

## **Round Valley Indian Housing Authority**

### **COLLECTION AND EVICTION POLICY**

The Round Valley Indian Tribes (“RVIT”) adopted this Policy on March \_\_\_\_\_, 2014 by Resolution No.\_\_\_\_\_. The Round Valley Indian Housing Authority Board of Commissioners (“Board”) also adopted this Policy on March \_\_\_\_\_, 2014, by Resolution No. \_\_\_\_\_. The effective date of this Policy is \_\_\_\_\_, 2014, and the Policy shall be retroactive in application.

This Policy is the official Collection and Eviction Policy of the Round Valley Indian Housing Authority (“Housing Authority”) adopted to establish collection and eviction procedures, and supersedes all previous collection and eviction procedures used by the Housing Authority. This Policy shall be reviewed periodically to ensure compliance with Tribal and federal law and regulations. Housing Authority finds it essential to adopt a policy and procedure to enable it to enforce payment and non-payment obligations of tenants and residents. This Policy is to be read in conjunction with the Round Valley Indian Housing Authority’s Occupancy Policy, including the Occupancy Policy’s lease requirements, promulgated pursuant to 7 C.F.R. §§ 3560.155-57.

#### **1. General Provisions**

##### **1.1. Application**

This Policy applies to all tenants, residents, or any other recipients of any Housing Authority service. All tenants and other such recipients must adhere to the policies and procedures set forth herein..

##### **1.2. Purpose**

The purpose of this Policy is to provide procedures that ensure the efficient collection of payment obligations from Housing Authority tenants or occupants. It also provides the policies and procedures for the notice and termination of leases and any subsequent unlawful detainer action that must be brought in the Round Valley Tribal Court. The overarching goal of this Policy is to collect monies owed to Housing Authority; to ensure the continuation of adequate housing services to Round Valley Tribal members and families; to ensure the safety and wellbeing of Housing Authority tenants and residents; and to promote equity, fairness, and due process for all recipients of Housing Authority services.

##### **1.3. Process in General**

This Policy contemplates that a tenant who has become delinquent on monies owing to Housing Authority be given two opportunities to make a case showing that Housing Authority’s determination of delinquency is in error. The process begins when a tenant is put on notice via a Notice of Delinquency. The Notice of Delinquency gives the tenant ten (10) calendar days to cure any delinquency alleged. If ten (10) calendar days passes without cure, Housing Authority will issue a Notice of Termination to the tenant. If the tenant believes that the Housing Authority’s determination of delinquency as described therein is in error, he or she has three (3) business days to appeal that determination to the Housing Authority Board of Commissioners. If the Board determines that the Housing Authority is not in error, or if the tenant declines to appeal

the Housing Authority's Notice of Termination to the Housing Authority Board, Housing Authority will issue a Notice to Quit. A Notice to Quit is Housing Authority's final determination, and requires that the tenant vacate the dwelling unit. A tenant served with a Notice to Quit may appeal Housing Authority's final determination to the Round Valley Tribal Court by requesting a Grievance Hearing within ten (10) calendar days of being served a Notice to Quit. The Tribal Court's determination at a Grievance Hearing will end the matter. Any decision of the Round Valley Tribal Court pursuant to this Policy is final. No party has a right to appeal. If the Tribal Court rules in favor of Housing Authority, or if a tenant does not appeal a Notice to Quit to the Tribal Court, Housing Authority will file an action for unlawful detainer in Tribal Court if the tenant refuses to vacate the dwelling unit.

#### **1.4. Construction of Policy and Computation of Time**

The rules and standards of this Policy must be construed in favor of Housing Authority, and any ambiguities herein or relative to other Housing Authority policies must be resolved in favor of the Housing Authority. Nothing in this Policy is to be construed as a waiver of sovereign immunity by the Round Valley Indian Tribes or its Housing Authority or consent to suit on behalf of any RVIT or Housing Authority officer or employee. Further, as used in this Policy:

**1.4.1.** "Must" or "shall" is mandatory.

**1.4.2.** "May" is permissive.

**1.4.3.** "May not" means not permitted to.

**1.4.4.** "Will" expresses a future contingency or predicts action in the ordinary course of events, but does not signify a mandatory duty.

**1.4.5.** "Should" expresses a preference or a nonbinding recommendation.

**1.4.6.** Each tense (past, present, or future) includes the others.

**1.4.7.** Each gender (masculine, feminine, or neuter) includes the others.

**1.4.8.** Each number (singular or plural) includes the other.

**1.4.9.** The time in which any act provided by these rules is to be performed is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or other federal or Tribal holiday, and then it is also excluded. Unless this Policy specifies "court days" or "business days," time is to be computed using calendar days, inclusive of Saturdays, Sundays, and other federal or Tribal holidays. Thus, "five days" means five calendar days, which includes weekends and federal or Tribal holidays.

**1.4.10.** Unless otherwise provided by this Policy, if the last day for the performance of any act that is required by these rules to be performed within a specific period of time falls on a Saturday, Sunday, or federal or Tribal holiday, the period is extended to and includes the next day that is not a holiday.

## **2. Definitions**

**2.1. Abandonment.** Tenant or resident leaving a dwelling unit for a successive period of twenty (20) days without written notification to Housing Authority.

**2.2. Debtor.** A person who obtains credit from Housing Authority or who owes money to Housing Authority.

**2.3. Delinquency.** Late payment of the rent or any other scheduled payment due to the Housing Authority.

**2.4. Dwelling Unit.** One or more habitable rooms that are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation, and the immediately surrounding premises.

**2.5. Financial Hardship.** A financial hardship exists where a tenant or delinquent debtor proves to Housing Authority that he/she needs substantially all of his/her current income and liquid assets to meet ordinary and necessary living expenses and liabilities.

**2.6. Grievance Hearing.** The hearing between a tenant and Housing Authority, before the Round Valley Tribal Court, in which the tenant or their representative presents evidence and testimony on a final determination of Housing Authority. The timeframes established by this Policy will be tolled during the pendency of any Grievance Hearing.

**2.7. Lease.** The agreement executed by a resident and Housing Authority allowing the resident to reside in a dwelling unit and stating the responsibilities and obligations of Housing Authority and tenant.

**2.8. Nuisance.** The maintenance on real property of a condition that unreasonably threatens the health or safety of the public or neighboring homebuyers or tenants or that unreasonably and substantially interferes with the ability of neighboring tenants to enjoy the reasonable use and occupancy of their property. A nuisance shall also include any conduct or conditions defined as nuisance in any applicable Round Valley Indian Tribal law or ordinance.

**2.9. Non-Payment Obligation.** Any obligations set forth in a lease agreement or this Collection and Eviction Policy that a tenant or resident must comply with for continued occupancy in a Housing Authority dwelling unit.

**2.10. Occupant.** A person whose occupancy of a dwelling unit is recognized by the tenant or Housing Authority pursuant to a lease; and conversely, that is not the result of a trespass, unauthorized sublease or assignment, or any other condition not recognized in a lease. "Occupancy" shall refer to occupant.

**2.11. Personal Property.** Any and all tangible property, including, but not limited to, items, goods, materials, merchandise, furniture, equipment, fixtures, structures, clothing, and household items.

**2.12. Rent.** Money or other consideration given for the right of use, possession, and occupation of a dwelling unit; generally, the amount owed to the Housing Authority by a tenant pursuant to a rental lease agreement and owing on a certain due date, typically the first day of each month.

**2.13. Resident.** A person with a physical presence in a dwelling unit who has the intention to continue living there, including any unmarried dependent child who is temporarily away from their home.

**2.14. Tenant.** Any person occupying a Housing Authority dwelling unit pursuant to a lease and any member of the tenant's family who is authorized to live in the unit. "Tenancy" shall refer to tenant, and shall also connote "occupancy."

**2.15. Termination Hearing.** The meeting between a tenant and the Housing Authority Board in which the tenant or their legal counsel or other representative presents evidence and testimony on the issue of whether the tenant's tenancy should be terminated.

**2.16. Writ of Possession.** A writ issued by the Round Valley Tribal Court that allows a party to recover the possession of property.

### **3. Payment Requirements and Procedures**

#### **3.1. Amount of Monthly Rent**

Housing Authority establishes the amount of the monthly rent payment, which is established pursuant to the Round Valley Indian Housing Authority's Occupancy Policy. The monthly amount for rent may be adjusted pursuant to re-examinations at Housing Authority's discretion, to the extent afforded by the Occupancy Policy.

#### **3.2. Due Dates for Monthly Rent Payments or Other Charges**

All monthly payments are due and payable in full by the first day of each month. It is the tenant's responsibility to submit the payments on time. Required monthly payments not received on the due date by the Housing Authority are considered late. After the tenth day of the month, late payments become delinquent.

#### **3.3. Extension of Due Date**

Tenants must notify Housing Authority staff prior to the first day of the month if they cannot make the full monthly rent payment when due. The Housing Authority Executive Director may accept a partial rent payment or may determine that an extension of the rent due date is permissible when a financial hardship exists, as defined in Section 2.5 of this Policy. If the Executive Director does not grant an extension of the rent due date after a proper request is made, a monthly rent payment submitted after the rent due date will be considered late and normal collection procedures will begin.

### **3.4. Budget Counseling**

Housing Authority, at its discretion, may schedule a mandatory budget counseling session for a tenant at a specified time during the period of account delinquency. The Housing Authority shall require the participant to sign a statement documenting attendance and commitment by the debtor to improve personal financial management. If a tenant's account is delinquent more than three (3) times within a twelve-month period, that person will automatically be required to complete a budget counseling session.

### **3.5. Payment Agreements**

If a tenant or other debtor is delinquent in payments to the Housing Authority, Housing Authority's Executive Director may negotiate a payment agreement with that person as an alternative to termination of the lease or bringing a collection action, at the Executive Director's discretion. The payment agreement should reflect the delinquent person's ability to pay back past due amounts owed to the Housing Authority in addition to regular monthly payments by amortizing the total amount owed over several months. The payment agreement should not exceed twelve (12) months unless exigent circumstances exist. Additional terms of the payment agreement shall include, but not be limited to: (1) an acknowledgement of the total amount owed, (2) required periodic payments, and (3) a default clause in the event of nonpayment. The default clause shall state that either termination or collection procedures shall begin if a payment required by a payment agreement is delinquent, unless Housing Authority Executive Director finds that a hardship exists and extends the deadline for payment pursuant to the procedures established under Section 3.3 of this Policy.

### **3.6. Late Fees**

The Housing Authority shall assess a \$25 late fee for delinquent rent, assessed beginning on the eleventh day of the month. If the \$25 late fee exceeds 5% of the participant's monthly rent, the late fee charge shall be \$10, or 5% of the participant's rent, whichever is higher.

## **4. Collection of Delinquencies**

### **4.1. Delinquent Rent Payments**

Required monthly rent payments not received on the first day of the month by the Housing Authority are considered late. After the tenth day of the month, late payments become delinquent. Unless a tenant has made other payment arrangements with Housing Authority, such as a payment agreement, Housing Authority Board will begin collection procedures for the delinquency.

### **4.2. Notice of Delinquency**

If the Housing Authority has not received a rent payment by the tenth day of the month it will send a Notice of Delinquency to the tenant or delinquent debtor. The Notice of Delinquency will specify the total amount owed to the Housing Authority and clearly state that the tenant or debtor who is delinquent in payments to the Housing Authority will be given ten (10) calendar days to make payment in full, arrange for payment by way of a payment agreement pursuant to Section 3.5 of this Policy, or otherwise cure the delinquency. The Notice of Delinquency included herein as Appendix C is informational only, and subject to change at the discretion of the Housing Authority's Executive Director or Board.

### **4.3. Notice of Termination and Notice to Quit**

If the delinquent tenant does not cure the delinquencies noted in the Notice of Delinquency within ten (10) calendar days, the Housing Authority will give Notice of Termination to at least one tenant residing in the subject dwelling unit who is over age eighteen (18). If a Termination Hearing is requested, the Housing Authority Board shall make a final decision on termination based on evidence presented at the hearing. The delinquent tenant will receive a final written decision within five (5) business days after the hearing. If the Housing Authority's decision is to terminate a tenant's tenancy, or if no hearing is requested, a Notice to Quit will be served upon the delinquent tenant, and Housing Authority will demand that the delinquent tenant vacate the dwelling unit and quit possession.

### **4.4. Delinquent Debtors Other Than Tenants**

If a delinquent debtor other than a tenant does not cure the delinquencies noted in the Notice of Delinquency within ten (10) calendar days, the Housing Authority shall deliver a Notice of Intent to Collect in accordance with the procedures for notice and method of service set forth herein, which will:

**4.4.1.** Specify the total amount owed to the Housing Authority;

**4.4.2.** Clearly state that the delinquent debtor will be given ten (10) calendar days to request a Grievance Hearing or to make payment in full; and

**4.4.3.** Clearly state that their failure to comply will result in the Housing Authority filing a complaint for damages in the Round Valley Tribal Court in accordance with Section 9.6 below, or other any appropriate judicial forum.

Any written notice that complies with the requirements of this Section shall be sufficient. The Notice of Intent to Collect included herein as Appendix D is informational only, and subject to change at the discretion of the Housing Authority's Executive Director or Board.

## **5. Other Grounds for Termination of Occupancy**

### **5.1. Material Noncompliance or Other Good Cause**

The lease is a legally binding contract that contains terms and covenants that must be complied with by both the Housing Authority and the tenant. The Housing Authority may terminate the lease with a Notice of Termination and Notice to Quit, and evict the tenant for material noncompliance with the lease, Occupancy Rules, or otherwise for good cause. Grounds for eviction include but are not limited to the following:

**5.1.1.** Nonpayment or repeated late payment of rent or other financial obligations due to the Housing Authority;

**5.1.2.** Violations of lease provisions or Occupancy Rules that are substantial and repeated;

**5.1.3.** Failure to maintain the premises in a reasonable state of good repair, not counting ordinary wear and tear;

**5.1.4.** Failure to use the housing unit as a primary residence;

**5.1.5.** Subletting or assigning the housing unit without the prior written approval of the Housing Authority;

**5.1.6.** Actions by the participant or a member of the participant's household that:

**5.1.6.1** Threaten the health and safety of other persons or the right of other persons to peaceful enjoyment of their dwelling;

**5.1.6.2** Result in substantial physical damage causing an adverse financial effect on the housing or other persons' property;

**5.1.6.3** Constitute nuisance; and

**5.1.6.4** Are actions prohibited by federal, state, or Tribal law.

**5.1.7.** Failure to maintain eligibility as a tenant, in which case the Housing Authority shall terminate their tenancy in accordance with Section 5.3 of this Policy;

**5.1.8.** Misrepresentation or withholding of material information upon applying for admission, or in connection with any subsequent reexamination of income and family composition;

**5.1.9.** Failure to comply with recertification requirements by the specified recertification date;

**5.1.10.** Engaging in one or more criminal activities;

**5.1.11.** Admission to or conviction (including "no contest" pleas) for use, attempted use, possession, manufacture, sale, or distribution of a controlled substance that is not allowed by applicable law ("drug violation"), if any such violation was committed on or within the housing project's premises by the participant, a member of the participant's household, or any other person under the participant's control at the time of the violation; or

**5.1.12.** Commission of domestic violence on the housing project premises, in which case all domestic violence perpetrators shall be evicted, while the victim and other household occupants may remain in the unit in accordance with the Housing Authority's eligibility requirements and Occupancy Rules.

## **5.2. Domestic Violence and Drug Violations**

**5.2.1.** Housing Authority, as a condition for continued occupancy by remaining members of the participant household, may require any tenant, occupant, or other adult member occupying the unit who commits a drug violation or domestic violence to vacate the unit permanently, within time frames set by the Housing Authority Board at its discretion, and not thereafter enter upon Housing Authority premises or the unit without the Housing Authority's prior consent. The Housing Authority may deny consent for entry unless the person agrees not to commit a drug violation or domestic violence in the future and is actively participating in a counseling or recovery program, is complying with court orders related to a drug violation or domestic violence, or has completed a counseling or recovery program.

**5.2.2.** As a condition for continued occupancy in the unit, the Housing Authority may require any tenant or occupant to show evidence that any "minor" (i.e. who is under age eighteen (18)) occupying the unit who committed a drug violation or domestic violence agrees to not commit a drug violation or domestic violence in the future, and to show evidence that the minor is either actively seeking or receiving assistance through a counseling or recovery program, is complying with court orders related to a drug violation or domestic violence, or has completed a counseling or recovery program within time frames specified by the Housing Authority. Should a further drug violation or domestic violence be committed by any minor occupying the unit, the Housing Authority may require the minor to be severed from tenancy as a condition for continued occupancy by the lessee.

**5.2.3.** If a person vacating the unit as a result of the above policies has signed the lease, the person shall be severed from the tenancy and the lessee's interests and obligations shall automatically transfer to the remaining tenants. The Housing Authority may also, in the Housing Authority's discretion, permit another "adult" (i.e. who is over age eighteen (18)) member of the household to be a lessee.

## **5.3. Ineligible Tenants and Tenants Without a Current Certification**

**5.3.1.** Ineligible tenants are those who, upon recertification, fail to meet either the income or the occupancy requirements for the dwelling unit that they currently occupy. Federal regulations require that tenants who are no longer eligible to reside in the dwelling unit be given notice that they must vacate the dwelling unit within thirty (30) days or at the end of their lease, whichever is longer. The Housing Authority may permit ineligible households to reside at the project, (with USDA approval for USDA projects), if the waiting list for the specific unit type has no eligible tenants or the required time period for vacating the unit would create a financial hardship on the household, as defined at Section 2.4.

**5.3.2.** A tenant who is not recertified is technically an ineligible tenant. If the Housing Authority can document that a tenant received a notice specifying a tenant recertification date, and the tenant fails to comply by the specified date or fails to cooperate with

verification or other procedures related to the tenant's recertification so that the tenant recertification cannot be completed by the recertification date, the Housing Authority, within ten (10) days of the recertification date, shall give the tenant written notification that termination proceedings are being initiated. For USDA projects, according to 7 C.F.R. §§ 3560.152, .158, that the tenant will be charged no rent until the tenant's lease is terminated.

## **6. Notice; Method of Service**

### **6.1. Timing of Notice**

When the Housing Authority seeks to obtain possession of a dwelling unit, and when there exists one or more reasons to evict any tenant or delinquent debtor occupying the dwelling unit, it will give notice of termination to at least one adult tenant of the residence.

### **6.2. Persons to be Noticed**

The notice shall be addressed to the delinquent debtor or any adult tenant of the dwelling unit and shall state the reason(s) for the adverse action and the date by which the tenant(s) or delinquent debtor must cure the deficiencies indicated therein or to request a hearing.

### **6.3. Content of Notice of Termination**

**6.3.1.** The notice shall be in writing and shall state the reasons for the termination of the tenancy, including the total amount owed to the Housing Authority for delinquencies, if any, and the date by which the tenant(s) must cure the deficiencies or request a Termination Hearing.

**6.3.2.** If any remedies are available to cure the alleged violations of the lease, the notice shall include those remedies and the timeline for their completion.

**6.3.3.** The notice shall inform any tenants that they have a right to request a Termination Hearing with the Housing Authority Board by submitting a request for a hearing, in writing, to Housing Authority within three (3) business days of receipt of the notice.

**6.3.4.** The Housing Authority shall date and sign the notice.

**3.4.5.** The Notice of Termination included herein as Appendix A is informational only, and subject to change at the discretion of the Housing Authority's Executive Director or Board.

### **6.4. Form of Notice**

Any written notice that complies with this Section's requirements shall be sufficient.

### **6.5. Copy of Notice and Proof of Service.**

The Housing Authority shall keep a copy of the notice and proof of service by declaration that includes the date and address of all mailings or hand-deliveries and to whom the delivery was made.

## **6.6. Service of Notice.**

Service of the any notice may be delivered by a law enforcement officer of the Tribe or by the Housing Authority, and achieved by:

**6.6.1.** Delivering a copy to the tenant or delinquent debtor personally; or

**6.6.2.** If the tenant or delinquent debtor is absent from his or her dwelling unit or other place of residence, or from his or her usual place of business, by leaving a copy with some person of adult age and suitable discretion at either place and sending a copy thereof through the mail addressed to the tenant at his or her place of residence or place of business; or

**6.6.3.** If the tenant or delinquent debtor's place of residence or business cannot be ascertained or a person of adult age and suitable discretion cannot be found there or at the dwelling unit, then by posting a copy in a conspicuous place on the dwelling unit and also delivering a copy to a person residing in the unit, if such person can be found, and also sending a copy through the mail addressed to the tenant at the mailing address for the dwelling unit.

## **7. Grievance Hearing**

A tenant or delinquent debtor shall have the right to appeal a Notice to Quit or a Notice of Intent to Collect and request a hearing before the Round Valley Tribal Court. The tenant or delinquent debtor must request this hearing within ten (10) calendar days of service of the Notice to Quit or Notice of Intent to Collect. The hearing will be granted only if the tenant or delinquent debtor submits a written request to the Tribal Court Clerk. The grievant may be represented by legal counsel or another person of his/her choice at the hearing, if so desired. Any timeframe established by this Policy will be tolled during the pendency of a Grievance Hearing.

## **8. Civil Rights Complaints**

Pursuant to 7 C.F.R. § 3560.160(a)(2), any tenant or prospective tenant seeking occupancy in or use of Housing Authority facilities who believes he or she is being discriminated against because of age, race, color, religion, sex, familial status, disability, or national origin may file a complaint in person with, or by mail to the U.S. Department of Agriculture's Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW., Washington DC 20250-9410 or to the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development (HUD), Washington, DC 20410. Complaints received by Housing Authority employees must be directed to the National Office Civil Rights Staff through the State Civil Rights Manager/Coordinator.

## **9. Unlawful Detainer and Eviction**

### **9.1. Unlawful Detainer**

A tenant or debtor commits an unlawful detainer if he or she violates a term of the lease or other payment obligation to Housing Authority, and refuses to vacate the dwelling unit after being served with a Notice to Quit and supporting documentation, as required by this Policy. The Housing Authority must file an unlawful detainer action with the Round Valley Tribal Court to legally remove the person who is unlawfully in possession of the unit. The process begins by serving the Notice to Quit on the tenant, and then by filing a complaint of unlawful detainer with the Tribal Court. The Notice to Quit included herein as Appendix B is informational only, and subject to change at the discretion of the Housing Authority's Executive Director or Board.

### **9.2. Initiation of Eviction Procedures – Notice**

If a tenant materially violates a term or covenant of a lease, the Housing Authority Occupancy Policy, or this Policy, or if the Housing Authority has other good cause to terminate his or her tenancy or occupancy, Housing Authority shall give Notice of Delinquency, Notice of Termination, and/or Notice to Quit to the tenant as required by this Policy.

### **9.3. Supporting Documentation Required**

Termination may only occur if the Housing Authority documents the deficiencies related to the termination and has documents that the tenant was given notice prior to the initiation of the termination action that their activities would result in termination of his or her tenancy or occupancy, in which case Housing Authority shall issue a Notice of Termination to tenant. Documentation in support of a Notice of Termination may include any supporting documentation generated for or by a grievance and/or termination hearing. Any written notice and documentation that complies with the requirements of this Section shall be sufficient. The Notice of Delinquency included herein as Appendix A is informational only.

### **9.4. Rental Payments Due During Eviction Process**

Tenants must continue to pay their monthly rent while any unlawful detainer or eviction process is underway.

### **9.5. Complaint for Unlawful Detainer**

The Housing Authority shall file a complaint for unlawful detainer and any necessary documents supporting the complaint for unlawful detainer with the Round Valley Tribal Court, requesting that the Tribal Court issue a judgment of unlawful detainer. The complaint shall request an order of eviction; a writ of restitution directing the Round Valley Tribal Police to remove any defendant; a writ of possession directing the Tribal Police to remove any personal property from the dwelling unit, if applicable; and/or a money judgment, if applicable. The complaint shall include any supporting documentation (evidence), which will be attached as exhibits to the complaint. The complaint must set forth the following:

**9.5.1.** The names of the adult tenants against whom the suit is brought;

**9.5.2.** The facts on which the Housing Authority seeks to recover possession of the dwelling unit, based upon the violations of the lease, homebuyer agreement or occupancy rules, or upon other good cause;

**9.5.3.** A description of the lease or homebuyer agreement, if any, and the dwelling unit so that it can be identified with reasonable certainty; and

**9.5.4.** A statement of the relief demanded, including any claims for possession of the residence, claims for damages, fees, costs or other special relief.

## **9.6. Complaint for Damages Owed by Delinquent Debtors**

When a delinquent debtor other than a tenant fails to pay a debt owed to the Housing Authority, the Housing Authority will file a complaint for damages with the Round Valley Tribal Court, requesting a judgment in favor of the Housing Authority for money damages. The complaint shall specify the total amount owed by the defendant and the facts on which the Housing Authority seeks to recover damages. Supporting documentation (evidence) shall be attached as exhibits to the complaint.

## **9.7. Summons; Method of Service**

The Round Valley Tribal Court will issue a summons in a form that provides reasonable notice to any defendant of the date, time, and place of the hearing for unlawful detainer or damages. The summons and complaint, and any other papers required for service, shall be served by the Round Valley Tribal Police according to the procedures set forth in Section 6.6 of this Policy.

## **9.8. Appearance; Answer**

On or before the date fixed for a defendant's appearance, the defendant may appear and answer a plaintiff's complaint. Unless otherwise ordered by the Round Valley Tribal Court and for good cause shown, the time allowed for a defendant to file and serve an answer to any complaint shall not exceed five (5) business days. Service of any answer shall be by the Round Valley Tribal Police and upon the Housing Authority's Executive Director or his or her designee, at the Housing Authority's principal place of business.

## **9.9. Final Opportunity for Settlement Agreement**

After the complaint is filed and a defendant is served with a summons, the defendant may arrange for a settlement of the matter with the by entering into a payment agreement or other settlement with the Housing Authority. The Housing Authority will notify the Round Valley Tribal Court that a stipulated settlement agreement has been executed, and will lodge the agreement with the Tribal Court such that it shall become part of the court record. The Housing Authority will, at its discretion, include the costs of filing the complaint and legal expenses in the settlement agreement. The settlement agreement shall contain language that in the event of a default in payment or other term or condition of the settlement, the case will be scheduled for hearing immediately in the Round Valley Tribal Court.

## **9.10. Default Judgment**

If a defendant fails to file a timely answer and does not appear at the scheduled hearing, the Housing Authority shall request that the Round Valley Tribal Court enter a default judgment and

also issue a writ of restitution and/or possession against that defendant, provided he or she was served with a summons and complaint in accordance with Sections 6.6 and 9.7 of this Policy.

### **9.11. Judgment**

If the Housing Authority receives a judgment of unlawful detainer against a defendant, default or otherwise, judgment shall be entered for the restitution of the dwelling unit to the Housing Authority and will include a declaration of the forfeiture of any lease. Damages shall also be assessed, including:

**9.11.1.** Physical damage to the unit caused by the defendant, or other losses or costs contemplated by Section 9.15 below;

**9.11.2.** The amount of rent or other costs due;

**9.11.3.** Attorney fees; and

**9.11.4** Post-judgment interest of six percent (6%) per annum.

Any such damages can be established upon the Housing Authority's post-judgment filing with the Tribal Court of an application or declaration detailing the damages, provided such application or declaration is served on any defendant to said judgment in accordance with Sections 6.6 and 9.7 of this Policy. Supporting documentation (evidence) shall be attached as exhibits to the application or declaration. The Tribal Court can, in its discretion, rule upon the application or declaration without a hearing.

### **9.12. Writ of Possession**

A writ of possession should accompany a judgment of unlawful detainer and shall include a directive to the Tribal Police to serve and execute the writ on any defendant. The writ of possession should also include a statement that the personal property remaining in the dwelling unit or on the premises at the time of its restitution of the unit to the Housing Authority will be sold or otherwise disposed of as follows:

**9.12.1.** Any former tenant or other occupant's personal property shall be stored by Housing Authority for at least thirty (30) days after the time of the unit's restitution to the Housing Authority, either on the premises or at another suitable location.

**9.12.2.** In order for a former tenant or other occupant to reclaim his or her personal property, he or she shall pay the reasonable costs of its removal and storage prior to reclaiming that property. If he or she does not pay such costs within thirty (30) days the time of the unit's restitution to the Housing Authority, the Housing Authority is authorized to auction the personal property, in order to recover these costs.

**9.12.3.** Upon request by a former tenant or other occupant, the Housing Authority shall provide him or her with information concerning the auction sale of the personal property, including the time, date, and location.

**9.12.4.** Any proceeds from the auction sale of the personal property in excess of the amount owed to the Housing Authority shall be provided to a former resident or other occupant, excluding property storage, removal and auction sale costs.

**9.13. No Right to Appeal; 5-Day Right to Cure**

The decision of the Round Valley Tribal Court is final. No party has a right to appeal. Notwithstanding, when a judgment is ordered after a tenant has defaulted on a rent or other payment, and the lease or agreement under which the payment is required to be made has not by its terms expired, execution upon the judgment shall not issue until five (5) business days after the entry of judgment. If the tenant, any subtenant or other party interested in the continuance of the lease or agreement term, pays to the Round Valley Tribal Court, on behalf of the Housing Authority, the amount of the judgment and costs within this five (5) business day waiting period, that portion of the judgment shall be satisfied and the tenant's estate shall be restored. However, if such payment is not made within those five (5) business days, the judgment may be enforced in its full amount and for the possession of the premises. In all other cases, the judgment may be enforced immediately.

**9.14. Enforcement of Eviction**

After the Round Valley Tribal Court issues an order and a writ of restitution, if a defendant does not vacate the dwelling unit within ten (10) business days of the date of service of the writ of restitution, or within ten (10) business days from the date a copy of the writ of restitution is posted at the dwelling unit and the date of mailing of an additional notice, Round Valley Tribal Police must evict them, which includes the removal of their personal property from the dwelling unit, or by the Housing Authority if they are absent, unable, or unwilling to remove the personal property themselves. For that purpose, the Housing Authority shall deliver to the Tribal Police a copy of the Tribal Court judgment and writ of possession.

**9.15. Damages and Costs**

The defendant will be charged for all costs incurred by the Housing Authority, including maintenance and replacement costs to repair the dwelling unit, removal and storage (or dump fees) of personal property, costs incurred for vacancy of the unit, and past due rent payments. The Housing Authority shall charge to defendants all such costs and fees associated with bringing an unlawful detainer action or enforcing any resulting judgments or writs.

## **APPENDICES**

**A - Notice of Termination**

**B - Notice to Quit**

**C - Notice of Delinquency**

**D – Notice of Intent to Collect**

**Appendix A – Notice of Termination**

The Round Valley Indian Tribe’s Housing Authority (“Housing Authority”) hereby serves this Notice to advise that your tenancy in dwelling unit \_\_ will be terminated in three (3) days if you do not respond to this notice as required below. The Housing Authority has determined that you are in breach of:

- The obligations set forth in your lease; and/or
- Section \_\_ of the Round Valley Indian Housing Authority’s Collection and Eviction Policy; and/or
- Section \_\_ of the Round Valley Indian Housing Authority’s Occupancy Policy; and/or
- You are longer meet either the income/occupancy requirements for the unit; and/or
- Other: \_\_\_\_\_

Account Balance due as of this Date: \$ \_\_\_\_\_

Payback Agreement Balance: \$ \_\_\_\_\_

These violations can be cured as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You were served a Notice of Delinquency on \_\_\_\_\_, but failed to cure the above-identified violation(s). If you make full payment on the entire delinquent balance(s) and/or cure the violation(s) listed above, all further termination proceedings will cease.

If you disagree with this notice you have a right to request a **Termination Hearing** to the Housing Authority Board. Your request for a hearing must be received by the Housing Authority Board within three (3) business days of service of this notice. You may be represented by a lawyer or other person of your choice at the Termination Hearing. You may submit a written response to the Housing Authority prior to your hearing.

If a Termination Hearing is conducted, Housing Authority shall make a final decision on your termination based on evidence presented at the hearing. You will receive a final written decision within five (5) business days after the Termination Hearing. If the Housing Authority’s decision is to terminate your tenancy, the written decision served on you will include a **Notice to Quit** that will demand that you vacate the above-identified dwelling unit.

If you do not timely request a Termination Hearing, or fail to appear for a Termination Hearing that you do request, Housing Authority will automatically terminate your tenancy, inform you of this decision in writing, and serve a notice to quit upon you, demanding that you vacate the unit. If you do not voluntarily vacate the unit, in compliance with the notice to quit, Housing Authority will initiate an eviction or other legal action against you.

\_\_\_\_\_  
Director, Housing Authority

\_\_\_\_\_  
Date

## Appendix B – Notice to Quit

The Round Valley Indian Tribe’s Housing Authority (“Housing Authority”) hereby serves this Notice to advise that your lease and/or right to occupy dwelling unit \_\_ has been terminated and you must vacate the unit.

If you do not voluntarily vacate the unit, Housing Authority will initiate an eviction or other legal action against you.

If you disagree with this notice you have a right to request a **Grievance Hearing** before the Round Valley Tribal Court. Your request for a hearing must be received by the Tribal Court Clerk within ten (10) of service of this notice. **The hearing will be granted only if the you submit a written request to the Tribal Court Clerk within ten (10) calendar days of service of this notice.**

Consistent with the rules of the Round Valley Tribal Court, you may be represented or accompanied by a person of your choice at this Grievance Hearing. The timeframes established by this Policy will be tolled during the pendency of any Grievance Hearing

\_\_\_\_\_  
Director, Housing Authority

\_\_\_\_\_  
Date

**Appendix C – Notice of Delinquency**

The Round Valley Indian Tribe’s Housing Authority (“Housing Authority”) hereby serves this Notice to advise that you are delinquent. Unless you cure the below-indicated breach(es), your tenancy in dwelling unit \_\_ will be subject to termination.

The Housing Authority has determined that you are delinquent as follows:

- \_\_ The obligations set forth in your lease; and/or
- \_\_ Section \_\_ of the Round Valley Indian Housing Authority’s Collection and Eviction Policy; and/or
- \_\_ Section \_\_ of the Round Valley Indian Housing Authority’s Occupancy Policy; and/or
- \_\_ You are longer meet either the income/occupancy requirements for the unit; and/or
- \_\_ Other: \_\_\_\_\_

Account Balance due as of this Date:           \$ \_\_\_\_\_

Payback Agreement Balance:                   \$ \_\_\_\_\_

These violations can be cured as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Failure to cure the above-identified violation(s) within ten (10) calendar days, or to arrange for payment by way of a payment agreement pursuant to Section 3.5 of this Policy, will result in the termination of your tenancy.**

If you make full payment on the entire delinquent balance(s), cure the violation(s) listed above, and/or arrange for payment by way of a payment agreement pursuant to Section 3.5 of this Policy, all further termination proceedings will cease.

\_\_\_\_\_  
Director, Housing Authority

\_\_\_\_\_  
Date

**Appendix D – Notice of Intent to Collect**

The Round Valley Indian Tribe’s Housing Authority (“Housing Authority”) hereby serves this notice of intent to collect.

The Housing Authority has determined that you are delinquent as follows:

---

---

---

---

---

---

Account Balance due as of this Date:           \$ \_\_\_\_\_

Payback Agreement Balance:                   \$ \_\_\_\_\_

These violations can be cured as follows: \_\_\_\_\_

---

---

If you disagree with this notice you have a right to request a **Grievance Hearing** before the Round Valley Tribal Court. Your request for a hearing must be received by Tribal Court Clerk within ten (10) calendar days of service of this notice. The hearing will be granted only if the you submit a written request to the Tribal Court Clerk within ten (10) calendar days of service of this notice.

Consistent with the rules of the Round Valley Tribal Court, you may be represented or accompanied by a person of your choice at this Grievance Hearing.

**Failure to cure the above-identified violation(s) within ten (10) calendar days, or to request a Grievance Hearing before the Round Valley Tribal Court, will result in Housing Authority filing a complaint for damages in the appropriate judicial forum.**

\_\_\_\_\_  
Director, Housing Authority

\_\_\_\_\_  
Date