FIRST AMENDED AND RESTATED

CASINO MANAGEMENT AGREEMENT

between

AUGUSTINE BAND OF CAHUILLA MISSION INDIANS

and

PARAGON AUGUSTINE LLC

Dated: September 9, 2003

CASINO MANAGEMENT AGREEMENT

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CASINO MANAGEMENT AGREEMENT

THIS FIRST AMENDED AND RESTATED CASINO MANAGEMENT AGREEMENT is made as of September 9, 2003 by and between the AUGUSTINE BAND OF CAHUILLA MISSION INDIANS (hereinafter "Tribe"), a federally recognized Indian tribe, and PARAGON AUGUSTINE LLC (hereinafter "Manager"), a Nevada limited liability company.

RECITALS:

1. The Tribe is a federally recognized Indian tribe eligible for the special programs and services provided by the United States and is recognized as possessing powers of self-government.

2. The United States government holds lands in the State of California in trust for the benefit of the Tribe ("Tribal Lands") over which the Tribe possesses sovereign governmental powers, and the Tribe intends to develop and operate a Class III casino on such lands, which are within the boundaries of the Tribe's Reservation.

3. The Tribe desires that the Casino Facilities be managed by a professional manager.

4. The Tribe intends that the Casino Facilities will be located within a thirteen-acre portion of the Reservation, as more particularly described in Exhibit "A," which is attached hereto and made a part hereof.

5. The Casino Facilities will be managed under the authority and subject to the restrictions of IGRA and the Compact.

6. The Tribe desires to contract with Manager to manage the Casino Facilities.

7. The parties anticipate that the Tribe may delegate its authority under this Agreement to oversee and direct the gaming business conducted at the Casino Facilities to the Corporation.

8. The Tribe and Manager entered into a Casino Management Agreement on August 23, 2001 (the "Original Management Agreement") to agree upon the rights and obligations between the Tribe as owner of the Casino Facilities and Manager as manager of the Casino Facilities respecting (a) Manager's roles in assisting the Tribe to conduct gaming in the Casino Facilities, in accordance with the Compact; and (b) the operation, management and maintenance of the Casino Facilities.

9. The Tribe and Manager desire to amend and restate the Original Management Agreement in its entirety.

NOW, THEREFORE, in consideration of the mutual covenants, promises and undertakings of the parties hereafter set forth and for other good and valuable considerations, the receipt and sufficiency of which are acknowledged by the parties, it is agreed:

SECTION 1.0
DEFINITIONS

Section 1.1 Agreement means this First Amended and Restated Casino Management Agreement, as amended, supplemented or restated from time to time. This Agreement, and any amendments, restatements or supplements hereto must be approved by the NIGC to be effective.

Section 1.2 Annual Plan means a plan prepared by Manager and adopted, with or without changes, by the Tribe prior to the beginning of each Fiscal Year during the term of this Agreement as described more particularly in Sections 2.3, 3.24, and 4.4.

Section 1.3 Augustine Gaming Commission means the Tribal Gaming Commission established by the Augustine Gaming Ordinance, which was established to carry out the licensing and regulatory responsibilities imposed by the Compact and IGRA.

Section 1.4 Augustine Gaming Ordinance means the Tribal Gaming Code, adopted pursuant to IGRA and the Compact, as amended from time to time.

Section 1.5 Capital Leases means the Capital Leases between the Tribe and LeHigh Municipal Leasing, Inc.

Section 1.6 Casino Facilities means the buildings, improvements, fixtures or other personal property, now or hereafter located within the exterior boundaries of the Tribe's reservation and housing any casino or Class III Gaming operations or serving the casino or such gaming operations, including any parking facilities or areas used by patrons of the foregoing. The Casino Facilities are expected to include a structure of approximately 33,000 square feet (or such other area as Manager and the Tribe shall agree upon), with floor space for up to 700 slot machines and up to 10 table games, as well as dining facilities. The Casino Facilities shall also include any equipment or improvements financed with proceeds of Project Cost Advances (as defined in the Development Costs Loan Agreement), but shall not include any hotel or accommodation facility.

Section 1.7 Class III Gaming means all class III gaming defined in IGRA, but only to the extent such gaming is authorized by the Compact and the Augustine Gaming Ordinance.

Section 1.8 Compact means the Tribal-State Compact between the Tribe and the State of California dated March 14, 2000, as the same may, from time to time, be amended, or such other compact that may be substituted therefor.

Section 1.9 Corporation means the Augustine Gaming Management Corporation, a tribal corporation created by Tribal Council Resolution No. 01.05, and Resolution No. 02-001 and governed by a three-member Board of Directors.

Section 1.10 Depository Accounts means the accounts established under the Depository Agreement and maintained by the Depository named therein.

Section 1.11 Depository Agreement means the First Amended and Restated Depository Agreement dated July 12, 2002 between the Tribe (as borrower), the Manager (as lender), Union Bank of California, N. A. (as depository), Sodak Gaming, Inc., and Paragon Gaming, or any successor depository agreement, as the same may be amended, supplemented or restated from time to time.

Section 1.12 Development Agreement means the Development Agreement dated August 23, 2001 between Manager, as Developer, and the Tribe, as the same may be amended, supplemented or restated from time to time.

Section 1.13 Development Costs Loan means the loan funded by the Manager pursuant to the Development Costs Loan Agreement.

Section 1.14 Development Costs Loan Agreement means the Loan Agreement dated August 23, 2001 between the Manager, as lender, and the Tribe as Borrower for a loan of as the same may be amended, supplemented or restated from time to time. 64

Section 1.15 Development Costs Note means the promissory note evidencing the Development Costs Loan.

Section 1.16 Development Fees means the fees paid to Manager (as developer) under the Development Agreement.

Section 1.17 Effective Date means the date this Agreement becomes effective, which shall be the date on which it is approved by the NIGC, so long as that date is on or after Opening Day, and subject to the terms of Section 9.0 hereof. If the NIGC approves the Agreement prior to Opening Day, the Effective Date shall be on Opening Day.

Section 1.18 Employee Arrangement means the arrangement whereby, prior to the Effective Date of this Agreement, certain of Manager's representatives are employed by the Tribe at the Casino Facilities.

Section 1.19 Excess Revenues means revenues available for release to the Tribe under Section 3.1(e) of the Depository Agreement.

Section 1.20 Executive Committee means a five-member committee with the duties set forth in Section 2, comprised of three members selected by the Tribe, the General Manager, and a representative selected by the Manager.

Section 1.21 Fiscal Year means a calendar year.

Section 1.22 GAAP or Generally Accepted Accounting Principles means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of any date of determination; and, when used with respect to the Borrower's governmental financial statements, may mean GAAP as interpreted by the Governmental Accounting Standards Board from time to time.

Section 1.23 Gaming Regulations means the IGRA and the regulations, ordinances, and laws applicable to regulate the Casino Facilities, including those of the Augustine Gaming Commission, the NIGC, and the State Gaming Agency.

Section 1.24 Gaming Regulators means public agencies that have the authority to regulate the Casino Facilities, or any one of them, including without limitation, the National Indian Gaming Commission, the State Gaming Agency and the Augustine Gaming Commission.

Section 1.25 General Manager means the person hired by the Tribe to manage the day-to-day operations of the Casino Facilities. The General Manager will report directly to the Manager,

Section 1.26 Governmental Action means any resolution, ordinance, statute, regulation, order or decision regardless of how constituted having the force of law or legal authorization of the Tribe, or any instrumentality or agency of the Tribe.

Section 1.27 Guaranteed Payment means the payment owed to the Tribe under Section 6.3 of this Agreement.

Section 1.28 IGRA means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et. seq., as it may from time to time be amended.

Section 1.29 Loan Agreements means the Development Cost Loan Agreement, the Settlement Cost Loan Agreement, the Supplemental Loan Agreement, or their successors.

Section 1.30 Management Fee means the fee to be paid the Manager pursuant to Section 6.1.

Section 1.31 Manager means Paragon Augustine, LLC, a Nevada limited liability company, its successors and assigns.

Section 1.32 Manager-Related Loan means any debt or payment obligation of the Tribe under a Manager-Related Loan Document.

Section 1.33 Manager-Related Loan Documents means the Development Costs Loan Agreement and the Development Costs Note, the Disbursing Agreement and the Security Documents defined therein, the Settlement Costs Loan Agreement and the Settlement Costs Note and Security Documents defined therein, and the Supplemental Loan Agreement and the Supplemental Note and the Security Documents defined therein.

Section 1.34 NIGC means the National Indian Gaming Commission, its successors and assigns.

Section 1.35 Non-Casino Interest means for any period in question interest on the Non-Casino Portion of the Loan.

Section 1.36 Non-Casino Portion of the Loan means as of any time, a fractional portion of the outstanding principal balance of the Development Costs Loan made by Manager pursuant to the Development Costs Loan Agreement for Tribal Operations Costs or Tribal Advances (each as defined in the Development Loan Agreement), where the numerator of such fraction equals all advances made by the Manager under the Development Costs Loan Agreement to pay Tribal Operations Costs and Tribal Advances, and the denominator of which equals all advances by the Manager made under the Development Costs Loan.

Section 1.37 Opening Day means July 18, 2002.

Section 1.38 Operating Account means a Casino Facilities account out of which Operating Expenses are to be paid, to be established by the Manager.

Section 1.39 Operating Expense shall mean all expenses of the operation of the Casino Facilities determined in accordance with GAAP consistently applied, including but not limited to the following:

(i) the payment of salaries, wages, and benefit programs for Casino Facilities employees;

(ii) operating supplies;

(iii) utilities;

(iv) repairs and maintenance of the Casino Facilities (excluding repairs and replacements that are required to be capitalized under GAAP);

(v) interest on installment contract purchases or other interest charges on debt approved by the Executive Committee in its sole discretion;

(vi) insurance and bonding;

(vii) advertising and marketing, including busing and transportation of patrons to the Casino Facilities;

(viii) accounting, legal and other professional fees, including the costs of preparation of the annual audits required hereunder;

(ix) security costs;

(x) lease payments, other than the principal component of capital leases, to the extent approved by the Manager;

(xi) trash removal;

(xii) costs of goods sold;

(xiii) depreciation and amortization of the Casino Facilities based on an assumed 30-year life for buildings, and depreciation and amortization of furniture, trade fixtures, and equipment and all other assets in accordance with GAAP consistently applied;

(xiv) recruiting and training expenses;

(xv) fees paid to the NIGC under IGRA;

(xvi) any required payments to State or local governments made by or on behalf of the Casino Facilities or the Tribe pursuant to the Compact;

(xvii) any fees, taxes and expenses payable to the Tribe, the Augustine Gaming Commission, any affiliate of the Tribe or the federal government in connection with the Casino Facilities; excluding, however, any income tax or tax imposed by the Tribe that is the functional equivalent of an income tax on funds actually or constructively distributed to the Tribe;

(xviii) any budgeted charitable contributions by the Casino Facilities that are approved by the Executive Committee;

(xix) licensing and royalty fees due for gaming devices;

(xx) fire and external police protection costs; and

(xxi) Pre-opening expenses, which are expensed as incurred.

Notwithstanding the foregoing, for purposes of this Agreement, the term "Operating Expenses" shall not include (a) Settlement Costs, (b) Non-Casino Interest, (c) any payment to the Borrower or any Affiliate or member of the Borrower for any property or service that is greater than the amount that would be paid for such property or service if such payment were due to a Person who was not the Borrower or an Affiliate or member of the Borrower, and (d) Guaranteed Payments, all except as required by GAAP.

Section 1.40 Paragon Gaming means Paragon Gaming, LLC, a Nevada limited liability company, which is a member of Manager, and its successors and assigns.

Section 1.41 Regular Term shall have the meaning given in Section 9.1 of this Agreement.

Section 1.42 Settlement Costs Loan Agreement means the Settlement Costs Loan Agreement dated August 23, 2001, as amended, supplemented or restated from time to time.

Section 1.43 Settlement Costs Note means the promissory note evidencing the Settlement Costs Loan.

Section 1.44 Site means approximately 13 acres of the trust lands within the Tribe's Reservation as described in Exhibit A to this Agreement, upon some or all of which the Casino Facilities will be located. The Site constitutes "Indian lands" as

that term is defined in IGRA and gaming in accordance with the Compact is lawfully permitted thereon pursuant to IGRA.

Section 1.45 Sodak means Sodak Gaming, Inc., a South Dakota corporation, its successors and assigns.

Section 1.46 Sodak Loan means the financing evidenced by the Commercial Sales and Security Agreement dated August 23, 2001 between the Tribe and Sodak, as the agreement may be amended, supplemented or restated from time to time.

Section 1.47 State Gaming Agency means the State Gaming Agency established by the Compact.

Section 1.48 Supplemental Loan means the loan funded by Paragon Gaming pursuant to the Supplemental Loan Agreement.

Section 1.49 Supplemental Loan Agreement means the Supplemental Loan Agreement dated July 12, 2002 between Paragon Gaming and the Tribe for a loan of $6.4 as the same may be amended, supplemented, or restated from time to time.

Section 1.50 Supplemental Note means the promissory note evidencing the Supplemental Loan.

Section 1.51 Tribal Council means the governing body of the Tribe.

Section 1.52 Tribe means the Augustine Band of Cahuilla Mission Indians.

Section 1.53 Working Capital means Casino Facilities funds kept in the Operating Account by the Manager and used to pay amounts won by customers of the Casino Facilities and operating costs incurred by the Casino Facilities.

Section 1.54 Working Capital Reserve means a minimum balance of Working Capital agreed upon by the Executive Committee to be kept in the Operating Account at all times.

SECTION 2.0
THE EXECUTIVE COMMITTEE AND ACTIONS OF THE TRIBE

Section 2.1 Creation of the Executive Committee. There is hereby created an Executive Committee for the Casino Facilities that shall, for the term of this Agreement, consist of three persons representing the Tribe designated by resolution of the Tribal Council, the General Manager, and one person representing Manager. The Executive Committee shall remain active during the entire term of this Agreement and shall have the obligations, rights, and powers described in this Agreement.

Section 2.1.1 *Chairperson.* The Executive Committee shall elect from among its members a Chairperson, who shall have a vote on all matters.

Section 2.1.2 *Meeting Notice.* Written notice of Executive Committee meetings shall be given to members of the Executive Committee by the Chairperson not less than seventy-two (72) hours in advance of the meeting unless all members of the Executive Committee agree to a different notice period or to verbal meeting notices.

Section 2.1.3 *Meetings; Actions.* The Executive Committee may agree to meet by phone. To be effective, any action of the Executive Committee must be the result of agreement of a majority of the Executive Committee members; provided that the Manager's representative, the General Manager, and one tribal representative have voted or abstained from voting, or have failed to attend the meeting after having received notice as required in Section 2.1.2 and provided further that at least one representative of the Tribe and either the General Manager or the representative of the Manager have voted. If unable to attend an Executive Committee meeting, the General Manager and/or the Manager's representative may select a designee in writing to attend the meeting and vote in his or her absence.

Section 2.2 Obtaining the Approval of the Tribe. Wherever approval of the Tribe is required by this Agreement, the Executive Committee shall promptly present its decision for such approval. The Tribal Council shall designate, by written resolution delivered to the Manager, the person or persons who shall act as representatives of the Tribe, authorized to receive notices or other information and provide approval on behalf of the Tribe for all purposes to the Executive Committee (or, if necessary, to the Manager) under the terms of this Agreement. All tribal approvals by such representative(s) shall be in writing. The Tribal Council may in its complete discretion change the persons authorized to act as the Tribe's representative(s) hereunder. In the absence of any such designation, the Tribal Chairperson shall be the representative of the Tribe.

Section 2.3 Duties Regarding the Annual Plan.

Section 2.3.1 *Approval.* The Executive Committee shall approve the Annual Plan proposed by the Manager with or without changes, at least 60 days prior to the first day of the Fiscal Year (as defined herein) and shall obtain the Tribe's approval of the Annual Plan at least 45 days prior to the first day of the Fiscal Year.

Section 2.3.2 *Amendments.* Within 10 days of receipt of proposed quarterly amendments to the Annual Plan from the Manager, the Executive Committee shall approve, with or without changes, such proposed

amendments. The Executive Committee need not seek the Tribe's approval of these quarterly amendments.

Section 2.3.3 Executive Committee's Failure to Act. If the Executive Committee shall fail to approve an Annual Plan or amendments thereto, the Annual Plan as last in effect shall continue.

SECTION 3.0
MANAGER'S SCOPE OF WORK

During the term and consistent with the provisions of this Agreement, Manager shall provide each of the following services to and on behalf of the Tribe, with all expenses related thereto except the Management Fee to be treated as Operating Expenses payable from the Operating Account (except as may be otherwise noted herein):

Section 3.1 General Duties of Manager. Manager shall, consistent with and subject to the terms of this Agreement, provide to and for the benefit of the Tribe, as the Tribe's agent, such management services as are usually and customarily performed by managers of casinos similar to the Casino Facilities. The Manager shall operate the Casino in a proper, efficient and competitive manner in accordance with operating standards that are consistent with the operating standards of the casino industry generally.

Section 3.1.1 Duty to Maximize Revenues. To the extent consistent with other requirements of this Agreement and of applicable law, Manager shall use all reasonable efforts to maximize revenues of the Casino Facilities.

Section 3.1.2 Duty to Minimize Expenses. To the extent consistent with Section 3.1.1 and other requirements of this Agreement and of applicable law, Manager shall use all reasonable efforts to minimize Operating Expenses of the Casino Facilities.

Section 3.2 Incentives and Other Services to Promote Patronage. Manager may, consistent with the requirements of applicable law and the Compact, provide incentives to Casino Facilities patrons to promote gaming activities at the Casino Facilities in the exercise of its reasonable business judgment, and in conjunction with player development programs consistent with the Annual Plan. If the Casino Facilities implement check-cashing services for the benefit of its patrons, in accordance with provisions of the Compact and Gaming Regulations, Manager shall obtain from patrons seeking to cash checks, personal, bank and other information in accordance with Casino Facilities policy.

Section 3.3 Capital.

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At the direction of the Tribe, the Manager will manage Working Capital and Working Capital Reserves for the Casino Facilities, provided that the Tribe will cooperate with these arrangements by executing required documents and adopting resolutions approving such arrangements where the Tribe deems that the terms of any proposed financing are reasonable and in the Tribe's interest. 64

Section 3.3.1 *Working Capital.* Subject to requirements and limitations of Manager-Related Loan Documents, if at any time the available funds or Working Capital in the Operating Account shall be insufficient to pay all of the current expenses, fees, bills, or other charges incurred in connection with the Casino Facilities, which are to be paid from the Operating Account or to comply with applicable laws or regulations, Manager shall so advise the Tribal Council in writing, and shall provide the Tribal Council with a statement of the amount of funds necessary to cure such insufficiencies. Thereupon, the Tribe shall deposit such funds to the Operating Account. If the Tribe, in good faith does not have such funds available, it shall so certify, in which event the Tribe shall attempt to immediately obtain sufficient monies to remedy the insufficiency or shortfall through short-term loans from third-party lenders, cash advances or other sources available to the Tribe including the use of funds from the Working Capital Reserve to meet and pay such obligations. Notwithstanding the foregoing, it is recognized that the Tribe's obligation to fund shortfalls is essential to the success of the Casino Facilities.

Section 3.3.2 *Working Capital Reserve.* Subject to requirements and limitations of the Manager-Related Loan Documents and the provisions of Section 3.3.1 above, Manager shall maintain the Working Capital Reserve in the Operating Account. All such funds and any income accruing thereon shall be the property of the Tribe. At least on an annual basis the parties shall review the balances maintained in the Working Capital Reserve and taking into consideration market conditions, capital and other needs of the Casino Facilities, the Executive Committee shall add to or remove from the Working Capital Reserve, in such amounts as may be reasonably required to meet anticipated operating requirements of the Casino Facilities for the next twelve months.

Section 3.4 Hours of Operation. The parties agree that the hours of operation for the Casino Facilities shall be 24 hours per day, 365 days per year. If in the opinion of the Manager the Casino Facilities are substantially damaged or there is a credible threat of damage to the Casino Facilities or of the endangerment of employees or customers of the Casino Facilities, the Manager may close all or any portion of the Casino Facilities. At the earliest feasible time but no more than 24 hours following such closure, Manager shall notify the Executive Committee of the closure and Manager's reasons therefor, and the Manager's plans for reopening at the

earliest feasible time, consistent with the preservation of the Casino Facilities, the safety of the Casino Facilities' employees and customers, and the business interests of the Tribe.

Section 3.5 Tax Payment Requirements. Manager shall establish such electronic transfers, procedures and other accounting and collection systems for Casino Facilities revenue as are necessary to comply with the rules and regulations governing the operation of the Casino Facilities, including but not limited to the daily reporting and payment of taxes imposed on admissions, currency transfers, patron winnings and gaming income.

Section 3.6 Public Safety. Manager shall prepare appropriate plans for response by Casino Facilities staff to threats to public safety, including fire, seismic events, and terrorist acts and shall engage, on behalf of the Tribe, such public safety contractors as are reasonably needed to prepare appropriate plans for the protection of the Casino Facilities. Such service contractors shall review and make recommendations regarding local fire code requirements pertaining to the Casino Facilities; reasonable and appropriate emergency measures comparable to those that may be required by the laws of the State of California and, as appropriate, to the operation of the Casino Facilities including, without limitation, staff training.

Section 3.7 Security. The Manager shall provide for appropriate security for the operation of the Casino Facilities. All aspects of Casino Facilities security shall be the responsibility of the Manager unless otherwise directed by the Tribe and/or the Augustine Gaming Commission in accordance with the Tribal Gaming Code. Manager shall require that any security officer be bonded and insured in an amount commensurate with his or her enforcement duties and obligations.

Security/police services shall be divided into external police services, security and surveillance and responsibilities shall be allocated as follows:

Section 3.7.1 *External Police.* External police services shall be arranged by the Tribe and shall be responsible for all arrests, with or without the assistance of other public law enforcement agencies, except as provided in Regulations of the Augustine Gaming Commission.

Section 3.7.2 *Security Personnel.* The Manager shall be solely responsible for the hiring, training, and supervision of the security personnel. Security personnel shall be responsible for the security of the money and tokens and shall perform such other duties as the Manager shall require including, but not limited to, carrying out the emergency plan.

Section 3.7.3 *Access by Augustine Gaming Commission.* The Augustine Gaming Commission shall be responsible for surveillance and licensing and all other activities assigned to it by the Gaming Ordinance. Manager shall permit the Augustine Gaming Commission to have unfettered

access to all aspects of the Casino Facilities, including access to the surveillance room at any time.

Section 3.8 Advertising. Manager will prepare and coordinate with the Tribe, on behalf of the Casino Facilities, advertising, public relations and sales budgets, and will hire on behalf of the Tribe advertising and public relations firms and manage and coordinate their activities so as to develop a cohesive program for advertising, public relations and sales, all subject to the Tribe's approval. This marketing plan will include sales and marketing strategies including all applicable budgets; advertising themes, targets and preferred media, tour packages; player development programs; entertainment appropriate for a casino of this type; and other activities that generally promote the Casino Facilities. Manager shall place, or cause the advertising firms retained for such purpose to place, all such advertising, subject to the Executive Committee's approval of advertising concepts for the purpose of protecting and enhancing the image of the Tribe.

Section 3.9 Expenses. Manager, as agent for the Tribe, shall purchase and ensure timely payment for the following items and services, in accordance with or as provided by the Annual Plan (subject to the last sentence of Section 3.10.1 and Sections 3.24.2): food, beverages, operating supplies, and other merchandise, gaming equipment, reservation systems, security systems and services, fire protection and other safety equipment, systems and services, telex equipment, and other mechanical and electronic equipment and systems, maintenance services and supplies and other items necessary for the proper operation of the Casino Facilities. In accordance with the Manager-Related Loan Documents, Manager shall make payments from the Operating Account on behalf of the Tribe to the Augustine Gaming Commission in amounts reasonably necessary, as determined by the Tribe, to support the Commission's operations.

Section 3.10 Employment Practices

Section 3.10.1 *General Supervision by Manager.* Manager, as agent for the Tribe, and subject to the limitations set forth herein, shall arrange for the recruitment, employment, training, payment, promotion, demotion and discharge of all of the employees, including the security force, all of whom shall be employees of the Tribe. Employee compensation for non-executive employment will be established by Manager and incorporated in the Annual Plan. The Tribe shall have the final authority and determination with respect to any labor negotiations and by virtue of its participation in the preparation and its approval of the Annual Plan, shall establish the levels of employee compensation. Employee compensation shall generally conform to the levels in the Annual Plan.

Section 3.10.2 *Personnel - Employment Practices.* Except as otherwise provided herein, all personnel involved with the day-to-day operations of the Casino Facilities shall be employees of the Tribe and shall be subject to the policies and procedures set forth in the Personnel Manual described below. In fulfilling Manager's responsibilities hereunder, Manager shall comply with the following:

Section 3.10.2.1 Personnel List. No later than sixty (60) days prior to the beginning of each Fiscal Year, Manager shall prepare and present to the Tribe for review and approval an organizational chart and a proposed list of all job categories, including a separate list for the Security Force, to be used in connection with developing, operating, managing, and maintaining the Casino Facilities during the following Fiscal Year. The lists shall set forth for each job category, a job description, the number of employees required, and the approximate compensation levels.

Section 3.10.2.2 Personnel Manual and Disputes Between Manager As Agent for the Tribe and the Casino Facilities Employees. Manager shall prepare and maintain, subject to the approval of the Tribe, a Personnel Manual that sets forth policies and procedures for the handling of all personnel matters including, without limitation, procedures for resolving disputes between Manager and the Casino Facilities employees and between the Tribe and the Casino Facilities employees and for handling terminations. Employment disputes between Casino employees and Manager will be resolved informally through conversations between the aggrieved employee and his or her supervisor, in the first instance. An employee who is not satisfied with the results of such a conversation shall be permitted to discuss his or her grievance successively with the Director of the Department in which he or she works, with the Human Resources Director, with the General Manager of the Casino and with the Gaming Commission.

Once implemented, Manager shall comply with this Personnel Manual in all material respects. To the extent permitted by applicable law, this manual shall also include provisions for pre-employment and periodic screening of employees and applicants for substance abuse, background investigations, security and the like. Any costs incurred in connection with such employee screening activities shall be considered an Operating Expense, unless such expense is paid by the employee.

Section 3.10.2.3 Training Manual. Manager shall prepare and maintain, subject to the approval of the Tribe, a training manual

("Training Manual") that establishes criteria for and methods of training employee personnel.

Section 3.10.2.4 Compensation. Compensation levels for employees shall be commercially reasonable, giving consideration to the position involved and rates prevailing for similar industry positions in the region.

Section 3.11 Patron Disputes. Manager shall prepare and maintain a protocol for resolving disputes between Casino Facilities patrons and Casino Facilities employees or the Manager. This protocol will comply with any tribal law regarding such disputes.

Section 3.12 Insurance. Manager shall advise, make recommendations to the Tribe, and implement the insurance coverage and insurance policies described in Section 8, to the extent consistent with the Loan Agreements.

Section 3.13 Internal Revenue Code. Manager shall comply with the Internal Revenue Code of 1986, as amended, (the "IRC" including sections 1441, 3402 (q), 6050 I, and Chapter 35 of such code) concerning the reporting and withholding of taxes with respect to wagering, excise taxes, and winnings from gaming or wagering operations and such other provisions concerning currency transactions, and the Tribe hereby authorizes Manager to withhold and pay same from Gross Gaming Revenues, as defined in Section 6.2.1. Manager shall also ensure compliance with all employee withholding requirements of the IRC.

Section 3.14 Public Safety. Whenever, by reason of circumstances beyond the control of Manager, emergency expenditures are required to be made to ensure that the Casino Facilities' operating standards are maintained or to protect life, person, or property, Manager may make emergency expenditures beyond the provisions of the Annual Plan, provided that without the approval of the Tribe, the total of all expenditures for any one such occurrence may not exceed [redacted] in any Fiscal Year. Moreover, if the cost of public safety services increases during any Fiscal Year, such additional cost shall be deemed an emergency expenditure and shall be paid from the Operating Account as an Operating Expense.

Section 3.15 Accounting.

Section 3.15.1 *General.* On behalf of Tribe, Manager shall keep full and adequate books of account and other records reflecting the results of operations of the Casino Facilities on an accrual basis in accordance with applicable federal law and GAAP, consistently applied. The books of account and all other records relating to or reflecting the operation of the Casino Facilities shall at all times be kept at the Casino Facilities in the Manager's

offices in a secure and fireproof environment and shall be made immediately available to the Tribal Council and the Executive Committee and their representatives, and any non-Tribal supervisory or regulatory authority having jurisdiction over the Tribe or the Casino Facilities, upon approval by the Tribal Council, who shall have access to such records and to the daily operations of the Casino Facilities for examination, verification of daily gross revenues and income, audit, inspection and transcription. In addition, the Tribal Council shall have access to any other Casino Facilities-related information at the Casino Facilities as the Tribe may reasonably deem appropriate. The Manager shall take all steps reasonably necessary to protect such books and records from theft, damage or misuse. Upon termination of this Agreement, all such books and records shall immediately be turned over to the Tribe.

Section 3.15.2 *Specific Requirements of the Accounting System.* The accounting system established by Manager shall, at a minimum, establish and maintain appropriate accounting systems and procedures and internal controls reasonably acceptable to the Tribal Council and as may be required by applicable Gaming Regulations, which system shall include, but not be limited to: (i) a system of internal accounting controls; (ii) the preparation of financial statements in accordance with GAAP consistently applied; (iii) preparation of financial statements and reports in a manner that is readily susceptible to audit by outside auditors; (iv) the preparation of financial statements and reports in a manner allowing for ease of calculation of the distribution of revenues and fees set forth in this Agreement and for purposes of reporting such distribution of revenue and fees to the NIGC in conformity with 25 CFR § 514.1; (v) a system of accounts permitting ease of calculation, payment and distributions of fees or revenue to the Tribe and Manager; and (vi) providing for the allocation of Operating Expenses and other expenses including overhead expenses, if any, among the Tribe, the Casino Facilities, Manager and any other user of shared facilities and services, if any. Furthermore, Manager shall render such periodic financial statements in accordance with GAAP and reports with respect to operations of the Casino Facilities from time to time as may be specifically required hereunder.

Section 3.15.3 *Readiness for Audit.* The Manager shall prepare all accounting and financial reports so they are susceptible to audit.

Section 3.15.4 *Calculation of Annual Fee.* The Manager shall prepare all accounting and financial reports to allow the Tribe and the Augustine Gaming Commission to calculate the annual fee to the NIGC under 25 CFR § 514.1.

Section 3.16 Reporting. Manager will submit periodic financial reports to the Tribe in a format to be suggested by the Manager and approved by the Executive Committee, including each of the following:

Section 3.16.1 *Daily Statements.* Manager shall provide a copy of the daily cash receipts and revenue reports of the Casino Facilities to the Tribe on a daily basis.

Section 3.16.2 *Monthly Operating and Payroll Account Statements.* Manager shall provide a monthly statement to the Tribe summarizing all activity in the Operating Account and all Casino Facilities payroll accounts, and reconciling the balances within those with the monthly financial statements provided for in Section 3.15. As soon as practicable after the request therefore by the Tribe, Manager shall provide the balances in all bank accounts maintained pursuant to this Agreement to the Tribe.

Section 3.16.3 *Monthly Statement.* Manager shall prepare and deliver to the Tribe within twenty (20) days after the end of each month, (a) a profit and loss statement showing the results of the operation of the Casino Facilities for the immediately preceding month and for the Fiscal Year including a comparison with the Annual Plan, (b) a balance sheet, and (c) statements of income and cash flow. These statements and balance sheets shall be prepared from the books of account maintained by Manager and shall be in a form and include such substance as may be required by the Executive Committee.

Section 3.16.4 *Annual Statement.* Manager shall use its reasonable best efforts to cause to be prepared and delivered to the Tribe, not later than one hundred ten (110) days immediately following the end of each Fiscal Year, detailed financial statements for the Casino Facilities for such Fiscal Year (the "Annual Statements"), which, to the extent consistent with GAAP, shall consist of: (i) a balance sheet; (ii) a statement of earnings and retained earnings; and (iii) a statement of change in financial position. Such financial statements shall be prepared by, and shall contain a certificate of the Accountants, to the effect that, subject to such acceptable qualifications as shall be contained therein, such financial statements fairly present the financial position, results of the operations and changes in financial position of the Casino Facilities for the Fiscal Year then ended, in conformity with applicable federal law and Generally Accepted Accounting Principles applied on a consistent basis.

Section 3.16.5 *Access.* Unless prohibited by the Gaming Regulations, the Tribe's appropriate officials including its Tribal Council, and any of the Tribal Council's duly designated representatives including, but not limited to, accountants and auditors will have immediate access to the gaming operations

of the Casino Facilities including its books and records. In particular, such officials and representatives shall have:

(i) the right to verify the daily gross revenues and income (calculated monthly) from the gaming operations of the Casino Facilities as set forth at Sections 3.15.1; and

(ii) shall have access to any other customary gaming-related information the Tribe or its representative reasonably deem appropriate.

Section 3.17 Compliance with Laws. Manager shall comply with the Gaming Regulations and any other requirements of the Gaming Regulators, and with the lawful order of any other governmental authority having jurisdiction over the use, maintenance or operation of the Casino Facilities; provided that if the Manager believes there are reasonable grounds for challenging such requirements or orders, it shall advise the Executive Committee and the Tribe thereof. At the direction of the Tribe, Manager may challenge a requirement or order applicable to the Casino Facilities described in this Section 3.17, provided that Manager shall comply with all applicable requirements or orders during the time of such challenge.

Section 3.18 Collection of Revenue. Manager shall use all reasonable efforts to collect all charges, rents, and other amounts due and recover and cause the surrender of space as applicable and necessary from Casino Facilities guests, patrons, tenants, subtenants, contractors, parties providing exclusive services and concessionaires; ask for, demand, collect and give receipts for all charges, rents and other amounts that may at any time be due for any guest, patron, tenant, subtenant, contractor, and parties providing exclusive services or concessionaires; and, subject to the limitations hereafter set forth, sue for and initiate such appropriate legal proceedings in the name of the Casino Facilities, and generally enforce the Tribe's rights with respect to, any of the foregoing; it being understood that Manager makes no assurances of the recovery or collectability of any of the foregoing.

Section 3.19 Legal Actions. With the approval of the Executive Committee, the Manager may initiate or defend any legal action involving the Casino Facilities. The Executive Committee shall give or decline to give its approval in a timely manner, as required by the legal action.

Section 3.20 Concessions. Manager shall make recommendations to the Executive Committee regarding the granting and renewal of concessions for services customarily subject to concession in the Casino Facilities if, in Manager's reasonable opinion, the granting of such concessions is deemed necessary or desirable.

Section 3.21 Licenses. Manager shall assist the Executive Committee in obtaining and maintaining such alcoholic beverage licenses and gaming licenses, as may be required by law, or that are necessary for the Tribe to own and operate (through Manager) such alcoholic beverage facilities and gaming facilities as shall be contained within the Casino Facilities.

Section 3.22 Maintenance. Manager shall provide for the continuous maintenance and repair of the Casino Facilities in accordance with casino industry standards. Manager shall, as an Operating Expense of the Casino Facilities and in accordance with the Depository Agreement, make such expenditures for repairs and maintenance, for replacements, renewals and additions to furniture, fixtures and equipment, and for those capital improvements other than structural repairs and changes and extraordinary repairs to or replacement of furniture, fixtures and equipment as may be necessary or required, to keep the Casino Facilities in proper operating condition. No structural improvements that are not included in an approved Annual Plan shall be made in the Casino Facilities without the Tribe's written consent. If any such repairs or maintenance constitute corrective work for which the Tribe has received or is entitled to the benefit of the guarantee or warranty of any builder, contractor or of any supplier of labor or material in connection with the construction of the Casino Facilities or with respect to the furniture, fixtures and equipment installed therein, then Manager shall invoke such guarantees or warranties in the Tribe's name and the Tribe shall cooperate fully with Manager in the enforcement thereof. Subject to the terms of the Manager-Related Loan Documents, the Tribe reserves the right to sell, or instruct the Manager to sell on the Tribe's behalf, any of the furniture, fixtures or equipment located in the Casino Facilities from time to time, provided that the Executive Committee shall substitute furniture, fixtures and equipment of like kind and utility.

Section 3.23 Alterations and Refurbishing. Manager shall make available at the Casino Facilities or such other location convenient to all parties, such personnel as are needed to review all plans and specifications for minor and routine alteration or refurbishing of the Casino Facilities proposed by the Executive Committee from time to time, to carry out the design, selection, and scope of replacement of furnishings and equipment as directed by the Executive Committee, and to improve operations or to eliminate operational problems.

Section 3.24 Annual Plan.

Section 3.24.1 *Proposal.* No later than 75 days prior to the first day of each Fiscal Year that begins after the Effective Date of this Agreement, Manager shall prepare and forward the Annual Plan for the coming Fiscal Year to the Executive Committee. The Annual Plan shall include at least the following proposed elements:

a) A budget and the revenue projections upon which the budget is based;

b) A staffing plan, including numbers of employees and salary and benefits levels by job classification;

c) A marketing strategy;

d) A capital improvements program; and

e) A slot machine replacement program.

Section 3.24.2 *Amendments.* Manager shall propose quarterly amendments to the Annual Plan to the Executive Committee as necessary to keep the Annual Plan consistent with the operational needs of the Casino Facilities. During the intervals between such amendments, Manager may reallocate budgeted Operating Expenses from any line item to any other line item if and as needed to carry out the purposes of this Agreement. Additionally, if the actual Gross Revenues for any quarter exceed those projected in the Annual Plan, the expenditures budgeted in the Annual Plan for Casino Facilities operations shall be deemed to be increased to an amount that bears the same ratio to the amounts budgeted for such items as actual Gross Revenues for such period bear to the projected Gross Revenues for such period. Manager also agrees to make reasonable efforts to reduce Operating Expenses if Gross Revenues fall below those projected, taking into account the need to continue to provide the level of services required to meet the Casino Facilities' operating standards, as well as the need to increase revenues.

Section 3.24.3 *Capital Improvements.* The capital improvements program in the Annual Plan shall include proposed uses, if any, of funds in the Repair and Replacement Account. Subject to the terms of the Depository Agreement, the Tribe shall withdraw and provide to Manager from the Repair and Replacement Account such amounts as are necessary to implement the capital improvements program. For the purposes of this Section 3.24, items with a useful life of less than one year shall not be considered capital improvements.

Section 3.25 Minimum Age of Admission. Manager shall adopt policies and procedures and provide staff training and enforcement to prevent persons under the age of 21 from entering the Casino Facilities, whether as an employee, guest, customer or trespasser.

Section 3.26 Consultants. Manager may engage from time-to-time such advisors, consultants, or other professionals as are reasonably necessary, to promote the sound and efficient operation of the Casino Facilities including but not limited to accountants, financial advisors, real estate advisors, computer consultants, attorneys, marketing consultants and such other professionals as appropriate, all subject to the terms, conditions, budget allowances and auditing requirements set forth herein. Such consultants and other professionals shall be independent of Manager. In general, consultants will be engaged only by means of competitive procurement, provided that contracts in [redacted] may be awarded non-competitively. At the end of each Fiscal Year, Manager shall provide to the Tribe a list of all contracts [redacted] arded during the Fiscal Year, including the name of the contractor, the amount of the contract, and the duration of the contact. This list shall be accompanied by a certification signed by an authorized officer of Manager that none of the contracts were awarded to a party not at arms length from Manager. b4

Section 3.27 Utility Services. Manager shall arrange for utility services, telephone, vermin extermination, security, trash removal and other services necessary for the operation of the Casino Facilities, provided that Manager shall not negotiate or enter into any agreement with any special or general purpose local government with respect to sewer or water utilities without the express written permission of the Tribe.

SECTION 4.0
RESPONSIBILITIES OF THE TRIBE

Section 4.1 Personnel. The Tribe shall be the employer of the Casino Facilities employees. The Tribe will exercise this responsibility through Manager who will be the Tribe's agent for the purpose of recruiting, hiring, supervising, promoting, demoting, paying and firing all employees of the Casino Facilities except the General Manager. Disputes regarding any terms of employment between any employee of the Casino Facilities and the Manager shall first be resolved through procedures described in personnel policies developed by Manager and approved by the Tribe pursuant to Section 3.10.2.2. Notwithstanding the foregoing, the Tribe will select, hire, and fire the General Manager with such assistance from Manager as the Tribe may request.

Section 4.2 Audits. The Tribe shall engage annually an independent auditor to perform a financial audit of the casino operations on behalf of the Tribe pursuant to 25 CFR § 571.12. The cost of audit services shall be an Operating Expense.

Section 4.3 Public Safety. The Tribe shall provide police and fire protection services to the Casino Facilities, either directly or through intergovernmental agreements with one or more fire protection districts or other local

government entities providing fire protection services in the geographic area of the Casino Facilities. The cost of such services shall be an Operating Expense.

Section 4.4 Approval of Annual Plan. The Tribe will approve the Annual Plan proposed by Manager and approved by the Executive Committee, with or without changes, no later than 30 days prior to the first day of the Fiscal Year; provided that absent approval of the Manager, the Tribe cannot add [redacted]. If the Tribal Council fails to act on the Plan by 30 days prior to the beginning of the Fiscal Year, Manager shall continue to operate under the previous year's Annual Plan. The Tribe acknowledges that the Annual Plan is intended only to be a reasonable estimate of the Casino Facilities revenue and expenses for the ensuing year.

Section 4.5 Payment of Debt. The Tribe shall pay or cause to be paid, before they become delinquent, all debt evidenced by the Manager-Related Loan Documents, and any other security interests and other liens secured in whole or in part by a lien on the Casino Facilities, if any, and/or on the furniture, furnishings, fixtures and equipment now or hereafter located within the Casino Facilities or upon any related facilities and other improvements now or hereafter situated upon the Site or within the Casino Facilities, or upon all property, real or personal, serving the Casino Facilities, as applicable.

Section 4.6 Settlement Reserve. If by Opening Day the Tribe has not satisfied any outstanding claims of the Tribe's previous Casino Facilities development partners (including Native Communities Development Corporation, Polaris Gaming LLC, and Megamax, Inc.), the Tribe shall fund a settlement reserve [redacted] provided that if the Tribe settles all outstanding claims of prior Casino Facilities development partners during the first year after Opening Day and notifies Manager in writing of such settlement, the Tribe's obligation to fund the settlement reserve shall terminate.

Section 4.7 The Compact. The Tribe shall comply with the terms and conditions of the Compact.

Section 4.8 INTENTIONALLY OMITTED.

Section 4.9 Submission of Management Agreement for Approval. The Tribe shall submit this Agreement for approval by the Chairman of the NIGC and shall diligently pursue its approval by the Chairman at the earliest possible date. Further, the Tribe shall make such amendments hereto as are required to obtain the approval of the NIGC Chairman, so long as such amendments are consented to by Manager and will have no material adverse effect on the Tribe.

Section 4.10 Timely Performance of General Duties and Responsibilities. The Tribe hereby agrees to perform its duties hereunder on a timely basis. In particular, the Tribe agrees:

Section 4.10.1 *Timely Compliance with Gaming Regulations.* To timely comply with the filing, reporting, informing, updating and approval processes and procedures required and established by the Gaming Regulations, this Agreement, the Compact, the Augustine Gaming Ordinance, the Manager-Related Loan Documents, and with all other statutes, ordinances, laws, rules, regulations and requirements of governmental bodies or agencies having jurisdiction over the use, maintenance and operation of the Casino Facilities.

Section 4.10.2 *Timely Performance of Management Agreement.* To cause the Tribe and the Tribe-appointed members of the Executive Committee to act in a timely and reasonable manner in all matters, decisions, approvals, licensing and other actions affecting this Agreement and required for the orderly conducting of gaming at the Casino Facilities.

Section 4.11 Environmental Compliance. With the assistance of the Manager, the Tribe shall supply the NIGC and any other federal agency requiring said information with all information necessary for that agency to comply with the provisions of the National Environmental Policy Act. The Tribe shall also, with the assistance of the Manager, comply with the environmental requirements of Tribal law and the Compact.

Section 4.12 Establishment of Payment Mechanism. Subject to the terms and conditions of the Depository Agreement, the Tribe will establish such accounts and payment mechanisms as are reasonably necessary and required by lenders to ensure the timely payment of loan payments on the Casino Facilities and slot machine financing, the Management Fee, the Guaranteed Payment to the Tribe, and the distribution of such other amounts as are contemplated by the Depository Agreement or this Agreement.

Section 4.13 Limitation on Unreasonable Interference; Access to Casino Facilities. The Tribe will refrain from unreasonably interfering with the Manager's management of the Casino Facilities and Manager's performance of its duties and obligations hereunder, and will keep the Tribe's interactions with Manager free from unreasonable interference, impediment, eviction or disturbance. The Tribe further agrees to provide access at all times to Manager, to, from and throughout the Casino Facilities; provided that Manager's access may be limited by the Gaming Regulations, or by order of the arbitrators or a court of competent jurisdiction as provided under Section 14 of this Agreement.

SECTION 5.0
CASINO FACILITIES CONTRACTS

Contracts for the operations of the Casino Facilities shall be entered into in the name of the Tribe doing business as the Casino Facilities and signed by the General Manager and such other persons as the Executive Committee may specify; provided, however, that neither the General Manager nor such other persons shall have the authority to (a) waive or impair the sovereign immunity of the Tribe or the Casino Facilities except as may be specifically authorized by the Tribe and then only in the manner authorized by the Tribe, or (b) obligate or encumber any funds or property of the Tribe except as provided for in the Casino Facilities' properly approved Annual Plan (or as permitted by Section 3.24.2 or the last sentence of Section 3.10.1). Any contract requiring an expenditure in any year [redacted] shall be approved by the Executive Committee unless specifically included in and authorized by the Annual plan. In addition, any contract requiring an expenditure in any one Fiscal Year [redacted] for consulting services or for outsourcing any material service to be provided by Manager, other than contracts entered into to correct an emergency condition, shall be approved by the Executive Committee. The Executive Committee shall determine the persons authorized to sign contracts on behalf of the Casino Facilities in specified ranges, amounts or categories.

SECTION 6.0
DISTRIBUTIONS

Section 6.1 Computation of the Management Fee. For services rendered consistent with this Agreement, Manager shall be entitled to a Management Fee equal to [redacted] as follows:

Section 6.1.1 *Due date for Management Fee.* Subject to Section 6.4, the Management Fee for each calendar month shall be calculated and paid to the Manager no later than the twenty-fifth day of the immediately following calendar month.

Section 6.1.2 *Special Provisions in Year One.* The Management Fee in the first calendar year after the Effective Date of this Agreement shall be [redacted]

Section 6.1.3 *Calculation.* On the first anniversary of the Opening Day, and each anniversary thereafter until the termination or expiration of this Agreement, the Manager and the Tribe shall determine [redacted]

(i) If such amount exceeds Manager shall

(ii) Exclusive of the deductions in the Management Fee in accordance with Section 6.1.2, if such amount is less than the Tribe shall

Section 6.2 Definitions. The following definitions shall be applicable to the calculation of the Management Fee:

Section 6.2.1 *Gross Revenues*. "Gross Revenues" shall mean for any Fiscal Year all receipts, revenues, income and proceeds of sale of every kind or nature derived directly from the operation of the Casino Facilities, and services rendered to, and rentals of all kinds received from tenants, subtenants, licensees and occupants of space located in the Casino Facilities, including, without limiting the foregoing, all receipts, revenues and income derived from: food and beverage operations, bar and lounge operations; meeting room facilities, space rentals, stores and other tenants; proceeds from any "business interruption" or "use and occupancy" policy of insurance, and any amount recovered in any legal action or proceeding or settlement thereof which arose out of the operation of the Casino Facilities, which amount under Generally Accepted Accounting Principles applied on a consistent basis, is properly included as an income item, all the foregoing calculated on an accrual basis, whether in cash or in credit.

Section 6.2.2 *Net Income*. "Net Income" shall mean for any Fiscal Year, Gross Revenues less amounts paid out as, or paid for, prizes, and less total gaming-related Operating Expenses, excluding Management Fees and the Guaranteed Payment to the Tribe, as defined in Section 6.3.

Section 6.3 Guaranteed Payment to the Tribe.

Section 6.3.1 Commencing with the Effective Date of this Agreement and continuing each month thereafter until April 1, 2003, the Tribe will be

entitled to a Guaranteed Payment in the amount of [redacted] as provided herein; provided that if gaming is not conducted during an entire month, the Guaranteed Payment shall be pro-rated to the portion of that month that gaming is conducted; and provided further that if the Capital Leases are refinanced or repaid in full by the Tribe prior to April 1, 2003, the Guaranteed Payment shall be increased to [redacted] starting with the first month after the Capital Leases have been fully refinanced or repaid by the Tribe.

Section 6.3.2 Commencing on April 1, 2003, the Tribe will be entitled to a Guaranteed Payment in the amount of [redacted] as provided herein; provided that if gaming is not conducted during an entire month, the Guaranteed Payment shall be pro-rated to the portion of that month that gaming is conducted. The Guaranteed Payment shall remain at the level of [redacted] until it is increased pursuant to Section 6.3.3.

Section 6.3.3 Commencing on the first day of the first calendar month during which the Tribe has operated [redacted] in the Casino Facilities by no later than the 7th calendar day of such month and continuing so long as the Tribe continues to operate at least [redacted] in the Casino Facilities (unless the Manager and the Tribe agree in writing to the placement of [redacted] or until the termination of this Agreement, whichever is earlier, the Tribe will be entitled to a Guaranteed Payment in the amount of [redacted] as provided herein; provided that if gaming is not conducted during an entire month, the Guaranteed Payment shall be pro-rated to the portion of that month that gaming is conducted. If the Tribe [redacted] the Guaranteed Payment shall revert to the level in Section 6.3.2 unless such reduction occurs as a result of circumstances outside the Tribe's control using best commercial efforts; provided that if such a reversion occurs, the Guaranteed Payment may again be increased to [redacted] in accordance with this Section.

Section 6.4 Distribution of Gross Revenues, Priority of cash distributions and timing of payments. As long as the Depository Agreement is in effect, it will govern the timing and priority of the monthly distribution of Gross Revenues. Once the Depository Agreement is no longer in effect, Gross Revenues of the Casino Facilities will be distributed monthly as follows:

1. First, to the payment of Operating Expenses;

2. Second, to the Guaranteed Payment to the Tribe, as follows: first, any portion of any Guaranteed Payment due for any prior calendar month or months (in chronological order), and second, the Guaranteed Payment for the current calendar month;

3. Third, to Manager for its Management Fees and all accrued but unpaid Development Fees (first in respect to any Deferred Management Fee as defined in Section 6.5, below, second to any Current Management Fees, and third to any accrued but unpaid Development Fees); and

4. Fourth, to the Tribe.

Section 6.5 Payment of Management Fees. Commencing with the Effective Date of this Agreement and continuing each month thereafter, Manager shall be entitled to receive Management Fees calculated in accordance with Section 6.1, and subject to the Depository Agreement (which the parties acknowledge to be in effect and to govern the distribution of Gross Revenues only while any Secured Obligations (as defined therein) are outstanding), paid in accordance with the cash distribution priority schedule set forth in Section 6.4. Should there be insufficient cash available in any given month to pay Management Fees, or should payment be deferred for any other reason, such unpaid amount shall be deferred ("Deferred Management Fees") and shall be paid to Manager as cash becomes available, in accordance with the cash distribution priority schedule set forth in the Depository Agreement or Section 6.4, as applicable.

Section 6.6 Timing of Certain Payments. While it is in effect, the Depository Agreement shall govern the timing of the payment of capital expenditures and Management Fees and the distribution of the Tribe's share of Net Income. After the Depository Agreement is no longer effective, the payment of capital expenditures and Management Fees and the distribution of the Tribe's share of Net Income shall be made monthly as soon as practicable but not more than 10 days after the Tribe has satisfied the cash distribution priorities with respect to (i) Operating Expenses and (ii) the Guaranteed Payment to the Tribe.

Section 6.7 Early Termination/"Buy-out". Beginning after Opening Day, upon thirty (30) days written notice to Paragon (the "Buy-Out Date"), the Tribe shall have the option to buy out Paragon's remaining rights and obligations under this Management Agreement for the Buy-Out Price (as hereinafter established); provided the Tribe has paid off all amounts owed under Manager-Related Loan Documents.

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Section 6.8 Recoupment of Development and Construction Costs.

The maximum amount for recoupment of development and construction costs shall be [redacted]

SECTION 7.0
LIMITATION ON SUBCONTRACTING, ASSIGNMENT AND OWNERSHIP CHANGES

Section 7.1 By Manager. Manager shall not subcontract any services that Manager is required to directly perform under this Agreement to any other party without the express written consent of Tribe, the Augustine Gaming Commission and the NIGC. Under no circumstances shall Manager contract with any affiliate or related party to provide services required by this Agreement. Except as otherwise permitted by the Collateral Assignment referred to in the legend on the cover page of this Agreement , no change in the Manager's ownership interest in this Agreement that would result in a new entity having a financial interest in this Agreement or a change in the ten (10) persons who, as of the Effective Date of this Agreement, have the greatest financial interest in this Agreement, may occur without the prior written consent of the Tribe; provided that changes in ownership percentages amounting to five percent or less among members of Manager and the ten (10) persons who have the greatest financial interest in this Agreement, may occur without the prior written consent of the Tribe, so long as such ownership percentage changes do not affect Paragon Gaming LLC's interest in Manager, and provided further that none of the owners or investors in Centaur Paragon LLC shall acquire any interest in Paragon Gaming LLC. Manager may sell, contribute or otherwise transfer its interest with the prior consent of the Tribe and the NIGC to another entity that: (i) meets the licensing and certification requirements of the State Gaming Agency and that is also (ii) a subsidiary or affiliate of the Manager or the members of Manager.

Section 7.2 By Tribe. The Tribe may assign its rights and obligations under this Agreement to the Corporation, provided that:

Section 7.2.1 *Representations.* The Tribe provides the Manager with the same limited-waiver-of-sovereign-immunity, arbitration, and limitation-of-action provisions as are contained herein, as well as written representations on which it can rely and enforce that (i) the Corporation validly exists and is good standing under the laws of the Tribe; (ii) the Corporation has all requisite power and authority to undertake the rights and obligations of the Tribe hereunder; and (iii) the Corporation has authority and access to the premises of the Casino Facilities and the right to hold assets related thereto (other than land) in its name and to apply such assets, including revenues therefrom, as determined by the Corporation.

Section 7.2.2 *Notification.* The Tribe provides Manager with 14 days written notice of the assignment.

Section 7.2.3 *No Manager Interest in Corporation.* It is expressly agreed that if the Tribe assigns its rights and obligations hereunder to the Corporation, neither Manager nor any of its officers, directors or employees shall serve on the Board of Directors of the Corporation or have any vote in the deliberations of the Board. The Tribe may not assign its interest, rights and duties hereunder to any other entity, and shall at all times retain exclusive ownership of the Casino Facilities.

SECTION 8.0
INSURANCE.

All insurance premiums paid by the Tribe hereunder shall be treated as Operating Expenses. To the extent consistent with the Loan Agreements, the following provisions shall apply to insurance coverage for the Casino Facilities:

Section 8.1 Types of Coverage. Tribe, with the assistance of and in consultation with Manager, shall at all times throughout the term, provide and maintain, or cause to be provided and maintained, for the Casino Facilities and related facilities, the following types of insurance stated as a minimum:

Section 8.1.1 *Property Insurance.* Building and structures are to be insured, on an "all-risk" form and are to be covered on a replacement cost basis or completed contract value on appropriate property or builders risk insurance forms. Personal property, including inventories, is to be insured on an "all risk" form on a replacement cost basis. Personal property should be insured at specific high valued property such as gold and silver objects, art objects, special glass (windows or personal use items), statuary, blueprints, etc., should be specifically insured on an "all risk" form at their current replacement values. Flood, earthquake and/or other special perils and hazards are to be insured where necessary or reasonably required.

Section 8.1.2 *Business Interruption.* Coverage shall be provided at an amount agreed upon by the Manager and the Tribe for loss of gross earnings including, if applicable, flood, earthquake, riot, civil commotion and expropriation. Other special perils or hazards are to be insured tot he extent appropriate and necessary. Deductibles shall be set at reasonable levels in consideration of the property's exposures and ability to bear financial responsibility.

Section 8.1.3 *Boiler and Machinery Insurance.* Coverage shall be provided on a comprehensive form for all boiler and machinery equipment including air conditioning equipment and shall include all piping, valves, pressure tanks, hoses, lines and related apparatus and shall include coverage "on site," "in transit," and testing.

Section 8.1.4 *Liability Insurance.*

Section 8.1.4.1 General Limits. Coverage shall be obtained and maintained for comprehensive general liability, automobile liability, professional liability (if applicable) exposures for (except as modified below)

Section 8.1.4.2Umbrella Excess Liability. Coverage shall be obtained and in the aggregate applying excess of the primary limits provided by the underlying General Liability, Automobile Liability, Employers Liability and any other coverages scheduled as underlying insurances.

Section 8.1.4.3Automobile Liability Insurance. Automobile liability insurance coverage shall provide bodily injury and property damage liability coverage as well as any "no-fault" or other benefits where required by law, uninsured motorists coverage, medical payments coverage and other coverage if required and must include coverage for all owned, non-owned, and hired or borrowed vehicles. Underinsured and uninsured motorists coverage limits

Applicable State no fault benefits shall be equal to the statutory requirements

Section 8.1.4.4 Scope of Liability Coverage. All liability coverages must provide for the defense of claims in the Tribal Court. General liability coverage shall be provided on a comprehensive occurrence form insuring against claims for personal injury, sickness,

disease or death and property damage and shall include: premises and operations; innkeepers liability, personal injury liability and medical coverage, contractual liability for all oral or written agreements; safety deposit box liability (if applicable), independent contractor liability; elevator liability; host liquor liability; liquor liability or "dram shop" liability for [redacted] for bodily injury and property damage; employees as insured; employee benefit liability, directors' and officers' (D&O) liability (covering the Executive Committee) and such other coverage deemed reasonable and necessary by the Manager.

Section 8.1.5 *Workers' Compensation Insurance.* The Tribe shall provide Workers' Compensation coverage in accordance with state law or as required by the Compact. The Tribe shall also provide Employer's Liability Coverage to include at least [redacted]

Section 8.1.6 *Health Insurance.* The Tribe shall provide such health insurance coverage to employees as may be required by law or broader coverage as may otherwise be mutually agreed upon between the Tribe and Manager from time-to-time. Upon termination of this Agreement, for any reason, or upon a change of management of any kind or upon a sale of the Casino Facilities, the Tribe shall require the successor management company or any new owner, successor, or operator of the Casino Facilities, as applicable, to provide group health insurance coverage, including coverage for prior existing conditions, for those participants and beneficiaries in any group health plan in effect at the time just prior to such termination of management, sale, or change of ownership who are on continued coverage as provided by the Consolidated Omnibus Budget Reconciliation Act of 1986 and as may be amended from time to time ("COBRA"). The Tribe shall further require that the replacement management company or any subsequent owner or operator shall provide such group health insurance coverage for such participants and beneficiaries in accordance with COBRA. Moreover for purposes hereunder, should the Casino Facilities employees participate in any group Health Plan sponsored by Manager or any of its affiliates, the Tribe (or Corporation) shall be deemed to be a "joint plan sponsor" as such is defined by COBRA. Nothing contained herein shall make it obligatory for Manager to provide any such group health plan.

Section 8.1.7 *Crime Insurance.* Coverage shall be provided for money, securities, and other property for loss inside and outside the premises including transportation by messenger, [redacted]s. Coverage should include depositor's forgery, counterfeit currency and other such coverage as may be necessary. Employee dishonesty coverage shall be provided in an amount of at least [redacted]

Section 8.1.8 *Other Coverage.* Coverage shall be provided in respect of such other risks against which it is now, or hereafter may be, customary to insure in the operation of similar properties, having regard for the nature of the business and the geographical, geological and climactic nature of the Casino Facilities' location.

Section 8.1.9 *Concessionaire's Coverage.* If Manager grants any leases, licenses or concessions in accordance with the provisions of this Agreement, Manager shall require such tenants, licensees and concessionaires to carry such insurance as is normal and customary for the relevant tenant, licensee or concessionaire and to furnish certificates evidencing such insurance in such reasonable amounts as may be specified in the lease, license or concession or otherwise agreed upon between Manager and the tenant, licensee and concessionaire.

Section 8.2 General Requirements as to Form of Policies. The Tribe and Manager shall be named insureds in all policies maintained pursuant to this Agreement, as their interests may appear, but with the Tribe recognized as the primary insured party, and each such policy shall contain a waiver by the insurer of the rights of recourse or subrogation by the insurer against the Tribe and Manager. All insurance shall be in such form and with such companies as shall be satisfactory to the Tribe and Manager and shall comply with the requirements of the Loan Agreements, provided, however, that Tribe shall use its best efforts to require any mortgage or loan agreement relating to the Casino Facilities to provide that the proceeds of insurance shall be made available for the repair and restoration of the Casino Facilities. The Tribe's policies shall specify that they are primary and if any other policies of insurance, including policies maintained by Manager, are determined to apply to any claim, such other policy coverage shall be deemed to be in excess of Tribe's policies, as applicable. The Tribe shall provide Manager access to all such insurance policies including certificates, not less than 30 days prior to the expiration of all prior policies.

Section 8.3 Premium Advance. If Manager shall pay or advance on behalf of the Tribe or Corporation any insurance premiums or related insurance costs for insurance matters authorized by the Tribe and/or included in the Annual Plan, the Tribe shall repay same to Manager as an Operating Expense promptly upon demand of Manager.

Section 8.4 Access to Insurance Information. The Tribe shall at all times make available to Manager or Manager's insurance agents or insurance brokers all information relating to existing coverage, claims histories as applicable, copies of policies, certificates, binders and the like. The Tribe further authorizes Manager, its

insurance agents or brokers to obtain such information directly from Tribe's insurance agents, brokers, and insurance carriers and hereby grants to Manager, its insurance agents or brokers full access to all such information.

Section 8.5 Quality of Insurance Carrier. All insurance coverage shall be written by insurance companies that are A.M. Best rated, A/XI or higher and are authorized to do business in the jurisdiction in which the Casino Facilities are situated.

SECTION 9.0
TERM

Section 9.1 Regular Term. Unless extended as provided in Section 9.1.1, the term of this Agreement shall end on the later of five (5) years after Opening Day or four years after the Effective Date. Notwithstanding the preceding sentence, this Agreement shall not become effective if the Development Agreement has been terminated in accordance with its terms for any reason other than its natural expiration or because this Management Agreement has gone into effect.

Section 9.1.1 Extension of Term. If on any anniversary of the Opening Day, when the calculation required by Section 6.1.3 is performed,

Section 9.2 Tolling of Term. If the Casino Facilities are closed as provided in Section 3.4 so that Class III Gaming is not occurring on the term of this Agreement shall be tolled during any such closure; provided that any insurance proceeds paid to Manager for such closure period shall be subtracted from the Management Fee paid during the time at the end of the term resulting from the closure period.

SECTION 10.0
NON-TRANSFER OF TRIBAL LAND

This Agreement is not to be construed in any manner to mean, nor is there any other agreement between the Tribe and Manager to the effect that, the Tribe has submitted its ownership interest in any land or any real property to any right of transfer by Manager or any other kind of disposition thereof.

SECTION 11.0
DEFAULT

Section 11.1 Default by Manager. The following events shall be deemed to be events of default by Manager under this Agreement:

Section 11.1.1 *Non-Compliance with Terms.* Manager's failure to comply, in any material respect, with any of the terms, conditions, provisions or covenants of this Agreement pertaining to Manager and failure to commence cure of such failure within 10 days after written notice thereof given by the Tribe, or, having commenced such a cure, Manager's inability to complete the curing of such failure within 30 days of such notice; provided that reasonable, good faith attempts to cure an event of default on the part of Manager or Manager's failure to comply with the terms and conditions of this Agreement shall constitute a tolling of the 30-day requirement for completion of cures if the completion of the cure is beyond the control of Manager or cannot be reasonably completed within the 30-day cure period.

Section 11.1.2 *Insolvency.* Manager becomes insolvent, makes a transfer in fraud of its creditors, or makes an assignment for the benefit of creditors.

Section 11.1.3 *Bankruptcy Filing.* Manager files a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any state thereof, or Manager is adjudged bankrupt or insolvent in proceedings filed against Manager thereunder.

Section 11.1.4 *Involvement with Organized Crime.* Manager, including any employees, consultants, legal counsel, or members of Manager's Board of Directors are involved with, associate with or do business with or allow the Casino Facilities to become influenced by or associated with persons or organizations identified by the United States Department of Justice as affiliated with organized crime; provided that if Manager promptly terminates any employee, consultant, legal counsel or member of its Board whom it discovers has any affiliation with organized crime, such affiliation shall not be an event of default of the Manager.

Section 11.1.5 *Appointment of Receiver.* A receiver or trustee for Manager or for all or substantially all of the assets of Manager is appointed by a court of competent jurisdiction.

Section 11.1.6 *Loss of Gaming or Operating License.* Manager's license to operate the Casino Facilities is revoked for any reason by one or

more Gaming Regulators and Manager fails to cure such revocation after exhausting available remedies under the Gaming Regulations, or Manager or any holder of any equity interest in Manager is permanently prohibited from deriving any benefit from the operations of the Casino Facilities as a direct result of an investigation or licensing process by any Gaming Regulator and Manager fails to cure such prohibition after exhausting its available remedies under the Gaming Regulations.

Section 11.2 Default by Tribe. The events described in Sections 11.2.1 through 11.2.9 shall be deemed to be events of default by the Tribe under this Agreement:

Section 11.2.1 *Failure to Pay Monies.* The Tribe's failure to pay monies due to Manager or the Lenders except as provided in Section 3.3.1 and except to the extent there are insufficient funds in a given month to pay the Management Fees.

Section 11.2.2 *Non-Compliance with Terms.* The Tribe's failure to comply in any material respect with any of the terms, provisions or covenants of this Agreement pertaining to the Tribe including but not limited to the failure to abide by and/or to default under the Compact, the failure to close on or comply with the terms of the Manager-Related Loan Documents, or the revocation of the approved Augustine Gaming Ordinance without commencing to cure such failure within thirty (30) days after written notice thereof, from Manager, or, having commenced such a cure, the Tribe shall, thereafter, fail to complete the curing of such failure with reasonable diligence.

Section 11.2.3 *Arbitrary Withholding of Budget Approvals.* The Tribe's arbitrary and capricious withholding of approval of budgetary expenditures proposed by Manager for repairs and replacements and refurbishing of and to the Casino Facilities necessary, in the good faith reasonable judgment of Manager, to maintain and operate the Casino Facilities.

Section 11.2.4 *Involvement with Organized Crime.* The Tribe, including any employees not hired by or supervised by Manager, consultants not selected by or overseen by Manager, legal counsel, or members of the Tribal Council, the Augustine Gaming Commission, or the Corporation are involved with, associate with or do business with or allow the Casino Facilities to become influenced by or associated with persons or organizations identified by the United States Department of Justice as affiliated with organized crime; provided that if the Tribe promptly terminates any such employee, consultant, legal counsel or member of the Tribal Council,

Corporation, or the Augustine Gaming Commission whom it discovers has any affiliation with organized crime, such affiliation shall not be an event of default of the Tribe.

Section 11.2.5 *Insolvency.* The Tribe becomes insolvent, makes a transfer in fraud of its creditors, or makes an assignment for the benefit of creditors.

Section 11.2.6 *Bankruptcy Filing.* The Tribe files a petition under any bankruptcy law or similar law for a relief of debtor or if Tribe is adjudged bankrupt or insolvent in proceedings filed against the Tribe thereunder.

Section 11.2.7 *Appointment of Receiver.* The appointment of a receiver or trustee for the Tribe or for all or substantially all of the assets of the Tribe, which appointment is not vacated or otherwise caused to be set aside within 90 days from the occurrence thereof.

Section 11.2.8 *Loss of Gaming or Operating License.* The Tribe's license to own or operate the Casino Facilities shall at any time be suspended for any reason by the Gaming Regulators and the Tribe fails to cure such suspension after diligently pursuing its available remedies under the Gaming Regulations or the Tribe is temporarily or permanently prohibited from deriving any benefit from the operations of the Casino Facilities as a direct result of the investigation or licensing process by the Gaming Regulators and the Tribe fails to cure such prohibition after diligently pursuing its available remedies under the Gaming Regulations, provided that any such suspension or prohibition is not the direct result of any acts or omissions of Manager, its officers, employees, and agents.

Section 11.2.9 *New Enactment Contrary to Management Agreement.* The Tribe enacts new codes, ordinances, resolutions, or regulations, including without limitation, any tax code, ordinance or resolution, or amends any codes, ordinances, resolutions or regulations adopted pursuant to or in accordance with this Agreement that have or would have a materially adverse legal or economic effect on Manager's rights under this Agreement.

Section 11.2.10 *Other Adverse Tribal Actions.* The Tribe voluntarily closes or shuts down the Casino Facilities, limits access thereto, or ceases gaming activities therein or terminates or revokes the Augustine Gaming Ordinance during the term of this Agreement or modifies the Augustine Gaming Ordinance in any way that would prevent Manager from performing or affect the rights of Manager under this Agreement.

Section 11.3 Remedies for Default. Should either party default in its obligations under the terms, conditions and provision of this Agreement, the other

party shall have the right to terminate this Agreement, and to enforce this Agreement and further, shall have such other rights and remedies on account of such default, both at law and in equity, as is provided, established, or allowable as otherwise set forth herein.

SECTION 12.0
TERMINATION

The grounds and mechanisms for terminating this Agreement include each of the following:

Section 12.1 Termination by the Tribe. The Tribe may terminate this Agreement if:

Section 12.1.1 Manager defaults under the terms of this agreement as described in Section 11.1, and has not cured such default as permitted under the terms of this Agreement.

Section 12.1.2 The Casino Facilities are destroyed or damaged to the extent that it is inoperable, by any cause other than the gross negligence or willful misconduct of the Tribe; provided the insurance proceeds due the Tribe are insufficient to re-open the Casino Facilities.

Section 12.1.3 Any Gaming Regulator that is required to license the Casino Facilities or the Tribe properly fails to do so.

Section 12.2 Termination by Manager. Manager may terminate this Agreement if:

Section 12.2.1 Tribe defaults under the terms of this Agreement as described in Section 11.2, and has not cured such default as permitted under the terms of this Agreement.

Section 12.2.2 The Casino Facilities are destroyed or damaged to the extent that it is inoperable, by any cause other than the gross negligence or willful misconduct of the Manager; provided the insurance proceeds due the Tribe are insufficient to re-open the Casino Facilities.

Section 12.2.3 Any Gaming Regulator that is required to license the Casino Facilities or the Manager properly fails to do so.

Section 12.3 Termination by Expiration of the Term. This Agreement will terminate automatically and without notice by either party upon the expiration of its term.

Section 12.4 Tribe's Obligation upon Termination. Upon termination of this Agreement for any reason, in addition to all other obligations arising from such termination, the Tribe shall:

(i) Pay Manager for all unpaid Management Fees earned with respect to the Casino Facilities in accordance with this Agreement;

(ii) Pay Manager any amounts outstanding and/or due to it under each Manager-Related Loan and any other arrangement entered into between the parties and or the affiliates of Manager in respect of the Casino Facilities to the extent they are unpaid;

(iii) Cease utilizing or operating the Casino Facilities under any license in the name of, or held by Manager or its affiliates.

If this Agreement is terminated by Manager prior to the end of the term through no fault of the Tribe, Manager shall, up to ninety (90) days after such termination, cooperate with the Tribe in effecting a smooth transition to the Tribe or a successor operator.

SECTION 13.0
LIMITED WAIVER OF SOVEREIGN IMMUNITY.

Section 13.1 Limited Waiver of Sovereign Immunity; Jurisdiction The Tribe expressly and irrevocably waives its sovereign immunity from suit for claims by Manager under this Agreement, only for the limited purposes of enforcing this Agreement by permitting or compelling arbitration, enforcing any arbitration award (including an award for damages that is subject to the limitations contained in Section 15) or seeking injunctive relief as contemplated in this Agreement. The Tribe consents to such injunctive relief and the enforcement or confirmation of an arbitration award in any of the following: the United States District Court for the Central District of California (and all courts to which appeals therefrom may be taken), and any California state court (and all courts to which appeals therefrom may be taken). If all of the foregoing courts lack jurisdiction or shall decline jurisdiction, the Tribe consents to be sued for the above purposes in any tribal court of the Tribe. The parties agree that the proper California State trial court venue shall be in Orange County. To the extent consistent with applicable federal and state law, the Tribe hereby expressly waives any application of the exhaustion-of-tribal-remedies doctrine that might otherwise require, as a matter of law or comity, that a dispute be heard first in a tribal court of the Tribe. The Tribe does not waive any aspect of its sovereign immunity with respect to actions by third parties who are not successors or assigns of the rights of Manager hereunder, except that the sovereign immunity of the Augustine Gaming Commission is waived solely if the Augustine Gaming Commission is

deemed an indispensable party to an action or arbitration proceeding in which Manager is enforcing its rights under this Agreement.

SECTION 14.0
ARBITRATION

Section 14.1 Arbitration. All disputes, controversies or claims arising out of or relating to this Agreement, any Manager-Related Loan Document or other obligation between the parties including, but not limited to, a dispute arising out of tribal enforcement, interpretation, or amendment of the Gaming Code in violation of any provisions of this Agreement shall be settled by binding arbitration by a panel of three arbitrators, one selected by each party and a third, neutral arbitrator mutually selected by the first two arbitrators, and otherwise in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date demand for arbitration is made, and the Federal Arbitration Act. The parties agree that binding arbitration shall be the sole remedy as to all disputes arising out of this Agreement, except for disputes requiring injunctive or declaratory relief. Notwithstanding the foregoing, the arbitrators shall not have the power to compel, negate, assume, usurp or in any manner affect any Governmental Action unless any Governmental Action or failure to take any Governmental Action constitutes a breach of this Agreement by the Tribe.

Section 14.2 Choice of Law. In determining any matter the arbitrators shall apply the terms of this Agreement, without adding to, modifying or changing the terms in any respect, and shall where consistent with this Agreement apply California law (excluding conflicts of law provisions and laws relating to usury, and, subject to the application of the Tribe's uniform commercial code) including the provisions of Section 1283.05 of the California Code of Civil Procedure, as it may be amended; provided that discovery otherwise authorized by Section 1283.05 may be limited by order of the arbitrators, or federal law, where applicable. The parties mutually agree that the California usury laws shall not apply to this Agreement, and the Tribe agrees that (a) the terms of this Agreement are not usurious, and (b) that in any dispute between the parties, the Tribe will not assert that the terms of this Agreement are usurious.

Section 14.3 Place of Hearing. All arbitration hearings shall be held at a place designated by the arbitrators in Palm Springs, California or at such other place agreed to by the parties.

Section 14.4 Confidentiality. The parties and the arbitrators shall maintain strict confidentiality with respect to the arbitration to the extent the matters involved therein are not known or available to be known by the general public without a breach of a party of this provision, and subject to any legal process or law (other than the law of the Tribe) that compels such disclosure.

SECTION 15.0
LIMITATION OF ACTIONS

The Tribe's waiver of immunity from suit is specifically limited to binding arbitration and the following actions and judicial remedies:

Section 15.1 Damages. The enforcement of an arbitration award of money and all damages to which a party is entitled. The arbitrators and/or the court shall have no authority or jurisdiction to order execution against any assets or revenues of the Tribe except the Tribe's share of undistributed or future Net Income after deduction of the Management Fee, or the furniture, fixtures, and equipment or accounts receivable of the Casino Facilities. In no instance shall any enforcement of any kind whatsoever be allowed against any assets of the Tribe other than the limited assets of the Tribe specified in this Section.

Section 15.2 Injunctive Relief and Specific Performance. Judicial injunctive relief contemplated by Section 13.1 and the enforcement of a determination by the arbitrators pursuant to this Agreement that prohibits the Tribe from taking any action that would prevent or impair Manager from performing its obligations pursuant to the terms of this Agreement, or that requires the Tribe to specifically perform any obligation under this Agreement, other than an obligation to pay pursuant to this Agreement.

Section 15.3 Action to Compel Arbitration. An action to compel arbitration pursuant to Section 14.

SECTION 16.0
NOTICE AND RIGHT TO CURE

The parties agree that, without limiting any right to acceleration or demand for payment set forth in this Agreement, (i) no more than fifteen (15) days after the party claiming a breach or alleging damage has actual knowledge that the alleged breach or damage has occurred, and (ii) no less than thirty (30) days before the dispute resolution mechanisms described in Section 14 may be utilized, the party claiming breach or damage shall give written notice of the alleged breach or damage to the other party. Both parties shall thereafter make a serious effort to meet, cure any breach, and otherwise make a good faith effort to resolve any differences.

SECTION 17.0
PERFORMANCE DURING DISPUTES

It is mutually agreed that, unless prohibited by the Gaming Regulations, during any kind of controversy, claim, disagreement or dispute, including a dispute as to the

validity of this Agreement, the Tribe and the Manager shall continue to possess the rights, duties, and obligations set forth in this Agreement, and the Tribe and Manager shall continue their performance of the provisions of this Agreement. Manager and the Tribe shall each be entitled to injunctive relief from a civil court or other competent authority to maintain such rights, duties, and obligations in the event of a threatened eviction during any dispute, controversy, claim or disagreement arising out of this Agreement.

SECTION 18.0
REPRESENTATIONS AND WARRANTIES

Section 18.1 Representations and Warranties of the Tribe. The Tribe hereby represents and warrants to Manager as follows:

Section 18.1.1 *Organization and Standing.* The Tribal Council is the duly authorized governing body of the Tribe and has authority to approve this Agreement, to delegate authority to the Chairperson of the Tribal Council or other designated tribal representatives, and to take and perform all other acts required of the Tribe under this Agreement.

Section 18.1.2 *Authorization.* All tribal action on the part of the Tribe and its officers, the Tribal Council, and the Executive Committee, necessary for the authorization, execution, delivery and performance of this Agreement and the transactions contemplated hereby, has been taken. Subject to approval by the Chairman, this Agreement constitutes a valid, legally binding and enforceable obligation of the Tribe enforceable in accordance with its terms.

Section 18.1.3 *Consents.* Other than approval of the Chairman of the NIGC, no consent, approval or authorization of the Tribe or any federal, state or local governmental authority, or any other person or entity is required in connection with the execution or delivery of this Agreement or the consummation of the transactions contemplated hereby.

Section 18.1.4 *Litigation.* Except as previously disclosed in writing by the Tribe to Manager, there is no action, proceeding or investigation pending before any court or administrative agency or threatened against the Tribe or any employee of the Tribe (or any basis therefore known to the Tribe), which questions the validity of this Agreement or any of the transactions contemplated hereby, or which might result, either individually or in the aggregate, in any material adverse change in the business, prospects, financial condition, affairs, operations, properties or assets of the Tribe or in any material liability on the part of the Tribe.

Section 18.2 Representations and Warranties of Manager. Manager represents and warrants to the Tribe as follows:

Section 18.2.1 *Binding Obligation; Consents.* This Agreement constitutes a valid and legally binding obligation of Manager enforceable against Manager in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application relating to or affecting creditors' rights generally or by application of equitable principles when equitable remedies are sought. Except as described herein, no consent, approval or authorization of any federal, state or local governmental authority, or any other person, on the part of Manager is required in connection with the execution or delivery of this Agreement or the consummation of the transactions contemplated by this Agreement. The execution, delivery and performance of this Agreement by Manager will not result in any violation of, or be in conflict with or constitute a default under, any provision of Manager's governing documents, or any provision of any contract, instrument or other obligation to which Manager is a party or to which its assets are subject, or any provision of any federal, state or local judgment, writ, decree, order, statute, rule or governmental regulation applicable to Manager.

Section 18.2.2 *Litigation.* Except as previously disclosed in writing by Manager to the Tribe, there is no action, proceeding or investigation pending before any court or administrative agency or threatened against Manager (or any basis therefore known to Manager) which questions the validity of this Agreement or any of the transactions contemplated hereby, or which might result, either individually or in the aggregate, in any material adverse change in the business, prospects, financial condition, affairs, operations, properties or assets of Manager or any material liability on the part of Manager. In particular, there is no voluntary or involuntary action pending under bankruptcy law with respect to Manager, nor any action or pending action in any court or before any regulatory body that could result in the loss of a gaming license by Paragon Gaming, Manager, or any of their principals or key employees.

Section 18.2.3 *Organization.* Manager is a limited liability company duly organized and validly existing under the laws of the State of Nevada. All company action on the part of Manager and its members and managers necessary for the authorization, execution, delivery and performance of this Agreement and the transactions contemplated hereby has been taken.

Section 18.2.4 *Conflicts of Interest.* Throughout the term of this Agreement, subject to the Tribe's full performance of its obligations hereunder and not being in default under this Agreement, Manager shall not, directly or indirectly, whether as an owner, stockholder, principal, agent, employee, or

independent contractor, engage or participate in, or be a stockholder or holder of any other security of any nature whatsoever of, or a lender to, or an owner of any debt or portion of a debt of, or furnish any financial aid or any other support or assistance of any nature whatsoever to, any business, enterprise or undertaking that is in any manner or degree competitive with the Casino Facilities, if such business, enterprise or undertaking is located on, or conducted in whole or in part from, premises located within 120 miles of the Casino Facilities unless the Tribe shall in each case give its prior written consent, except for non-gaming businesses permitted by §§ 7.2 and 7.3 of the Development Agreement. Such consent may be withheld by the Tribe in its sole and absolute discretion. The Tribe acknowledges and agrees that the Manager may perform similar services for related or similar businesses outside of said 120-mile radius.

Section 18.2.5 *Qualifications of Manager.* Manager and the personnel of Manager are experienced in the planning, development and management of gaming, hospitality and related entertainment enterprises and projects of the type and nature contemplated to be constructed upon the Site by the Tribe and in establishing the economic infrastructure to assist the Tribe with its economic development.

Section 18.2.6 *Compliance with Law; Licenses.* Manager will at all times comply with all applicable laws including the IGRA, the Augustine Gaming Ordinance, the Compact, and any licenses issued under the foregoing. The Manager, Manager's executive officers and all other persons required by applicable law shall be licensed to operate the Casino Facilities pursuant to the Gaming Regulations.

SECTION 19.0
INDEMNIFICATION

Section 19.1 Indemnification by the Tribe. Tribe agrees to defend, indemnify, save and hold harmless Manager, its agents and employees from and against any and all costs, liability, obligation, suit, claim or demand, whether legal, equitable declaratory or otherwise, asserted against, or incurred by the Manager (including, without limitation, reasonable attorneys' fees and expenses) as a result of, or arising from, or in connection with, this Agreement or the establishment, organization, management, operation or maintenance of the Casino Facilities to the fullest extent permitted by law, except to the extent that any such liability arises from Manager's negligence, default or misconduct.

Section 19.2 Indemnification by Manager. The Manager agrees to defend, indemnify, save and hold harmless the Tribe, its agents and employees from and against any and all costs, liability, obligation, suit, claim or demand, whether legal,

equitable declaratory or otherwise, asserted against, or incurred by the Tribe (including, without limitation, reasonable attorneys' fees and expenses) as a result of, or arising from, or in connection with, this Agreement or the establishment, organization, management, operation or maintenance of the Casino Facilities to the fullest extent permitted by law, except to the extent that any such liability arises from the Tribe's negligence, default or misconduct.

SECTION 20.0
CONSENT AND APPROVAL BY PARTIES

In any instance where the approval or consent of any party is required or permitted hereunder, such approval or consent shall be in writing and such consent or approval shall not be unreasonably withheld or delayed. All tribal approvals by the person designated under Section 2.2 to act for the Tribe hereunder shall be in writing. Manager shall be entitled to rely upon the actions, approvals and directions made and given hereunder by that tribal designee.

SECTION 21.0
NOTICES

Any notice which may or is required to be given hereunder shall be in writing including facsimile, electronic mail, ("fax") telex and telegraphic communications, and shall be (as elected by the party giving the notice) hand delivered by messenger or courier service, electronically mailed, faxed, mailed by registered or certified mail, return receipt requested, in the mail postage prepaid addressed to the Tribe or Manager, as the case may be, at the addresses set forth after their respective names below, or at such different addresses as they shall have theretofore advised the other in writing in accordance herewith.

If intended for the Tribe:

Ms. Mary Ann Martin, Chairperson
Augustine Band of Cahuilla Mission Indians
c/o Karen Kupcha and Associates
Post Office Box 1291
Yucca Valley, California 92286
57353 29 Palms Highway, Suite C or D
Yucca Valley, California 92284

with copies to:

Allyson Saunders
Holland & Knight LLP
633 West Fifth Street

Los Angeles, California 90071

If intended for Manager:

Paragon Augustine LLC
770 East Warm Springs, Suite 120
Las Vegas, NV 89119
Fax (702) 631-9820

With a copy to:
Kent Richey
Faegre & Benson LLP
2200 Wells Fargo Center
90 South Seventh St.
Minneapolis, MN 55402

SECTION 22.0
CONFLICTS OF INTEREST

Notwithstanding Manager's obligations and duties hereunder, whether explicit, implied or as may be determined by operation of law, in no event shall (a) any acts by Manager or any of its affiliates, parents, subsidiaries, agents, employees, contractors, officers or owners of any interest in any of the foregoing (collectively, for purposes of this Section "Manager"), in connection with the negotiation by Manager with the Tribe or the Tribe's creditors or lenders in connection with any indebtedness relating to the Casino Facilities be deemed to constitute a conflict of interest, or (b) Manager's operation and/or ownership outside the State of California or outside of the non-compete radius described in Section 18.2.4 of any other gaming operation prior to the termination of this Agreement, whether competitive to the Casino Facilities or not, be deemed a breach or default hereunder a conflict of interest hereunder or be prohibited in any way by Manager's execution or performance hereunder. The Tribe specifically waives any defenses, obligations or rights based upon a claim of potential or actual conflict of interest, competition or otherwise, based on or arising from any of the aforedescribed acts by Manager.

SECTION 23.0
LIMITATION OF WAIVERS

No waiver of any covenant, term or condition of this Agreement by either party shall be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary, consent to or approval of any subsequent similar act.

SECTION 24.0
ENTIRE AGREEMENT, MODIFICATION

No employee, agent or representative of either party has the authority to bind the other party to any oral additions, modifications, representations or warranties concerning this Agreement. This Agreement contains the entire agreement between the parties with respect to its subject matter, and this Agreement restates and replaces the Casino Management Agreement entered into among the parties hereto on August 23, 2001, which agreement is no longer of any further force or effect. No agreement shall be effective to change, modify or terminate this Agreement, in whole or in part, unless such agreement is in writing and duly signed by the authorized representative of the parties and such agreement is approved by the Chairman of the National Indian Gaming Commission as required by the IGRA. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that this Agreement may have been physically prepared by one of the parties, or such party's counsel, it being agreed that both parties and their respective counsel have mutually participated in the negotiation and preparation of this Agreement.

SECTION 25.0
RESTRICTIONS ON PAYMENTS TO TRIBE AND TRIBAL MEMBERS

By execution of this Agreement, the parties represent and agree that other than as specifically contemplated herein, no payments have been made and that no payments will be made to any elected member of the tribal government of the Tribe, or any other member of the Tribe, or relative of any member or elected member of the tribal government for the purpose of obtaining or maintaining this Agreement or any other privilege for Manager. As used herein the term "relative" means an individual who is related as father, mother, son, daughter, brother, sister, husband, wife, father-in-law, mother-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, half-brother or half-sister.

SECTION 26.0
DESCRIPTIVE HEADINGS

The descriptive headings set forth in this Agreement are inserted for convenience and for reference only and do not in any way limit or amplify the terms and provisions of this Agreement.

SECTION 27.0
SUCCESSORS AND ASSIGNS

The terms, provisions and covenants contained in this Agreement shall apply to, inure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns; except as otherwise provided in this Agreement.

SECTION 28.0
FORCE MAJEURE

The terms and conditions of this Agreement (with the exception of the obligation of the parties to pay or fund the amounts required by the terms of this Agreement, or the terms required for an approved assignment of this Agreement) shall be subject to Force Majeure. Neither Tribe nor Manager shall be considered in default in the performance of its obligation hereunder (with the exception of the obligation of the parties to pay or fund the amounts required by the terms of this Agreement, or the terms required for an approved assignment of this Agreement), if such performance is prevented or delayed because of war, hostilities, revolution, civil commotion, strike, lock-out, epidemic, fire, earthquake, wind, flood, or because of any law, order, proclamation, regulation, or ordinance of any governmental authority, or because of any act of God or any other cause whether of similar or dissimilar nature beyond the reasonable control of the party affected.

SECTION 29.0
AUTHORIZATION

Each of the parties hereto represents to the other party that it has full power and authority to execute this Agreement and to be bound by and shall perform in accordance with the terms hereof. On request, each party shall furnish to the other evidence of such authority.

SECTION 30.0
COUNTERPARTS

Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

SECTION 31.0
SEVERABILITY

If any of the provisions of this Agreement or its application shall be held by any court, regulatory agency, or other governmental authority having competent jurisdiction over this Agreement, to be invalid, illegal, or unenforceable in any respect, the parties shall forthwith cure such invalidity to the extent permitted by law, and notwithstanding the fact that such provisions may be held to be of no force and effect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby. If any such provision or portion thereof is declared invalid, illegal, or unenforceable, the parties to this agreement intend that, in lieu of the invalid, illegal, or unenforceable provision or portion thereof, there be added to this agreement a provision or portion thereof as similar in substance to such invalid, illegal, or unenforceable provision or portion thereof as may be possible so as to accomplish the purposes of such invalid, illegal, or unenforceable provision or portion thereof.

SECTION 32.0
SECTION 81

The parties agree that this Agreement does not encumber any land or interest in land of the Tribe and that it will be in effect for less than . Therefore the parties agree that this Agreement is not subject to 25 U.S.C. § 81. 64

IN WITNESS WHEREOF, the Tribe and Manager have hereunto set their hands and seals effective as of the day and year first above written.

Signed, Sealed & Delivered
in the presence of:

Witnesses:

(Print Name) Karen Kupcha

Witnesses:

(Print Name) DENNIS L. AMERINE

(Print Name) _____

THE AUGUSTINE BAND OF
CAHUILLA MISSION INDIANS:
By and through its Tribal Council

By: _____
Maryann Martin, Chairperson

MANAGER:
Paragon Augustine LLC
770 East Warm Springs, Suite 120
Las Vegas, NV 89119

By: _____
Diana L. Bennett, President

Approved by:

Date: November 5, 2003

_____
Vice Chairman, National Indian Gaming Commission

Pursuant to a delegation from Chairman Hogen

M1:881316.13

EXHIBIT A
Description of Casino Facilities Site

A portion of land located in the Northwest Corner (NW 1/4) of Section 18, Township 6 South, Range 8 East, M.D.M., Riverside County, State of California. Described as follows: The North 402.00 feet of the West 1,087.00 feet of said Section 18.

OCT 14 2003

Execution Version

FIRST AMENDMENT TO FIRST AMENDED AND RESTATED MANAGEMENT AGREEMENT

THIS FIRST AMENDMENT TO THE FIRST AMENDED AND RESTATED MANAGEMENT AGREEMENT (this "Amendment"), dated as of October 9, 2003, is entered into by and between the Augustine Band of Cahuilla Mission Indians, a federally recognized Indian tribe (the "Tribe") and Paragon Augustine, LLC, a Nevada limited liability company (the "Manager"), with respect to the following:

A. The above-mentioned parties have previously entered into that certain First Amended and Restated Management Agreement dated September 9, 2003 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including, but not limited to, this Amendment, the "Management Agreement"). Capitalized terms used in this Amendment are as defined in the Management Agreement, unless otherwise defined herein.

B. As a condition of approving the Management Agreement between the Tribe and the Manager, the NIGC has required certain amendments to the First Amended and Restated Management Agreement.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions hereof, the parties hereto agree as follows, as of the date of execution of this Amendment (with language in ~~strikethrough~~ text being deleted and language with double-underlining being added):

1. Section 6.28 shall be amended as follows:

Section 6.8 Recoupment of Development and Construction Costs.

The maximum amount for recoupment of development and construction costs for the Casino Facilities shall be

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first written above.

AUGUSTINE BAND OF
CAHUILLA MISSION INDIANS

By: _____
MaryAnn Martin, Its Tribal Chairperson

PARAGON AUGUSTINE, LLC

By: _____
Diana Bennett, Its President

Date: November 5, 2003

Approved by: _____
Nelson W. Westrin, Vice-Chairman
National Indian Gaming Commission
Pursuant to a delegation from
Chairman Hogen

[SIGNATURE PAGE TO AMENDMENT TO FIRST AMENDED AND RESTATED MANAGEMENT AGREEMENT]