

MANAGEMENT AGREEMENT

BETWEEN THE

OGLALA SIOUX TRIBE

AND

TURN KEY GAMING, INC.

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 AND
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MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement") was originally made and entered into at Pine Ridge, South Dakota, as of the 5th day of November, 1993, by and between the Oglala Sioux Tribe, a federally recognized Indian tribe (hereinafter referred to as the "Tribe"), and Turn Key Gaming, Inc., a corporation, with an office at HC 49, Box 10, Pine Ridge, South Dakota 57770 (hereinafter referred to as "Manager"); following a review thereof by the National Indian Gaming Commission staff, and pursuant to their suggestions and requirements, modifications were made and agreed to and set forth in a revised Agreement of March 16, 1994, and are now set forth herein at Recital ¶¶ E. and J. and at §§3.1: 4.1(a), (b)(9), (b)15; 4.3 (a)(7); 5; 6.4(c)(3),(4) S., T., U., & V, (d), (e), & (f); 6.5 (a), (b), (c), (c)(1), (c)(1)(iii) & (iv); 6.7; 6.8; 11.1(c), 11.2(a) and 13, which modifications relate primarily to the accounting procedures required under the agreement, clarification of the Tribe's sole proprietary interest, conform references to specific sections of the agreement required by changes and additions and correct typographical errors. Following a second review thereof by the National Indian Gaming Commission staff, and pursuant to their suggestions and requirements, modifications were made and agreed to and are now set forth herein at Recital ¶ E., §§ 6.4 (c)(2), (3), and (4); 6.4(d), (e), and (f); 6.5(c)(1)(ii), (iii), and (iv); 6.11, 11.1(g), and 23, and §17 of the Project Construction Agreement, provided for at §4.1(a), which modifications related primarily to the accounting procedures required under the agreement, clarification of the Tribe's sole proprietary interest, conform references to specific sections of the agreement required by changes and additions and correct typographical errors;

such modifications were agreed to and set forth in the parties' Addendum of September 19, 1994). Following a third review thereof by the National Indian Gaming Commission staff, and pursuant to their suggestions and requirements, modifications were made and agreed to and are now set forth herein at Recital ¶ E., §§6.4(c)(4)F., 6.11, 23, and 24, and §17 of the Project Construction Agreement, provided for at §4.1(a), which modifications related primarily to the accounting procedures required under the agreement, dispute resolutions, and conform references to specific sections of the agreement required by changes and additions and correct typographical errors. Said modifications are now set forth in this revision of the Management Agreement, which amends and supersedes the original Agreement of November 5, 1993, as Revised on March 16, 1994, and amended by the Addendum of September 19, 1994, and the execution hereof constitutes alteration thereof by mutual consent, as provided by §22.12 of the original Agreement and this Amended Agreement. This Amended Agreement reaffirms the parties original agreement as amended herein and is made and entered into this 30 day of November, 1994, between the parties.

RECITALS

A. The Tribe and the Reservation. The Tribe exercises governmental authority over certain real property located in the State of South Dakota which is recognized under federal law as the Pine Ridge Indian Reservation and is known as the Reservation of the Oglala Sioux Tribe (the "Reservation").

B. The Manager. Manager is a corporation and is duly licensed and authorized to conduct business. The officers, directors, and shareholders of Manager ("Parties-In-Interest"), and their respective interest therein, as well as that information required by 25 U.S.C. Sec. 2711(a)(1)(A), (B), and (C), and Parts 556 and 558 of the National Indian Gaming

Commission Rules and Regulations dated January 22, 1993 (25 CFR 556, 558), are set forth in Exhibit "A" attached hereto.

C. The Ordinance.

(1) The Tribe has enacted an Ordinance (the "Ordinance") in compliance with the Compact and the Indian Gaming Regulatory Act ("IGRA") for the operation, conduct, and playing of slot machines, blackjack, poker and Class III games which may be conducted under its Tribal-State Compact (the "Class III Games"), in order to fund tribal government operations and programs, including but not limited to programs which provide for the general welfare of the Tribe and its citizens, promote tribal economic development, and provide employment and training opportunities for tribal citizens, Indians generally, and persons who reside in the surrounding communities.

(2) The term "Ordinance" shall mean the Ordinance as it exists or may be amended or modified during the term hereof which is deemed for all purposes to be supplemental to the terms of this Agreement as of the effective date of such amendment or modification. The Tribe agrees that it will not at any time make any changes in the Ordinance that in any way are inconsistent with the terms of this Agreement or would cause material injury to the Project as hereinafter defined, unless the change is required by the Compact or federal law, rule or regulation.

D. The Land. The Tribe is the beneficial owner of certain land located within the exterior boundaries of the Pine Ridge Indian Reservation and described as follows, to-wit:

The North half of the Northwest Quarter (N 1/2 NW 1/4)
and the North half of the South half of the Northwest
quarter (N 1/2 S 1/2 NW 1/4) of section fifteen

(15). Township thirty-seven North (T 37 N), Range

forty-eight West (R 48 W) of the 6th Principal Meridian.

The Tribe warrants that said land is eligible for Class III gaming enterprises under the Indian Gaming Regulatory Act (IGRA), the Ordinance and the Compact.

E. The Casino. The Manager intends to construct a gaming facility, including buildings and other real estate improvements, on the aforesaid land, according to plans and specifications at which the gaming project will conduct its business.

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F. The Compact. The Tribe has or will enter into a Compact with the State of South Dakota relating to the conduct of Class III gaming on its Reservation, a true and correct copy of which is attached hereto as Exhibit "B".

G. Desire for Management Agreement. The Tribe wishes to enter into this Management Agreement with an entity that is able and willing to supply financing and obtain the human resources to establish, operate, fund and manage Class III Games in accordance with the terms of this Agreement, the Compact, tribal law, federal law and any other applicable law.

H. Manager's Right To Manage. The Tribe is willing to vest in the Manager the right to improve, develop, and maintain the Project and to manage the Project (as hereinafter defined) in conformance with the terms and conditions of this Agreement, Tribal Ordinances, rules and regulations, rules and regulations of the Tribal Gaming Commission, IGRA, the

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Compact, and other applicable law

I. Manager's Qualifications. The Manager has available the investment, management expertise and operational skills necessary to establish, operate and manage the Project (as hereinafter defined) in accordance with this Agreement.

J. Exclusive Management Right.

(1) The Tribe wishes to contract with Manager to provide for the management and operation of Class III Games as permitted under IGRA and the Compact on Tribal land together with related food and other services in all phases of this development as set forth herein ("the Project"). Included in the concept of the Project is the Tribe's representation and warranty, hereby given, that the Manager shall have the right to exclusively manage Class III gaming activities and the total number of machines authorized now or in the future by the Tribal/State Compact conducted under authority of the Tribe by anyone on Indian lands of the Tribe, as that term is defined in IGRA, during the term of this Agreement, within the portion of the Reservation know as Shannon County, Bennett County, or any other place where the Tribe may be authorized to conduct Class III gaming shall

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(2) For the purpose of this provision, Gaming Activity shall mean all Gaming Activity permitted pursuant to the Tribal-State Compact of August 25, 1993, but is exclusive of, and shall not include or pertain to video lottery and the other lottery activities provided for in Chapter 42-7A of the South Dakota Compiled laws, and which the parties understand and agree may be permitted on the Reservation by a subsequent or additional Tribal-State compact.

K. No Interest in Tribal Land. The parties acknowledge that this Agreement is not intended to create and shall not be deemed to create an interest in tribal land or with respect to any facilities thereon, such as but not limited to a license, tenancy lien, easement, leasehold interest, estate or any other form of possessory or non-possessory interest, either express or implied.

CONDITIONS SUBSEQUENT TO CONTRACT

The parties agree that the following conditions subsequently must be waived by Manager or Tribe or fulfilled on or before the 30th day of September, 1994. In the event any of said conditions are not waived, extended or fulfilled within such time limit, the parties agree that the Manager or Tribe shall have the option to waive or extend the time for fulfillment or to declare this contract null and void at such time.

Said conditions are:

1. Formal Approval of Manager. The Manager has received all necessary and required (if any) formal approvals from all authorities including, but not limited to authorities of the Tribe and federal government which are required to approve the Manager to conduct the management of the Project and approval of the terms of this contract.

2. Manager's Consent to be Bound. The Manager shall have consented in writing to be bound by all rules and regulations adopted by the Tribe's Tribal Gaming Commission, together with all gaming laws adopted by the Tribe as required by the Compact, after a reasonable opportunity to inspect the same. When completed, all such rules, regulations and laws shall be attached to this Agreement and marked Exhibit "C".

3. Tribal Gaming Commission License. The Tribal Gaming Commission required under the terms of the Compact shall have issued a license to the Manager to permit it to perform the terms of this Agreement, which shall not be unreasonably withheld.

4. Agreement on Preliminary Plans and Equipping. The parties have reached agreement on the preliminary plans for the construction of and equipping of a gaming casino as provided in § 4.1(a)(1).

SECTION 1

APPOINTMENT OF MANAGER

1.1 Appointment. The Tribe hereby engages Manager as an independent contractor with exclusive rights to operate and manage the Project for the Tribe's benefit on the terms and conditions set forth below. Manager hereby accepts such engagement.

SECTION 2

TERM

2.1 Term. This Agreement shall be enforceable between the parties until the failure of a condition subsequently not waived by the Manager or the expiration of the Term. The

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SECTION 3

GOVERNMENTAL AGENCY APPROVAL: RESUBMISSION

3.1 Approval Required. It is understood that this Agreement and its effective date is conditioned upon approval in writing by the Chairman of the National Indian Gaming Commission (NIGC) pursuant to the IGRA, which exercises the federal government's authority over Indian gaming (the "Governmental Agency").

3.2 Modification and Resubmission After Disapproval. In the event there is a Governmental Agency disapproval but recommendations for modification of the Agreement are made by such Governmental Agency at or about the time of such disapproval, or the parties hereto determine for any reason that the modification of the Agreement may overcome such disapproval, each party will have ninety (90) days after receipt of such disapproval to negotiate with the other party with respect to such modifications and resubmit the Agreement for approval, unless the Governmental Agency designates a shorter period for resubmission, in which case such shorter period shall control. The decision concerning whether or not to agree to such modifications shall be conducted in good faith with the intent to reach agreement. If a new Agreement cannot be reached between the Tribe and the Manager which is acceptable to the appropriate agencies, then the entire Agreement shall be void from that date.

3.3 No Agreement; Reimbursement of Manager.

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SECTION 4

MANAGER'S RESPONSIBILITIES; INVESTMENT; COVENANTS

4.1 Manager's Services. As soon as practicable, and subject to the approval of the Tribe, Manager agrees to develop plans for the construction of a facility sufficient to provide the space for a casino of cost, size, scope and finish as agreed upon by the parties. Manager agrees to commence and complete the construction of the Project as soon as reasonably practicable following agreement upon the plans and costs. Within such time after the execution of this Agreement as Manager reasonably determines and throughout the Term of this Agreement, Manager will provide those management services which are reasonably necessary or desirable to design, construct, market, develop, operate and maintain the Project and the conduct of the Class III Games,

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Manager warrants it will conduct the Project in the best interest of the Tribe and Manager and to assure the attending public that operations are conducted in a fair, honest and professional manner. Without limiting the foregoing, Manager will use its best efforts to provide, and Tribe shall permit Manager to so provide, such services as may be necessary to implement the above. The Tribe agrees to provide such

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assistance and suggestions to the Manager in the furnishing of such services as the Manager from time to time may reasonably request.

(a) Project Preparation. Within such time as the Manager determines to be practicable, and subject to the approval of the Tribe, the Manager agrees to:

(1) Select a building site or sites and develop preliminary plans for a casino which will include room for 250 gaming devices or more if the Compact and applicable laws allow and a restaurant. The Manager agrees to commence construction of the Project, according to such plans and specifications as are mutually agreeable to the parties, within the time reasonably determined by the Manager and to pursue the completion of such construction with due diligence thereafter.

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In accordance with said Ordinance, Manager shall require that all contractors and subcontractors give preference to hiring qualified tribal members first, and Indians generally second, and then qualified non-Indians for construction of Project facilities and in awarding subcontracts. The project shall be constructed, and the calculation of the constructions costs therefor shall be in accordance with a PROJECT CONSTRUCTION AGREEMENT of the parties, to be executed upon the completion and approval of the aforesaid plans and specifications, and appended hereto, and incorporated herein by this

reference as Exhibit "D".

(2) Develop an operating budget for a year's operation ("Annual Budget") for the fiscal year agreed upon by the parties which shall estimate income, wages and salaries, prizes, utilities, insurance and other overhead costs, reasonable reserves for prizes and other items, and Operating Expenses which may be appropriate to best estimate the income and expenses for the coming year. An initial budget for the first year of operation shall be completed within one hundred eighty (180) days after the execution of this Agreement. The Annual Budget shall be revised, if necessary, from time to time as the need may arise and as the parties shall agree, especially during the first six months of operation, but in any event not less than annually. The Manager agrees that all budgets shall have the prior approval of the Tribe before they are implemented.

(b) Project Operation. During the Term of and in compliance with this Agreement, the Manager agrees to:

(1) Operate the Project as the Manager deems best.

(2) Recruit, interview, screen and hire needed employees for the Project and provide all training necessary to assure that the Project shall be operated in a professional and competent manner. It is understood and recognized that certain employees of the Project will require unique and specialized skills, specifically blackjack and poker dealers, and that currently few tribal members have had training for such positions or have such skills. To make such positions available to tribal members, Manager shall conduct schools and classes for such skills and positions prior to the opening of the project, and provide such training for

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consider those

successfully completing such training for employment in the project.

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(3) Supervise and direct all procedure and activities necessary for Project operations giving first consideration on all hired employees to qualified or trainable Native Americans who are members of the Tribe if they are available.

(4) Assist the Tribe in entering into such contracts and making such other plans and arrangements as will be necessary to improve and expand operations of the Project.

(5) Provide for ongoing daily supervision of and direction to Project operations and personnel, including the hiring, training, promotion and discharging of personnel, and maintain and administer comprehensive employment practices.

(6) Supervise and manage the operation of Class III Games, food and beverage operations and other services and goods provided by the Project, and implement such rules, regulations and procedures, and modifications thereof as necessary for proper management of the Project.

(7) Comply with IGRA, applicable federal law, the Compact and all laws and ordinances of the Tribe and the rules and regulations of the Tribal Gaming Commission and

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other applicable law.

(8) Conduct regular meetings with and report to the Tribe, at least monthly, about the status of the Project operations, matters that may need improvement or change, and resolution of any problem areas.

(9) Supervise and conduct the collection, safeguarding and receipting of all revenues and the prompt deposit of the same, which shall be put into the Project's Operating Accounts; make disbursements in payment of Operating Expenses and required remittances to the Tribe and the Manager; and supervise and administer the bookkeeping and accounting therefore as governed herein.

(10) Hire and supervise adequate safety personnel and to assure that the Project is secure and safeguarded at all times to assure the reasonable safety of patrons, personnel, monies and property of the Project, and maintain fire protection services and the

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(11) Take all reasonable measures to assure that the Project is managed by Manager's personnel in a professional, orderly, and attractive manner, including the supervision of regular cleaning, painting, decorating, plumbing, and all other ordinary and customary maintenance and repair to the buildings that may be necessary from time to time, and that the Project is operated in good taste and in a professional and businesslike fashion.

(12) Not later than forty-five (45) days prior to January 1st or the beginning of some other fiscal year agreed upon by the parties, an Annual Budget shall be prepared by the Manager and submitted to the Tribe for its approval, which approval shall not be unreasonably withheld. If the Tribe disapproves the Annual Budget or any portion thereof, it

initial construction of Project buildings and other improvements, the Manager agrees to construct, renovate, or add to the Project in a manner so as to comply with the substance of any Tribal or federal building, electrical, plumbing, solid waste and sewage disposal, fire, health and safety codes, and all laws relating to the satisfaction of applicable access requirements for handicapped persons.

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However, nothing in this Agreement shall be construed to grant any jurisdiction of any kind over the Project to any other government, agency, instrumentality, or subdivision of any of the foregoing. Any relevant permits or similar approvals the parties wish to obtain shall be obtained only after the Tribe's prior written consent and for satisfaction of the Tribe's desire for public safety conformity with local building codes and requirements and shall not be sought or obtained unilaterally by the Manager. The Tribe shall have the right, at all times, to have the Project inspected for such compliance,

(17) Maintain a current and complete inventory of all Project property whether real, personal or intangible. All such inventories shall be available to the Tribe at its request. The Manager and its employees may, from time to time, have their own personal property on the Project site or in its facilities and shall retain the right to remove such property.

(18) Perform all other acts necessary to fulfill the goals and comply with the policies and procedures of the Project, and to otherwise satisfy Manager's duties and obligations under this Agreement, including but not limited to those described elsewhere in this Agreement

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(19) Operate the Project a minimum of 14 hours per day, seven days per week. Manager shall determine the exact hours of operation and shall be allowed to operate the Project 24 hours per day if business justifies such operation.

(20) Advertise the Project in such ways as Manager shall deem in the best interest of the Project and to spend the amount represented in its annual budget on advertising.

(21) Comply with all applicable provisions of the United States Internal Revenue Code.

(22) Supply the N.I.G.C. with all information necessary for the Commission to comply with its regulations issued pursuant to the National Environmental Policy Act (NEPA).

4.2 Manager's Warranties and Representations. Manager represents and warrants as follows:

(a) Parties-in-Interest Listing. Exhibit "E" is a list of all Parties-in-Interest to this Agreement. All parties on this list will be approved and licensed by the Oglala Sioux Tribe. Exhibit "E" includes the following:

(1) All of the Manager's management level personnel and corporate officers and directors.

(2) All persons who will be, directly or indirectly, investors in Manager, including all general and limited partners, corporate officers, directors, stockholders, and holders of stock options or warrants.

(3) Those persons who signed this Agreement on behalf of Manager.

(4) The lists in §§ (1) through (3) above, will be updated by Manager on a periodic basis, if changes occur, but not less than annually, so as to always accurately disclose the required information at all times during the Term of this Agreement and all extensions hereof. The initial list of information required by this § 4.2(a) (Exhibit "E") is attached hereto. All future lists of information required by this § 4.2(a), IGRA or the Compact shall be deemed to be supplemental to this Agreement and incorporated by reference.

(b) Parties-in-Interest; Moral Character. Manager represents and warrants that it shall use its best efforts to assure that all Parties-in-Interest employees are of good moral character, have never been convicted of any felony, misdemeanor involving moral turpitude, or any gaming offense and are and will continue to be eligible to be licensed by the Tribe in accordance with the Compact, the Tribal Ordinance, and tribal rules and regulations governing gaming.

(c) Operation of Project in Compliance with Law. Manager shall operate the Project in accordance with applicable federal laws, including the Internal Revenue Code, the Compact, Tribal Ordinances, and rules and regulations of the Tribal Gaming Commission in effect at the time of the signing of this Agreement.

4.3. Manager's Warranties:

(a) Manager hereby represents and warrants to the Tribe as follows:

(i) Organization and Good Standing. Manager is a corporation and is duly organized, validly existing and in good standing and duly qualified to do business with full power and authority to conduct its business as presently conducted and to own and operate the

assets and properties now owned and operated by it and to conduct all transactions and activities contemplated hereby. At the date of all required approvals of this Agreement and throughout the Term hereof management will possess all authorizations, charters, licenses, registrations, consents, and franchises necessary or required by law to carry on the activities in which Manager is presently engaged and the activities and transactions contemplated hereby.

(2) Compliance with Laws; Authorizations and Permits. Manager in the conduct of its business contemplated herein will be in all material respects in compliance with all licenses, permits and charters. Manager is not aware of any claim or notice that such business is not or has not been in compliance with any laws insofar as any case of non-compliance, singularly or in the aggregate, could result in any material adverse effect upon the operations of Manager.

(3) Governmental Licenses. Manager will have all governmental licenses, charters, consents, registrations, permits, and other authorizations which are material in connection with the conduct of its business and the activities and transactions contemplated herein and has complied or will comply in all material aspects with the terms thereof and such licenses, consents, registrations, franchises, permits and other authorizations are valid and sufficient for such ownership and conduct of its business. As of the date of execution of this Agreement, Manager has filed and throughout the Term hereof will continue to file all applicable reports, returns and filing information or data with and pay the applicable taxes, fees, or assessments of all tribal and federal authorities and other applicable regulatory agencies, including the National Indian Gaming Commission and the Tribal Gaming Commission as required by applicable law, rule or regulation.

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(4) Authority of Manager. Manager has full power and lawful authority to execute and deliver this Agreement and to consummate and perform the transactions and activities contemplated hereby in the manner herein provided. The execution and delivery of this Agreement by Manager and the consummation and performance of the transactions and activities contemplated hereby in the manner herein provided have been duly and validly authorized by all necessary action of Manager, including approval of its Board of Directors.

(5) Effect of Agreement on Manager. Neither the execution or the delivery of this Agreement by Manager nor the consummation or performance of the transactions contemplated herein conflicts or will result in the breach or violation of the Corporate Charter of Manager in effect on the date hereof, any agreement or instrument to which Manager on the date hereof is a party or by which it or its assets or properties are bound, or any law, judgment, referendum or understanding, order, writ, injunction, rule, regulation, decree or award in effect on the date hereof by any court, arbitrator, government agency, commission or body.

(6) Manager's Abilities. Manager has the experience and present ability to obtain such financing as may be necessary or desirable for the operation of the Project and to complete performance of all of Manager's obligations hereunder and all activities contemplated hereby and will fulfill its obligations under this Agreement

to commence and carry on operations of the Project in the manner and on the scale contemplated hereby.

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(7) Property Free of Liens. Throughout the Term of this Agreement, Manager will keep the Project, its buildings, assets, personal property, fixtures, and the Tribal trust land of which they are a part, free and clear of all mechanic's liens and other liens and encumbrances of whatever kind or nature, whether imposed voluntarily, involuntarily, or by operation of law; provided, however, t:

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4.4 Additional Covenants. In addition to any other obligations which may be contained in this Agreement, Manager hereby covenants and agrees as follows:

(a) The Manager shall act in good faith and take all necessary steps and execute, ratify and endorse all documents, contracts and agreements required of it pursuant to the provisions of this Agreement, and shall not unreasonably withhold its approval of any act or thing for which such approval may be required hereby.

(b) The Manager shall indemnify and hold Tribe harmless from and against any cost, expense or damage incurred by or claimed against Tribe as a result of any negligent, willful, or intentional act by the Manager.

(c) Manager agrees to perform necessary acts and duties in order to expedite governmental approval of this Agreement and comply with the National Environmental Policy Act to the extent applicable.

(d) The Manager will cooperate with Tribe in all efforts necessary to fulfill its duties herein and to ensure that the Project is operated, and Manager's duties are performed, in compliance with the Compact and applicable laws, ordinances, rules and regulations.

(e) The Manager agrees to deliver to the Tribe a copy of any written notice received by the Manager given under the Tribal/State Compact, within five (5) days after receipt of such notice by the Manager.

SECTION 5

TRIBE TO HAVE SOLE PROPRIETARY INTEREST, LIENS

The parties acknowledge and agree that the Tribe has and will continue to have the sole proprietary interest in the Project, including but not limited to all construction accomplished thereon by the Manager, and all other real and personal property of the Project.

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SECTION 6
OPERATIONS

6.1 Employees.

(a) All management and other employees of the Manager will be hired, supervised, disciplined, promoted and discharged on a day to day basis by the Manager. Any general manager hired by the Manager shall be approved in advance by the Tribe. Manager recognizes that an important purpose of the Project is to provide training and employment opportunities and in accordance herewith shall give preference in employment and training first to available, qualified or trainable members of the Tribe, then to other available, qualified or trainable members of other Tribes, then to other available, qualified or trainable Native Americans, and then to other available or trainable persons who reside in the area, including opportunities to participate in the Project at the management level and to advance such persons whenever possible and practicable to do so in accordance with these preferences. Manager shall place special emphasis on the recruiting, training and employment of Tribal members. Manager shall take all steps reasonably necessary to implement the foregoing, consistent with the terms of this Agreement and the requirements of law. One of the primary inducements for the Tribe to enter into this Agreement is the employment of its members and training them in management skills for all management positions to operate the Project for its own account at the end of the Term, or any renewal thereof, as the case may be, should it elect to do so

(b) All employees hired by the Manager shall be of good moral character and shall, as

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a condition of their employment, be eligible for and receive and maintain in good standing an appropriate license from the Tribal Gaming Commission and shall be required to submit to any lawful means of testing, background examination and licensing as required by Ordinance or other law, including but not limited to testing in connection with the handling, collection or dispersal of money, property, supplies or the like. Refusal to submit to such testing may, to the extent permitted by law, be grounds for termination. Employees shall also agree to follow all Ordinances, laws and rules of the Tribe and the conditions of any licenses issued by the Tribe, its agencies or instrumentalities to employees or Manager or any of Manager's shareholders, officers, directors, agents or employees.

(c) Manager shall employ and engage such security personnel as may be reasonably necessary to insure the reasonable safety and security of the Project and its guests and employees and of the monies incident to managing and operating the same at all times.

(d) All employees performing services in connection with the Project shall be employees of Project and not the Tribe and hired "at-will" unless otherwise specifically set forth to the contrary in writing.

(e) The parties agree that the Manager shall have one hundred eighty (180) days from the execution of this Agreement within which to create written personnel policies covering employee fringe benefits, vacations and grounds for termination of employment. Such policies shall be subject to approval by the Tribe and made available to all employees. The adoption of employee policies shall not be intended or construed as creating any contract of employment with employees of the Project. This disclaimer shall be included in any employee policies or handbook promulgated by Manager.

(f) Employee Grievance Procedure. Employees will be encouraged to first discuss all disputes with their supervisor. If that fails the employee can take the matter to the next level supervisor. If none of these steps resolve the matter the employee can request a hearing with the General Manager. Any employee who has completed 90 calendar days of employment and feels that they have been unfairly or unjustly terminated or suspended can appeal to a disinterested five member grievance committee appointed jointly by Manager and Tribe. Decisions of the grievance committee are final and cannot be appealed or reviewed.

6.2 Implementation of Annual Budget. Manager shall implement the most recent Annual Budget approved by the Tribe in accordance with this Agreement and Manager shall be authorized, without the need for further approval by the Tribe, to supervise Project personnel in making the specified expenditures and incurring the specified obligations provided for in the Annual Budget. The parties agree that the budget must be flexible in the first six months of operation. Manager shall not vary Operating Expenses

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t thereof in any Annual Budget approved by the Tribe without first providing a suitable written explanation therefore. Manager shall notify the Tribe of gaming program changes at meetings which shall be held on a monthly basis.

6.3 Approval and Implementation of Project Policies. Tribe and Manager agree that the Project shall be operated in accordance with the Tribe's Ordinances, rules and regulations of the Tribal Gaming Commission and generally accepted accounting principles, practices and procedures.

6.4 Collection, Monitoring, Handling and Payment of Proceeds.

(a) Collection and Banking. Manager shall collect and receipt for all "Gross

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All Gross Receipts shall be deposited into the Operating Accounts as provided below. Such Operation Accounts shall be located in any bank or banks mutually agreeable to the parties. The Tribe shall have the irrevocable right to participate as an observer in the performance of such functions of the Manager, including video and audio surveillance.

(b) Monitoring of Gross Receipts, Game Materials and Bank Deposits. The Manager shall submit to the Tribe for approval all procedures to be used for monitoring "Gross Receipts", game materials and bank deposits. After such approval if the Manager wishes any changes in such procedures in the future, it agrees to submit the changes to the Tribe for approval and not to implement any such changes until the Tribe has approved them. The Tribe shall have access to all procedures at any time.

(c) Expenses and profits.

(1) As used in this Agreement, the term "profits" is intended for accounting and convenience purposes only and shall not be construed to alter the tax-exempt and sovereign political entity status of the Tribe.

(2) "Gross Receipts"

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(3) "Net revenues"

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(4) "Operating Expenses" shall mean

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Said expenses shall be identified as "gaming expenses" or "non-gaming expenses", and shall be accounted for separately in departments specifically identified as "gaming department" and "non-gaming department".

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(d) Operation Reserve Account.

There shall be an "Operation Reserve Account."

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(c) Prize Reserve Account.

There shall be a "Prize Reserve Account." Balances of the Prize Reserve shall be temporarily available for the payment of large jackpot prizes only, and payments therefrom shall be promptly repaid from Gross Receipts, and but for such temporary withdrawals for the aforesaid purpose (or deposits thereto as hereinafter provided), said account shall maintain a level balance.

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(f) Construction and Asset Acquisition Account.

There shall be established and maintained a "Construction and Asset Acquisition Account",

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6.5 Exclusive Rights Fee, Management Fee and Tribe's Share.

(a) Exclusive Rights Fee to Tribe. In consideration of the Tribe's Agreement, NIGC

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approval of said Agreement, an approved Compact, issuance of a Class III license by the Tribe to Manager, and all other approvals that might be necessary under the IGRA and regulations adopted pursuant thereto

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1. The Manager has received formal approval from all applicable authorities, including the Tribe, which are reasonably required to approve the Manager to conduct the management of the Project.

2. This contract is formally approved by all United States government agencies whose approval is reasonably necessary to permit the conduct of gaming pursuant to this contract, including but not limited to the Bureau of Indian Affairs, the National Indian Gaming Commission under IGRA and any other United States governmental agencies whose approval is reasonably required.

3. The Manager shall have consented in writing to be bound by all rules and regulations adopted by the Tribe's Tribal Gaming Commission, together with all gaming laws

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adopted by the Tribe as required by the Compact, attached as Exhibit "B".

4. The Tribal Gaming Commission appointed pursuant to the terms of the Compact and any other applicable authorities shall have issued all licenses, certificates and approvals to the Manager to permit it to perform the terms of this Agreement, as required by the Compact.

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(b) Manager's Fee/Tribe's Share and Guarantee.

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The parties agree that in view of Manager's investment, the risk involved in the venture, and the rural nature of the gaming location, the length of this Agreement and the percentages set forth herein are reasonable.

(c) Computation and Payment of Project Proceeds to Manager and Tribe; Priorities.

Monthly financial statements for the project shall be made available to the Tribe. All net revenues amounts shall be calculated on a monthly basis based upon the accrual method of accounting. The Tribe's share and Manager's fee shall, to the extent available, be paid simultaneously each month from Project funds, such payments to be calculated and made as follows:

(1) On or before the twenty-fifth (25th) day of each calendar month, Manager will prepare and submit to the Tribe a statement estimating, on the basis of the books and records of the Project and actual data collected, the net revenues amounts and the net revenues, if any, or operating losses for the preceding month. Said statement shall itemize the Gross Receipts and Operating Expenses.

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The parties agree that, pursuant to any subsequent discovery of errors in previous computations or audits, adjustments may be required to payments made on the above described basis. If so, such adjustments shall be made within sixty (60) days after such subsequent discovery of errors in previous computations or completion of such audit, for the period covered by said audit.

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6.6 Compliance With Laws. Manager and Tribe mutually covenant and agree that they shall use their best efforts to comply with and assure that the Project is in compliance with the Compact and requirements imposed thereby, all laws of the United States, and any Tribal Ordinances, rules, or regulations and rules and regulations of the Tribal Gaming Commission applicable to the operation of the Project as amended from time to time, all of which are incorporated herein by reference. The Tribal gaming ordinances and rules and regulations of the Tribal Gaming Commission are attached hereto as Exhibit "C".

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6.7 Books and Records. The Manager shall maintain full and accurate original Project books and records, net revenues statement, files, receipts, contracts, correspondence, memoranda, inventory records, supporting documentation for all expenses and disbursements, and all other business books and records normally maintained by a prudent businessman. The Tribe and Manager shall at all times an _____ following the Term, or any extensions have complete access to said books and records, including the right to inspect, photocopy and examine such records.

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6.8 Accounting and Audits. Monthly statements of all Gross Receipts, Operating Expenses, Net revenues, Manager's fee, Tribe's share, and other amounts collected and received and all deductions and disbursements made therefrom, and all assets and liabilities of the Project shall be accurately issued in reasonable detail by Manager.

An accounting system and procedures, to be established and maintained by manager, shall at all times be in place which shall, at a minimum: (1) Include an adequate system of internal accounting controls, (2) Permit the preparation of financial statements in accordance with generally accepted accounting principles, (3) Be susceptible to audit, (4) Allow a Class II operation, the Tribe, and the National Indian Gaming Commission to calculate the annual fee under 25 CFR 514.1, (5) Permit the calculation and payment of the manager's fee, and (6) Provide for the allocation of operating expenses or overhead expenses among the Tribe, the tribal gaming operation, the contractor, and any other user of shared facilities and services.

The manager shall provide the Tribe with immediate access to the gaming operation, including its books and records, by those who the Tribe designates in writing, which persons shall have the right to verify the daily gross revenues and income from the gaming operation

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and access to any other gaming-related information the Tribe deems appropriate.

The monthly statements shall be issued to Manager and Tribe on or before the twenty fifth (25th) day of the month following the month of reporting. The Tribe hereby designates Casey Peterson and Associates to perform an audit of the books, records, and internal controls of the Project, at least once each fiscal year, and to certify the accuracy of the monthly statement issued hereunder and render its opinion with respect to the accuracy of the monthly statement issued hereunder and render its opinion thereon to Manager and the Tribe. If circumstances necessitate that such opinion is a qualified opinion, immediate notification will be given to the parties and remedial action will be taken. All such audits shall be conducted pursuant to the AICPA standards for audits of casinos when applicable.

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The Tribe may also conduct its own independent audit of the Project's books and records at any time, provided such audit is conducted in accordance with reasonable accounting practices and by persons qualified to perform such audits.

6.9 Insurance. The parties agree that the Manager shall secure and maintain;

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(a) Public liability and property damage insurance in the amount of at least per person and occurrence protecting against any claim arising out of an occurrence taking place or act or omission during the Term of the policy, regardless of whether the claim is made during such Term or thereafter;

(b) Sufficient insurance to keep the buildings, improvements and contents thereof insured for their full replacement value against loss or damage by fire, with such extended

coverage endorsements as determined by Tribe and Manager;

(c) Business interruption insurance in an amount to be agreed upon by Tribe and Manager, when and if available and if obtainable at a reasonable cost;

(d) Any bonding that shall otherwise be required under this Agreement;

(e) Any additional insurance agreed to between Manager and Tribe.

Manager and Tribe shall each be named as insureds in all policies and Manager shall supply to the Tribe written evidence satisfactory to the Tribe of such insurance coverage. All insurance policies shall provide that the Tribe reserves unto itself the sole and absolute right to waive its sovereign immunity from suit in any amount should it wish to do so for any reason whatsoever or for no reason. The Tribe must receive all notices of alteration, termination or cancellation of any policy or coverage by certified mail not less than thirty (30) days prior to such alteration, termination or cancellation. Manager will promptly notify Tribe in connection with any matter related to the Project and Tribe shall do likewise as to Manager.

6.10 Destruction, Replacement of Premises; Use of Insurance Proceeds. In the event of any destruction of a Project building or other catastrophic event causing interruption of the Project, any available insurance proceeds must be utilized to rebuild or repair the building and recommence Project operations hereunder unless mutually agreed otherwise. The term of this Agreement shall be suspended upon such destruction or interruption for each day until the Project recommences operation. Reconstruction shall begin or commencement shall occur within ninety (90) days after destruction or interruption. In the case of reconstruction, it shall proceed promptly and the Project shall commence operations as soon as reasonably possible

after completion. In the event that the Project is not rebuilt in accordance herewith, this Agreement shall be terminated and the Term shall come to an end, notwithstanding anything herein to the contrary.

6.11 Disputes with Patrons. Patrons must be advised when they have a dispute that they have the right to have such dispute resolved in accordance with the terms of the Tribal Gaming Regulations, as authorized by the Tribe's Gaming Ordinance, including rights to the presence of a member or agent of the Tribal Gaming Commission. If the dispute involves more than \$250.00 Manager shall notify the Gaming Commission Director. The dispute will be resolved by the Gaming Commission within 30 days after it receives notice of the dispute.

SECTION 7

COVENANTS OF THE TRIBE

7.1 Additional Covenants. In addition to any other obligations which may be contained in this Agreement, Tribe hereby covenants and agrees as follows:

(a) The Tribe shall act in good faith and take all necessary steps and execute, ratify and endorse all documents, contracts and agreements required of it pursuant to the provisions of this Agreement, and shall not unreasonably withhold its approval of any act or thing for which such approval may be required hereby.

(b) The Tribe shall indemnify and hold Manager harmless from and against any cost, expense or damage incurred by or claimed against Manager as a result of any negligent, willful, or intentional act by the Tribe.

(c) Tribe agrees to perform necessary acts and duties in order to expedite governmental approval of this Agreement and comply with the National Environmental Policy

Act to the extent applicable.

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(d) Tribe shall be responsible for disseminating information concerning the Project to its members. This does not prohibit advertising by the Manager.

(e) For all purposes under this Agreement, the Tribe shall be represented by the Tribal Council. The Manager shall be entitled to rely upon any decision or representation made by the Council. Any action or inaction required or permitted of the Tribe hereunder shall be taken only by Council meeting in official session. All actions of the Council pertaining to this agreement or the operation of the project shall be reviewed at monthly meetings.

(f) The Tribe will cooperate with Manager in all efforts necessary to fulfill its duties herein and to ensure that the Project is operated, and Manager's duties are performed, in compliance with the Compact and applicable laws, ordinances, rules and regulations. Tribe shall not be required to take any action which will violate its sovereignty or right to self government unless expressly provided herein. The Tribe warrants that it will not change its laws, rules and regulations regarding Class III gaming authorized under this Agreement to be managed by Manager in any way that would cause unnecessary material injury to the Project or change the terms of this Agreement, unless such changes are required to be made by the Compact or applicable federal laws, rules or regulations, in which event Manager may terminate this Agreement within thirty (30) days of the change in such law, rule or regulation by giving notice to the Tribe of its intent to terminate the Agreement, pursuant to this subsection, but no such notice of termination shall be effective until thirty (30) days following

receipt by the Tribe. Any such termination shall be governed by §§10 and 11. Within ten (10) days of any changes in Tribal laws, rules and regulations regarding any aspect of gaming of this Project, the Tribe shall cause copies to be served upon Manager in accordance with § 21 herein.

(g) The Tribe agrees to deliver to the Manager a copy of any written notice received by the Tribe under the Tribal/State Compact, within five (5) days after receipt of such notice by the Tribe.

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7.2 Changes in Applicable Law. It is the present understanding and intention of the parties hereto that the Project contemplated hereby does conform and will conform in all respects with the Compact and all applicable Tribal and federal laws. In the event this Agreement or the Project is determined to be unlawful by Congress, the Department of the Interior, the Bureau of Indian Affairs, the National Indian Gaming Commission or its Chairman, or a court of competent jurisdiction, the parties shall employ their best efforts to modify this Agreement to bring it into compliance with applicable law, including the consideration of different types of businesses which can be conducted at the Project, both

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gaming and non-gaming. The parties acknowledge that changes in applicable law may necessitate changes to this Agreement to reflect economic reality and the parties agree to negotiate in good faith to reach agreement.

SECTION 8

COMPLAINTS AND REPORTS

Manager shall carefully review any written complaint received from Tribe relating to any aspect of the Project or its operations and promptly take such action as may be reasonably appropriate to resolve Tribal concerns regarding such complaint, so long as Manager shall not be required to take any action which would be commercially unreasonable or materially injurious to the Project or its business.

SECTION 9

DEFAULT AND TERMINATION

9.1 Termination for Breach. All duties, covenants, representations, warranties and agreements contained in this Agreement are declared to be material conditions to this Agreement. Should either party default in the performance of any duty, covenant, representation, warranty, condition or agreement contained in this Agreement and the default is not cured after notice as provided in § 9.4, the other party may proceed as provided in § 9.4 and § 10.

9.2 Insolvency of Manager. Manager shall notify the Tribe within fifteen (15) days following the time Manager becomes insolvent within the meaning of 11 U.S.C. 101(31). Should Manager become insolvent, Tribe may, by giving fifteen (15) days written notice to

Manager or to the person appointed to manage Manager's affairs, terminate this Agreement. For purposes of this section Manager shall be conclusively presumed to have become insolvent if Manager can no longer perform its financial obligations hereunder, or

(a) Has filed for relief under Title 11 of the United States Code or has suffered the filing of an involuntary petition under Title 11 which is not dismissed within one (1) year after filing;

(b) Has a receiver appointed to take possession of all or substantially all of Manager's property; or

(c) Has suffered an assignment for the benefit of creditors.

9.3 Mutual Agreement. This Agreement may be terminated by mutual agreement of Tribe and Manager.

9.4 Notice of Default. In the event that either party believes that there has been a default or other breach of the provisions of this Agreement, it shall give the other party written notice stating with particularity the specific nature of the default and the provisions of this Agreement alleged to have been breached. The party claimed to be in default shall have thirty (30) days thereafter to cure the default, provided that if it is not possible to cure the default within 30 days, the party claimed to be in default shall give notice to the other party of the period that it will take to cure the default with assurances to the non-defaulting party that the alleged defaulting party has the ability to cure the default within such period. If the default is not cured or if reasonable action is not taken within thirty (30) days thereafter by the defaulting party, the other party may elect to exercise its right to either terminate this Agreement and, in addition to termination or in lieu thereof, to proceed to arbitration as

specified herein.

SECTION 10

EFFECT OF TERMINATION

10.1 Termination and Reservation of Certain Rights and Obligations. Termination of this Agreement for any reason shall terminate all rights and obligations of the parties hereunder except as specifically provided otherwise in this Agreement; provided, however, that unless specifically provided herein to the contrary, termination shall not affect any warranties or indemnities of the parties to each other, nor shall termination prejudice the rights, remedies, or liabilities of either party against the other. Notwithstanding anything herein to the contrary, except as provided in § 11, upon termination the Tribe may operate gaming for its own account or through a management contractor without any obligation or liability to Manager.

10.2 Duty to Render Final Accounting. Upon termination, the Project accountant shall render and deliver to the parties a final and accurate accounting of Project operations.

SECTION 11

PAYMENTS DUE UPON TERMINATION; PRIORITIES

11.1 Payments from Project Funds. Upon termination all outstanding Operating Expenses and other Project costs shall be paid from the Operating Accounts, any reserve accounts and any other Project funds then on hand, including casualty, condemnation, and business interruption insurance proceeds, reserve accounts and other Project funds, except that liabilities covered by Project insurance shall be satisfied from the proceeds of such insurance.

Subject to any other priority imposed by law, Operating Expenses and other Project costs and liabilities shall be paid and discharged upon termination in the following order:

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11.2 Repayment of Investment Upon Termination; Liquidation on Cessation of Operations; Remedies for Lost Profits and Damages; Tribal Payments Limited to Funds Generated by the Project.

(a) Since the Tribe has the sole proprietary interest in the Project under § 5, if termination of this Agreement occurs for any reason prior to the end of the Term,

(b) If such termination prior to the expiration of the Term is on account of any reason other than breach of this agreement by Management, and in the event of the continued operation of the gaming facility provided for herein,

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(d) Notwithstanding any other provisions of this agreement, in the event Manager's right to manage under this agreement is terminated prior to the scheduled expiration of this

agreement, nothing set forth herein shall be construed to prohibit Manager from making claim and the Federal Court or arbitration panel, as set forth under § 22.9 herein, from awarding Manager, if justified under applicable law and the facts of the case, lost profits for the remainder of the term of the agreement. Similarly nothing shall be construed as preventing the Tribe from making such claim against Manager for damages if so justified under applicable law and the facts of the case.

(e) Notwithstanding anything in this Agreement to the contrary, the parties agree that the only source of the payments that are due from the Tribe under this Agreement from Tribal funds shall be Tribal funds generated by the Project.

SECTION 12

MANAGER'S ACCESS TO BOOKS AND RECORDS AFTER TERMINATION

64 After termination of this Agreement or the expiration of the term of any extension, and thereafter, Manager shall have access, at reasonable times and places during ordinary business hours, to inspect and copy the books and records of the Project for all periods prior to termination.

SECTION 13

CONDITION PRECEDENT TO VALIDITY AND ENFORCEMENT OF AGREEMENT.

This Agreement and, except as otherwise specifically provided to the contrary, the obligations of Manager and the Tribe described herein are expressly conditioned upon execution of this Agreement and all related agreements and documents and delivery of executed copies to the parties and any governmental agency required by law to review and approve same. This agreement shall not be effective until approved by the Chairman of the

National Indian Gaming Commission, the date of the signatures of the parties hereon notwithstanding.

SECTION 14

APPROVAL OF TRIBE

14.1 Written Request. Whenever a written request is made to the Tribe by the Manager, unless the Tribe has expressly disapproved the thing or act for which approval is sought within thirty (30) days after receipt of the request for approval, the Tribe shall be deemed to have granted its approval.

SECTION 15

NON-INTERFERENCE WITH TRIBAL AFFAIRS

Manager agrees that it shall not interfere with or attempt to influence the internal affairs or governmental decisions of the Tribe, but no attempt to comply with this Agreement, reasonable attempt to obtain Tribe's consent hereunder, or participation by Manager or Tribal members who are Project employees in the governmental processes of the Tribe such as, for example, talking to tribal administrators, council persons, or employees, or participating in council meetings, shall be deemed to be in violation of this section.

SECTION 16

FORCE MAJEURE

In the event any party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, it is agreed that upon such party giving notice and reasonably full particulars of such force majeure in writing within a reasonable time after the occurrence of the cause relied upon, the obligations of the party giving notice shall be

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suspended during the continuance of any disability so caused and the period of such suspension shall extend the time period of any agreed upon and appropriate deadlines for a like period of time. The cause of the force majeure shall, so far as possible, be remedied with all reasonable dispatch by the claiming party. The term "force majeure" as employed herein shall include, without limitations, acts of God, strikes, lockouts, wars, governmental or judicial actions and other events not within the control of the parties.

SECTION 17

INVALID OR UNENFORCEABLE PROVISIONS

If any part or parts of this Agreement shall be deemed to be invalid or unenforceable for any reason by final judgment of a court of competent jurisdiction, this Agreement shall not be effected in its entirety, but shall be deemed amended or modified to accommodate said final judgment.

SECTION 18

CONFLICT OF INTEREST

18.1 No Payments to Tribal Council or a Member Thereof or a Relative of a Member Thereof. All parties hereto declare that no payments relative to obtaining this Agreement have been made nor shall any payments be made to any elected member of the Tribal Council or any relative of such member for the purpose of obtaining or maintaining this Agreement or any other privilege for Manager or other parties in interest.

18.2 Parties-In-Interest. (Conflict of Interest). No elected member of the Tribal government or member of the Tribal Gaming Commission or relative thereof who permanently resides in the same household with such individual may be an investor, including

general and limited partner, corporate officer, director, or stockholder of Manager. Any person holding such an interest must divest himself or herself of any and all such interests in the event that such person becomes an elected member of the Tribal government or a member of the Tribal Gaming Commission or a relative of such person who resides in such person's immediate household. For the purpose of this Agreement, the term "relative" means an individual who permanently resides in the same household and is related to an elected member of the Tribal government or a member of the Gaming Commission as a father, mother, son, or daughter. In the event that any party holding such an interest or the relative of any such party residing in his or her immediate household becomes an elected member of the Tribal government or a member of the Tribal Gaming Commission or is a relative residing in the immediate household of a person who is elected to Tribal government or becomes a member of the Tribal Gaming Commission, Tribe and Manager agree to immediately terminate the employ of such person by the Project upon his election to Tribal government or becoming a member of the Tribal Gaming Commission or the election of any of their relatives who reside in his immediate household to Tribal government or selection as member of the Tribal Gaming Commission.

SECTION 19

INSPECTION

The Tribe shall have the right, at any time during the Term of this Agreement, to enter the Project to inspect any aspect of the same and to make photocopies of any of its records or books, wherever the same may be located. Appropriate tribal officials, as designated by resolution of the Tribal Council, shall have the right to verify the daily gross revenues and

income from the gaming operation and access to any other gaming related information the Tribe deems appropriate.

SECTION 20

LIMITED WAIVER OF SOVEREIGN IMMUNITY

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SECTION 21

NOTICES

21.1 Notices; Manner of Service. Any notices permitted or required to be given under this Agreement shall be sufficient if in writing and mailed or sent by fax, telecopier, or telegram to the person set forth below:

If to Tribe:

Oglala Sioux Tribe
Box H
Pine Ridge, SD 57770
Phone: (605) 867-5821
Fax: (605) 867-5699

If to Manager:

Furn Key, Inc.
HC 49, Box 10
Pine Ridge, SD 57770
Phone: (605) 535 6300

21.2 Notices; Change of Address. Upon any change of address or person to whom notices should be directed, such party will notify all other parties hereto by mail. Thereafter, such new address or person will be deemed substituted for the above address or person.

21.3 Notices; Deemed Receipt. Notices under this Agreement shall be deemed served upon actual receipt by the party.

SECTION 22

MISCELLANEOUS

22.1 Fire Protection. Fire protection for the Project is supplied by the local department. The parties agree that existing fire protection and law enforcement are adequate to protect the Project and the parties' interests therein. If existing services are not adequate, the parties agree that the local agencies will be reimbursed

22.2 Recitals Deemed Material. The recitals to this Agreement shall be deemed to be representations and agreements of the parties and are in themselves a material part hereof. All recitals, representations and warranties shall be deemed to be continuing and shall survive the execution hereof

22.3 Not a Partnership or Joint Venture. Nothing herein shall be deemed or is intended to render the relationship between the Tribe and Manager as partners or joint venturers, nor is Manager authorized to act on the Tribe's behalf except where specifically authorized to do so.

22.4 Entire Agreement; Incorporation of Exhibits. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be changed orally, but only by an instrument in writing signed by both parties. Any such amendment as well as any assignment by Manager of this Agreement, or transfer of ownership of manager resulting in a change in control, or sub-contracts of manager's duties hereunder, whether voluntary, involuntary or by operation of law, in whole or in part whether absolute or for purposes of security or otherwise, must be proposed in advance and agreed upon and must be approved in writing by the Tribe and submitted by the Tribe for written approval to the same governmental agency required for the initial approval of this Agreement.

The Tribe retains the absolute right to deny consent for any proposed transfer, assignment, pledge, or encumbrance by Manager for any reason whatsoever or for no reason, notwithstanding anything herein to the contrary. All exhibits appended hereto shall be deemed incorporated herein by reference.

22.5 Waiver. This Agreement may not be amended, modified, superseded or canceled, nor may any of the terms, covenants, representations, warranties, or conditions be waived, except by written instrument executed by both parties. The failure of any party at any time or times to require performance of any provisions hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of any conditions or warranty contained herein, in any one or more instances, shall be construed as a further or continuing waiver of any such condition or breach.

22.6 Construction. The captions and headings contained herein are for convenient reference only, and shall not in any way affect the meaning or interpretation of this Agreement. Notwithstanding any rule or principle of construction to the contrary, any ambiguity or uncertainty in this Agreement shall not be construed against either party based upon authorship of any of the provisions hereof. When this Agreement calls for the approval of any party hereto, such approval may not be unreasonably withheld. When appropriate, the use of the singular shall include the plural and the masculine shall include the feminine and vice versa.

22.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

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22.8 Further Documents. The parties each hereby consent and agree that from time to time after the date hereof, at the reasonable request of any party, and without further consideration, they will execute and deliver such other documents and take such other action as may be reasonably required to carry out in all respects the transactions contemplated and intended by this Agreement.

22.9 Arbitration of Minor Disputes. Minor disputes (i.e., disputes not amounting to a material breach of this Agreement but creating an impasse) or if the federal court which is the exclusive forum for litigation of claims arising under this Agreement determines that it does not have subject matter jurisdiction under applicable law in accordance with § 20 hereof, or if the parties agree, any dispute shall be arbitrated with dispatch, after good faith efforts by the parties to resolve the issues have failed, by a person or persons the parties agree upon, but if they cannot agree within fifteen (15) days after the need for arbitration has been identified, then each party's nominee shall serve on a panel of three (3) arbitrators and the nominees shall name the third to serve with them. If they cannot agree, then the third shall be selected by the American Arbitration Association and the arbitration shall be conducted under the rules of the American Arbitration Association for commercial arbitrations. Any arbitration shall be held in Pierre, South Dakota, and

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In the event that one of the parties refuses to participate in arbitration as provided for herein, attorney's fees and costs incurred by reason of such refusal may be awarded as additional damages. To the extent a limited waiver of Tribal immunity from suit is necessary to enforce compliance with this paragraph and give meaning to the decision of the arbitrator, it is hereby granted for such

purposes only, but only to the extent provided in § 20 of this Agreement.

22.10 Parties-In-Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement upon any persons other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

22.11 Applicable Law. Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law, and wherever there is any conflict between any provision of this Agreement and the Compact or any relevant statute, law, ordinance or regulation, then the latter shall prevail; provided, however, that in any such event the provisions of this Agreement so affected shall be curtailed and limited only to the extent necessary to bring them within applicable legal requirements.

22.12 No Alteration Except by Mutual Consent. Manager and Tribe hereby specifically warrant and represent to each other that neither of them shall act in any manner which would cause this Agreement to be altered, amended, modified, canceled, terminated except for cause, revoked or otherwise frustrated, without the prior written consent of the other party. The Tribe and Manager further covenant and agree to act in good faith in all aspects of the transaction contemplated hereby and will deal fairly with the other in all matters relating hereto.

22.13 Time of Essence. Time is of the essence in the performance of this Agreement and all activities contemplated hereby.

22.14 Tribal Resolution. The Resolution attached hereto as Exhibit "G" sets forth the scope of authority of the Tribal officials who have signed this Agreement on behalf of the Tribe and identifies the provision of the Tribal organic document which authorizes this Agreement and its execution.

22.15 No Present Lien or Lease. The parties agree and expressly warrant to each other that this Agreement is not a lease and that it does not convey to the Manager any interest whatsoever in the real property on which the Project is located.

SECTION 23

INTEGRATION

The parties agree that this writing constitutes the entire Agreement between them and that there are no other oral or collateral agreements or understandings of any kind or character except those contained herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written at Pine Ridge, South Dakota, this 30 day of November, 1994, respectively.

Tribe: Oglala Sioux Tribe
a federally recognized Indian Tribe

By: Wilbur Between Lodges
Wilbur Between Lodges, President

Attest:

By: Theresa Joe Bulls
Secretary of the Tribal Council

Manager: Turn Key Gaming, Inc.

By: [Signature]
Wayne Barber, President

Attest:

By: Janet Bernard
Janet Bernard, Its Secretary

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