter into discussions will not affect the rights of the parties unless the parties reach an agreement to waive any of their rights.
- B. Stay of Proceedings. Where the parties mutually agree in good faith to proceed with such discussions, and formal eviction procedures have been initiated, upon notice, the court shall stay such proceedings until notified that a hearing is required or that a settlement has been reached.
- C. Settlement Options. In reaching an agreement, the parties may consider, but are not limited to the following options:
1. The parties may employ the use of advocates or attorneys;
 2. The parties may employ the use of the peacemaker;
 3. The parties may agree to dismiss the matter in exchange for any agreement reached;
 4. The parties may agree to stipulate to a judgment to be entered by the court.

CHAPTER 4 JUDICIAL EVICTION PROCEDURES

401. COMPLAINT

If, after the expiration date set forth in the notice to quit the tenant has not quit possession of the dwelling unit, the landlord may file a complaint in the Court for eviction. The complaint shall state:

- A. The names and known addresses of the tenant(s) against whom the suit is brought;
- B. A description of the rental agreement, if any;
- C. The address or reasonable description of the location of the premises;
- D. The grounds for eviction;
- E. A statement showing that the notice to quit and any required notices have been served in accordance with this Code or other applicable Nation law or ordinance;
- F. A statement of the relief demanded, including any claim for possession of the dwelling unit, damages, fees, costs, or other relief; and
- G. If the landlord is the Housing Entity, a statement that the Housing Entity has complied with all required regulatory processes prior to filing the eviction action.

402. ACTION UPON FILING COMPLAINT

When a complaint is filed in the Court pursuant to this Code, the Court shall issue an order requiring the defendant named in the complaint to appear before the Court on a certain date to answer the complaint. The date for appearance for answering the complaint shall be no less than ten (10) calendar days after the date of the order.

403. COMMENCEMENT OF PROCEEDINGS

- A. If the tenant appears before the Court in person or in writing to answer the complaint, the Court shall set a trial date. Any written response shall state any defenses or factual disputes and where any defendant appears in person, a written response shall be served upon the plaintiff within five (5) calendar days of any hearing, excluding weekends and holidays.
- B. The Court shall set a trial date which is no more than fifteen (15) calendar days following the date for appearance.

- C. A defendant may, for good cause shown, obtain an extension of time beyond the fifteen (15) day period. The Court may refuse to extend the trial date where the complaint is based upon nuisance or injuries as provided in Section 301 of Chapter 3, and shall not extend the date of hearing where the complaint is based upon conduct which would constitute a serious danger to public health, safety, or peace.
- D. The Court may, in its discretion, and on motion from the landlord order the tenant to pay into the Court rents for the use and occupancy during the pendency of the eviction case.

404. DEFENSES

The Court shall grant the remedies allowed in this Code, unless it appears by the evidence that:

- 1. The landlord has not proven a breach of the lease.
- 2. The premises are untenable, uninhabitable, or constitute a situation where there is a constructive eviction of the tenant, in that the premises are in such a condition, due to the fault of the landlord, that they constitute a real and serious hazard to human health and safety and not a mere inconvenience.
- 3. The landlord has, without good cause, failed or refused to make repairs which are his responsibility after a reasonable demand by a tenant to do so, and the repairs are necessary for the reasonable enjoyment of the premises.
- 4. There are monies due and owing to the tenant because he has been required to make repairs which are the obligation of the landlord and the landlord has failed or refused to make them after reasonable notice and demand. Such sums may be a complete or partial defense to a complaint for eviction, but only to the extent that such sums set off monies owed for rent. A tenant may be evicted after such period if he fails or refuses to pay the reasonable rental value of the premises.
- 5. Due to the conduct of the landlord, there is injury to the tenant in such a way that justice requires that relief be modified or denied, including the equitable defenses of estoppel, laches, fraud, misrepresentation, and breaches of serious and material obligations for public health, safety, and peace standards.
- 6. That there are such serious and material breaches of the rental agreement or this Code that it would be unjust to grant landlord a remedy.

7. The landlord is evicting the tenant because of his/her sex, sexual orientation, religion, age, marital status, family status, or disability.
8. Any other material or relevant fact the tenant might present that may explain why his eviction is unjust and unfair.

405. DISCOVERY AND PREHEARING PROCEEDINGS

Extensive, prolonged, or time-consuming discovery and prehearing proceedings will not be permitted, except in the interests of justice and for good cause shown by the moving party. Discovery shall be informal, and reasonably provided on demand of a party, and it shall be completed within five (5) calendar days of the date of trial. Requests for discovery shall be made no later than three (3) calendar days following the setting of the trial date. The Court may enter reasonable orders requiring discovery or protecting the rights of the parties upon reasonable notice.

406. EVIDENCE

Evidence in proceedings under this Code shall be under the provisions of the Oneida Indian Nation Rules of Evidence.

407. BURDEN OF PROOF

The burden of proof in all proceedings under this Code shall be preponderance of the evidence.

408. JUDGMENT

- A. Within five (5) calendar days of the date of the trial, the Court shall grant and enter judgment and the judgment shall grant all relief that the parties are entitled to as of the date of the judgment. The judgment may:
 1. Order the immediate eviction of a tenant;
 2. Order delivery of the premises to the appropriate party;
 3. Grant damages as provided in any agreement of the parties or by this Code, including interest;
 4. Order the parties to carry out an obligation required by Nation law;
 5. Establish a payment plan for the tenant;
 6. Order rent payments out of distribution payments or through garnishment;

7. Establish an authority in another person/agency to fulfill rights or obligations of either landlord or tenant;
8. Remediate the action, in part or in whole, through appropriate recalculation of rent;
9. Order the payment of attorneys' fees and the costs and expenses of litigation;
10. Grant any relief provided in this Code.

- B. If a tenant fails to appear in person or in writing on or before the date of appearance, the Court shall enter judgment on behalf of the landlord following a hearing to determine whether relief should be granted and the kind of relief that should be granted.

409. FORM OF JUDGMENT

The judgment shall state the relief granted by the Court to any party, but need not state findings of fact or conclusions of law in support of the judgment. The judgment may state brief reasons supporting the judgment. If a trial is held, the judge should, whenever possible, render his decision immediately after both parties have rested their case and award costs and fees as appropriate.

410. EXECUTION OF JUDGMENT

Any judgment may be immediately executed, and the judgments and orders of the Court shall enforced by a Nation police officer. The police officer shall, upon receipt of an order of the Court, execute the judgment or order made by it within five (5) calendar days of the date of the judgment or order and make a report to the Court on what was done to enforce it. Any police officer to whom a judgment or order is given for enforcement who fails, in the absence of good faith, or refuses to execute it shall be subject to the payment of reasonable damages, costs, and expenses to a party for failure to execute the judgment and/or suspension from employment.

411. STAY OF EXECUTION

If judgment for possession of the dwelling is entered in favor of the landlord, the tenant may apply for a stay of execution of the judgment or order within five (5) days of the judgment being rendered, if the following is established:

- A. Good and reasonable grounds affecting the well-being of the party are stated;
- B. There would be no substantial prejudice or injury to the prevailing party during the period of the stay; or
- C. Execution of the judgment could result in extreme hardship for the tenant; or

- D. A bond is posted or monies are paid to the Court to satisfy the judgment or pay for the reasonable use and occupancy of the premises during the period of time following the judgment. No stay may exceed one month in the aggregate. The clerk shall distribute such arrearages to the landlord in accordance with any order of the Court.

412. APPEALS

Appeals under this Chapter shall be in accordance with the Oneida Indian Nation Rules of Appellate Procedure and shall be to the Nation Appellate Court.

413. MISCELLANEOUS COMPLAINTS AND CLAIMS

Any miscellaneous complaint or claim including a complaint or claim by a tenant which does not fall within the procedures of this code may be made under the Rules of Civil Procedure Code.

414. JUDGMENT TO LEAVE THE PREMISES

Any judgment to leave a premises shall be by written order of the Court and shall be delivered to the tenant in the following manner:

- A. Delivery shall be made by:
 - 1. A police officer of the Nation; or
 - 2. Any person authorized by the Court.
- B. Delivery will be effective when it is:
 - 1. Personally delivered to a tenant; or
 - 2. Personally delivered to an adult living in the premises with a copy delivered by mail to the tenant, or
 - 3. Personally delivered to an adult agent or employee of the tenant with a copy delivered by mail to the tenant.
- C. If the notice cannot be given by means of personal delivery, or the tenant cannot be found, the notice may be delivered by means of:
 - 1. Certified mail, return receipt requested, to the last known address of the tenant, or
 - 2. Securing a copy of the notice to the main entry door of the premises in such a manner that it is not likely to blow away, posting a copy of the

notice in some public place near the premises, including a Nation office, or other commonly-frequented Nation facility, and sending a copy first class mail, postage prepaid, addressed to the tenant at the premises.

415. FORCIBLE EVICTION

- A. Where the Court orders an eviction, and the tenant or any other occupant of the premises refuses to vacate voluntarily by the effective date of that Order, the tenant or other occupants may be forcibly removed from the premises by a Nation law enforcement officer. At the hearing where the eviction is ordered, the Court shall inform the tenant that if he does not vacate the premises voluntarily by the effective date, he and the other occupants will be subject to forcible eviction, and their property will be subject to storage, sale and disposal as set forth in subsection C below.
- B. Following eviction, the Court may allow the landlord access to the property for purposes of preserving and securing the property.
- C. Following forcible eviction of the tenant and/or other occupants, the personal property of the tenant and/or occupants shall be stored by the landlord or owner of the premises for at least thirty (30) days, either on the premises or at another suitable location. In order to reclaim their property, the former tenant and/or other occupants shall pay the reasonable costs of removal and storage. If they do not pay such costs within thirty (30) days, the landlord or owner is authorized to sell the property in order to recover these costs. The landlord or owner shall provide the former tenant and/or occupants with pertinent information concerning the sale, including the time, date and location. Any proceeds from the sale in excess of the storage and removal costs shall be remitted to the former tenant and/or occupants. Nothing in this section shall be construed to prevent the former tenant and/or occupants from reclaiming property remaining after the sale if they can arrange to do so in a reasonable manner satisfactory to the landlord or owner.

416. NO SELF-HELP EVICTION

No landlord may compel a tenant to vacate any premises in a forceful fashion or way which causes a breach of the peace without giving a notice to quit and obtaining a Court order as provided in this Code.

CHAPTER 5 MORTGAGE AND FORECLOSURE

501. PRIORITY

All mortgages recorded in accordance with the procedures set forth in this Chapter shall have priority over any lien or claim subsequently recorded excepting a lien or claim arising from a Nation levy or assessment imposed against the subject property after such time as the mortgage upon which the lien is based was recorded. Notwithstanding the foregoing, no mortgage, lien or claim arising from such mortgage shall be effective without prior written approval of the Nation.

502. RECORDATION

- A. The Court Clerk shall maintain a system for the recording of mortgages and such other documents as the Nation may designate by law or ordinance.
- B. The Court Clerk shall endorse upon any mortgage or other document received for recording:
 - 1. The date and time of receipt of the mortgage or other document;
 - 2. The filing number, to be assigned by the Court Clerk, which shall be a unique number for each mortgage or other document received; and
 - 3. The name of the Court Clerk or designee receiving the mortgage or document.

Upon completion of these endorsements, the Court Clerk shall make a true and correct copy of the mortgage or other document and shall certify the copy as follows:

Oneida Indian Nation ss.:

I certify that this is a true and correct copy of the document received for recording this date.

Given under my hand and seal this _____ day of _____, 20__.

(SEAL)

(Signature)

(Date)

The Court Clerk shall maintain the true and correct copy in the records and shall return the original document to the person or entity that presented the same for recording.

- C. Upon satisfaction of the mortgage, the holder of the mortgage shall record with the Court Clerk an instrument evidencing the satisfaction of the mortgage in the following form:

Known all men by these presents, that _____ do hereby certify that a certain mortgage, bearing date of _____, made and executed by _____ to secure payment of the principal sum of _____, and duly recorded with the Court Clerk of the Oneida Indian Nation as [insert recording information], on the ____ day of ____, 20__, is paid, and do hereby consent that the same be discharged of record.

Given under my hand and seal this ____ day of _____, 20__.

(SEAL)

(Signature)

(Title)

(Date)

The satisfaction shall be filed with the Court Clerk within thirty (30) days of actual receipt of full payment under the mortgage.

503. MORTGAGE DEFAULT

- A. A Borrower/Mortgagor shall be considered to be in default when such individual is thirty (30) days past due on all or part of any mortgage payment to the Lender/Mortgagee or thirty (30) days following any other default pursuant to the mortgage documents.
- B. Before a Borrower/Mortgagor is ninety (90) days in default under a mortgage and before any foreclosure action or activity is initiated, the Lender/Mortgagee shall:
1. Make a reasonable effort to arrange a face-to-face interview with the Borrower/Mortgagor, which effort shall be documented by the Lender/Mortgagee; or
 2. Make at least one phone call to the Borrower/Mortgagor, or the nearest phone designated by the Borrower/Mortgagor as able to receive and relay messages to the Borrower/Mortgagor, which effort shall be documented by the Lender/Mortgagee.
- C. Lender/Mortgagee may appoint an agent to perform the services of arranging and conducting the face-to-face or telephone interview specified in this section.

D. No sooner than thirty (30) days following a determination of a default as specified in Section 503.A. of the Code and no later than ten (10) days before initiating a foreclosure action in the Nation Court, the Lender/Mortgagee shall issue a written notice to the Borrower/Mortgagor by certified mail or by posting the notice prominently on the premises, with a copy simultaneously provided to the Nation. The notice shall:

1. Advise the Borrower/Mortgagor that he or she is in default;
2. Advise the Borrower/Mortgagor that information regarding the loan and default will be given to credit bureaus;
3. Advise the Borrower/Mortgagor of homeownership counseling opportunities/programs available through the Lender/Mortgagee or otherwise;
4. Advise the Borrower/Mortgagor of other available assistance regarding the mortgage default; and
5. In addition to the preceding notification requirements, the Lender/Mortgagee shall complete the following additional notice requirements when a Leasehold Mortgage is involved:
 - a. notify the Borrower/Mortgagor that if the Leasehold Mortgage remains in default for more than ninety (90) days, the Lender/Mortgagee may ask the applicable governmental agency to accept assignment of the Leasehold Mortgage if this is a requirement of the governmental program;
 - b. notify the Borrower/Mortgagor of the qualifications for forbearance relief from the Lender/Mortgagee, if any, and that forbearance relief may be available from the government if the mortgage is assigned; and
 - c. provide the Borrower/Mortgagor with names and addresses of government officials to whom further communications may be addressed, if any.

504. FORECLOSURE COMPLAINT AND SUMMONS

A. No sooner than sixty (60) days following a determination of a default as specified in Section 503.A. of the Code and provided Lender/Mortgagee has complied with the requirements of Section 503 of the Code, the Lender/Mortgagee shall be entitled to initiate a foreclosure action in the Nation Court by filing a verified complaint in accordance with the following procedures. The verified complaint in a mortgage foreclosure proceeding shall contain the following:

1. The name of the Borrower/Mortgagor and each person or entity claiming through the Borrower/Mortgagor subsequent to the recording of the mortgage, including each Subordinate Lienholder, except the Nation with respect to a claim for a Nation leasehold, as a defendant;
 2. A description of the property or interest subject to the mortgage;
 3. A concise statement of the facts concerning the execution of the mortgage, any Use Rights and Homeowner Agreement, and the Ground Lease in the case of a Leasehold Mortgage; the facts concerning the recording of the mortgage or the Leasehold Mortgage; the facts concerning the alleged default of the Borrower/Mortgagor; and such other facts as may be necessary to constitute a cause of action;
 4. True and correct copies of each promissory note and mortgage, any Use Rights and Homeowner Agreement, and if a Leasehold Mortgage, a copy of the Ground Lease, the Leasehold Mortgage or any assignments thereof relating to the property (appended as exhibits); and
 5. Any applicable allegations concerning relevant requirements and conditions prescribed in (1) federal statutes and regulations (2) Nation codes, ordinances and regulations; and/or (3) provisions of the Use Rights and Homeowner Agreement, Ground Lease or Leasehold Mortgage, or other security instrument.
- B. The complaint shall be verified and accompanied by a summons issued by the Court specifying a date and time of appearance for the Borrower/Mortgagor and all other persons named as defendants.

505. SERVICE OF PROCESS AND PROCEDURES

- A. Service of process shall be governed by the procedures set forth in section 303, Chapter 3 of this Code.
- B. The admission of evidence in proceedings under this Chapter shall be governed by the Oneida Indian Nation Rules of Evidence.

506. RIGHT TO CURE DEFAULT

Prior to the entry of a judgment of foreclosure, any Borrower/Mortgagor or subordinate lienholder may cure the default under the mortgage by making a full payment to the Lender/Mortgagee of the delinquent amount, including interest at the rate stated in the mortgage through the date of redemption and including all reasonable legal and Court costs and actual out-of-pocket expenses incurred in foreclosing on the property. Any subordinate lienholder who has cured a default shall thereafter have included in its lien the amount of all payments made by such subordinate lienholder to cure the default, plus interest on such amounts at the rate stated in the

mortgage. There shall be no right of redemption in any mortgage foreclosure proceeding involving a Leasehold Mortgage.

507. JUDGMENT AND REMEDY

Foreclosure matters shall be heard and decided by the Court in a prompt and reasonable time period not to exceed sixty (60) days from the date of service of the Complaint on the Borrower/Mortgagor. If the alleged default has not been cured at the time of the judicial proceeding and the Court finds for the Lender/Mortgagee, the Court shall enter judgment:

- A. Foreclosing the interests of the Borrower/Mortgagor and each other defendant, including subordinate lienholders, in the mortgage.
- B. Assigning the mortgage to the Lender/Mortgagee or the Lender's designated assignee. Assignments are subject to the following provisions when said mortgage is on Nation land:
 1. The Lender/Mortgagee shall give the Nation the right of first refusal on any acceptable offer to purchase the rights in the collateral or the mortgage, which is subsequently obtained by the Lender/Mortgagee, or Lender's designated assignee; and
 2. The Lender/Mortgagee or Lender's designated assignee may only transfer, sell, or assign rights to the collateral or the mortgage to a Nation member, the Nation, or the Oneida Housing Corporation.
- C. Providing 10 business days from the date final judgment is served on the Borrower/Mortgagor for the Borrower/Mortgagor to quit possession of the property;
- D. Providing for such other and further relief as appropriate.

508. FORECLOSURE SALES

- A. The sale shall be conducted by public auction, at a place on Nation land convenient to potential bidders, upon such notice as required by the Court. Notice shall be reasonably calculated to assure that potential bidders are aware of the sale and shall, at a minimum, include:
 1. Publication of notice of sale in a newspaper of general circulation within Territorial jurisdiction once a week for four (4) consecutive weeks and in a Nation publication to members at least once during such four (4) week time period; and
 2. Notice mailed at least thirty (30) days before the sale to the Borrower/Mortgagor, the Nation, the Nation Housing Corporation, any guarantor, and any subordinate Lender with a recorded interest.

The Notice shall be mailed to the Borrower/Mortgagor at the address provided in the lien instruments and to such other notice address(es) provided or known to the Lender/Mortgagee.

- B. The officer or person making the sale shall issue to the purchaser an appropriate document entitling the purchaser to the use of the property, immediately upon payment of the purchase price and approval of the sale by the Nation. Upon approval of the sale, the transfer of the use of the property shall be deemed to relate back to the date of the sale.
- C. If the sale is the sale of an interest in property located on Nation land, the purchaser must obtain Nation approval for the purchase of such interest. No sale of an interest in property located on Nation land shall be effective without Nation approval.

509. APPLICATION OF THE PROCEEDS OF SALE.

- A. The proceeds of any sale of foreclosure shall be applied as follows:
 - 1. First, to the expenses of the sale, including the cost of notice and a reasonable fee by the officer conducting the sale;
 - 2. Second, to the discharge of the debts adjudged by the Nation Court to be due on the most senior mortgage foreclosed in the action, which debt shall include the reasonable, out-of-pocket costs actually incurred and interest at the rate set forth in the mortgage through the date of the foreclosure sale;
 - 3. Third, to the discharge of the claims of the mortgage holders of other mortgages whether or not foreclosed, which are junior to the most senior mortgage foreclosed, in order of seniority; and
 - 4. Finally, if the net proceeds exceed the amount of the mortgage debt, this excess amount shall be returned to the Borrower/Mortgagor.
- B. If, upon a sale of the collateral, the net proceeds shall be insufficient to pay the mortgage debt, the Court shall enter a judgment against the Borrower/Mortgagor or other party to the suit who is liable for the payment of the mortgage debt for the amount of the debt remaining unsatisfied after applying the proceeds of such sale to the debt.
- C. If the Lender/Mortgagee shall become the purchaser at such sale, the Lender/Mortgagee shall be entitled to credit the amount of the purchase money against the debt, and shall be required only to pay the excess of the purchase money over the debt owed to the Lender/Mortgagee.

510. FORECLOSURE EVICTIONS

- A. On entry of a judgment pursuant to Section 507 of this Chapter, a copy of the order of judgment shall be served by the Court on the Borrower/Mortgagor. In addition, a written notice in a form substantially similar to that required in Section 302(c) of Chapter 3 shall be delivered by the Lender/Mortgagee to the Borrower/Mortgagor. The notice and order shall be delivered pursuant to Section 303 of Chapter 3. The order and notice shall serve as the Notice to Quit.
- B. If after the expiration date set forth in the order the Borrower/Mortgagor has not quit possession of the dwelling unit, the Lender/Mortgagee may file a complaint in the Court for eviction. The complaint shall state:
 - 1. The names and known addresses of the Borrower/Mortgagor against whom the suit is brought;
 - 2. The address or reasonable description of the location of the premises;
 - 3. The date and copy of the foreclosure judgment.
 - 4. A statement showing that the order and notice have been served in accordance with this Code or other applicable Nation law or ordinance;
 - 5. A statement of the relief demanded, including any claim for possession of the dwelling unit, damages, fees, costs, or other relief; and
 - 6. A statement that the Lender/Mortgagee has complied with all required regulatory processes prior to filing the eviction action.
- C. When a complaint is filed in the Court pursuant to Section 510B of this Chapter, the Court shall issue an order to the Borrower/Mortgagor named in the complaint to appear before the Court on a date certain within ten (10) business days of the date of the order, to answer the Complaint.
- D. The order of proceedings shall occur as follows:
 - 1. If the Borrower/Mortgagor appears before the Court in person or in writing to answer the complaint, the Court shall set a trial date. Any written response shall state any defenses or factual disputes and where any Borrower/Mortgagor appears in person, a written response shall be served upon the Lender/Mortgagee within five (5) calendar days of any hearing, excluding weekends and holidays.
 - 2. The Court shall set a trial date which is no more than fifteen (15) calendar days following the date for appearance.
 - 3. The Court may, in its discretion, and on motion from the Lender/Mortgagee order the Borrower/Mortgagor to pay into the Court for

the benefit of the Lender/Mortgagee, the fair market rent for the use and occupancy of the property during the pendency of the eviction case.

- E. Discovery, evidencing, and burden of proof issues shall be governed by Sections 405-407 of Chapter 4.
- F. Judgment shall be entered as follows:
 - 1. Within five (5) calendar days of the date of the trial, the Court shall grant and enter judgment and the judgment shall grant all relief that the parties are entitled to as of the date of the judgment. The order of judgment may:
 - a. Order the immediate eviction of a Borrower/Mortgagor;
 - b. Order delivery of the premises to the appropriate party;
 - c. Grant actual damages as provided in any agreement of the parties or by this Code, including interests;
 - d. Order the parties to carry out an obligation required by Nation law;
 - e. Order the payment of attorneys' fees and the costs and expenses of litigation; or
 - f. Grant any relief provided in this Code.
 - 2. If a Borrower/Mortgagor fails to appear in person or in writing on or before the date of appearance, the Court shall enter judgment on behalf of the Lender/Mortgagee following a hearing to determine whether relief should be granted and the kind of relief that should be granted.
- G. The form of judgment, execution, stays and appeal shall be governed by Sections 409-412 of Chapter 4.
- H. Notwithstanding anything herein to the contrary, all foreclosure evictions shall occur no later than sixty (60) days from the date of service of the foreclosure judgment order and notice upon Borrower/Mortgagor.

511. NO MERGER OF ESTATE

There shall be no merger of estates by reason of the execution of a Use Rights and Homeowner Agreement, a Ground Lease, or a mortgage or the assignment or assumption of the same, including an assignment adjudged by the Court, or by operation of law, except as such merger may arise upon satisfaction of the Leasehold Mortgage.

512. CERTIFIED MAILING TO NATION AND LESSOR

In any foreclosure proceeding where the Nation or any lessor is not a named party, a copy of the summons and complaint shall be mailed to the Nation Housing Corporation and any lessor by certified mail, return receipt requested, within five (5) days after the issuance of the summons.

513. INTERVENTION

The Nation or any lessor may petition the Court to intervene in any mortgage foreclosure proceeding under this Code. Neither the filing of a petition for intervention by the Nation, nor the granting of such a petition by the Court shall operate as a waiver of the sovereign immunity of the Nation, except as may be expressly authorized by the Nation.

514. APPEALS

Appeals under this Chapter shall be handled in accordance with Oneida Indian Nation Rules of Appellate Procedure and shall be to the Nation Appellate Court.

CHAPTER 6 [RESERVED]

CHAPTER 7 ONEIDA NATION HOME CONTRIBUTION PROGRAM

701. HOME CONTRIBUTION

The Nation shall provide a monetary contribution (the "Contribution") to each eligible Nation member to be used to construct, improve, rehabilitate, or purchase an interest in the use and occupancy of a dwelling situated on Nation land to be used as such member's principal residence ("Home"). The Nation Housing Entity shall administer the Contribution.

702. ELIGIBILITY

- A. Only enrolled Nation members in good standing are eligible to receive a Contribution.
- B. Each Nation member aged twenty-one (21) years or older is eligible. Members not yet twenty-one (21) years old become eligible for the Contribution on their twenty-first (21st) birthday.
- C. To be eligible for some or all of the Contribution, the Nation member must make an investment of a minimum of Ten Thousand Dollars (\$10,000.00) in cash in each Home in which the member elects to apply some or all of the Contribution (the "Member's Investment"). The Member's Investment may be obtained from a Nation-guaranteed loan obtained through the Oneida Loan Guaranty Program established in Chapter 8 of the Nation Housing Code.

703. NATURE AND MECHANICS OF THE CONTRIBUTION

- A. The total lifetime Contribution for each eligible individual Nation member is Fifty Thousand Dollars (\$50,000). An eligible Nation member can draw the Contribution in increments of Five Thousand Dollars (\$5,000.00).
- B. The Contribution shall be used solely for the construction, improvement, rehabilitation, or purchase of an interest in the use and occupancy of a Home and may not be used for any other purpose.
- C. To obtain a Contribution, the eligible Nation member must provide to the Nation Housing Entity a written request for the desired portion of the Contribution (the "Initial Notice"). The Initial Notice shall be delivered to the Nation Housing Entity no later than forty-five (45) days prior to the required date of disbursement. The Nation Housing Entity shall review the request and, if such request is approved, shall prepare the required documentation for signature by the Nation member.

- D. Prior to distribution of the Contribution, the Nation member shall deliver or cause to be delivered to the Nation Housing Entity the following:
1. An executed Use Rights and Homeowner Agreement with respect to the premises on which the Home is or shall be located (a sample Use Rights and Homeowner Agreement appears at Appendix I to this Code);
 2. An executed secured promissory note (the "Note") as described in Section 703.F below and illustrated at Appendix II to this Code;
 3. An executed pledge to secure the Note (the "Pledge"), a sample of which appears at Appendix III to this Code; and
 4. Evidence of the Member's Investment.
- E. The distributed portion of the Contribution shall be provided to the Nation member in the form of an interest-free loan, which loan shall be forgiven, or "vested," each year for a ten-year period until the total distributed portion of the Contribution is reduced to zero, provided the Nation member complies with Section 706 of this Chapter.
- F. The Nation member must sign the Note in favor of the Nation for the amount of the Contribution received. This Note shall be secured by the Nation member's (i) interest in the Use Rights and Homeowner Agreement, (ii) Distributions Proceeds from the Nation, and (iii) any other security provided to the Nation. Nation land and improvements thereon may not serve as security. This Note may be made subordinate to the security interest of any approved Lender. Any default under the Note shall be enforced under Nation law, including Chapters 3-5 of the Nation's Housing Code. In addition, the Nation may, among other enforcement measures, terminate the Use Rights and Homeowner Agreement or withhold or setoff the Nation member's Distribution Proceeds (as defined in, Section 102 of Chapter 1) until the Note is satisfied.
- G. Until a Contribution has fully vested, the Nation member receiving the Contribution may not obtain any loan(s) from the Nation secured by such member's Distribution Proceeds in excess, at any one time, of the amount of the scheduled distributions for such member for one year.

704. CONTRIBUTION CALCULATIONS

A. Individual Member Household.

A Nation member who is the sole Homeowner of a Home under a Use Rights and Ownership Agreement may receive up to the maximum Contribution.

B. Married Members Household.

1. Where two (2) Nation members, whose marriage is recognized under the laws of the Nation, own a Home together under a Use Rights and Homeowner Agreement, they may mutually elect to receive their Contributions in one (1) of the following ways:

- a. Option One - One (1) Nation member receives some or all of such member's Contribution. Unless otherwise approved by the Nation Housing Entity, receipt of the other spouse's Contribution is deferred until the one member's Contribution is fully drawn and vested pursuant to Section 706.B of this Chapter. At that time, the remaining spouse shall be eligible to qualify for such spouse's Contribution pursuant to Sections 702 and 703 of this Chapter. Notwithstanding the provisions of Section 702.C, if the remaining spouse's Contribution is to be invested in the same Home as was invested in by the first spouse, no additional Member's Investment is required.
 - b. Option Two - Each married Nation member receives a portion of their Contribution to be used for the same Home. Each member spouse may each elect to receive up to sixty percent (60%) of each of their respective Contributions for a combined maximum total of \$60,000. Each spouse's receipt of the remaining percentage of such member's Contribution is deferred until the first portion is fully vested pursuant to Section 706.B of this Chapter. The Member Investment shall be the same as if only one member's Contribution were used.
2. In the event of a divorce, a Nation member's Contribution shall not be treated as a marital asset.

C. Unmarried Member Household.

1. Unrelated Nation members who are living together but are unmarried must each execute the Use Rights and Homeowner Agreement for the Home.
2. Unrelated Nation members who are living together but are unmarried cannot combine Contribution eligibility under Option Two in Section 704.B.1.b of this Chapter.
3. Each unrelated Nation member retains such member's individual eligibility to receive the Contribution, but only one (1) member of the household may exercise that eligibility at a time for any Home.

4. The second member in the household may exercise eligibility once the first member's Contribution has been fully vested.

D. Deferred Contributions:

Except if otherwise prohibited by this Chapter, a Nation member who has not drawn such member's entire Contribution may draw one or more additional Contributions prior to the full vesting of any portion of the Contribution to reduce the Nation member's remaining Note principal, to pay for additional construction/improvements to the Home, or to purchase an interest in the use and occupancy of a different Home for the primary residence. All draws of the Contribution shall be assigned separate vesting schedules according to when the Nation member received each draw of the Contribution.

705. LIMITATION ON USES OF CONTRIBUTIONS

- A. Subject to the other restrictions set forth in this Chapter, a maximum of two (2) Nation members may use their Contributions for any one (1) Home.
- B. All plans for construction, rehabilitation, or improvement of any Home must be approved by the Nation Housing Entity and the Nation Design and Construction Department.
- C. All construction, rehabilitation, or improvement must be performed by individuals or entities approved for such work by the Nation Housing Entity and Nation Design and Construction Department.
- D. All construction, rehabilitation, or improvement must be in accordance with Nation law and subsequent to the issuance of all required permits or other approvals.

706. VESTING

A. Definition.

Vesting is the process by which the Nation forgives the portion of the Contribution drawn by the Nation member, thereby increasing the rights of individual Nation members to ownership of the Contribution.

B. Vesting Schedule.

Vesting will occur in equal annual amounts sufficient to fully vest the Contribution over a ten (10) year period. Vesting will occur on the anniversary date of the initial draw of the Contribution and on each one-year anniversary thereafter. At the end of the tenth successive year of homeownership, the

Contribution shall be fully forgiven, and the member shall own the total Contribution and the Note and the Pledge shall be satisfied.

| VESTING SCHEDULE (Assuming a Contribution of \$50,000) | | |
|--|-----------------------------------|--------------------------------------|
| YEAR END | PERCENTAGE OF VESTED CONTRIBUTION | DOLLAR AMOUNT OF CONTRIBUTION VESTED |
| 1 | 10% | \$5,000 |
| 2 | 20% | 10,000 |
| 3 | 30% | 15,000 |
| 4 | 40% | 20,000 |
| 5 | 50% | 25,000 |
| 6 | 60% | 30,000 |
| 7 | 70% | 35,000 |
| 8 | 80% | 40,000 |
| 9 | 90% | 45,000 |
| 10 | 100% | 50,000 |

C. Sale of Home Prior to Full Vesting.

1. A Nation member who sells such member's Home and moves off Nation land before the Contribution is fully vested must repay to the Nation the remaining non-vested portion of the Contribution based upon the assumption that vesting shall occur only on the anniversary date of the initial draw.
2. A Nation member who sells such member's Home and purchases a different Home on Nation land before the vesting process is complete may apply all proceeds from the sale of the first Home to the purchase of the second Home and the vesting schedule shall continue uninterrupted to the new Home.

D. Nation Approval of Home Sales

All Home sales must be approved by the Nation in accordance with Nation laws. A Home Sale is the sale of the right to enter a Use Rights and Homeowner Agreement with the Nation for the use of a Home. Each Purchaser must enter into a Use Rights and Homeowner Agreement with the Nation prior to the closing of any sale.

E. Death of a Member Prior to Full Vesting.

Vesting of a Contribution ceases upon the death of the Nation member. All unvested sums of a used Contribution must be repaid by the decedent's estate unless the Nation in its sole discretion determines otherwise. Unused Contributions for a Nation member extinguish upon such member's death.

CHAPTER 8 ONEIDA NATION HOME LOAN GUARANTY PROGRAM

801. HOME LOAN GUARANTY

The Nation shall guaranty the repayment of loans made by Qualified Lenders to Eligible Borrowers to construct, improve, rehabilitate and/or purchase an interest in Eligible Housing.

802. DEFINITIONS

A. Eligible Borrower.

An "Eligible Borrower" for purposes of this Chapter is a member in good standing of the Nation who is at least 21 years of age and will occupy the Home as the principal residence and who meets the credit and underwriting requirements of a Qualified Lender.

B. Qualified Lender.

A "Qualified Lender" is any of the following: (i) a Lender approved by the Nation or the Nation Housing Corporation; (ii) Lenders who are already approved by the Federal Housing Authority, U.S. Department of Housing and Urban Development for participation in the single family mortgage insurance program under Title II of the National Housing Act; (iii) Lenders authorized by the U.S. Department of Veterans Affairs to originate automatically guaranteed housing loans under section 1802(d), chapter 37, title 38 of the U.S. Code; or (iv) Lenders approved by the U.S. Department of Agriculture to make loans for single family housing under the Housing Act of 1949.

C. Eligible Housing.

"Eligible Housing" is any single family residential dwelling other than a house trailer located or to be located on Nation land to be used solely as an Eligible Borrower's principal residence. The proposed housing must comply with all applicable Nation laws, including, without limitation, Nation construction and safety codes and regulations.

D. Eligible Activities.

Eligible Borrowers may use a Nation loan guaranty for the following "Eligible Activities:"

1. Acquisition of the rights to use and occupy Eligible Housing;
2. Rehabilitation or improvement of Eligible Housing; or
3. Construction of Eligible Housing.

803. USE RIGHTS AND OWNERSHIP AGREEMENT.

To obtain a home loan guaranty, a Nation member must enter into a Use Rights and Homeowner Agreement (“Agreement”) with the Nation. The Agreement grants the Nation member the right to construct improve, rehabilitate and/or purchase the rights to use and occupy Eligible Housing on certain Nation land for the term of the Agreement. The Nation shall retain all ownership rights in the land and the improvements thereon. The Agreement shall be for a period of not more than fifty (50) years. At the end of the Agreement’s term, the Nation member may remain on the Nation land in the Eligible Housing if such member and the Nation enter into a new Agreement. The Agreement is assignable on a limited basis in accordance with Nation laws and with the approval of the Nation. The Agreement must be entered into before a loan can be closed and the Agreement’s effectiveness shall be contingent upon the Nation member’s obtaining the loan from a Qualified Lender. The Agreement must be recorded with the Nation Court Clerk consistent with the recordation requirements of Section 502 of this Code.

804. GUARANTY COVERAGE

The Nation will guaranty the repayment of single family residential loans made to Eligible Borrowers by Qualified Lenders for Eligible Activities provided the loan terms fully comply with the following:

1. The term of the loan may not exceed 30 years.
2. Interest rates must be a fixed rate no greater than the current market rate.
3. The loan may be prepaid without penalty.
4. The loan cannot be secured with any interest in the Eligible Housing, except for a mortgage on the Eligible Borrower’s right to use and occupy the Eligible Housing pursuant to a Use Rights and Homeowner Agreement.
5. The loan cannot be secured with any mortgage on Nation land.

The Nation will guaranty up to 100 percent of the outstanding principal balance and interest on the loan as well as other necessary and allowable expenses as determined by the Nation. Loans insured by the United States government are not eligible for this program.

805. NATION NOTIFICATIONS

A. Upon application by an Eligible Borrower to a Qualified Lender, the Eligible Borrower must give written notice of such application to the Nation Housing Corporation.

B. In addition to the requirements of Section 805.A. of this Chapter, the following information, whether or not requested by the Qualified Lender, must be submitted by the Borrower to the Nation Housing Entity before a decision will be made on the guaranty:

1. Pre-qualification letter from Qualified Lender;
2. Statement from Qualified Lender as to amount of the loan, the terms, the monthly payment amount, and any special conditions;
3. Executed Use Rights and Ownership Agreement; and
4. Detailed plans and specifications for the Home, if applicable.

Provided the Eligible Borrower has complied with Section 805.A. of this Chapter, the Nation shall make a decision regarding the guaranty within ten (10) business days after receipt of all of the foregoing material.

806. NATION GUARANTY COMMITMENT

The Nation or the Nation Housing Corporation has absolute and final discretion to determine whether a proposed loan will be guaranteed by the Nation.

807. REIMBURSEMENT

In order to secure the Nation's guaranty of the Nation member's obligation, the Nation member shall grant the Nation, at the Nation's request, a security interest in the member's interest in the Eligible Housing, the member's Distribution Proceeds from the Nation, and/or such other collateral as requested by the Nation. The Nation member agrees that if the Nation shall be obligated to pay on the guaranty, the Nation may, among other things, withhold or set off the Nation member's Distribution Proceeds (as defined in Section 102 of Chapter 1) until the Note has been satisfied. A sample Note and Pledge appear at Appendix II and III to this Code.

CHAPTER 9 INHERITANCE

901. INHERITANCE OF HOME

Pursuant to this Chapter, a Nation member may by Will transfer the rights to use and occupy a Home or an interest therein to a spouse, child or an enrolled member of the Nation.

902. DEFINITIONS

A. Homeowner or Decedent.

A deceased Nation member who prior to such member's death resided in a Home in accordance with the terms of a valid Use Rights and Homeowner Agreement with the Nation.

B. Inheritance.

The interest in a Home that a Nation member may, by Will and in accordance with Nation law, grant to a spouse, child(ren), other member(s) of the Oneida Nation, or non-member(s) of the Oneida Nation upon such member's death. Such interest may be: (i) a Life Estate or Limited Estate; and/or (ii) the right to receive all or a part of the Net Value of the Home. In the event that a Nation member gifts a Life Estate or Limited Estate, such estate must expire or terminate before anyone may receive the Net Value of the Home.

C. Non-member. A person who is not an enrolled member of the Oneida Indian Nation.

D. Life Estate.

The right of a person to live in a Home until such person dies, vacates the Home (and such absence is not approved by the Nation), or until the Use Rights and Homeowner Agreement expires and is not renewed, provided that:

1. A Life Estate gifted to a Non-member may only be granted to the spouse or long-term partner of the opposite sex ("Spouse") of the decedent and that Spouse must be residing in the Home at the time of the Homeowner's death.
2. A Life Estate gifted to a Non-member Spouse terminates automatically upon remarriage or establishment of a new partnership by the Non-member Spouse to another Non-member of the Nation.
3. A Life Estate gifted to a Nation member or to a non-member Spouse shall terminate in the event that the beneficiary of the Life Estate is absent from the Home for more than thirty (30) consecutive days, provided that the Life Estate shall not be terminated if such absence is approved by the Nation.

4. A person who is bequeathed a Life Estate, who is eligible for a Life Estate, and who accepts a Life Estate in a Home shall execute a Use Rights and Homeowner Agreement with the Nation in order to receive the Life Estate.

E. Limited Estate.

The right of a non-member minor child of a Homeowner, who is residing at the Home at the time of the Nation member's death, to live in the Home until the child has reached the age of twenty-one (21). This right may be extended by the Nation until the age of twenty-five (25), provided the child is a full-time student in good academic standing. A Limited Estate shall not terminate in the event that the beneficiary is absent from the Home for more than thirty (30) consecutive days provided that the absence is approved by the Nation.

A minor child who receives a Limited Estate shall have an adult guardian reside at the Home until the child reaches the age of eighteen (18). The adult guardian shall act as trustee for the child and execute a Use Rights and Homeowner Agreement with the Nation for the period from the date of inheritance until the child reaches the age of eighteen (18). At the age of eighteen (18), the beneficiary shall execute a Use Rights and Homeowner Agreement with the Nation for the remaining term of the Limited Estate.

F. Net Value.

The economic value of the Homeowner's interest in the Home. The Homeowner's economic interest in the Home shall be equal to the proceeds from the sale of the rights to use and occupy the Home after satisfying (i) all debts and liabilities against the property and (ii) the unvested portion of the Contribution.

G. Will.

A duly executed and acknowledged written instrument, recognized by the Nation Court as a valid will instrument, providing for the distribution of a person's property upon that person's death. Each Homeowner should execute a will that sets forth the Homeowner's intention with regard to the Home.

903. INHERITANCE RIGHTS AND DUTIES

The following rules apply to inheritance of a Home unless there is a surviving Nation member who shared the Home and the Use Rights and Homeowner Agreement with the decedent at the time of the decedent's death. A party to the Use Rights and Homeowner Agreement, who is in compliance with the Agreement, has a right of survivorship with the other Nation member party to the Agreement.

A. Nation Members as Beneficiaries.

A Nation member Homeowner may gift a Life Estate for the remaining term of the Use Rights and Homeowner Agreement, or all or portion of any Net Value of the Home to any enrolled member of the Nation.

B. Surviving Non-member Spouse as a Beneficiary.

A Nation member Homeowner may gift a Life Estate for the remaining term of the Use Rights and Homeowner Agreement, or all or a portion of the Net Value of the Home, to such member's Spouse.

C. Non-member Child as a Beneficiary

A Nation member Homeowner may gift a Limited Estate for the remaining term of the Use Rights and Homeowner Agreement, or all or a portion of the Net Value of a Home, to any child of the member who is not an enrolled member of the Nation.

D. Non-Nation Member as a Beneficiary.

A Nation member Homeowner may gift only the Net Value (or a portion thereof) to a person who is not an enrolled member of the Nation.

Any conveyance by will other than pursuant to this Chapter is void.

904. **INTESTATE DEATH**

If a Nation Member dies without a locatable valid Will, the following rules of distribution shall apply:

A. Decedent's Surviving Spouse Is A Nation Member.

A surviving Spouse who is a Nation Member shall be the sole beneficiary of the Home and shall receive the Homeowner's entire interest in the Home, including the right to dispose of such interest in accordance with Nation law.

B. Decedent Has One Or More Surviving Children And Decedent's Surviving Spouse Is Not A Nation Member.

The surviving Spouse shall be entitled to elect between a Life Estate or one-half (1/2) of the Net Value of the Home. If the surviving Spouse elects the Life Estate, then the Decedent's children shall divide the Net Value of the Home upon the surviving Spouse's death. If the surviving Spouse elects to take one-half (1/2) of the Net Value, then the remaining one-half (1/2) shall be divided equally between the Decedent's children.

C. Decedent Has No Surviving Children And Decedent's Surviving Spouse Is Not A Nation Member.

The surviving Spouse shall be entitled to elect between a Life Estate and the Net Value of the Home.

D. Decedent Has One or More Surviving Children, but No Surviving Spouse.

The Decedent's children shall divide the Net Value equally among themselves.

E. Decedent Has No Surviving Spouse or Children.

The Nation receives the Net Value in the Home.

905. TRANSFER OF JOINTLY OWNED HOMES

Where the Home is held in a form of Homeownership containing a right of survivorship, all interest of the decedent in the Home shall pass to the surviving interest holder notwithstanding a Will of the decedent to the contrary. Where the Home is held by a decedent and others in common, Sections 903 and 904 of this Chapter shall apply as to the decedent's interest.

906. DEATH OF THE HOMEOWNER AUTOMATICALLY TERMINATES THE USE RIGHTS AND HOMEOWNER AGREEMENT.

A Use Rights and Homeowner Agreement entered into solely by a Decedent shall terminate, regardless of its term of years, upon the death of the Homeowner. An inheritance of a Home is not effective without the execution of a new Use Rights and Homeowner Agreement between the Nation and the beneficiary. Beneficiaries granted a Limited Estate or Life Estate shall execute a Use Rights and Homeowner Agreement for the applicable term, not to exceed fifty (50) years. A beneficiary devised a Limited Estate who is a minor may not be a party to a Use Rights and Homeowner Agreement until such child reaches the age of eighteen (18). Until such date, the child's guardian shall act as trustee and execute the Use Rights and Homeowner Agreement for such child. The Use Rights and Homeowner Agreement and the Limited Estate shall terminate simultaneously. A beneficiary inheriting Net Proceeds from the Home shall execute a new Use Rights and Homeowner Agreement pending the sale of the Home and the distribution of the Net Proceeds.

CHAPTER 10 NON-ALIENATION OF NATION LAND,
USE RIGHTS AND HOMEOWNER AGREEMENTS, SALES,
RECORDATION, SPECIAL NATION REQUIREMENTS
FOR LOANS AND INSURANCE

1001. NON-ALIENATION OF NATION LAND

Neither Nation land, nor any improvement therein, may be alienated by any Nation member or other person. Nor may any improvement affixed to Nation land be removed from Nation land without Nation consent.

1002. USE RIGHTS AND HOMEOWNER AGREEMENT

- A. Any person residing or intending to reside in a Home on Nation land pursuant to Chapter 7, 8 or 9 of this Code must enter into a Use Rights and Homeowner Agreement. A person's interest in a Home is defined by the Use Rights and Homeowner Agreement between that person and the Nation. The Use Rights and Homeowner Agreement grants the person the right to construct, improve, rehabilitate and/or purchase an interest in the use of a Home on Nation land subject to the requirements of Nation laws. The Nation shall at all times retain ownership in the land and the improvements thereon. Those interests in the Home not held by the Homeowner under the Use Rights and Homeowner Agreement are retained by the Nation. A person may mortgage an interest in a Use Rights and Homeowner Agreement to obtain a loan for the Home.
- B. The Use Rights and Homeowner Agreement shall be for a term of no more than fifty (50) years.
- C. Any Use Rights and Homeowner Agreement entered into by the Homeowner individually shall terminate on the death of the Homeowner under all circumstances. A Use Rights and Homeowner Agreement is not devisable and anyone to whom the deceased intended to transfer an interest in a Home shall execute a new Use Rights and Homeowner Agreement in order to receive that interest in accordance with Chapter 9 of the Nation Housing Code.
- D. A Use Rights and Homeowner Agreement shall not be sold or transferred, except that a Use Rights and Homeowner Agreement may be assigned for a certain period of time with Nation approval. An assignment of a Use Rights and Homeowner Agreement does not alter the duties of the Homeowner to the Nation under that Agreement. The right to enter into a Use Rights and Homeowner Agreement for a Home may be sold or transferred in accordance with Section 1004 of this Chapter 10.

- E. Each of the following shall constitute an "Event of Default" under a Use Rights and Homeowner Agreement:
1. If Homeowner fails to pay the Annual Costs, including the Fixed Payment or Additional Costs, as such costs are defined in the Use Rights and Homeowner Agreement, and if such default shall continue for thirty (30) days after receipt of written notice from the Nation to Homeowner regarding such default;
 2. If Homeowner defaults in the performance of any other of Homeowner's obligations hereunder and if such default shall continue for thirty (30) days after written notice from the Nation to Homeowner regarding such other default or defaults, provided that if the default is of such a character as cannot reasonably be cured within said period, and if Homeowner has commenced diligently to correct the default or defaults after receipt of such notice and thereafter diligently pursues such correction, then said period shall be extended for an additional period up to sixty (60) days;
 3. If Homeowner, without the prior written consent of the Nation, fails to use the Home as such Homeowner's principal private residence for a continuous period of thirty (30) days; or
 4. If Homeowner fails to pay or perform any obligation under any financing arrangement with the Nation or any financing arrangement guaranteed by the Nation.
- F. If any Event of Default occurs, the Nation, at the Nation's option, may terminate the Use Rights and Homeowner Agreement and recover possession of the Home or recover possession of the Home without terminating the Agreement. In the event the Nation elects to terminate the Use Rights and Homeowner Agreement, then the Agreement and all rights of Homeowner hereunder shall expire and terminate as if the date specified in such notice were the date fixed for the expiration of the Term of the Agreement. Following any Event of Default, the Nation and the agents and servants of the Nation lawfully may, in addition to and not in derogation of any other remedies, immediately or at any time thereafter and without demand or notice and with or without process of law enter into and upon the Home or any part thereof in the name of the whole and repossess the same and expel Homeowner and those claiming through or under Homeowner, including, without limitation, any authorized assignee (with or without the institution of legal proceedings to evict) and remove its and their effects without being deemed guilty of any manner of trespass or disturbance of the peace and without prejudice to any remedies which might otherwise be used for arrears of payments or prior breach of covenant, and the Nation, without notice to Homeowner, may store

Homeowner's effects, and those of any person claiming through or under Homeowner at the expense and risk of Homeowner, and, if the Nation so elects, may sell such effects at public auction or private sale and apply the net proceeds to the payment of all sums due to the Nation from Homeowner, if any, and pay over the balance, if any, to Homeowner. If the Use Rights and Homeowner Agreement shall terminate as a result of or while there exists any Event of Default, any funds (including the member's Distributions from the Nation) in which Homeowner has an interest then held by or acquired the Nation may be applied by the Nation to any damages payable by Homeowner (whether provided for herein or by law or in equity) as a result of such termination or Event of Default, and the balance remaining, if any, shall be paid to Homeowner, if Homeowner would be entitled to receive such funds but for such termination or Event of Default. The Nation shall be entitled to reasonable attorneys' fees and all other costs and expenses actually incurred by the Nation in exercising its remedies hereunder.

- G. The form of the Use Rights and Homeowner Agreement is attached as Appendix I to this Code.
- H. A certificate acknowledging the grant by the Nation under a Use Rights and Homeowner Agreement of the use and occupancy rights to a Home shall be issued to the Homeowner executing the Use Rights and Homeowner Agreement. Such Homeowner certificate is for informational purposes only, and shall be valid only so long as the Use Rights and Homeowner Agreement to which it relates is valid. A new certificate shall be issued in the event of any assignment, sale or other transfer of the rights to use and occupy the Home to a different Homeowner.

1003. SPECIAL LOAN REQUIREMENTS

- A. Notice and Approval of Loans Relating to a Home.
 - 1. Any Nation member or other individual seeking to obtain a loan must notify the Nation Housing Entity at least thirty (30) days prior to requesting a loan.
 - 2. No loan shall be obtained for a Home without written approval by the Nation Housing Entity. Any loan effectuated without approval shall be voidable at the discretion of the Nation. The Nation may void any pledge of any interest in the Use Rights and Homeowner Agreement for lack of Nation approval with written notice to the Lender and Nation member.
 - 3. No Home loan shall be valid or effective unless there is an executed Use Rights and Homeowner Agreement as defined in Section 1002 of this Chapter between the Nation and Nation member seeking the loan, which

Agreement applies to the Home covered by the loan for the period of the loan.

B. Land is Not Available Collateral.

No loan shall be collateralized or secured by Nation land or any improvements thereon. Any instrument attempting to assert a lien against Nation land or any improvement thereon shall be null and void.

1004. HOME SALE

A. Authorized Buyers.

A Homeowner's interest in a Home to which a Contribution has been invested or for which the Nation has guaranteed a loan, may be sold or transferred, by operation of law or otherwise, by a Homeowner only to the Nation, a member of the Nation, or a qualified beneficiary under Chapter 9. Any sale or transfer must be approved by the Nation Housing Entity.

B. A New Use Rights and Homeowner Agreement Is Required Upon Sale or Transfer.

Any person intending to reside in a Home on Nation land must execute a Use Rights and Homeowner Agreement prior to occupancy unless that person has been assigned an Agreement with the approval of the Nation.

C. Nation Home Sale Assistance.

The Nation will assist any Nation member in the sale of such member's interest in a Home. Upon request of the Nation member Homeowner, the Nation will arrange at Nation expense for an appraisal of the fair market value of the Home. Regardless of the appraised amount, the actual selling price shall be negotiated between buyer and seller.

D. Nation Option to Purchase.

1. The Nation reserves the option to submit a purchase offer to the seller of such seller's interest in a Home on Nation land. This purchase offer may be extended, at the discretion of the Nation, to any Nation member who has made "good faith" efforts to sell such member's Home but has been unsuccessful in his efforts.
2. "Good faith" efforts shall include those which attempt to inform the Oneida community of the availability of the Home, such as by public posting of "For Sale" notices and through the Nation member newsletter; offering the Home for sale at a reasonable selling price (based upon

appraised value); and making such efforts for a period of at least twelve (12) months.

1005. RECORDS

- A. The Clerk of the Nation shall record:
 - 1. Each Use Rights and Homeowner Agreement;
 - 2. Any assignment related to any Use Rights and Homeowner Agreement;
 - 3. Any loan, Contribution, Loan Guaranty, and/or promissory note; and
 - 4. Any sale and transfer by the holder of a Use Rights and Homeowner Agreement of the rights to use and occupy a Home.
 - 5. Any amendment, modification or termination of any of the aforementioned documents.
- B. The Nation Housing Corporation shall maintain its own record of the aforementioned documents as well as copies of each application for, each loan with, and any insurance certificate or indemnity policy related to any Use Rights and Homeowner Agreement.
- C. The Nation Housing Corporation also shall maintain a record of each Contribution made by the Nation on behalf of a Nation member, the vesting of each Contribution, and the enforcement of any promissory note, and the performance of any loan, including any Loan Guaranty paid by the Nation on a loan.

1006. INSURANCE

- A. A person with a Use Rights and Homeowner Agreement shall obtain, maintain, and faithfully comply with any property, liability and other insurance policy as may be required by the Nation Housing Corporation and/or a Lender. All insurance policies shall:
 - 1. Name the Nation, the Homeowner, and any Mortgagee as insured, as their respective interests may appear, and shall include an effective waiver by the issuer of all rights of subrogation against any insured or such insured's interest in the Home or any income derived therefrom;
 - 2. Provide that all claims for losses shall be adjusted by Homeowner subject to the approval of the Nation;
 - 3. Provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the Nation or Homeowner or any other person;

4. Provide that no cancellation, reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by the Nation, the Homeowner and any Mortgagee of written notice thereof;
 5. Require the insurer to promptly notify the Nation of any non-payment of any premium when due; and
 6. Provide that the Nation shall have sole authority to invoke the defense of sovereign immunity in connection with any proceeding asserting liability against the Nation.
- B. The Mortgagee, if any, shall require that an insurance escrow or impoundment account be established with such Mortgagee, and the Homeowner shall escrow such funds with Mortgagee for payment by the Mortgagee of the insurance premium, as and when payment therefore is due. The Homeowner shall also escrow in this same account such funds sufficient to cover payment by the Borrower/Mortgagor of any Nation assessment, such as the service assessment applicable to and due from residents of the Village of White Pines.
- C. Homeowner shall deliver to the Nation evidence of the payment of the annual insurance premium for insurance whether paid directly by the Homeowner or, in the event of a mortgage, by the Mortgagee in compliance with the foregoing section.

Appendix I

Sample Use Rights and Homeowner Agreement

USE RIGHTS AND HOMEOWNER AGREEMENT

By and between

ONEIDA INDIAN NATION

And

Dated as of _____

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USE RIGHTS AND HOMEOWNER AGREEMENT

THIS USE RIGHTS AND HOMEOWNER AGREEMENT (this "Agreement") is made as of the ____ day of _____, 2000__, by and between the ONEIDA INDIAN NATION, a sovereign Indian nation (the "Nation") and _____ ("Homeowner").

RECITALS

WHEREAS, the Nation desires to grant to Homeowner and Homeowner desires to obtain from the Nation the right to use and occupy a Home (hereinafter defined) located on a certain parcel of the land of the Oneida Indian Nation.

NOW THEREFORE, the Nation and Homeowner do hereby agree as follows:

1. DEFINITIONS. As used in this Agreement:

a. "Additional Costs" shall mean all sums, costs, expenses and other amounts, excluding the Fixed Payment, which Homeowner in any of the provisions of this Agreement agrees to pay to the Nation, including reimbursement of the Nation for any Occupancy Expenses advanced by the Nation on behalf of the Homeowner.

b. "Agreement Year" shall mean each successive twelve (12) calendar month period commencing on the first day of the first month of this Agreement.

c. "Annual Certification" shall mean an annual certification provided by the Homeowner to the Nation each year on or before the anniversary date of the commencement of this Agreement which reaffirms the Homeowner's compliance with the terms of this Agreement.

d. "Annual Costs" shall mean the Fixed Payment and the Additional Costs, collectively.

e. "Assignment" shall mean: (i) any disposition, lease, or transfer by Homeowner of any or all of its rights and obligations under this Agreement, whether voluntary, by operation of law, or otherwise; (ii) an imposition (whether or not consensual) of a lien, mortgage or encumbrance upon Homeowner's interest in this Agreement; and (iii) an arrangement which allows the use and occupancy of the Home by any person or entity other than Homeowner.

f. "Assignment Notice" shall mean a notice from Homeowner to the Nation requesting the Nation's consent to an Assignment.

g. "Award" shall mean the total proceeds of any award paid or payable in any condemnation or eminent domain proceeding or the consideration or settlement paid or payable pursuant to any agreement with the Nation.

h. "Base Year" shall mean the first Agreement Year.

i. "Fixed Payment" shall mean the annual fixed payment paid by Homeowner to the Nation in consideration of the rights granted in this Agreement.

j. "Lands" shall mean the lands of the Nation.

k. "Mortgagee" shall mean any lender approved by the Nation with a valid lien on the Homeowner's interest herein.

l. "Nation Laws" shall mean all laws, ordinances, codes, orders, rules, regulations and requirements of the Oneida Indian Nation.

m. "Net Award" shall mean the total Award less all costs, expenses and reasonable attorneys' fees of the Nation's counsel incurred in the collection thereof.

n. "Occupancy Expenses" shall mean the aggregate of all costs, expenses and disbursements of every kind and nature relating to or incurred or paid during the Term in connection with the use, occupancy, improvement, construction and maintenance of the Home and the land upon which the Home is situated.

o. "Home" shall mean all improvements, buildings and structures from time to time situated on that portion of the Nation's Lands consisting of _____ acres, more or less, and situated near _____, said land being more particularly described in Exhibit A attached hereto and made a part hereof.

p. "Term" shall mean the term of this Agreement commencing as of the first day of the Base Year and ending on the day before the date which is fifty (50) years after the date of commencement, unless sooner terminated in accordance with the terms hereof or by agreement of the Nation and Homeowner.

2. GRANT. In consideration of the Annual Costs and maintenance, insurance and other covenants set forth herein, on the part of Homeowner to be paid, performed and observed, the Nation does hereby grant to Homeowner, and Homeowner does hereby accept from the Nation, for the Term, upon and subject to the terms and provisions of this Agreement, the right to use the Home as the Homeowner's principal residence.

3. TERM OF AGREEMENT. The right to use the Home is hereby granted to Homeowner for the Term.

4. COSTS.

a. Fixed Payment. Homeowner covenants and agrees to pay to the Nation the Fixed Payment in advance on or before the first day of the Base Year and on or before the first day of each Agreement Year thereafter throughout the Term of this Agreement without offset or deduction. Notwithstanding anything contained herein to the contrary, Homeowner shall not be permitted, and the Nation shall not accept, any Fixed Payment paid more than one (1) year in advance. The Fixed Payment for the Base Year and for each Agreement Year thereafter shall be One and No/100 Dollars (\$1.00).

b. Additional Costs. Homeowner covenants and agrees to pay throughout the Term of this Agreement, at the address set forth herein for the Nation, or at such other place as the Nation may from time to time designate in writing, the Additional Costs. In connection with the payment of the Annual Costs, the Homeowner shall provide the Annual Certification to the Nation.

c. Occupancy Expenses. Homeowner shall pay directly all Occupancy Expenses related to the Home, including any user fees, and shall reimburse the Nation for any Occupancy Expenses advanced by the Nation on Homeowner's behalf within fifteen (15) days of demand therefor.

d. No Services. The Nation shall not be required to provide any services or to do any act or thing with respect to the Home, except as specifically provided herein, and the Annual Payment shall be paid to the Nation without any claim on the part of Homeowner for diminution, set-off or abatement, and nothing shall suspend, abate or reduce any payment or other sums to be paid hereunder, except as otherwise specifically provided in this Agreement.

5. INSURANCE AND INDEMNITY.

a. Risks to Be Insured. At all times during the Term, Homeowner shall, at Homeowner's cost and expense effect and maintain the following:

(i) All risk property insurance on the Home, in an amount representing not less than one hundred percent (100%) of the full insurable value (the term "full insurable value" shall mean the actual replacement cost [excluding foundation and excavation cost and cost of underground flues, pipes, and drains] of the Home.

(ii) General liability insurance, including property damage, on the Home and covering any liability that the Nation may have for injury to persons or property, on an "occurrence" basis with a limit of not less than _____ Dollars (\$ _____) per occurrence.

(iii) Such other insurance as the Nation or any Lender/Mortgagee may reasonably require.

b. Miscellaneous Insurance Provisions.

(i) The form and content of each policy of insurance shall be generally in accordance with what is customary for similar properties (including, without limitation, non-Indian properties) located in the general vicinity of the Nation's Lands and the Home.

(ii) All insurance policies shall (A) name the Nation, the Homeowner, and any Mortgagee as insured, as their respective interests may appear, and shall include an effective waiver by the issuer of all rights of subrogation against any insured or such insured's interest in the Home or any income derived therefrom; (B) provide that all claims for losses shall be adjusted by Homeowner subject to the approval of the Nation; (C) provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the Nation or Homeowner or any other person; (D) provide that no cancellation, reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by the Nation, the Homeowner and any Mortgagee of written notice thereof; (E) require the insurer to promptly notify the Nation of any non-payment of any premium when due; and (F) provide that the Nation shall have sole authority to invoke the defense of sovereign immunity in connection with any proceeding asserting liability against the Nation.

(iii) Homeowner shall observe and comply with the requirements of all policies of insurance that Homeowner is required hereby to maintain with respect to the Home.

c. Escrow for Insurance. The Mortgagee, if any, shall require that an insurance escrow or impoundment account be established with such Mortgagee, and the Homeowner shall escrow such funds with Mortgagee for payment by the Mortgagee of the insurance premium, as and when payment therefore is due. The Homeowner shall also escrow in this same account such funds sufficient to cover payment by the Borrower/Mortgagor of any Nation assessment, such as the service assessment applicable to and due from residents of the Village of White Pines.

d. Insurance Certificate. If there is no Mortgagee, Homeowner shall deliver to the Nation evidence of the payment of the annual insurance premium for insurance obtained in compliance with the foregoing section.

6. USE. Homeowner shall have the right to use the Home or any part thereof as Homeowner's principal private residence and to build and rebuild thereupon such building or

buildings on the Home as Homeowner may elect, and to make such alterations, improvements and betterments to the Home as Homeowner may desire, all in accordance with the Nation Laws.

7. ASSIGNMENT.

a. Assignment. Homeowner shall not be entitled to an Assignment without the prior written consent of the Nation. In order to obtain the foregoing consent, Homeowner shall submit to the Nation the Assignment Notice containing the following information: the reason for the requested Assignment, the effective date of the proposed Assignment, and the identity of the assignee, including the assignee's exact legal name. In no event shall the proposed effective date of the Assignment be less than thirty (30) days after the date of the Assignment Notice to the Nation. The Nation shall have thirty (30) days from the receipt of the Assignment Notice to review Homeowner's request and to notify Homeowner whether it will consent to the Assignment.

b. Consent to Assignment. If the Nation consents to the Assignment, the assignee, in a duly executed and acknowledged instrument of assumption, in form satisfactory to the Nation, shall assume the performance of all the terms and conditions on the part of Homeowner to be performed hereunder and, in connection therewith, shall agree to comply with Nation Laws. In the event of any Assignment, Homeowner shall remain fully liable to perform the obligations of Homeowner under this Agreement, such obligations to be joint and several with the obligations of the assignee under this Agreement. The consent by the Nation to any Assignment shall not be construed as a waiver or release of Homeowner from the terms of any covenant or obligation under this Agreement, nor shall the collection or acceptance of any payment from any assignee constitute a waiver or release of Homeowner of any covenant or obligation contained in this Agreement, nor shall any Assignment be construed to relieve Homeowner or the assignee from obtaining the prior written consent of the Nation to any further Assignment.

c. Default. Notwithstanding any provision in this Agreement to the contrary, Homeowner shall not be permitted an Assignment at any time if Homeowner is in default of any provision of this Agreement.

8. COMPLIANCE WITH NATION LAWS. Homeowner shall at all times during the Term, at Homeowner's cost and expense, perform and comply with Nation Laws. The foregoing shall apply whether or not such Nation Laws shall necessitate structural changes, improvements, interference with use and enjoyment of the Home, replacements or repairs, extraordinary as well as ordinary, and Homeowner shall so perform and comply, whether or not such Nation Laws shall now exist or shall hereafter be established, enacted or promulgated, and whether or not such Nation Laws can be said to be within the present contemplation of the parties hereto.

9. LIENS.

a. Claims. Notice is hereby given that the Nation shall not be liable for any work performed or to be performed on the Home, or for any materials furnished or to be furnished at the Home for Homeowner, and that no lien for such work or materials shall attach to the reversionary or any other interest of the Nation. If, in connection with any work being performed by Homeowner, or in connection with any materials being furnished to Homeowner, any lien or charge shall be attempted to be filed or made against the Home or any part thereof, or if any such lien or charge shall be attempted to be made against the Nation as owner, then Homeowner, at Homeowner's cost and expense, within sixty (60) days after such lien or charge shall have been attempted to be filed or made, shall cause the same to be canceled and discharged. Homeowner shall also defend, at Homeowner's cost and expense, any action, suit or proceeding which may be brought for the enforcement of such alleged lien or charge, and shall pay any damages, costs and expenses (including reasonable attorneys' fees) suffered or incurred therein by the Nation, and shall satisfy and discharge any judgment entered therein.

b. Contest of Claims. Notwithstanding the foregoing, after prior written notice to the Nation, Homeowner, at its expense, may contest, by appropriate legal proceedings conducted in good faith and with due diligence, the legality or validity or amount of application, in whole or in part, of any lien or other charge of the nature referred to above, provided that Homeowner shall have furnished such security as the Nation may require.

10. CASUALTY AND TAKING.

a. Casualty. If the Home is damaged or destroyed by fire or other casualty, this Agreement shall in no way be affected and shall continue in full force and effect, and Homeowner warrants and represents that it shall restore, or cause the restoration of, the Home, provided, however, that if during the last five (5) years of the Term there is a total destruction of the Home or substantial damage to the Home such that Homeowner determines in good faith that restoration is not economically feasible, Homeowner may terminate this Agreement, provided Homeowner delivers written notice to the Nation within ninety (90) days after the date of such destruction or damage. All moneys paid under policies of insurance shall be held by the Nation, and such insurance proceeds, together with any and all interest thereon, shall be disbursed to Homeowner to enable Homeowner to restore or rebuild the Home, or any part thereof, or of erecting a new home. Notwithstanding the foregoing, in the event that there is a Mortgage, all proceeds of insurance shall be held by the Mortgagee and disbursed to Homeowner and the contractor(s), incrementally as work is done, to enable the Homeowner to rebuild or restore the Home as set forth in preceding sentence. In the event this Agreement is terminated as permitted above, Homeowner shall assign and transfer to the Nation all proceeds of any insurance policies related to the Home.

b. Takings. If twenty-five percent (25%) or more of the total gross floor area of the Home shall be taken for any public or quasi-public purpose by the appropriate governmental authorities, by the exercise of the right of condemnation or eminent domain, or by agreement with the Nation, then in such event Homeowner shall have the right to cancel and terminate this Agreement as of the date of such taking, upon giving written notice to the Nation of such election within sixty (60) days after receipt by Homeowner of written notice that such portion of the Home has been taken. In the event of such cancellation, Homeowner shall thereupon be released from any further liability under this Agreement. If the Agreement is not terminated, the entire Award shall be delivered to the Nation or, in the event that there is a loan, to the Lender and disbursed to Homeowner for repairing and rebuilding of the Home.

c. Proceeds. Any portion of any insurance proceeds or any Award not expended by Homeowner on repairing and rebuilding the Home, because of a termination of this Agreement or otherwise, shall be provided to the Nation.

11. HOME.

a. Repairs and Alternations. Homeowner shall at all times during the Term, at Homeowner's cost and expense, keep the Home and all facilities and equipment therein and adjoining the Home, and land and landscaping surrounding the Home, in reasonable operating condition and repair, and in such condition as may be required by Nation Laws and by the terms of the insurance policies furnished pursuant to this Agreement, whether or not such repair shall be interior or exterior, extraordinary as well as ordinary, and whether or not such repair shall be of a structural nature or can be said to be within the present contemplation of the parties hereto. Homeowner shall at all times during the Term, at Homeowner's cost and expense, keep the sidewalks and curbs, if any, adjoining the Home, free from snow, ice and all other obstructions.

b. Ownership and Title to Home. Homeowner covenants and agrees that its interest in the Home and any replacement or addition thereto is subject to the terms and conditions of this Agreement. The Homeowner's interest in the Home, the fixtures, or other improvements in, on, to or upon the Home consists of the right to use the Home as provided by this Agreement and to enjoy the Net Value thereof as defined in Chapter 9 of the Housing Code. Homeowner covenants and agrees that, upon the termination of this Agreement, its interest in the Home, the fixtures and improvements shall, in accordance with Nation Laws, vest in the Nation, unless and until a subsequent Use Rights and Homeowner Agreement is executed with respect to the Home.

12. QUIET ENJOYMENT. The Nation covenants and agrees with Homeowner that as long as Homeowner pays the Annual Costs, and performs and fulfills all covenants, agreements and conditions set forth herein, Homeowner shall, at all times during the Term, peaceably and quietly have, hold and enjoy the Home and all rights, appurtenances and privileges belonging or in any way appertaining thereto without hindrance or disturbance.

13. DEFAULTS.

a. Events of Default. Each of the following shall constitute an "Event of Default": (a) if Homeowner fails to pay the Annual Costs, including the Fixed Payment or Additional Costs, and if such default shall continue for thirty (30) days after receipt of written notice from the Nation to Homeowner regarding such default; (b) if Homeowner defaults in the performance of any other of Homeowner's obligations hereunder and if such default shall continue for thirty (30) days after written notice from the Nation to Homeowner regarding such other default or defaults, provided that if the default is of such a character as cannot reasonably be cured within said period, and if Homeowner has commenced diligently to correct the default or defaults after receipt of such notice and thereafter diligently pursues such correction, then said period shall be extended for an additional period up to sixty (60) days; (c) if Homeowner, without the prior written consent of the Nation, fails to use the Home as such Homeowner's principal private residence for a continuous period of thirty (30) days; or (d) if Homeowner fails to pay or perform any obligation under any financing arrangement with the Nation or any financing arrangement guaranteed by the Nation.

b. Termination; Repossession. If any Event of Default occurs, the Nation, at the Nation's option, may either terminate this Agreement and recover possession of the Home or recover possession of the Home without terminating this Agreement. In the event the Nation elects to terminate this Agreement, then this Agreement and all rights of Homeowner hereunder shall expire and terminate as if the date specified in such notice were the date herein fixed for the expiration of the Term. In the "Event of Default" the Nation shall have available to it any and all remedies under law or equity. The Nation shall be entitled to reasonable attorneys' fees and all other costs and expenses actually incurred by the Nation in exercising its remedies hereunder.

14. NATION'S RIGHT TO PERFORM HOMEOWNER'S COVENANTS. Homeowner agrees that if it shall at any time fail, within thirty (30) days of receipt of notice from the Nation (except no prior notice shall be required in case of emergency), to perform any act on its part to be performed as provided in this Agreement, then, without further notice or demand upon Homeowner and without waiving or releasing Homeowner from any obligation of Homeowner contained in this Agreement or waiving any other right or remedy of the Nation, the Nation may, but shall not be obligated to perform any other act on Homeowner's part to be performed as provided in this Agreement. All sums paid by the Nation and all incidental costs and expenses paid or incurred by the Nation in connection with the Nation's performance of any act described in the previous sentence, together with all reasonable attorneys' fees and together with interest thereon from the date of the making of such expenditures by the Nation, at the default rate described herein, shall be payable to the Nation, on demand and Homeowner covenants to pay any such sum or sums with interest as aforesaid. All sums which may become payable to the Nation by Homeowner as provided in this section, and all sums which Homeowner assumes or agrees to pay pursuant to this Agreement, shall be deemed Additional Costs hereunder and be payable as aforesaid, and the Nation shall have (in addition to any other

right or remedy of the Nation) the same rights and remedies in the event of the nonpayment of any such sums as in the case of Homeowner's default in the payment of Annual Costs.

15. INDEMNITY. Homeowner shall indemnify, defend and hold the Nation harmless from and against any and all liabilities, losses, damages, expenses, causes of action, suits, interest, fines, penalties, claims and judgments (to the extent that the same are not barred by the doctrine of sovereign immunity and to the extent that the same are not paid out of the proceeds of any policies of liability insurance furnished by Homeowner to the Nation) arising from any occurrence during the Term involving person or property of any and every nature, and from any matter of thing, growing out of the occupation, possession, use, improvement, construction, alteration, repair, maintenance or control of the Home, or arising out of Homeowner's failure to perform each and every term, covenant, condition and agreement to be performed by Homeowner hereunder. Homeowner, at Homeowner's sole cost and expense, shall defend, by counsel acceptable to the Nation, any and all suits that may be brought, and claims which may be made, against the Nation, or in which the Nation may be impleaded with others, and shall satisfy, pay and discharge any and all judgments that may be imposed against the Nation or that may be filed against the Home, the Buildings or the appurtenances thereto, or any interest therein. In the event of the failure of Homeowner to pay any sum or sums for which Homeowner shall become liable as aforesaid, then the Nation may pay such sum or sums, with all interest and charges which may have accrued thereon, and the amount so paid by the Nation shall be payable by Homeowner to the Nation upon demand as Additional Costs. The foregoing shall not be, or be construed in any way as, a waiver or relinquishment of the Nation's sovereignty or sovereign immunity or any portion thereof.

16. MISCELLANEOUS.

a. Construction. The Nation and Homeowner agree that all the provisions hereof are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof.

b. Governing Law. This Agreement shall be construed according to and shall be governed by Nation Laws.

c. Dispute Resolution. In the event of a dispute between the parties arising from this Agreement, the parties hereto establish a method of non-judicial dispute resolution. All disputes concerning compliance with and interpretation of the provisions of this Agreement shall be resolved by binding arbitration pursuant to the rules of arbitration established under Nation Laws. Any decision of the arbitrator shall be enforceable in the Oneida Nation Courts.

d. No Waiver. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time,

express or implied, of any breach of any provision of this Agreement shall be deemed a waiver of a breach of any other provision of this Agreement or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the cause of any subsequent occasion. Any and all rights and remedies which either party may have under this Agreement or by operation of Nation Laws upon any breach, shall be distinct, separate, and cumulative and shall not be deemed inconsistent with each other; no one of them, whether exercised by said party or not, shall be deemed to be in exclusion of any other, and any two or more or all of such rights and remedies may be exercised at the same time.

e. Headings. The headings used for the various articles and sections of this Agreement are used only as a matter of convenience for reference, and are not to be construed as part of this Agreement or to be used in determining the intent of the parties of this Agreement.

f. Successors. Unless repugnant to the context, the words "Nation" and "Homeowner" shall be construed to mean the original parties, their respective permitted successors and assignees, and those claiming through or under them, respectively.

g. Estoppel Certificate. Each party agrees from time to time, upon no less than fifteen (15) days' prior written request of the other, to execute, acknowledge and deliver to the other a statement in writing certifying that this Agreement is unmodified and in full force and effect (or, if there have been any modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the payment has been paid and whether there exists any uncured default by the other party and, if so, the nature of such default.

h. Notice. Every notice and demand required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given (a) when mailed postage prepaid by certified mail, with or without return receipt requested, or (b) when delivered, if delivered by hand or by commercially recognized, over-night courier, addressed as follows:

If to the Nation: Oneida Housing Corporation
267 Union Street
Oneida, New York 13421
Attn: Gary Gordon, Executive Director

If to Homeowner: _____

or, in the case of either party, to such other address as that party shall from time to time have designated by written notice given to the other party as herein provided.

i. Entire Agreement; No Oral Modifications. This instrument contains the entire agreement made between the parties hereto and may not be modified in any other manner than by an instrument in writing executed by the parties or their permitted successors in interest.

j. No Merger of Title. There shall be no merger of the estate created by this Agreement with the ownership of the Home or the Nation Lands by reason of the fact that the same person or entity may own or hold (a) the estate created by this Agreement or any interest in such estate, and (b) any interest in the ownership of the Home or the Nation Lands; and no such merger shall occur unless and until all persons having any interest in (x) the estate created by this Agreement, and (y) the ownership of the Home and the Nation lands, shall join in a written instrument effecting such merger.

k. No Alienation of Home or Lands. The parties hereto acknowledge and agree that this Agreement does not directly or indirectly grant, or convey or otherwise transfer ownership of the Lands and the improvements thereon from the Nation to the Homeowner or anyone else. This Agreement grants the right to use and occupy the Home without, in any way, alienating the Lands of the Nation or improvements thereon, or granting to Homeowner the right to transfer, convey or otherwise alienate such Lands or improvements.

l. No Third Party Beneficiary. The parties hereto acknowledge and agree that this Agreement, and the transactions contemplated hereby, are solely for the benefit of the parties hereto and not for the benefit of any third party.

EXECUTED as a sealed instrument on the day and year first hereinabove written.

WITNESS:

ONEIDA INDIAN NATION,
a sovereign Indian nation

Ray Halbritter
Nation Representative(s)

WITNESS:

Homeowner:

Print Name: _____

Print Name: _____

ONEIDA INDIAN NATION) ss:

I, the undersigned, a _____ in and for the jurisdiction aforesaid, do certify that Ray Halbritter, the Nation Representative of the Oneida Indian Nation whose name is signed to the Agreement has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand and seal this ___ day of _____, 2000.

My commission expires:

(Notarial Seal)

Notary Public

ONEIDA INDIAN NATION) ss:

I, the undersigned, a _____ in and for the jurisdiction aforesaid, do certify that _____, whose name is signed to the Agreement has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand and seal this ___ day of _____, 2000.

My commission expires:

(Notarial Seal)

Notary Public

ONEIDA INDIAN NATION) ss:

I, the undersigned, a _____ in and for the jurisdiction aforesaid, do certify that _____, whose name is signed to the Agreement has acknowledged the same before me in the jurisdiction aforesaid.

Given under my hand and seal this ___ day of _____, 2000.

My commission expires:

(Notarial Seal)

Notary Public

EXHIBIT A

LEGAL DESCRIPTIONS OF LAND

Appendix II

Sample Secured Promissory Note

SECURED PROMISSORY NOTE

Principal: _____

Date: _____

Place: Oneida Indian Nation

FOR VALUE RECEIVED, the undersigned, _____, an individual who is an enrolled Member of the Oneida Indian Nation (hereinafter referred to as "Borrower"), hereby promises to pay to the order of the Oneida Indian Nation, a sovereign Indian nation (hereinafter referred to as "Holder"), the principal sum of _____ DOLLARS (\$ _____).

This Note is executed in consideration of the Contribution provided by Holder to Borrower of _____ Dollars (\$ _____) pursuant to the Holder's Home Contribution Program established by Ordinance 00-_____ and administered by the Nation Housing Corporation in accordance with Chapter 7 of the Oneida Indian Nation Housing Code.

This Note is secured by a pledge of (i) Borrower's right to use and occupy the improvements located on the real property described on Exhibit A attached hereto pursuant to a Use Rights and Homeowner Agreement (the "Home"), (ii) any Distribution Proceeds from the Nation to the Borrower as a member in good standing of the Oneida Indian Nation, and (iii) [other] _____ (collectively, the "Collateral").

This Note shall be a non-interest bearing note.

The principal balance of this Note shall be reduced ("Vested") in equal annual amounts sufficient to fully amortize the principal balance hereunder over a ten (10) year period, providing that each year that Borrower maintains a Use Rights and Homeowner Agreement and uses the Home as the Borrower's principal residence. Vesting occurs on the anniversary date of the Use Rights and Homeowner Agreement in accordance with the foregoing sentence. Once the Borrower has maintained the Use Rights and Homeowner Agreement for a consecutive ten (10) year period, the Contribution shall be fully Vested and this Note shall be satisfied and of no further force or effect.

Payment under this Note shall be deferred for a period of ten (10) years from the date hereof; provided that, at the option of Holder, the non-Vested principal of this Note shall become immediately due and payable in the event that: (i) Borrower, without approval of the Holder, ceases to reside in the Home for which the Holder provided to the Borrower the Contribution to which this Note relates for a period in excess of thirty consecutive (30) days; (ii) Borrower transfers or attempts to transfer the Use Rights and Homeowner Agreement or attempts to transfer the Home, without approval of the Holder; (iii) Borrower is the sole signatory of the Use Rights and Homeowner Agreement and Borrower dies; or (iv) Borrower violates any provision of the Use Rights and Homeowner Agreement, Ordinance 00-_____, or any provision of the Oneida Nation Housing Code, as may be amended from time-to-time.

Borrower and all others who may become liable for all or any part of this Note, agree hereby to be jointly and severally bound, and jointly and severally (i) waive and renounce any and all homestead exemption rights and the benefits of all valuation and appraisal privileges as against this debt or any renewal or extension hereof; (ii) waive presentment, demand, protest, notice of nonpayment, notice of dishonor, and any and all lack of diligence or delays in the collection or enforcement hereof; (iii) expressly consent to the release or substitution of any of the collateral securing this Note; and (iv) expressly consent to any extension of the time for payment of this Note and any other indulgence or forbearance by Holder. Any such extension, release, substitution, indulgence, or forbearance may be made without notice to any party and without in any way affecting the personal liability of any party liable hereon.

All payments hereunder shall be payable to the order of Holder at the Nation Housing Corporation, Oneida Nation Homelands, 267 Union Street, RD 2, Oneida, New York, 13421 or at such place and such person as shall be designated in writing from time to time by Holder. The principal on this Note shall be payable in immediately available funds in lawful money of, or used by, the Oneida Indian Nation that is legal tender for public and private debts at the time of payment.

This Note shall be binding upon Borrower and its successors and assigns and shall inure to the benefit of Holder and its successors and assigns. This Note shall be governed by and construed in accordance with the laws of the Oneida Indian Nation.

IN WITNESS WHEREOF, the undersigned, with full power and authority to do so, intending that this Note shall constitute an instrument under seal, has caused these presents to be executed, delivered, and sealed on the day and year first above written.

BORROWER:

WITNESS:

Name: _____
Address: _____

Name: _____
Address: _____

ONEIDA INDIAN NATION)ss:

On the ____ day of _____, in the year _____, before me, the undersigned officer, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her their capacity(-ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the same.

[Signature]

[Office of person taking the acknowledgment]

Appendix III
Sample Pledge Agreement

PLEDGE AGREEMENT

THIS PLEDGE AGREEMENT (this "Agreement") is entered into among _____, with an address of _____ (referred to below as "Grantor") and the ONEIDA INDIAN NATION, a sovereign Indian nation, with an address of _____ (referred to below as the "Nation").

1. Pledge. For valuable consideration, Grantor grants to the Nation a security interest in the Collateral to secure the Indebtedness and agrees that the Nation shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which the Nation may have under Nation law. This is a continuing Security Agreement and will continue in effect even though all or any part of the Indebtedness is paid in full and even though for a period of time Grantor may not be indebted to the Nation.

2. Definitions. The following words shall have the following meanings when used in this Agreement.

a. The word "Collateral" means the property described on Exhibit A attached hereto and incorporated herein, together with all Income and Proceeds, if any as described below. In addition, the word "Collateral" includes all property of Grantor, in the possession of the Nation (or in the possession of a third party subject to the control of the Nation), whether now or hereafter existing and whether tangible or intangible in character.

b. The words "Event of Default" mean and include without limitation any of the Events of Default set forth below in the section titled "Events of Default."

c. The word "Grantor" means the party specified above. Any Grantor who signs this Agreement, but does not sign the Note, is signing this Agreement only to grant a security interest in Grantor's interest in the Collateral to the Nation and is not personally liable under the Note except as otherwise provided by contract or Nation law (e.g. personal liability under a guaranty or as a surety).

d. The word "Guarantor" means and includes without limitation each and all of the guarantors, sureties, and accommodation parties in connection with the Indebtedness and their personal representatives, successors and assigns.

e. The words "Income and Proceeds" mean all present and future income, proceeds, earnings, increases, and substitutions from or for the Collateral of every kind and nature, including without limitation all payments, interest, profits, benefits, rights, options, warrants, dividends, stock dividends, stock splits, stock rights, regulatory dividends, distributions, subscriptions, monies, claims for money due and to become due, proceeds of any insurance on the Collateral, shares of stock of different par value or no par value issued in substitution or exchange for shares included in the Collateral, and all other property Grantor is entitled to receive on account of such Collateral, including accounts, contract rights, documents, instruments, chattel paper, and general intangibles.

f. The word “Indebtedness” means the indebtedness evidenced by the Note, including all principal, interest and fees, costs, and expenses, if any, together with all modifications of and renewals, replacements and substitutions for any of the foregoing. “Indebtedness” also includes all other present and future liabilities and obligations of Grantor to the Nation, whether direct or indirect, matured or unmatured, and whether absolute or contingent, joint, several or joint and several, and no matter how the same may be evidenced or shall arise.

g. The word “Note” means the note dated of even date herewith in the principal amount of _____ from Grantor to the Nation, together with all modifications of and renewals, replacements, and substitutions for the notes.

h. The word “Obligor” means and includes without limitation any and all persons or entities obligated to pay money or to perform some other act under the Collateral.

i. The words “Related Documents” mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

3. Grantor’s Waiver. Except as otherwise required under this Agreement or by applicable Nation law, Grantor waives any defenses that may arise because of any action or inaction of the Nation, including without limitation any failure of the Nation to realize upon the Collateral or any delay by the Nation in realizing upon the Collateral; and Grantor agrees to remain liable under the Note no matter what action the Nation takes or fails to take under this Agreement.

4. Rights Of Setoff. Grantor hereby grants the Nation a contractual possessory security interest in and hereby assigns, conveys, delivers, and transfers all of Grantor’s rights, title and interest in and to Grantor’s member distributions with the Nation. Grantor authorizes the Nation, to the extent permitted by applicable Nation law, to charge or setoff all Indebtedness against any and all such distributions.

5. Grantor’s Representations And Warranties With Respect To The Collateral. Grantor represents and warrants to the Nation that:

a. Ownership. Grantor is the lawful owner of the Collateral free and clear of all security interests, liens, encumbrances and claims of others, except as disclosed to and accepted by the Nation in writing prior to execution of this Agreement.

b. Right to Pledge. Grantor has the full right, power and authority to enter into this Agreement and to pledge the Collateral.

c. **Binding Effect.** This Agreement is binding upon Grantor, as well as Grantor's heirs, successors, representatives and assigns, and is legally enforceable in accordance with its terms.

d. **No Further Assignment.** Grantor has not, and will not, sell, assign, transfer, encumber or otherwise dispose of any of Grantor's rights in the Collateral except as provided in this Agreement.

e. **No Defaults.** There are no defaults existing under the Collateral, and there are no offsets or counterclaims to the same. Grantor will strictly and promptly perform each of the terms, conditions, covenants and agreements contained in the Collateral which are to be performed by Grantor, if any.

f. **No Violation.** The execution and delivery of this agreement will not violate any Nation law or agreement governing Grantor or to which Grantor is a party, and its certificate or articles of incorporation and bylaws do not prohibit any term or condition of this Agreement.

6. **Nation's Rights And Obligations With Respect To Collateral.** The Nation, at the Nation's election, may hold the Collateral until all the Indebtedness has been paid and satisfied and thereafter may deliver the Collateral to any Grantor. The Nation shall have the following rights in addition to all other rights it may have by Nation law:

a. **Income and Proceeds from the Collateral.** The Nation may receive all Income and Proceeds and add it to the Collateral. Grantor agrees to deliver to the Nation immediately upon receipt of demand notice for same, in the exact form received and without commingling with other property, all Income and Proceeds from the Collateral which may be received by, paid, or delivered to Grantor or for Grantor's account whether as an addition to, in discharge of, in substitution of, or in exchange for any of the Collateral.

b. **Application of Cash.** At the Nation's option, the Nation may apply any cash, whether included in the Collateral or received as Income and Proceeds or through liquidation, sale, or retirement, of the Collateral, to the satisfaction of the Indebtedness or such portion thereof as the Nation shall choose, whether or not matured.

c. **Transactions with Others.** The Nation may (a) extend time for payment or other performance, (b) grant a renewal or change in terms or conditions or (c) compromise, compound or release any obligation, with any one or more Obligors, endorsers, or Guarantors of the Indebtedness as the Nation deems advisable without obtaining the prior written consent of Grantor, and no such act or failure to act shall affect the Nation's rights against Grantor or the Collateral.

d. **All Collateral Secures Indebtedness.** All Collateral shall be security for the Indebtedness.

e. Collection of Collateral. The Nation, at the Nation's option may, but need not, collect directly from the Obligors on any of the Collateral all Income and Proceeds or other sums of money and other property due and to become due under the Collateral, and Grantor authorizes and directs the Obligors, if the Nation exercises such option, to pay and deliver to the Nation all Income and Proceeds and other sums of money and other property payable by the terms of the Collateral and to accept the Nation's receipt for the payments.

f. Power of Attorney. Grantor irrevocably appoints the Nation as Grantor's attorney-in-fact, with full power of substitution, (a) to demand, collect, receive, receipt for, sue and recover all Income and Proceeds and other sums of money and other property which may now or hereafter become due, owing or payable from the Obligors in accordance with the terms of the Collateral; (b) to execute, sign and endorse any and all instruments, receipts, checks, drafts and warrants issued in payment for the Collateral; (c) to sell or compromise any and all claims arising under the Collateral, and in the place and stead of Grantor, execute and deliver Grantor's release and acquittance for Grantor; (d) to fill any claim or claims or to take any action or institute or take part in any proceedings, either in the Nation's own name or in the name of Grantor; or otherwise, which in the discretion of the Nation may seem to be necessary or advisable; and (e) to execute in Grantor's name and to deliver to the Obligors on Grantor's behalf, at the time and in the manner specified by the Collateral, any necessary instruments or documents.

g. Perfection of Security Interest. Upon request of the Nation, Grantor will deliver to the Nation any and all of the documents evidencing or constituting the Collateral. If the Collateral consists of securities for which no certificate has been issued, Grantor agrees, at the Nation's option, either to request issuance of an appropriate certificate or to execute appropriate instructions on the Nation's forms instructing the issuer, transfer agent, mutual fund company, or broker, as the case may be, to record on its books or records, by book-entry or otherwise, the Nation's security interest in the Collateral. Grantor hereby appoints the Nation as Grantor's irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect or to continue the security interest granted in this Agreement.

7. Expenditures By The Nation. If not discharged or paid when due, the Nation may (but shall not be obligated to) discharge or pay any amounts required to be discharged or paid by Grantor under this Agreement, including without limitation all liens, security interests, encumbrances, and other claims, at any time levied or placed on the Collateral. All such expenses shall become a part of the Indebtedness and, at the Nation's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which the Nation may be entitled upon the occurrence of an Event of Default.

8. Limitations On Obligations Of Nation. The Nation shall use ordinary reasonable care in the physical preservation and custody of the Collateral in the Nation's possession, but shall have no other obligation to protect the Collateral or its value. The Nation shall have no liability for depreciation or deterioration of the Collateral.

9. Events Of Default. Each of the following shall constitute an Event of Default under this Agreement.

a. Default on Indebtedness. Failure of Grantor to make any payment when due on the Indebtedness.

b. Other Defaults. Failure of Grantor to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, the Note or in any of the Related Documents or failure of Grantor to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between the Nation and Grantor.

c. Death or Insolvency. The death of any Grantor or insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any applicable bankruptcy or insolvency laws by or against Grantor.

d. Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor against the Collateral or any other collateral securing the Indebtedness.

e. Events Affecting Guarantor. Any of the preceding events occur with respect to any Guarantor or any of the Indebtedness or such Guarantor dies or becomes incompetent.

10. Rights And Remedies On Default. If an Event of Default occurs under this Agreement, at any time thereafter, the Nation may exercise any one or more of the following rights and remedies.

a. Accelerate Indebtedness. Declare all Indebtedness immediately due and payable, after giving all required notices of default and after passage of any grace period.

b. Collect the Collateral. Collect any of the Collateral and, at the Nation's option and to the extent permitted by applicable Nation law, retain possession of the Collateral while suing on the Indebtedness.

c. Sell the Collateral. Sell the Collateral, at the Nation's discretion, as a unit or in parcels, at one or more public or private sales. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Nation shall give or mail to Grantor, or any of them, notice at least ten (10) days in advance of the time

and place of a public sale, or of the date after which any private sale may be made. Grantor agrees that any requirement of reasonable notice is satisfied if the Nation mails notice by ordinary mail addressed to Grantor. The Nation may be a purchaser at any public sale.

d. Register Securities. Register any securities included in the Collateral in the Nation's name and exercise any rights normally incident to the ownership of securities.

e. Sell Securities. Sell any securities included in the Collateral in a manner consistent with applicable laws.

f. Foreclosure. Maintain a judicial suit for foreclosure and sale of the Collateral.

g. Transfer Title. Effect transfer of title upon sale of all or part of the Collateral. For this purpose, Grantor irrevocably appoints the Nation as its attorney-in-fact to execute endorsements, assignments and instruments in the name of Grantor and each of them (if more than one) as shall be necessary or reasonable.

h. Other Rights and Remedies. Have and exercise any or all of the rights and remedies of a secured creditor under Nation law.

i. Application of Proceeds. Apply any cash which is part of the Collateral, or which is received from the collection or sale of the Collateral, to reimbursement of any expenses, including attorney fees and court costs, whether or not there is a lawsuit and including any fees on appeal, incurred by the Nation in connection with the collection and sale of such Collateral and to the payment of the Indebtedness of Grantor to the Nation, with any excess funds to be paid to Grantor as the interests of Grantor may appear. Grantor agrees, to the extent permitted by Nation law, to pay any deficiency after application of the proceeds of the Collateral to the Indebtedness.

j. Cumulative Rights. All of the Nation's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by the Nation to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect the Nation's right to declare and to exercise its remedies.

11. Miscellaneous Provisions. The following miscellaneous provisions are part of this Agreement.

a. Amendments. This Agreement, the Note, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

b. **Applicable Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the Oneida Indian Nation.

c. **Attorneys' Fees; Expenses.** Grantor agrees that if the Nation hires an attorney to help enforce this Agreement or to collect any sums owing under this Agreement, Grantor will pay the Nation's attorneys' fees, and all of the Nation's other collection expenses, whether or not there is a lawsuit and including without limitation additional legal expenses for bankruptcy proceedings.

d. **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

e. **Multiple Parties.** All obligations of Grantor under this Agreement shall be joint and several, and all references to Grantor shall mean each and every Grantor. This means that each of the persons signing below is responsible for all obligations in this Agreement.

f. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered if hand delivered or when deposited with a nationally recognized overnight courier or deposited as certified in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. If there is more than one Grantor, notice to any Grantor will constitute notice to all Grantors. For notice purposes, Grantor agrees to keep the Nation informed at all times of Grantor's current address(es).

g. **Severability.** If the Nation Court finds any provision of this Agreement to be invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

h. **Successor Interests.** Subject to the limitations set forth above on transfer of the Collateral, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.

i. **Waiver.** The Nation shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by the Nation. No delay or omission on the part of the Nation in exercising any right shall operate as a waiver of such right or any other right. A waiver by the Nation of a provision of this Agreement shall not prejudice or constitute a waiver of the Nation's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by the Nation, nor any course of dealing between the Nation and Grantor, shall constitute a waiver of any of the Nation's rights or of any of Grantor's obligation as to any future transactions. Whenever the

consent of the Nation is required under this Agreement, the granting of such consent by the Nation in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of the Nation.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS PLEDGE AGREEMENT, AND GRANTOR AGREES TO ITS TERMS. THIS AGREEMENT IS DATED _____.

WITNESS:

GRANTOR:

Print Name: _____

Print Name: _____

EXHIBIT A

DESCRIPTION OF COLLATERAL

Grantor hereby grants a continuing security interest in the following:

All of Grantor's right, title and interest in and to _____.