MODIFICATION NUMBER 1 TO SECOND AMENDED AND RESTATED MANAGEMENT DEVELOPMENT AGREEMENT

This Modification Number 1, between the Confederated Tribes of the Umatilla Indian Reservation (hereinafter "Tribes") and Capital Gaming Management, Inc. (formerly British American Bingo, Inc) (hereinafter "mana), amends the Second Amended and Restated Management Development Agreement ("Management Agreement"), is made this 29th day of September, 1994 for the purpose of developing, financing and operating an interim gaming facility within the Umatilla Indian Reservation.

RECITALS

WHEREAS, the Tribes are a Federally recognized Indian tribe possessing sovereign power over the Umatilla Indian Reservation (hereinafter referred to as the "Reservation") located in the State of Oregon; and

WHEREAS, the Tribes seeks to provide employment, and improve the social, economic, education, and health needs of its Reservation residents, Tribal members and Tribal government; and

WHEREAS, the Tribes, acting through its governing body, the Board of Trustees ("Board of Trustees"), determined that the operation of a Tribal gaming enterprise and other gaming activity under the Indian Regulatory Act, P.L. 100-497 (October 12, 1988), 25 U.S.C. §2701 et seq. ("IGRA"), would assist the Tribes in meeting its above objectives; and

WHEREAS, the Tribes and Manager previously negotiated and entered into the Management Agreement, which was submitted to and approved by the National Indian Gaming Commission, for the establishment and operation of a permanent Tribal gaming enterprise (the "Permanent Enterprise"), which will be located in the Wild Horse Gaming Resort currently under construction; and

WHEREAS, because of unexpected timelines in receiving various regulatory approvals and other matters prerequisite to the construction of the Permanent Enterprise as well as time required for construction of the Wild Horse Gaming Resort, the Tribes and Manager have agreed that the development of the Interim Enterprise located within the "footprint" of the site described in the environmental assessment for the Permanent Enterprise, would be in the best interests of both parties; and

WHEREAS, the Tribes and the State of Oregon have executed an amendment to the Tribal-State Compact authorizing the development of the Interim Enterprise with up to 100 Volts, which compact amendment was submitted to the Department of Interior on August 18, 1994 for approval and is attached to this Agreement as Exhibit A and which describes the Interim Enterprise and location; and

WHEREAS, Manager is a wholly-owned subsidiary of Capital Gaming International, Inc., a publicly-held corporation; and

WHEREAS, many of the terms and conditions that will govern the relationship of the parties in connection with the Interim Enterprise will be identical to the terms and conditions that govern the relationship of the parties in connection with the Permanent Enterprise;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. PURPOSE

The purpose of this Modification is to provide for the development, financing, construction, operation and management of the Interim Enterprise on the Umatilla Indian Reservation in accordance with the terms and conditions of this Modification.

II. TERM

A. Primary Term. Article II, Section A(1) of the Management Agreement shall be amended to expand the primary term of the Management Agreement to the lesser of:

b4 (1) commencing on the date of the official opening of the Interim Enterprise; or

b4 (2)

B. Extended Term. Article II, Section A(2) of the Management Agreement shall be amended to provide that the Management Agreement may be extended for a period in addition to the primary term identified in subsection A, above, so that the term of the

b4 Management Agreement shall not exceed

III. ENGAGEMENT AND COMPENSATION OF MANAGER

A. Engagement of Manager

The Tribes hereby exclusively retains and engages Manager to finance, improve, develop, manage, operate and maintain the Interim Enterprise, in accordance with the Indian Gaming Regulatory Act, applicable Tribal laws and regulations and the Tribal-State Compact (the "Compact"), as amended, between the Tribes and the State of Oregon.

B. Compensation of Manager

Except as otherwise provided herein, in consideration of the performance of it duties as described herein, during the term of this Interim Enterprise is open, Manager shall receive a management fee of the cumulative Net Distributable Profits (as that term is defined in Article VI, Section A of the Management Agreement) resulting from the operation of the Interim Enterprise.

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IV. FINANCING

A. Interim Loan; Interim Loan Agreement

Manager agrees on the terms and conditions set forth in Article IV to make available a loan ("Interim Loan") to the Tribes in an aggregate amount not to exceed This Interim Loan shall be the maximum dollar amount Manager must make available pursuant to this Modification for development and construction costs for the Interim Enterprise and shall be the maximum dollar amount, plus interest, which Manager may recover from the Tribes pursuant to this Modification for construction and development costs. The financing provided by Manager to Tribes shall be made in accordance with the Interim Credit Agreement attached hereto as Exhibit "B" (the"Interim Credit Agreement"). Manager shall make the Interim Loan pursuant to the Interim Credit Agreement as soon as is reasonably practicable but in no event later than three (3) days following the NIGC approval of this Modification.

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B. Limitation on Use of Interim Loan

Manager and the Tribes agree that the Interim Loan will only be used for purposes of development, construction, furniture, fixtures, and equipment costs for the Interim Enterprise as applicable

C. Interest

The Tribes shall pay interest to the Manager on the outstanding and unpaid principal amount of the Interim Loan at a rate per annum equal to If

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D. Repayment of Interim Loan

1.(a) Repayment of Interim Loan. The Tribes and Manager agree that the Tribes shall amortize the Interim Loan over with the first payment being due on the first day of the month after the opening of the Interim Enterprise or December 1, 1994, whichever is later.

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(b) Interest Repayment. All interest payments on the Interim Loan shall be operating expense of the Interim Enterprise.

(c) Principal Repayment by Tribe. All principal payments on the Interim Loan shall be from the Tribes' share of Net Distributable Profits. The Tribes retain the right to prepay the Interim Loan in whole or in part without any prepayment premium of penalty.

(d) Principal Contribution by Manager. Manager hereby agrees to make a capital contribution back to the Tribes on a monthly basis in an amount equal to

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2. Manager shall release and hold harmless the Tribes from any and all indebtedness pursuant to the Interim Loan if (i) the Interim Enterprise shall be forced to close and the Permanent Enterprise does not open or is forced to close due to changes in applicable Federal or state law, (ii) if the Tribes and Manager mutually agree that the Interim Facility and Permanent Enterprise is unprofitable and mutually agree to abandon the Interim Enterprise and Permanent Enterprise.

3. If this Modification is terminated by the Tribes for any reason other than "for cause" as authorized hereunder, the entire remaining unpaid balance of the Interim Loan shall be immediately due and payable on the date of such termination and Manger shall retain a continuing lien on all revenues of the Interim Enterprise and the Permanent Enterprise.

E. **Incorporation of Interim Credit Agreement Terms**

The Interim Credit Agreement is incorporated herein by reference and shall be made subject to all the terms and conditions contained in this Modification to the same extent and effect as if this Modification was fully set forth and made a part of the Interim Credit Agreement. This Modification is made subject to all the terms and conditions contained in the Interim Credit Agreement to the same extent and effect as if the Interim Credit Agreement were fully set forth herein and made a part hereof. Any terms of the Interim Credit Agreement which are inconsistent with the terms of this Modification shall be governed by this Modification.

F. **Deferral of Interest Payments**

The Tribes and Manager acknowledge that the Interim Enterprise will involve, among other things, gaming equipment, furniture, security equipment and start up costs that will be financed by the Loan the Manager is required to provide the Tribes under Article IV of the Management Agreement. Interest shall accrue on use of the loan proceeds as they are withdrawn, but payment shall be deferred until the opening of the Permanent Enterprise and shall be subject to the repayment terms set forth in the Article IV D of the Management Agreement.

V. MANAGEMENT OF THE INTERIM ENTERPRISE

Management of the Interim Enterprise shall be conducted in accordance with the terms and conditions set forth Article V of the Management Agreement , except reference in Article V, Section 1, 2 to the capacity of gaming facility shall not be applicable for purpose of this Modification. The approximate size and capacity of the Interim Enterprise shall be as described in the exhibits to the Compact amendments

VI. DISTRIBUTION OF INTERIM ENTERPRISE REVENUES

The distribution of Interim Enterprise revenues shall be conducted in accordance with the provisions of Article VI of the Management Agreement, except with respect to the provisions of Article VI, Sections E and F which are hereby amended for purposes of this Modification to provide as follows.

Guaranteed Payment

Notwithstanding anything else to the contrary in this Modification, upon the commencement of the term of this Modificaiton, the Tribes shall receive a guaranteed payment from Manager in the amount of , per month. This guaranteed payment shall have preference in payment over the retirement of Interim Enterprise construction or development debt. All guaranteed payments shall be credited against the Tribes' cumulative Net Distributable Profits.

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Distribution of Non-Gaming Revenue

All net revenues from the Interim Enterprise other than revenue from gaming operations, as defined in 25 C.F.R. Section 502.10, ("Non-Gaming Revenue") shall be allocated

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VII. IMPROVEMENTS; RELOCATION; AND RECLAMATION

A. Title to Improvements. Upon closure of the facility constituting the Interim Enterprise, the Tribes shall retain title to all modular facilities (the "Modular Facilities") comprising the Interim Enterprise.

B. Relocation of Modular Facilities. Upon closure of the Interim Enterprise, the Modular Facilities shall be moved to a location within the Umatilla Indian Reservation designated by the Tribes. Relocation costs relating thereto shall be an expense of the Permanent Enterprise.

C. Reclamation. Upon closure of the Interim Enterprise and the relocation of the modular buildings, Manager shall be responsible for reclaiming the site. Such reclamation costs shall be an expense of the Permanent Enterprise.

VIII. INCORPORATION BY REFERENCE

Unless expressly changed in this Modification, all the remaining terms of the Management Agreement shall govern the relationship between the Tribes and the Manager during the period in which the Interim Enterprise is being developed and operated.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this day and year first above written.

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

By: Donald G. Sampson
Donald G. Sampson
Title: Chairman, Board of Trustees

CAPITAL GAMING MANAGEMENT, INC. (Formerly British American Bingo, Inc.)

By: James A. Ahearn
James Ahearn
Title: Vice President and Director of Operations

Approved:

NATIONAL INDIAN GAMING COMMISSION

By: Harold Monteau
Harold Monteau, Chairman
OCT 28 1994

Approved:

CAPITAL GAMING INTERNATIONAL, INC.

By: Edward M. Tracy
Edward M. Tracy, President and COO

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SECOND AMENDED AND RESTATED MANAGEMENT DEVELOPMENT AGREEMENT

THIS SECOND AMENDED AND RESTATED MANAGEMENT DEVELOPMENT AGREEMENT ("Agreement"), made this 6th day of April , 1994 by and between the Confederated Tribes of the Umatilla Indian Reservation (hereinafter referred to as the "Tribes"), a Federally recognized Indian Tribe, and British American Bingo, Inc., a business corporation incorporated under the laws of the State of New Jersey (hereinafter referred to as "Manager"), for the purpose of establishing and operating a Tribal gaming Enterprise.

RECITALS:

WHEREAS, the Tribes is a Federally recognized Indian tribe possessing sovereign power over the Umatilla Indian Reservation (hereinafter referred to as the "Reservation") located in the State of Oregon; and

WHEREAS, the Tribes seeks to provide employment, and improve the social, economic, education, and health needs of its Reservation residents, Tribal members and Tribal government; and

WHEREAS, the Tribes, acting through its governing body, the Board of Trustees ("Board of Trustees"), has determined that the operation of a Tribal gaming Enterprise and other gaming activity under the Indian Gaming Regulatory Act, P.L. 100-497 (October 12, 1988), 25 U.S.C. §2701 et seq. ("IGRA"), will assist the Tribes in meeting its above objectives; and

WHEREAS, the Tribes seeks additional technical and financial expertise to manage a Tribal gaming Enterprise and is desirous of

employing a firm with management and business expertise to manage its Tribal gaming Enterprise; and

WHEREAS, Manager has the requisite expertise, and is capable of providing assistance in obtaining financing on behalf of the Tribes to improve, develop, manage, operate and maintain the Class II and Class III Tribal gaming Enterprise; and

WHEREAS, on April 21, 1993 the Tribes and the Manager entered into a Letter of Intent with respect to entry into a gaming management contract for a Class II - III gaming facility on the Reservation ("Letter of Intent"); and

WHEREAS, on November 9, 1993 the Tribes and the Manager entered into a Management Development Agreement for the management of the gaming facility; and

WHEREAS, this Agreement amends and restates the Management Development Agreement to comply with the comments of the National Indian Gaming Commission to the Management Development Agreement; and

WHEREAS, this Agreement shall, upon execution by all parties and upon receipt of all Federal and Tribal governmental approvals, be deemed to supersede the Letter of Intent and the Management Development Agreement; and

WHEREAS, Manager is a wholly-owned subsidiary of Capital Gaming International, Inc., a publicly-held corporation;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. PURPOSE

The purpose of this Agreement is to provide for the development, financing, construction, operation and management of a Tribal gaming Enterprise (hereinafter referred to as the "Enterprise") on the Reservation in accordance with the terms and conditions of this Agreement.

II. TERM OF AGREEMENT

A. Term; Extension

1. Unless extended as provided herein, this Agreement shall commence on the date of final approval of this Agreement and the Credit Agreement (hereinafter defined) by the Chairman of the National Indian Gaming Commission ("NIGC Approval Date") and the term of this Agreement shall extend for . from the occurrence of both the NIGC Approval Date and the date of official opening of the Enterprise.

2. Provided that the Loan (hereinafter defined in Article IV, Section A) has not been repaid upon the expiration of the initial term of this Agreement, this Agreement may be extended at the option of Manager for an additional period of . from the expiration of the initial term of this Agreement if either one of the following pre-conditions have occurred: (a) if, after the execution of this Agreement the State of Washington makes video lottery terminals or similar electronic gaming devices ("VLTS") legal either in Tribal gaming Enterprises or elsewhere in the State

of Washington or (b) the State of Oregon either does not permit VLTS in Tribal gaming Enterprises or passes legislation removing the wagering limit on VLTS in state licensed facilities elsewhere in the State. Except as provided in Article III.B. herein, the terms and conditions of this Agreement during the term shall be identical to the initial term of this Agreement.

3. Manager shall have sixty (60) days prior to the expiration of the initial term of this Agreement to notify the Board of Trustees in writing of its intention to extend this Agreement and the factual basis for the extension. The notice shall be binding upon Manager and the Tribes in the event the notice contains evidence that the conditions described in Subsection 2 of this Section have occurred.

III. ENGAGEMENT AND COMPENSATION OF MANAGER

A. Engagement of Manager

The Tribes hereby exclusively retains and engages Manager to improve, develop, manage, operate and maintain the Tribes' Class II and III gaming Enterprise, as Class II and Class III gaming are defined and authorized under the Indian Gaming Regulatory Act (25 U.S.C. §2701 et seq.) and in accordance with the Indian Gaming Regulatory Act, applicable Tribal laws and regulations and the Tribal-State Compact ("Compact") between the Tribes and the State of Oregon.

B. Compensation of Manager

Except as otherwise provided herein, in consideration of the performance of its duties as described herein, during the

initial term of this Agreement, Manager shall receive a management of the cumulative Net Distributable Profits (hereinafter defined in Article VI, Section A) resulting from the operation of the Enterprise. If this Agreement shall have been extended as provided in Article II, Section A.2, Manager shall receive a management fee of of the cumulative Net Distributable Profits resulting from the operation of the Enterprise.

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IV. FINANCING

A. Loan; Credit Agreement

Manager agrees on the terms and conditions set forth in this Article IV to make available a loan ("Loan") to the Tribes in an aggregate amount not to exceed This Loan Amount shall be the maximum dollar amount Manager must make available for development and construction costs for the Enterprise and shall be the maximum dollar amount, plus interest, which Manager may recover from the Tribes for construction and development costs. The financing provided by Manager to Tribes shall be made in accordance with the Credit Agreement attached hereto as Exhibit "A" ("Credit Agreement"). Manager shall make the Loan pursuant to the Credit Agreement as soon as is reasonably practicable but in no event later than sixty (60) days following the NIGC Approval Date.

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B. **Limitation on Use of Loan**

Manager and the Tribes agree that the Loan will only be used by the Enterprise for purposes of funding Federal approval of contracts, NEPA compliance, start-up legal fees and expenses, construction, furniture, fixtures, and equipment costs for the Enterprise as applicable, working capital funds as agreed and funding the Utility Fund (hereinafter defined in Article IV, Section F).

C. **Interest**

The Tribes shall pay interest to the Manager on the outstanding and unpaid principal amount of the Loans at a rate per annum

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D. **Repayment of Loan**

1.(a) Repayment of the Loan. The Tribes and Manager agree that repayment of the Loan, including interest, made pursuant to the Credit Agreement shall be amortized and shall be payable over a term from the commencement of the initial term of this Agreement, and shall be made in accordance with the provisions of the Credit Agreement. The Tribes shall have

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(b) Interest Repayment. All interest payments on the Loan shall be an operating expense of the Enterprise pursuant to Article VI, Section A.

(c) Principal Repayment by Tribe and Principal Contribution by Manager. All principal payments on the Loan shall be from the Tribes' share of Net Distributable profits (hereinafter defined in Article VI, Section A). Manager hereby agrees to make a capital contribution back to the Tribes

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2. Unless this Agreement shall have been extended as provided in Article II, Section A.2 above, Manager shall release and hold harmless the Tribes from any and all indebtedness pursuant to the Loan if (i) the Enterprise shall be forced to close due to changes in applicable Federal or state law, (ii) if the Tribes and Manager mutually agree that the Enterprise is unprofitable and mutually agree to abandon the Enterprise or, (iii) if the Tribes' share of Net Distributable Profits are insufficient to pay the principal and interest on the loan during the initial term of this Agreement or during the additional if this Agreement is extended as provided in Article II, Section A(2).

3. If this Agreement is terminated by the Tribes for any reason other than "for cause" as authorized under Article VII, the entire remaining unpaid balance of the Loan shall be immediately due and payable on the date of such termination and Manager shall retain a continuing lien on all past, present and future revenues of the Enterprise.

E. Additional Capital

If, in the opinion of the Manager and the Board of Trustees, money in addition to that described above should be

borrowed by the Tribes or Enterprise for the replacement of assets or for expanding or developing the Enterprise ("Additional Capital Expenses"), the Tribes shall make every reasonable effort to borrow the funds necessary to pay for such Additional Capital Expenses from commercial lending institutions or other financial sources. At the request of the Tribes in order to assist it in reaching a determination of whether or not such Additional Capital Expenses are necessary, Manager shall provide a detailed budget and expenditure proposal to the Board of Trustees. Manager shall assist the Tribes in obtaining additional financing, if feasible, for additional development capital. To the extent Manager agrees in its discretion to loan additional money to the Tribes for such Additional Capital Expenses, such loan shall be upon terms substantially similar to those which Manager obligates itself to borrow the funds necessary to make such loan to the Tribes.

F. <u>Utility Fund</u>

The parties acknowledge and agree that the Tribes may need to borrow funds necessary in order to complete certain water and sewer utility infrastructure work necessary to service the gaming facility. The Tribes agree that in the event such additional funds must be borrowed, it will make reasonable attempts to borrow such funds from commercial lending institutions or other financial sources. To the extent Manager agrees in its discretion to loan the Tribes the funds necessary to effect its water and sewer utility infrastructure work, debt service (principal and interest repayment) on such loan shall be solely at the expense of

the Tribes payable out of its share of Net Distributable Profits and the terms of such loan shall be upon terms substantially similar to those which Manager obligates itself to borrow the funds necessary to make such loan to the Tribes. The Tribes and Manager agree that upon the making of the Loan as defined in Article IV, Section A, of the proceeds of the Loan shall be segregated into a utility fund ("Utility Fund") to be used to offset the cost of the water and sewer utility infrastructure work necessary to service the gaming facility.

G. Incorporation of Terms

The Credit Agreement is incorporated herein by reference and shall be made subject to all the terms and conditions contained in this Agreement to the same extent and effect as if this Agreement was fully set forth and made a part of the Credit Agreement. This Agreement is made subject to all the terms and conditions contained in the Credit Agreement to the same extent and effect as if the Credit Agreement were fully set forth herein and made a part hereof. Any terms of the Credit Agreement which are inconsistent with the terms of this Agreement shall be governed by this Agreement.

V. MANAGEMENT OF THE ENTERPRISE

A. Distribution of Managerial Authority

To assure the proper and consistent management of the Enterprise, and to minimize the risk to Manager's financial contribution to the Enterprise, Manager shall be vested with

primary responsibility and authority for the start-up and day-to-day operation of the Enterprise. However, the Manager shall inform and consult with the Tribes through the following procedure:

1. The Tribes, through a written resolution adopted by its Board of Trustees, shall designate the Tribal Department of Economic and Community Development ("DECD") which shall serve as the Tribe's liaison with the Manager. The authority of the DECD to act on the Board of Trustees' behalf shall be stated in the resolution, a copy of which shall be provided to the Manager. The DECD shall, in all cases, report directly to and be under the direction of the Board of Trustees, and the Board of Trustees shall have the sole authority to make approvals for the Tribes as and when required or permitted pursuant to this Agreement. The DECD shall be entitled to attend all meetings at which the operation and/or promotion of the Enterprise is formulated or discussed; shall provide a means through which the Manager can regularly communicate with the Board of Trustees concerning issues or problems that require, or may require, Board of Trustees input; and shall serve as the Board of Trustees representative.

2. The Manager shall meet with the DECD on a regular basis and shall consult with the DECD regarding the general policies of the business concerning employment, working conditions, employee training, expenditures, construction, improvements, procurement, publicity and similar matters. The DECD shall not have authority with respect to the day-to-day operation of the Enterprise.

3. The Manager shall in good faith attempt to resolve any grievances, complaints or disputes, that are brought to its attention. The Board of Trustees will also notify the Manager in writing of any serious problems at Manager's address of record, so that Manager may attempt to remedy the problem directly. Within thirty (30) days of receipt of such notice, unless the problem has been resolved, the Manager shall meet and confer in good faith with the Board of Trustees to determine what remedial action, if any, is necessary.

B. <u>Management Duties</u>

In managing the Enterprise, Manager shall perform the following duties:

1. Logistical support, including but not limited to, the furnishing and management of (a) raw materials, food stuffs, beverages and related items; (b) equipment, furnishings and supplies; (c) setting an advertising budget and placing advertising (d) establishing operating days and hours of operation; (e) tools, maintenance and other support incidental to the operation and management of the Enterprise; (f) prepare financial statements and reports for the Enterprise; (g) paying all bills and expenses of the Enterprise; and (h) paying for the services of the independent auditor as set forth in Article V.G.

2. Personnel management, including the selection, hiring, training and supervision of all employees of the Enterprise, including security personnel. Training shall include, but not be limited to, a program of instruction for job applicants

who are accepted for employment and Compact compliance as appropriate. Manager shall give preference in hiring to qualified applicants in the following order of priority: (i) Tribal members, (ii) enrolled members of other federally recognized Indian Tribes and (iii) all other persons.

3. In order to maximize the benefits of the Enterprise to the Tribes, Manager shall ensure that the hiring practices of the Enterprise are in compliance with the Tribal Employment Rights Ordinance as amended from time to time ("TERO"). A copy of TERO as in effect on the date hereof is annexed as Schedule A. The Tribes hereby assumes sole responsibility for the payment of any TERO fee as it relates to all aspects of operation of the Enterprise. However, Manager acknowledges and agrees that the TERO fee of one (1%) percent shall be applicable to the construction contract with respect to the gaming facility and/or any future expansion of the facility shall be paid by the contractor(s). To the extent that the TERO fee of one (1%) percent is increased with respect to the construction contract or the TERO fee is made applicable to the operations of the Enterprise, payment of such increased or levied TERO fee shall be solely an expense of the Tribe payable out of its share of cumulative Net Distributable Profits.

Compensation and expenses of all personnel employed by the Enterprise, whether directly or indirectly, shall be commercially reasonable.

All "Key Employees", as defined in IGRA, (defined as low security and high security employees in the Compact) to be

hired for positions which involve the handling of money must meet the minimum requirements for obtaining bonding; and all such employees shall be bonded or covered by a suitable theft insurance policy reasonably satisfactory to the Board of Trustees and the Manager upon their commencing employment with the Enterprise unless the Board of Trustees waives this requirement because of the expense involved. The cost of procuring bonds or the insurance policy shall be included in the operating expenses of the Enterprise.

Manager shall develop commercially reasonable personnel policies and procedures which, at a minimum, shall establish a grievance procedure to settle disputes between Manager and employees. The policies and procedures shall be subject to approval by the Board of Trustees, such approval not to be unreasonably withheld.

A background check shall be performed by the Tribal Gaming Commission as well as the Oregon State Police, as required by the Tribal-State Compact on Key Employees, as defined in IGRA, (defined as low security and low security employees in the Compact) and Primary Management Officials (as defined in IGRA and the Compact) and, to the extent required, filing the appropriate background materials with the National Indian Gaming Commission and the Oregon State Police.

C. <u>Tribes' Duties</u>

The Tribes shall be responsible for providing fire protection services, emergency medical and law enforcement services

associated with the Enterprise as required in the Compact between the Tribes and the State of Oregon and/or other applicable laws, rules or regulations. The Tribes shall be responsible for any costs for increased public safety services associated with the Enterprise. The Tribes shall also be responsible for the payment of the law enforcement and oversight costs by state and local government personnel pursuant to the Compact. All costs actually incurred by the Tribes in providing and paying for these services shall be an operating expense. The Tribes shall be responsible for supplying to the NIGC all information necessary for NIGC compliance with NEPA.

D. **Business Affairs**

All business affairs in connection with the operation, management and maintenance of the Enterprise shall be the responsibility of Manager, who, subject to its duty to inform and consult with the Tribes as provided for in Article V, Section A, shall have the full authority to act in order to fulfill its responsibilities under this Agreement. Manager's responsibilities in this regard shall include, but not be limited to, complying with all applicable provisions of the Internal Revenue Code. Manager shall, subject to the Board of Trustees' approval, designate an on-site general Manager to assist it in fulfilling its obligations hereunder. The on-site general Manager shall be an employee of the Enterprise. The salary and fringe benefits of the on-site general manger shall be commercially reasonable. The on-site general

Manager's salary and employee benefits shall be deemed an operating expense.

E. **Cash Management**

Manager shall be responsible for supervising the handling and counting of funds collected from patrons of the Enterprise. Manager shall implement and maintain policies and procedures with respect to cash management and internal controls. The Board of Trustees shall have the right to review and approve such cash management and internal controls policies and procedures before they are implemented, such approval not to be unreasonably withheld. At the expense of the Enterprise and subject to the Tribes' approval, Manager shall procure necessary record-keeping, bookkeeping, and accounting services associated with the handling of such funds. A qualified representative of the Tribes shall be entitled to participate in the physical receipt, counting and deposit of all gross receipts from the operation of the Enterprise. Said representative of the Tribes shall be compensated at a reasonable rate to be agreed upon by the parties hereto; said compensation shall be an operating expense of the Enterprise. At no time shall more cash than reasonably may be expected to be needed to meet the day's cash requirements be kept on the premises of the Enterprise. Such cash shall be locked in the office safe; the room in which the safe is located shall be equipped with coded access alarms and motion detectors by a security system. It shall be Manager's responsibility to assure that daily receipts are promptly, safely and securely transported to the depository agreed

upon by the parties at least once a day by an approved armored transport carrier. All receipts shall be insured against theft.

F. Enterprise Bank Accounts

Manager and the Board of Trustees shall agree upon a Federally-insured financial institution in which Enterprise funds shall be deposited and maintained. A general operating checking account which bears interest at a reasonable commercial rate will be established for the purpose of paying day-to-day operating expenses. A separate payroll accounting system, such as a bank-administered payroll system, shall be utilized, and routine transfers of funds from the Enterprise's general account shall be made to payroll sufficient for Manager to pay all employees of the operation. Each month, from the general account, all direct and indirect costs of the operation shall be paid, and the balance each month shall be divided and distributed as provided in Article VI, Paragraph (D). All checks drawn upon the account in excess of shall require the signatures of a duly authorized representative of Manager and a duly authorized representative of the Board of Trustees. However, checks for prizes will not require the signature of the Board of Trustees' representative. Manager shall provide the Tribes with a monthly financial statement of all transactions affecting the general account.

Upon agreement of Manager and the Tribes, cash in excess of that reasonably necessary to meet operating expenses and payroll between monthly distributions of profits may be invested and kept

in interest-bearing accounts at one or more financial institutions insured by an agency of the Federal government. All interest earned on Enterprise funds shall be included in the revenues of the Enterprise.

G. **Accounting/Audit**

1. Manager shall provide a certified annual audit for the Enterprise to be conducted by an accounting firm selected by the Tribes within ninety (90) days from the close of the fiscal year of Capital Gaming, which at present is July 1, through June 30. A copy of the audit and accompanying documents shall be provided to both the Board of Trustees and Manager immediately upon completion. The cost of the audit shall be paid by the Manager and shall be an operating expense.

2. Manager shall maintain at the Enterprise office in the facility full and accurate books of account, kept on an accrual basis and maintained using generally accepted accounting principles consistently applied. This financial information will be provided to the Board of Trustees on a monthly basis. At a minimum the books of account shall be maintained to allow the Enterprise, the Tribes and National Indian Gaming Commission to calculate the annual fee under 25 C.F.R. §514.1 and the entire accounting system for the Enterprise shall be susceptible to audit.

3. Duly authorized representatives of the Board of Trustees shall have the right to immediately inspect, examine and copy such books and any other gaming related information at any time.

4. Each party shall have the right to independently audit said books at reasonable intervals at its own expense.

5. In addition to the accounting controls set-forth herein, the Manager shall develop a system of adequate internal accounting and cash handling controls. The system shall be subject to review and approved by the Board of Trustees representative and such representative shall be duly qualified.

6. Manager shall provide the Board of Trustees, on a weekly basis, a copy of its customary weekly Manager's report with respect to the Enterprise.

7. The accounting system for the Enterprise shall provide for the calculation and payment of the Manager's Fee as described in III.B.

8. Manager shall be responsible for the preparation of financial statements and reports, prepared in accordance with general accounting principles consistently applied, for the Enterprise on a monthly basis.

9. The accounting system shall provide for the allocation of shared expenses among the Tribes, the Manager and any other user of shared facilities and services.

H. <u>Statement of Budget</u>

Manager shall prepare an estimated annual budget for the Enterprise and submit same to the Board of Trustees for review and approval at least thirty (30) calendar days prior to the beginning of the fiscal year, or with respect to the initial year of operation, at least thirty (30) calendar days prior to the opening

of the Enterprise to the public. The Board of Trustees shall have thirty (30) calendar days from receipt of the estimated budget to object thereto. Failure of the Board of Trustees to object to the estimated budget within the time allowed shall be deemed an approval of said budget. After approval of the annual budget, a determination of the amount of Net Distributable Profits available for distribution shall be performed on a monthly basis as provided in Article VI, Section D.

I. **Construction and Development of the Enterprise**

1. **Architect and Supervisors; Plans**. An architect for designing the facilities, all materials, equipment, and labor, as necessary, as well as supervisors who will supervise the construction of the facilities will be hired by Manager within thirty (30) days of the execution hereof. The Manager, in consultation with the Tribe's Department of Economic and Community Development, shall submit the plans and specifications for the gaming facility to the Board of Trustees within three (3) months of the execution of the Compact by the Tribes and the State of Oregon. The Board of Trustees will have twenty (20) days to review the plans of the gaming facility and to approve said plans prior to commencement of such construction, which approval will not be unreasonably withheld.

2. **Supervision, Development, and Improvements**. It is hereby specifically understood and agreed between the parties that Manager is granted responsibility to supervise the completion of all the development, improvements, and related activities

undertaken pursuant to the terms and conditions of this Agreement including, without limitation, arranging for and acquiring in the name of the Tribes all necessary permits and approvals for the construction and operation of the Enterprise (e.g., zoning, water and building permits). The costs of development of the gaming facility, including construction of the building, with the capacity of not less than forty thousand (40,000) square feet of gaming floor space; supplying of furniture and furnishings; fixtures; equipment and machinery related to the gaming operation as permitted under the Compact and as mutually agreed; landscaping; and parking area, shall be paid by Manager out of the Loan made to the Tribes pursuant to the Development Agreement. Manager will make suitable arrangements for having as-built drawings made. Manager will see that all work, installation, and construction, be done timely and in a good and workmanlike manner materially in accordance with standard AIA contracts negotiated by Manager. Manager will ensure that the general contractor maintains an appropriate performance bond and that all construction is in conformity with the Uniform Building Code of 1988, the Uniform Mechanical Code of 1988, the Uniform Plumbing Code of 1988, the Uniform Fire Code of 1988, the National Electric Code and the Americans with Disabilities Act. The Board of Trustees shall have the right to inspect all such work. Manager does hereby agree to pay from funds loaned to the Tribes all legitimate debts, claims, and liabilities in connection with such construction and improvements. All improvements, equipment installed, construction,

and the like provided by the Manager for the purposes of this Agreement shall become the property of the Tribes on completion of construction. Manager will ensure compliance with applicable Federal and Tribal law with respect to contracting and sub-contracting of construction including, without limitation, TERO.

3. **Construction Budget.** A detailed construction budget (hereinafter referred to as "Construction Budget") necessary to accomplish the foregoing shall be prepared and submitted to the Board of Trustees within forty (40) days of the execution hereof. The Construction Budget shall be subject to approval within thirty (30) days of submission to the Board of Trustees, which approval will not be unreasonably withheld, and in the absence of receiving approval within thirty-five (35) days, shall be deemed approved. Said Construction Budget will, inter alia, reflect in the aggregate all costs, fees, and expenses of construction.

4. **Approval Authority.** The Board of Trustees shall have the right to approve the selection of the construction contractor and construction supervisor, such approval not to be unreasonably withheld.

VI. DISTRIBUTION OF ENTERPRISE REVENUES

A. Net Distributable Profits

1. For the purpose of this Agreement, "Net Distributable Profits" from the gaming operation of the Enterprise (as defined in 25 CFR Section 502.10) shall be defined as follows:

> The amount by which all sales, receipts, and revenues of the gaming operation (as defined

in 25 CFR Section 502.10) exceed reasonable, necessary and actual operating expenses. For purposes of computing "Net Distributable Profits," operating expenses to be deducted from gross revenues shall include repayment of interest on the Loan, depreciation, pre-development costs, cost of goods sold, prizes and other gaming wins paid out, salaries, wages and employee benefits, payroll and other taxes or other governmental levies, permits and licenses, advertising, promotion, fees and expenses of third-party contractors and agents, bus and other transportation and coordinator costs, auto and travel expense, maintenance costs and repairs, equipment leases, uniforms, office expense, printing, supplies, donations, utilities, rent, insurance of all types, uninsured legal judgments and settlements, maintenance, legal and accounting expenses.

Subject to the above, Net Distributable Profits shall be computed in conformance with generally accepted accounting principles consistently applied.

2. For purposes of calculating depreciation pursuant to this Agreement, the parties hereby stipulate and agree that the gaming facility (building) shall be depreciated over thirty years and all

furnishings, fixtures and equipment and other assets shall be depreciated over five years.

3. The parties to this Agreement stipulate and agree that all predevelopment costs will be expensed over the first year of operations of the Enterprise as an operating expense.

B. Effect of Repayment of the Loan on Guaranteed Payment

Repayment of the Loan made pursuant to the Credit Agreement shall be in accordance with the provisions of Article IV hereof and the Credit Agreement, and shall be paid on a monthly basis provided, however, that such repayment shall not affect the Tribes' guaranteed payment referred to in Article VI, Paragraph E hereof. In the event insufficient revenues exist for repayment of the debt in any given month, the accrued balance due on the debt shall be carried forward to succeeding months until paid.

C. Day-to-Day Capital Expenditures

Day-to-Day Capital Expenditures (hereinafter defined) shall be paid by the Tribes from its share of Net Distributable Profits. "Day-to-Day Capital Expenditures" shall be defined as any expenditures in excess of One Thousand Dollars ($1,000) for items that have a useful life in excess of one (1) year. Upon commencement of gaming operations at the gaming facility, Manager agrees to pay a monthly fixed capital contribution of One Thousand Two Hundred Dollars ($1,200) to a fund to be identified by the Tribes. Manager shall have no further obligation with respect to day-to-day Capital Expenditures.

D. Disbursement of Revenues

Subject to Article VI, Section E, all Enterprise revenues shall first be applied to meeting the Enterprise operating expenses. A determination of the amount of Net Distributable Profits available for distribution to the parties shall be performed on a monthly basis by the twentieth day of the following month, and the Net Distributable Profits shall thereupon be distributed to the parties in accordance with the percentages set forth in Article III, Paragraph B.

E. Guaranteed Payment

Notwithstanding anything else to the contrary in this Agreement, commencing upon the initial term of this Agreement as defined in Article II, Section A, and during the extension hereof (if applicable), the Tribes shall receive a guaranteed payment from b4 Manager in the amount of per month. This guaranteed payment shall have preference in payment over the retirement of Enterprise construction or development debt. All guaranteed payments shall be credited against the Tribes' cumulative Net Distributable Profits.

F. Distribution of Non-Gaming Revenue

All net revenues from the Enterprise other than revenue from gaming operations, as defined in 25 CFR Section 502.10, ("Non-b4 Gaming Revenue") shall be allocated

In the event the b4 term of this Agreement is extended for as provided in

Article II.A.(2), Manager's allocation of Non-Gaming Revenues shall be

VII. TERMINATION FOR CAUSE

A party may terminate this Agreement "for cause" as follows:

A. Theft

If the other party commits or knowingly allows to be committed any act of theft or embezzlement; however, theft or embezzlement by an employee of Manager without Manager's knowledge shall not be cause for termination of this Agreement if, within ten (10) days after being notified of said act, Manager repays to the Enterprise an amount equal to the amount which the Tribes has reasonable cause to believe was embezzled. In the event that an arbitrator or a court of competent jurisdiction later determines that a larger amount was taken, Manager shall pay to the Enterprise an amount equal to the difference between the amount previously paid and the amount determined by the court to have taken. If said arbitrator or court determines that either a smaller amount was taken or that no funds were taken, Manager shall be entitled to reimbursement from the Enterprise of an amount equal to the difference between the amount previously paid by Manager and the amount determined by the court to have been taken. In no event shall Manager be responsible for reimbursing the Enterprise for any amounts stolen or embezzled by an employee of the Tribes.

B. Breach

If the other party commits or allows to be committed any material breach of this Agreement. A material breach shall

include, but not be limited to, a failure of either party to perform any duty or obligation imposed on it under the terms and conditions of this Agreement. Neither party may terminate this Agreement on grounds of material breach unless it has first provided written notice to the other party of its intention to declare a default and to terminate this Agreement, and the defaulting party fails to cure or take substantial steps to cure the default within thirty (30) days of receipt of such notice (ten (10) days in the case of monetary default). The discontinuance or correction of the material breach shall constitute a cure thereof.

C. Chapter 7 Bankruptcy

If the other party files or consents to the filing against it of a petition in bankruptcy for an order of relief pursuant to Chapter 7 of the United States Bankruptcy Code or has a petition in bankruptcy under Chapter 7 filed against it, which petition is not dismissed within ninety (90) days.

VIII. NOTICE

All notices, consents or other communications shall be in writing and shall be deemed to have been duly given when delivered personally or by messenger, or upon receipt when mailed by registered or certified mail, return receipt requested, postage pre-paid, or when received via facsimile, telex or other electronic transmission, in all cases addressed to the party for whom intended at its address set forth below:

To the Tribes:	Chairman Board of Trustees Confederated Tribes of the Umatilla Indian Reservation Mission Highway 30 P.O. Box 638 Pendleton, OR 97801
with a copy to:	Director, DECD Confederated Tribes of the Umatilla Indian Reservation Mission Highway 30 P.O. Box 638 Pendleton, OR 97801
with a copy to:	Daniel Hester, Esq. Fredericks, Pelcyger, Hester & White Canyon Center 1881 Ninth Street, Suite 216 Boulder, CO 80302
To the Manager:	Executive Vice President British American Bingo, Inc. 2701 E. Camelback Road, Suite 484 Phoenix, AZ 85016
with a copy to:	President and Chief Operating Officer Vice President of Casino Operations Capital Gaming International, Inc. Bayport One, Suite 250 8025 Black Horse Pike W. Atlantic City, NJ 08232
with a copy to:	Thomas P. Gallagher, Esq. William S. Papazian, Esq. Mason, Briody, Gallagher & Taylor 202 Carnegie Center Suite 204 Princeton, NJ 08540

or to such other address as a party shall have designated by notice in writing to the other party given in a manner provided by this Article VIII.

IX. COVENANT OF GOOD FAITH AND FAIR DEALING

Manager and the Tribes hereby specifically warrant and represent to each other that neither shall act in any manner which would cause this Agreement to be altered, amended, modified,

canceled, or terminated (except for cause) without the consent of the other. Manager shall not assign this Agreement without the Tribes' consent. The Tribes and Manager further warrant and represent that they shall take all actions necessary to ensure that this Agreement shall remain in good standing at all times and will fully cooperate with each other in achieving the goals of this Agreement, including resisting any attempt by the State or by local governments to challenge the Tribes' authority to conduct gaming operations on Tribal trust land.

X. INTERFERENCE IN TRIBAL AFFAIRS

Manager shall not directly or indirectly interfere with, become involved in, or attempt to influence the internal affairs of the Tribes, its members, or its Tribal government.

XI. INSURANCE

Manager shall maintain public liability insurance in the amount of at least per person and per occurrence. Manager shall also maintain insurance on all Enterprise employees while such employees are engaged in any activity, on or off the premises of the gaming Enterprise, which is properly within the scope and in the course of their employment with Manager pursuant to this Agreement. Manager shall also keep the buildings, improvements, and contents herein insured for their full replacement value against loss or damage by fire, theft and/or vandalism with extended coverage endorsement.

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The Tribes and Manager shall be named as co-beneficiaries of all policies and Manager will provide to the Tribal Representative written evidence satisfactory to the Tribe of such coverage. Said insurance shall be an operating expense.

XII. AUTHORITY TO EXECUTE

Each party warrants to other that it has full authority to execute this Agreement and will, upon written request by the other party, provide satisfactory written evidence of such authority to the extent that either represents or act for interests other than its own.

XIII. NO PRESENT LIEN OR LEASE

The parties to this Agreement agree and expressly warrant that this Agreement is not a lease and does not convey to Manager any present interest whatever in the building or property on which the Tribes' Enterprise is located, or any proprietary interest in the Enterprise itself.

XIV. DISPUTES/ARBITRATION

A. Arbitration

In the event of a dispute with regard to the interpretation or enforcement of this Agreement or with respect to any consent or approval required to be made by either party which is not resolved between the parties informally within ten (10) days after notice by either party to the other, the matter shall be referred to binding arbitration to be conducted in accordance with the Rules of the American Arbitration Association (the "AAA"). The

arbitration shall take place in Pendleton, Oregon, or such other place as the parties may agree. In such arbitration proceeding each party shall appoint an arbitrator within ten (10) days of the commencement of the arbitration and the two arbitrators shall mutually appoint a third arbitrator within twenty (20) days of their appointment. If either party fails or refuses to appoint an arbitrator, the arbitrator appointed by the other party shall be the sole arbitrator. If the two arbitrators are unable to agree on the appointment of a third arbitrator within twenty (20) days, the third arbitrator will be appointed by the AAA. The decision of a majority of the members of the arbitration panel shall be final, binding and unappealable. The costs of the arbitration shall be borne equally by the parties, unless the arbitration panel rules otherwise.

B. **Judicial Enforcement of Arbitration Award**

An arbitration award rendered under Article XIV, Section A above may be enforced through appropriate judicial proceedings initiated in the United States District Court for the District of Oregon. In the event that the United States District Court determines that it lacks jurisdiction over that proceeding, judicial enforcement may be sought in another court of competent jurisdiction.

C. **Limited Waiver of Sovereign Immunity**

1. By this Agreement, the Tribes does not waive, limit or modify its sovereign immunity from unconsented suit except as set forth below.

2. The Tribes does grant a limited waiver of its sovereign immunity as to any claim if, and only if, each and every one of the following three conditions is met:

(i) The claim is made by Manager, and not by any other person, corporation, partnership, or entity whatsoever;

(ii) The claim alleges a breach by the Tribes of one or more of the specific obligations or duties expressly assumed by it under the terms of this Agreement; and

(iii) The claim seeks either:

(a) some specific action, or discontinuance of some action, by the Tribes, to bring the Tribes into full compliance with the duties and obligations expressly assumed by the Tribes in this Agreement; or

(b) payment of a monetary obligation arising from such noncompliance only, which will be payable only from the Tribes' revenues derived from the operation of the Tribal gaming Enterprise, and not from any other source or other asset or property of the Tribes.

3. Under this limited waiver of sovereign immunity, the Tribes agrees to submit disputes arising under this Agreement to arbitration under Article XIV, Section A and to judicial enforcement of arbitration decision under Article XIV, Section B, to submit to the jurisdiction of such tribunals, and to give full legal effect to such decisions.

D. Court Action

In the event that the Tribes or the Manager, acting through any officer, agent or recognized official, by means of any judicial, legislative or administrative action not authorized under this Agreement or, through the use of force or physical intimidation of threats of physical intimidation, effectively prevents the regularly scheduled gaming operations from proceeding, the other party may disregard the arbitration provisions above and commence an action in Federal court, or an appropriate court of competent jurisdiction, with appropriate venue, for purposes of enjoining such activity and to obtain specific performance of the terms of this Agreement.

E. Disputes Between Manager and Customers

Any dispute between the Manager and any customers of the Enterprise shall be resolved consistently with applicable procedures set-forth in an applicable Tribal ordinance and the Compact between the Tribes and the State of Oregon.

XV. SUCCESSORS

The benefits and obligations of this Agreement shall inure to and be binding upon the parties hereto, their heirs, successors and assigns; provided that (except as set forth in Article XIX, Section G(3)) any assignment of interest by Manager shall require the advance written consent of the Board of Trustees and approval by applicable Federal authorities.

XVI. SEVERABILITY

In the event any portion of this Agreement is deemed unenforceable or void by any court of competent jurisdiction, then and in that event, all other aspects of this Agreement shall remain in full force and effect and the Agreement shall not fail due to any such determination.

XVII. TIME IS OF THE ESSENCE

Time is of the essence in the performance of this Agreement.

XVIII. COMPLIANCE WITH COMPACT, TRIBAL REGULATIONS AND ORDINANCES

In carrying out its obligations under this Agreement, Manager agrees to comply with the Compact between the Tribes and the State of Oregon and the duly-executed gaming Ordinance of the Tribes (as approved by the National Indian Gaming Commission) and with any and all other regulations or ordinances of the Tribes that are presently in effect or which may in the future be enacted, provided that said regulations or ordinances do not impose financial burdens on the Enterprise or Manager which exceed industry standards. If a regulation or ordinance does impose a financial burden on the Enterprise or Manager in excess of industry standards, then the cost of the financial burden may be deducted as an offset against the fees and payments otherwise due from the Enterprise to the Tribes.

XIX. MISCELLANEOUS

A. Management of Enterprise

The term "Enterprise" shall be deemed to include the actual operation of all forms of Class II and Class III gaming activities as those activities are defined in the Indian Gaming Regulatory Act, P.L. 100-497 (Oct. 17, 1988), and all matters directly related thereto, such as the management and maintenance of the building within which the activities take place, the parking lot for patrons, and concessions located in the facility for sale of food and beverages.

Manager shall have the right to assign to third parties the concessions for parking of patrons' vehicles, and sales of food and beverages, subject to the approval of the Tribes, such approval not to be unreasonably withheld. In the event of such assignment, preference shall be provided to qualified Tribal members.

B. Tax Matters

1. Notwithstanding anything in this Agreement to the contrary, it is the parties intent that Manager be an independent contractor, not a partner or joint venturer, providing professional gaming management services to the Tribes. Manager has no ownership interest in the Enterprise or the land upon which the Enterprise operates. In this regard, it is further agreed and understood that all employees of the Enterprise are employees of the Enterprise for tax purposes.

2. If any non-Tribal government attempts to impose any tax on any party to this Agreement regarding the construction or

operation of the Enterprise, both parties shall take such action as is reasonably necessary to legally resist such attempt. However, if a court of competent jurisdiction finally determines that any such tax is legally due from Manager based on its contractual interests under this Agreement, then such tax shall be deemed an operating expense.

C. **Parties' Approvals**

Except as specifically provided to the contrary herein, on any occasion where approval of a party is required by this Agreement, and written request for approval is made to the other party, such approval shall be provided in writing within the time frame specifically provided, or if no time period is provided, within fourteen (14) days after receipt of written request for such. In the event that the party from whom such approval is sought neither approves nor disapproves within seven (7) days after the applicable time period ends, such inaction shall be deemed to be the equivalent of approval.

D. **Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto and, upon approval by the National Indian Gaming Commission, supersedes any prior agreement between the parties relating to this subject matter. Any amendment, change or modification to this Agreement must be signed by all of the parties hereto and will be subject to the approval of the Chairman of the National Indian Gaming Commission or his authorized designee.

E. **Interested Parties**

1. A list of all parties in interest to this Agreement, including corporate officers and directors, all stockholders, and all employees with day-to-day management responsibility for the Enterprise, their residence and business addresses, occupations, dates of birth and social security numbers or equivalents thereof, is annexed hereto as Exhibit "B".

2. The parties represent that no payments have been made and agree that no payment will be made to any elected member of the Tribal government or relative of any elected member of the Tribal government for the purpose of obtaining or maintaining this Agreement or any other privilege for Manager. For purposes of this paragraph, "relative" means an individual who is related to an elected member of the Tribal government as a father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

3. The parties represent that no party in interest as defined in subparagraph (E)(1) above is an elected member of the Tribal government or a relative, as defined in subparagraph (E)(2) above, of an elected member of the Tribal government. Manager agrees that it will require any party in interest who is elected to the Tribal government or whose relative is elected to the Tribal government to divest himself or herself of his or her interest in this Agreement.

that it shall submit this Agreement and the Credit Agreement to the Chairman of the National Indian Gaming Commission for approval within ten (10) business days of the execution hereof.

2. Binding Agreement; Opinion of Counsel to the Tribes

Each party represents to the other that all actions necessary on their part in order to make this Agreement a valid and binding Agreement, enforceable in accordance with its terms, has been taken as of the date of execution hereof. Simultaneously with the execution hereof, the law firm of Fredericks, Pelcyger, Hester & White shall render an opinion to Manager, Capital Gaming International, Inc. and Mason, Briody, Gallagher & Taylor in the form annexed hereto as Exhibit C.

3. Assignments and Sub-Contracts; Change in Ownership.

Except as provided herein, this Agreement cannot be assigned, nor sub-contracts entered into between Manager and a third party wherein the third party will have any responsibility for the Enterprise or access to the proceeds of the operation, without the prior written consent of the Tribes. The Tribes acknowledges that Manager is a wholly-owned subsidiary of Capital Gaming and, as such, any transfer or sale of stock of Manager to Capital Gaming, its affiliates, or an entity owned or controlled by Capital Gaming, shall not be deemed an assignment, nor require the Tribes' approval. All other changes in ownership interest of Manager shall require the advance written approval of the Tribes, which consent will not unreasonably be withheld.

4. Compact Approval

Class III Gaming conducted by the Enterprise is conditioned on the Tribes entering into the Compact with the State of Oregon for purposes of permitting Class III gaming on the Reservation. Manager reserves the right to terminate this agreement in the event a satisfactory compact is not reached and executed on or before six (6) months from the date hereof.

H. Success Fee.

1. Manager shall pay a success fee ("Success Fee") to the Tribes in the amount of

upon the happening of all of the following events:

a. Execution of the Compact by the Tribes and the State of Oregon;

b. Execution of this Agreement, the Credit Agreement and the Note issued pursuant to the Credit Agreement ("Note") by the Tribes and the Manager; and

c. Final approval by the relevant Federal authorities of the Compact, this Agreement, the Credit Agreement and the Note.

2. Manager's obligation for the payment of the Success Fee is conditioned further upon the execution by the Tribes of a Class III Compact between the Tribes and the State of Oregon which, in the reasonable determination of Manager, permits a sufficient quantity and variety of Class II and Class III gaming to provide a reasonable basis for the profitable operation of the Enterprise at the size and capital construction costs anticipated by Manager in

its response to the Tribes' Request for Proposal for Gaming Management Services. The payment of the Success Fee shall be payable

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and further shall be payable within ten (10) days after all of the conditions in this Section H have been met. Manager's obligation to pay the Success Fee shall not be relieved if litigation is reasonably required to secure the necessary Compact provisions.

I. Commencement Date

All obligations, rights and duties arising from or required by this Agreement shall commence upon the date of approval of this Agreement by the Chairman of the National Indian Gaming Commission.

J. Exclusivity

The Tribes agrees that Manager shall be the exclusive agent and operator of the Enterprise and other activities as are reasonably related thereto such as pull tabs and other forms of Class II gaming activity, and all forms of Class III gaming activity as may be approved by Compact as that activity is defined in IGRA occurring on Indian lands as such term is defined in IGRA.

K. Environmental Assessment Fund

The Tribes and Manager agree that upon the execution hereof Manager shall make available a development loan ("Development Loan") to the Tribes up to the sum of

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which shall be available to the Tribes to fund the costs reasonably associated with the performance of an

XX. EXECUTION IN QUADRUPLICATE

This Agreement is being executed in four original counterparts, one to be retained by each party and one to be submitted to the National Indian Gaming Commission. Each is equally valid.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this day and year first above written.

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

By: _____
for Donald Sampson
Title: Chairman, Board of Trustees

Approved:

NATIONAL INDIAN GAMING COMMISSION

By: _____, Chairman
AUG 16 1994

BRITISH AMERICAN BINGO, INC.

By: _____
John O'Neill
Title: Executive Vice President

Approved:

CAPITAL GAMING INTERNATIONAL, INC.

By: _____
I.G. Davis, Jr.
Title: Chairman and CEO