United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

TAKE PRIDE IN AMERICA

MAY 2[illegible] 2001

Honorable Wanda Stone
Chairperson, Kaw Nation
Drawer 50
Kaw City, Oklahoma 74641

Dear Chairperson Stone:

On April 11, 2001, we received the Off-Track Wagering Compact between the Kaw Nation (Tribe) and the State of Oklahoma (State) dated March 28, 2001. We have completed our review of this Compact and conclude that it does not violate the Indian Gaming Regulatory Act of 1988 (IGRA), Federal law, or our trust responsibility. Therefore, pursuant to delegated authority and Section 11 of IGRA, we approve the Compact. The Compact shall take effect when the notice of our approval, pursuant to Section 11 (d)(3)(B) of IGRA, 25 U.S.C. § 2710(d)(3)(B), is published in the FEDERAL REGISTER.

We wish the Tribe and the State success in their economic venture.

Sincerely,

sgd/ James McDivitt

Deputy Assistant Secretary - Indian Affairs
(Management)

Enclosure

Similar Letter Sent to: Honorable Frank Keating
Governor of Oklahoma
Oklahoma City, Oklahoma 73105

cc: Southern Plains Regional Director w/copy of approved Compact
~~Supt., Anadarko Agency w/copy of approved Compact~~
National Indian Gaming Commission w/copy of approved Compact
Oklahoma United States Attorney w/copy of approved Compact

STATE OF OKLAHOMA

KAW NATION

OFF-TRACK WAGERING COMPACT

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TRIBAL STATE COMPACT

Between the

KAW NATION

and the

STATE OF OKLAHOMA

This is a cooperative agreement made and entered into by and between the Kaw Nation hereinafter called "Nation", a federally-recognized Indian nation, and the State of Oklahoma, "State", pursuant to the provisions of the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. § 2701 et seq.

RECITALS

WHEREAS, the Nation and the State are separate sovereigns, and each recognizes and respects the laws and authority of the other sovereign, and WHEREAS, the Congress of the United States has enacted into law the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. § 2701 et seq. Hereinafter called "Act", which provides in part that a Compact may be negotiated between the Nation and the State to govern the conduct of certain Class III gaming activities on the Indian lands of the Nation; and WHEREAS, the State has no jurisdiction by its Constitution Article I, Section 3, over the Nation's Indian Country absent federal grant; and WHEREAS, the Nation exercises external borders of the authority over the Nation's Indian Country, which is located within the State which are "Indian lands" within the meaning of the Act, and within which the gaming activities regulated hereunder shall take place; and WHEREAS, the Nation and the State have negotiated the terms and conditions of the Compact in good faith so as to provide a regulatory framework for the operation of certain Class III gaming which is intended to (a) insure the fair and honest operation of such gaming activities; (b) maintain the integrity of all activities conducted in regard to such gaming activities; and (c) protect the health, welfare and safety of the citizens of the Nation and the State; and WHEREAS, the parties hereto deem it to be in their respective best interest to enter into this Compact; NOW,

THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the Nation and the State enter into the following Compact.

SECTION 1. TITLE

The title of this document shall be referred to as the Kaw Nation Off-Track

Wagering Compact.

SECTION 2. DECLARATIONS

As a basis for this Compact, the Nation and the State have made the following declarations:

(A) A principal goal of federal Indian policy is to promote the Nation's economic development, the Nation's self-determination and a strong Nation's Government.

(B) The State recognizes the positive impact that gaming may provide to the Nation's citizens. The Nation will utilize revenues generated by gaming to fund programs that provide important governmental services to the Nation's citizens and to Indian Country residents. These programs include education, health and human resources, housing development, road construction and maintenance, sewer and water projects, police, fire and judicial services, economic development, and any other purpose authorized under the Act.

(C) The State further recognizes that the positive economic effects of such gaming may extend beyond the Nation's lands to the Nation's neighbors and surrounding communities. These economic benefits, which include increased tourism and related economic development activities, will generally benefit all of Oklahoma and help to foster mutual respect and understanding among Indian and non-Indians.

(D) The Nation and the State jointly wish to protect their citizens from any criminal involvement in the gaming activities regulated under this Compact.

(E) This compact is intended to assure that gaming is conducted fairly and honestly by the Nation, its employees and the players.

(F) The Compact shall govern the licensing, regulation, and operation of Class III gaming conducted by the Nation on Nation's lands located within the State.

(G) The Act contemplates and grants authority for the entry of this Compact.

SECTION 3. DURATION.

a. Effective Date. After execution by the parties hereto, and approval by the State-Tribal Relations Committee of the Oklahoma Legislature and the Kaw Nation Executive Council, this Compact shall become effective when notice of approval by the Secretary of the United States Department of the Interior is published in the Federal Register as provided by the Act.

b. Term. This Compact shall have a three-year automatically-renewable term from the effective date. The term will automatically renew for successive three year periods unless a party gives notice of intent to terminate before 180 days prior to expiration of the preceding term. However, the State may not terminate this Compact except for the reasons set forth herein in Section 3 c. (2), (3), (4) or (5) of this Compact.

c. Duration. Once effective, this Compact will remain in full force and effect until one of the following shall occur:

(1) The term expires pursuant to a notice of an intent to terminate;

(2) The Compact is terminated by mutual consent of the parties;

(3) The Nation duly adopts an ordinance or resolution revoking authority to conduct Class III Gaming within Nation's Indian Country as provided by 25 U.S.C. § 2710(d)(2)(D);

(4) The State abolishes pari-mutuel wagering;

(5) Pursuant to a final, non-appealable judgment by a court of competent jurisdiction determining that:

(a) this Compact is invalid; or

(b) a party has committed a material breach that has not been timely cured or repeated violations as hereinafter set forth in Section 15(c).

SECTION 4. DEFINITIONS

For the purposes of this Compact:

a. Act means the Indian Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 stat. 2467 codified at 25 U.S.C. § 2701 et seq. 18 U.S.C. §§1166 to 1168.

b. Class III Gaming means all forms of gaming defined in 25 U.S.C. § 2703 (8).

c. Commission means the National Indian Gaming Commission established pursuant to 25 U.S.C. § 2704.

d. Compact means this document and any appendices attached hereto.

e. Federal Government means the United States of America.

f. Gaming Employee means any natural person employed in the operation or management of the gaming operation, whether employed by or contracted to the nation or by any person or enterprise providing on-site or off-site services to the Nation within or without the gaming facility.

g. Gaming Facility means any room or rooms where off-track bets authorized by this Compact are placed.

h. Gaming Operation means the gaming authorized by Nation within Nation's Indian Country by this Compact.

i. Off-Track Betting means pari-mutuel betting on races into an interstate common pari-mutuel pool consisting of the pari-mutuel wagers placed at track(s), its intrastate betting locations, other jurisdictions, and the pari-mutuel wagers placed at the Nation Gaming Facilities authorized by this Compact.

j. Kaw Nation Indian Country means any lands as defined by 18 U.S.C. § 1151, and/or 25 U.S.C. § 2703, (4)(A) and (4)(B) over which the Nation exercises jurisdiction.

k. OSBI means the Oklahoma State Bureau of Investigation, the organization now tasked by Oklahoma law to monitor and oversee Compacts relating to Indian gaming [74 O.S. Supp. 1995, § 1223], or such other entity that the Oklahoma Legislature may hereafter designate by law to perform these or related tasks.

l. OSF means the Oklahoma Office of State Finance.

m. State means the State of Oklahoma, its authorized officials agents and representatives.

n. Nation means the Kaw Nation, its authorized officials, agents and representatives.

o. Pari-Mutuel System of Wagering means a form of wagering on the outcome of simulcast horse races in which those who wager, purchase tickets of various denominations on a horse or horses and

all wagers for each race are pooled together and held by the gaming operation for distribution. The pari-mutuel system of wagering uses an electric totalizer or similar equipment which automatically registers the wagers made on each horse and prints and issues a ticket representing each wager.

p. Simulcast Horse Racing means receiving and telecasting by telecommunications, horse racing contests for view by patrons at various facilities simultaneous with the happening of said racing event.

q. Kaw Gaming Commissioner means the person appointed by the Nation to be responsible for regulatory oversight of the Nation's gaming.

SECTION 5. AUTHORIZED CLASS III GAMING.

The Nation may conduct off-track wagering consistent with this Compact, the Act and the standards of operation and management for pari-mutuel gaming described in Appendix A.

SECTION 6. LOCATION.

This Compact is site specific. All gaming addressed herein shall be conducted only at locations within the Indian Country of Nation described in Appendix B. The location is not situated within sixty (60) miles of an existing Oklahoma race track. The Nation agrees that it may not engage in simulcasting of horse races or accept off-track wagers at locations situated within sixty (60) miles of an existing Oklahoma race track, unless it has the express written consent to do so from such race track. Nothing herein shall prohibit additional compacts for other sites within the Indian Country of Nation.

SECTION 7. SERVICE AGREEMENTS.

The Nation will enter into a Pari-Mutuel and Racewire Service Agreement for the off-track wagering authorized by this Compact.

SECTION 8. CLAIMS.

To protect third parties, the Nation has adopted a gaming ordinance consistent with 25 U.S.C. § 2710. A copy of this ordinance is attached hereto as Appendix C. Should the ordinance conflict with the terms of this Compact, the Compact will govern. This ordinance provides dispute resolution procedures that

shall apply to tort and wagering claims unless change is required by federal law:

a. Procedure. In the event of an alleged personal injury or property damage suffered by a patron of the Gaming Facility, or in the event of a dispute between a patron and the Gaming Facility regarding the payment of bet or distribution of winnings, the patron may make a claim against the Gaming Facility as follows:

(1) Making Claim. Any patron having a claim against the gaming facility shall present a claim for any appropriate relief including the award of money damages. Claims against the gaming enterprise are to be presented within ninety (90) days of the date the loss occurs. In the event a claim is not presented following ninety (90) days after the loss occurs, but within one (1) year after the loss occurs, any judgment in a lawsuit arising from the act which is the subject of the claim shall be reduced by ten (10) percent. A claim against the gaming enterprise shall be forever barred unless notice thereof is presented within one (1) year after the loss occurs. A claim against the gaming facility shall be in writing and filed with the Kaw Gaming Commissioner at the address of the gaming facility. Notices explaining this procedure shall be posted in the gaming facility. Such notices shall explain that this procedure is the exclusive method of making a claim or registering a patron dispute about payment of a bet or a distribution of winnings. Such notices shall explain that upon denial of a claim, redress must be sought exclusively in Nation's Courts.

(2) Notice. The written notice of claims against the gaming facility shall state the date, time, place and circumstances of the claim, the identity of the persons, if known, the amount of compensation or other relief sought, the name, address and telephone number of the claimant, and the name, address and telephone number of any agent authorized to settle the claim including a written copy of the authority of agent.

(3) Denial. A claim is deemed denied if the gaming facility fails to approve the claim in its entirety within ninety (90) days of receipt, unless the interested parties have reached a settlement before the expiration of that period. A person may not initiate suit unless the claim has been denied in whole or in part . The claimant and the gaming facility may continue attempts to settle a claim; however, settlement negotiations do not extend the date of denial.

(4) Limitations. No action for any cause arising from personal injury, property damage, or patron gaming dispute shall be maintained unless valid notice has been given and the action is commenced in a Nation's CFR court within 180 days after denial of the claim as set forth herein. Neither the claimant nor the gaming facility may extend the time to commence an action by continuing to attempt settlement of the claim.

b. Tort Claim. During the term of this Compact, the Nation shall maintain public liability insurance with limits of not less that $250,000 for any one person and $2,000,000 for any one occurrence for personal injury and $1,000,000 for any one occurrence for property damage. This insurance policy shall include an endorsement providing that the insurer shall not invoke tribal sovereign immunity up to the limits of the policy set forth above and, to this extent, the Nation explicitly waives its immunity from suit. In the event of an alleged personal injury or property damage suffered at a gaming facility arising from alleged negligence by the Kaw Nation, the sole and exclusive remedy for an alleged tort claim is against this liability insurance policy and no asset of the Nation may be levied against or executed upon by a claimant.

c. Wagering Claim. In the event of a disputed claim by a patron regarding distribution of winnings, the patron should submit a claim to the Kaw Gaming Commissioner consistent with the dispute resolution procedures in Appendix C.

d. Posting. Notices explaining dispute resolution procedures for tort or wagering claims shall be posted in prominent locations in each gaming facility and the copies will be made available upon request to the Kaw Gaming Commissioner.

SECTION 9. REGULATIONS

In addition to the regulations in Appendix C, the following additional requirements apply:

a. Logs. The Nation shall maintain the following logs as written or computerized records available for inspection by the OSBI and/or the OSF in accordance with this Compact:

(1) pay-out logs from all off-track wagering; and

(2) maintenance logs in relation to all gaming equipment pertaining to off track wagering.

b. Barred Lists. The Nation shall establish a list of persons barred from the gaming facility. The Nation shall use its best efforts to exclude persons with criminal histories from entry into its gaming facility and, upon request send a copy of the barred list to OSBI.

c. Audit. The Nation shall have prepared a complete audit of the gaming operation, not less than annually, by an independent certified public accountant. The results of the independent audit shall be available to the OSBI and/or the OSF for their review.

d. Rule Display. Summaries of the house rules for off track wagering shall be visibly displayed in each Gaming Facility. Complete rules shall be available in pamphlet form in each Gaming Facility.

SECTION 10. ENFORCEMENT

a. Kaw Gaming Commissioner. The Kaw Gaming Commissioner shall assure or have responsibility for:

(1) enforcement of all laws pertaining to the gaming operation, within the facility;

(2) the physical safety of gaming employees and of patrons in the gaming facility;

(3) safeguard the assets transported to and from the gaming facility;

(4) provide for the detention of persons who may be involved in illegal acts and notify the Nation, and/or other law enforcement authorities;

(5) record any and all unusual occurrences within the gaming facility. Each incident without regard to materiality shall be assigned a sequential number, and at a minimum the following information shall be recorded in indelible ink in a bound sequentially page-numbered

notebook from which pages cannot be removed without omission of page number. Each occurrence shall be:

(a) Assigned number;
(b) Date;
(c) Time;
(d) Nature of incident;
(e) Person involved in the incident.

b. Investigation and Sanctions. Pursuant to the Nation's laws and regulations, the Kaw Gaming Commissioner shall investigate any reported violation of the compact provisions and shall require the gaming operation to correct the violation upon such terms and conditions as the Kaw Gaming Commissioner determines are necessary.

c. Reporting. The Kaw Gaming Commissioner shall forward copies of all investigation reports and final dispositions to the Nation's Chairperson and to the State.

d. Meeting. In order to develop and foster a positive and effective relationship in the enforcement of the provisions of this Compact the Kaw Gaming Commissioner and the OSBI and/or the OSF shall meet, not less than on an annual basis, to review past practices and examine methods to improve the regulatory program created by this Compact. The meetings shall take place at a location selected by the Kaw Gaming Commissioner. The OSBI and/ or the OSF prior to or during such meetings, shall disclose to the Kaw Gaming Commissioner any concerns, suspected activities or pending matters reasonably believed to possibly constitute violations of this Compact, by any person, organization or entity, if the disclosure will not compromise the interest sought to be protected.

SECTION 11. MONITORING

The OSBI with the assistance of the OSF shall have the authority to monitor the Gaming Operation to ensure compliance with provisions of this Compact with concurrent supervision of the Kaw Gaming Commissioner. In order to properly monitor the gaming operation, agents of the OSBI and/or the OSF shall have reasonable access to all areas of the gaming facility for off track wagering during normal operating hours after giving notice to the gaming facility manager and the Kaw Gaming Commissioner or his designee; provided, however , the monitoring

activities of these agents shall not interfere with the normal functioning of the gaming operation, and OSBI and OSF shall provide proper photographic identification to any Nation representatives requesting the same.

a. Access to Records. Agents of the OSBI and/or the OSF shall have authority to review and copy during normal business hours all records maintained by the off track betting operation, provided no original records shall leave the custody of the Nation and provided further that such records are held in confidence and not released to the public under any circumstances.

b. Notification. At the completion of any inspection or investigation by the OSBI and/or OSF, a full investigative report shall be forwarded to the Kaw Gaming Commissioner and the Nation's Chairperson within five (5) days.

SECTION 12. CRIMINAL JURISDICTION.

This Compact shall not alter State, Nation, and federal criminal jurisdiction of State, Nation, or Federal Government. All existing cross-deputization compacts between the Nation and political subdivisions of the State are hereby ratified and/or reaffirmed.

SECTION 13. EMPLOYEES.

a. Applications. Prior to hiring a prospective gaming employee for the gaming facility, the Nation shall obtain sufficient information and identification from the applicant to permit a thorough background investigation. The information shall include:

(1) Full name, including any aliases by which applicant has ever been known;

(2) Social Security number;

(3) Date and place of birth;

(4) Residential addresses for the past ten (10) years;

(5) Employment history for the past ten (10) years;

(6) Driver's license number;

(7) All licenses issued and disciplinary actions taken in regard to any gaming license;

(8) All criminal arrests and proceedings, except for minor traffic offenses, to which the applicant has been a party;

(9) A set of fingerprints;

(10) A current photograph;

(11) Military service history; and

(12) Any other information necessary to conduct a thorough background investigation.

(13) The name and address of any licensing or regulatory agency with which the person has filed an application for a license, permit, or security clearance whether or not the same was granted;

b. Probation. The Nation may employ on a probationary basis prospective gaming employees who present the above information and meet standards of the nation, until such time as the written report on the applicants background investigation is complete.

c. Disqualification. The Nation shall not employ as a gaming employee in the off track betting facility and shall terminate any probationary gaming employee, if the report on the applicant's background investigation finds that the applicant;

(1) Has been convicted of any felony, gaming offense or larceny;

(2) Has knowingly and willfully provided materially important false statements or information on his employment application; or

(3) Has been determined by the Kaw Gaming Commissioner to be a person whose prior activities, criminal record or reputation, habits and associations pose a threat to the public interest, or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming of the carrying on of the business and financial arrangements incidental thereto.

d. Background Investigations. The Nation shall conduct background investigations on all gaming employees. The same may be conducted before, during, and/or at any time during the term of employment, conduct additional investigations. Any gaming employee who does not meet the minimum employment criteria shall be promptly dismissed.

e. Identification Cards. The Kaw Gaming Commissioner shall require all gaming employees to wear in plain view identification cards that include photo, first name and an identification number unique to the individual, and a date issued.

SECTION 14. PUBLIC HEALTH AND SAFETY

a. Compliance. The construction, maintenance and operation of any gaming facility shall comply with all federal and Nation standards for the same.

b. Emergency Service Accessibility. The Kaw Gaming Commissioner shall make provisions for adequate emergency accessibility and service to ensure the health and safety of all gaming patrons. Upon finalization of emergency access plans for all gaming facilities, the Nation shall forward copies of said plans to State.

c. Minors. No person under 18 years of age shall be admitted into a gaming facility for off track betting nor be permitted to place any wager directly or indirectly.

d. Alcohol. No alcoholic beverages of any kind shall be permitted in a gaming facility.

SECTION 15 DISPUTE RESOLUTION.

In the event either party to this Compact believes the other party has failed to comply with any requirement herein or applicable regulations, or in the event of any disagreement or dispute as to the proper interpretation of the terms and conditions of the Compact, the following procedures may be invoked but shall not be construed to prevent either party from seeking immediate judicial relief.

a. Voluntary Resolution. The party asserting noncompliance or seeking an interpretation shall serve written notice on the other party. The notice shall identify the specific Compact provision alleged to have been violated or in dispute and shall specify in detail the factual basis

for the alleged noncompliance or the Compact provision for which interpretation is sought. Within 30 days of receipt of notice, State and Nation shall meet in an effort to resolve the dispute.

b. Non-binding Arbitration. If a dispute arises among the parties that is not resolved within sixty (60) days of receipt of notice, either party may refer it to non-binding arbitration. If referred to arbitration, each party shall name the arbitrator. The two named arbitrators will name a third arbitrator. If the two named arbitrators cannot agree on a third arbitrator, the third arbitrator will be named by the American Arbitration Association. The expenses of arbitration shall be borne equally by the parties. A party asserting noncompliance or seeking an interpretation under this section shall be deemed to have certified to the best of his knowledge, information and belief formed after reasonable inquiry that the averment is warranted and made in good faith and is not made for any improper purpose, such as to harass or to cause unnecessary delay or needlessly increase the cost of resolving the dispute.

c. Declaratory Judgment. If either party considers itself aggrieved by a breach of this Compact, it may bring an action for breach of Compact in the United States District Court for the Western District of Oklahoma pursuant to 25 U.S.C. § 2710 (d)(7)(A). If the dispute involves a material breach of this compact and is not cured, the court could declare the Compact terminated. Either party may claim in an action that repeated violation of this compact constitutes a prospective intent not to abide by its terms and that, therefore, the pattern of repeated violations constitutes a material breach of this Compact. Although this remedy is consistent with 25 U.S.C. § 2710, (d)(3)(C)(v), nothing herein shall be construed to authorize any other equitable remedy, nor to authorize a money judgment except for unpaid costs of monitoring by the State. To the extent necessary and permitted by applicable law, each of the parties waive immunity from suit for the limited purpose of this section.

SECTION 16. RESERVATION OF RIGHTS.

a. Additional Compacts. By entering this Compact, the Nation shall not be deemed to have waived the right to initiate and pursue the procedures provided by the Act should State refuse to enter into a Compact after the Nation has made a written request with respect to other forms of Class III gaming, and neither State nor the Nation shall be deemed to have waived any rights, arguments or defenses

applicable to such a procedure.

b. Status of Class II Gaming. Nothing herein shall be deemed to affect the operation by the Nation of any Class II gaming as defined in the Act, whether conducted within or without the gaming facilities or to confer upon State any jurisdiction over such Class II gaming conducted in Nation's Indian country, nor Class III gaming inconsistent with this Compact.

c. Taxation. Neither State nor any of its political subdivisions shall impose any tax, fee, charge or other assessment upon the admission to any gaming facility of the Nation or upon the conducting of or engaging in any gaming activity conducted at a facility authorized by this compact. To the extent the Nation gaming operation is responsible for filling out IRS Form W-2G on persons who receive proceeds of a wagering transaction governed by the Compact, a copy of said form shall also be provided to the Oklahoma Tax Commission.

d. Preservation of Nation Self-Government. Nothing in this Compact shall be deemed to authorize State to regulate in any manner the government of the Nation, including the Kaw Gaming Commissioner, or to interfere in any manner with the Nation's selection of its governmental officers or employees.

SECTION 17. REIMBURSEMENT FOR EXPENSES INCURRED BY OKLAHOMA.

The Nation realizes that the State has incurred expenses in negotiating this Compact and will incur expenses related to the obligations undertaken under this Compact. Accordingly, the parties agree as follows:

a. Payments. The Nation agrees to reimburse the State for the actual amount of time and expenses of personnel as reasonably assessed by State in accordance with Section 11, paragraph (3)(c)(III) of the IGRA related to this compact. State agrees to provide Nation with an itemized accounting of all charges assessed within sixty (60) days of occurrence.

b. Procedure. The State shall bill the Nation reasonable and necessary costs related to obligations undertaken under this compact. Unless unreasonable or unnecessary, the costs for such services shall be those established by State either by agency rule or by statute or, where the cost of services (including more extensive background

checks, other investigations, monitoring or similar matters) is not established by rule or by statue, the costs shall include agents' time, including out-of-pocket expenses, benefits and travel expenses at the statutory rate. State shall send invoices to the Nation for these services. Payments shall be made within sixty (60) days to the Office of the State Treasurer. Reimbursement for services provided by State shall be transmitted by the Office of the State Treasurer to the OSBI, OSF, or any other appropriate agency to defray the cost of services as required under this compact.

c. Disputes. Should the Nation dispute the reasonableness or necessity of any charges, such dispute shall be resolved as herein above set forth in Section 15.

SECTION 18. SEVERABILITY.

Each provision, section and subsection of this Compact shall stand separate and independent of every other provision, section or subsection. In the event that a court of competent jurisdiction shall find any provision, section or subsection of this Compact to be invalid, the remaining provisions, sections and subsections of the Compact shall remain in full force and effect, unless the invalid provision materially alters the relationship between the parties. In the event of such alteration, the parties shall negotiate to comply as nearly as possible with the original intent of this Compact.

SECTION 19. AMENDMENTS.

The parties may request negotiations to amend or modify this Compact. The amendment or modification request may include requests for approval of gaming activities that are legitimately within the scope of the Act. In the event of a request for negotiation to amend or modify, this Compact shall remain in effect until amended or modified, but such a request shall not extend the Compact term. Additional requests to negotiate other forms of gaming made by the Nation shall be treated as requests to negotiate pursuant to the Act. The parties shall have one hundred eighty (180) days to negotiate, and all further procedures and remedies available under the Act shall thereafter apply. The Nation and the State may mutually agree to extend the 180-day period without prejudice to the rights of either party under this section. Any amendment to this Compact shall be in writing and must be approved by the Secretary for the United States Department of the Interior. However changes in the Nation's Gaming Ordinance (Appendix C) shall not be considered amendments and may be effected as otherwise provided by this Compact or by law.

SECTION 20. AUTHORITY TO EXECUTE.

The undersigned represent that they are duly authorized to execute this agreement on behalf of the party designated.

SECTION 21. NOTICES.

All notices required or authorized to be served herein shall be sent by certified mail (return receipt requested), commercial overnight courier services, or by personal delivery to the following addresses:

OKLAHOMA

Governor of Oklahoma
State Capitol, Room 212
Oklahoma City, Oklahoma 73105

Chairman, State-Tribal Relations Committee
State Capitol
Oklahoma City, Oklahoma 73105

Attorney General of Oklahoma
State Capitol, Room 112
Oklahoma City, Oklahoma 73105

Oklahoma State Bureau of Investigation
ATTN: Commissioner
6600 N. Harvey, Suite 300
Oklahoma City, Oklahoma 73116

KAW NATION

Kaw Nation
Chairperson of the Kaw Nation
ATTN: Wanda Stone
P.O. Box 50
Kaw City, Oklahoma 74641

Kaw Gaming Commissioner
P.O. Box 171
Newkirk, Oklahoma 74647

Greg Bigler
Bigler & Rice
Kaw Nation Attorney
P.O. Box 1927
Sapulpa, Oklahoma 74067

SECTION 22. SUCCESSORS AND ASSIGNS.

This Compact shall be binding upon successors and assigns of the parties hereto.

SECTION 23. GOVERNING LAW

This Compact shall be governed by and construed in accordance with the laws of the United States, the State, and the laws of the Nation, whichever are applicable. This Compact shall be controlling. In the event of any ambiguity, this Compact shall be deemed drafted by both parties and shall not be construed against or in favor of any party by virtue of draftsmanship, or as a matter of law.

KAW NATION

[SEAL]

Chairperson Wanda Stone
Date: 3-27-01

STATE OF OKLAHOMA

[SEAL]

Governor
Date: 3-28-01

Attest: _____
Secretary of State

OKLAHOMA LEGISLATIVE APPROVAL

Approved by a quorum of the Joint Committee on Tribal -State Relations the 28th day of March, 2001.

Chairman

FEDERAL APPROVAL

Consistent with 25 U.S.C. §2710(d)(8) this compact is approved on this 25th day of May, 2001, by the United States Department of Interior.

DEPUTY ASSISTANT SECRETARY - INDIAN AFFAIRS (MANAGEMENT)
for the Department of the Interior

By

JAMES H. MCDIVITT

APPENDIX A

PARI-MUTUEL STANDARDS

APPENDIX A

PARI-MUTUEL STANDARDS

A. DEFINITIONS

B. GENERAL CONTROLS

C. COMPUTER SYSTEM

D. OPEN/CLOSING PROCEDURES

E. BETTING TICKET ISSUANCE AND CONTROLS

F. SCREEN ACTIVATED MACHINES (SAMS)

G. PAYMENT OF WINNING WAGERS

H. POSTING OF RULES

I. UNPAID WINNERS

J. LOST TICKETS

K. MAIL PAYMENTS

L. REPORT DESCRIPTIONS

PARI-MUTUEL STANDARDS

A. DEFINITIONS:

BREAKAGE - the odd cents over a multiple of ten cents arising from the computation of odds and payouts on amounts wagered on a race which is part of interstate common pari-mutuel pool.

COMMISSION ON WAGERS - an amount retained and not returned to patrons from the total amount of off-track pari-mutuel wagers.

GROSS REVENGE - the total commission on off-track pari-mutuel wagers, less the amount paid to track for the right to be part of the interstate common pari-mutuel pool (retrack fee").

INTERSTATE COMMON PARI-MUTUEL POOL - a pari-mutuel pool consisting of the pari-mutuel wagers placed at track, its interstate betting locations, other jurisdictions, and the off-track pari-mutuel wagers placed at Guest, and accepted into the off-track pari-mutuel system.

LIVE AUDIO VISUAL SIGNAL - the audio and visual transmission of a race, or series of races, as it occurs at track.

MANUAL MERGE - the process used in the event of a systems or communications failure by which the systems operator transmits to track-through telephone, telecopy, cellular or any other means of communication, the wagering information for a particular race or group of races, and the process by which track includes the off track pari-mutuel wagers into the interstate common pari-mutuel pool in such event.

OFF-TRACK PARI-MUTUEL SYSTEM - a computerized system or component of a system that is used to transmit wagering data and wagering information to and from a race track which offers interstate common pari-mutuel pools.

OFF-TRACK PARI-MUTUEL WAGER - a wager placed by a patron and accepted by guest on a race or races offered as part of an interstate common pari-mutuel pool offered by track, and accepted into the off-track pari-mutuel system.

POST TIME - for purposes of off-track pari-mutuel wagering is when the first entrant enters the gate.

SYSTEMS OPERATOR OR OPERATOR OF A SYSTEM - a person engaged in providing the off-track pari-mutuel system or services directly related to the reconciliation of the interstate common par-mutuel pool and transfers of funds between track and guest.

TRACK - an out-of-state facility licensed to operate horse or other racing where pari-mutuel wagering on races is conducted.

WAGERING DATA - the information regarding results, actual payouts, and the amount of pari-mutuel and off-track pari-mutuel wagers accepted for each race or group of races in the interstate common pari-mutuel pool.

WAGERING INFORMATION - the amount of off-track pari-mutuel wagers accepted for each race or group of races by guest.

B. GENERAL CONTROLS:

1. The Nation's gaming facility will maintain appropriate security at all times.

2. A key employee will be on premises at all times wagering is conducted. The name of each key employee shall be maintained on file, and provided to the Chickasaw Gaming Commissioner.

3. The Gaming Facility will not accept wagers on credit.

4. Gaming Facility employees are prohibited from wagering on events while on duty.

C. COMPUTER SYSTEM:

The main processors consist of three DEC 4000 Series 90 central processing units operating in triplex or other suitable computer substitutes. These central processing units are located at a suitable location by the simulcast signal provider with telecommunication links to peripheral terminals located at the Nation Gaming Facility or at some other suitable and securely equivalent location.

The systems provide hard disk storage in the form of dual-disk disk drives of 2.1 gigabytes each, and 2.1 gigabytes of magnetic tape for backup data or some other storage of similar or greater capacity.

Program source code shall no t be available to Gaming Facility employees, or to Nation's data processing employees.

Access to the main processors located at the source location is limited to authorized simulcast provider personnel or substitute entity personnel from the signal source locations.

The pari-mutuel system will be connected to the Gaming Facility via a dedicated telephone line or other acceptable communication system. Access through a dial-up modem or other suitable alternative will be available in case the leased dedicated telephone line becomes inoperative.

Writer/cashier terminals and screen activated machines (SAMs) will be furnished to the Gaming Facility by source location. Access to writer/cashier terminals will be restricted to writers/cashiers. This restriction will be provided by requiring operator number and passwords to log on to the system. Writer/cashier operator numbers will be issued by source location. Passwords for writers/cashiers will remain confidential, known only by the writer/cashier. Passwords for writers/cashiers will be changed at least quarterly.

Supervisor and accounting personnel operator numbers and passwords will be issued by source location. These passwords will be changed at least quarterly.

A Gaming Facility or other employee, approved by the Chickasaw Gaming Commissioner may perform routine maintenance and service of the hardware components of the Gaming Facility's wagering and communication equipment. Source location-dispatched technician will perform all non-routine maintenance and service of the hardware components of the Gaming Facility's equipment.

Nothing here shall prevent the Nation from providing an alternative computer system provided that the protection it maintains for the Nation and it's patrons is similar to those provided by the described system and source location.

D. OPENING/CLOSING PROCEDURES:

1. Opening Procedure

Ticket writer/cashier receives his/her starting bank from the cage.

Ticket writer/cashier verifies funds and enters the amount on a log. The writer/cashier signs the log.

Upon completion of bank opening procedures, the writer/cashier will sign on to the system by inputting his operator code and password. The system will print a sign-on ticket that will contain the following information: "sign-on" designation, Gaming Center name, date, time, station number and operator number.

2. Closing Procedures

When the writer/cashier closes his/her Pari-mutuel station, a sign-off ticket and a summary ticket will be printed by the terminal. The sign-off ticket will contain the following information: sign-off designation, Gaming Facility name, date, time, station number and operator number. The summary ticket will contain the

following information: Gaming Facility name, date, time, station number, operator number, take (sales), voids (cancels), paid (cash), the IRS withholding amount, and beginning bank (draw). Information on cash turn-ins (cash balance) will only be available to the book supervisor via password access. The cash drawer is then counted by the cashier/writer and the shift supervisor. Both sign the count sheet. The computer terminal is accessed to determine the writer's total cash balance. This is compared to the count sheet and variations are investigated.

Once verified, a manual cash-in slip is created and signed by both the writer/cashier and the shift supervisor, the writer/cashier will proceed to the slot cage and will turn in their funds.

E. BETTING/TICKET ISSUANCE AND CONTROLS:

Betting tickets shall be in single part form. The original is given to the customer. A second "copy" is retained internally within the computer system and is not accessible by Pari-Mutuel Gaming Facility personnel

The computer system prints a number on each ticket which identifies each writer station.

Only one random numerical computer-assigned series per station shall be used at one time.

Unused tickets will be stored in the Pari-Mutuel Gaming Facility storage room. These forms are serially numbered by the computer and do not require the "sensitive" forms inventory control procedures.

The computer system will not allow a ticket to be voided after a race event is locked out.

All bets will be made in cash or chips and shall be evidenced by the issuance of a ticket upon acceptance of a wager.

Tickets will not be written or voided after the outcome of an event is known.

F. SCREEN ACTIVATED MACHINE

1. The screen activated machine (SAM) is a self-service betting machine which allows customers to place wagers using a winning ticket or voucher generated by the system.

2. The customer must insert a voucher or winning ticket for the SAM to accept a wager. Wagers will be made keying in the amount of the bet, the type of bet, and the horse or horses selected. After the selection process is complete, the SAM will print a bet ticket. The SAM will print a bet ticket. The SAM will for the remaining balance, if any, owed voucher will contain the serial number, and SAM number. This information will the voucher. Once the wager is placed, the voucher to place additional wagers for cash.

3. When a patron wishes to redeem a voucher, the writer/cashier will insert it into the bar code reader. The computer will then generate a paid ticket and the writer/cashier will pay the patron. All other procedures described concerning payouts on winning wagers will be compiled with as applicable.

4. Outstanding vouchers will be listed on the Outsbook Voucher Report. Vouchers outstanding more than a specified number of days will be purged by the Systems Operator.

5. All winning tickets and vouchers inserted into the SAM will be deposited automatically into a locked box in the machine. On a daily basis, an accounting representative will check out the key to the lock boxes to remove the tickets and vouchers. The key will be at a department independent of the Pari-Mutuel Gaming Center and will require signing a log to access. After the accounting representative obtains the tickets and vouchers, he or she will immediately deliver them to accounting.

6. Voids will not be allowed at a SAM. Additionally, winning tickets that require IRS withholding will not be paid at the SAM.

G. PAYMENT OF WINNING WAGERS:

Upon presentation of a winning ticket by a customer, the writer/cashier will insert the ticket in to the bar code reader for verification and payment authorization. The system will brand the ticket with the payout amount, writer/cashier's station number, and date. Information on all wining tickets paid will be retained by the system.

Should the bar code reader fail to read a ticket, the writer/cashier will manually enter the ticket number into the terminal. A payout ticket will then be printed which will include the following information: ticket number, "pay" indication, Gaming Facility name, pay amount, date, station number, and operator number.

The computer software is designed to prevent payment of a ticket that has been previously paid by the system, voided by the system, a losing ticket, or a ticket not issued by the system.

Payoffs over $10,000.00 may be delayed for up to 24 hours after the next banking day.

For winnings requiring the completion of a form W-2G, the computer system will preclude a writer/cashier from making payment until the patron's social security number is entered. Once the social security number is entered, the computer will compute the amount of withholding and the amount of customer payment. The system will not pay a winning ticket, which requires IRS withholding, unless the customer provides his/her social security number at the time of payment. The system will calculate the withholding amount and the net amount due to the customer, which will both be printed on the ticket. This will alert the writer/cashier and the supervisor to complete the required IRS forms. Persons who do not have social security numbers may receive winnings from the manager after complying with federal tax requirements.

H. POSTING OF RULES:

1. Posting of rules

All house rules shall be conspicuously displayed in the Gaming Facility.

2. Refunds

All bets received on any entry which does not start or on a race which is canceled or postponed shall be refunded on the basis of the refund policy in effect at the track.

3. Refusal to accept bets

The Gaming Facility reserves the right to refuse to accept bets on a particular entry or entries or in any or all pari-mutuel pools for what it deems good and sufficient reason.

4. Cancellation of track pool

In the event that a pari-mutuel pool is canceled by the track, the corresponding off-track betting pari-mutuel pool shall be refunded.

5. Responsibility of the Gaming Facility

The Gaming Facility bears no responsibility with respect to the actual running of any race or races upon which it accepts bets. In all cases, the off-track betting pari-mutuel pool distribution shall be based upon the order of finish posted at the track as "official". The determination of the judges, stewards or other appropriate officials at the track shall be conclusive in determining the payoffs of the Gaming Facility.

6. Error in calculation of payments

In the event an error in calculation of payment occurs in a pool which is the result of the combination of the track pool and the off-track betting pool, the rules in effect at the track governing the disposition of such error shall prevail.

I. UNPAID WINNERS:

Unpaid winners remain on the computer system for a minimum of 120 days after the conclusion of a racing meet. Following the 120 day period, the unpaid winners are brought back into revenue by the source location.

J. LOST TICKETS:

Upon notification by a patron that a winning betting ticket has been lost, stolen or is otherwise not available for presentation, the following procedures will be followed:

1. The patron must report the loss of the ticket not later than the third day following the day the race was completed, unless the patron can show circumstances where this was not possible, or unless approved by Gaming Facility management.

2. A lost ticket report will be prepared by the Gaming Facility from information supplied by the patron. The report will contain the following information:

a. Name, address and telephone number of patron

b. Date/time the ticket was purchased

e. Amount/type of wager

d. Horse/greyhound betting numbers

e. Ticket number (if known by patron)

f. Signature of patron

g. Signature of report preparer

h. Signature of Gaming Facility Manager/Supervisor

3. The lost ticket report will be delivered to the controller who will instruct an accounting clerk to research the unpaid ticket file.

a. If an unpaid ticket that matches the information on the lost ticket report cannot be located, the lost ticket report will be returned to the Gaming Facility Manager with instructions that no payment can-be made.

b. If an unpaid ticket is found that matches the lost ticket report, the unpaid ticket will be "locked" in the computer system to prevent payment to other than the claimant for the holding period of one hundred twenty (120) days after the conclusion of the racing meet on which the wager was placed.

4. After the ticket is held for this one hundred twenty (120) day period, the patron may be paid. The controller reviews all of the lost ticket claim support paperwork prior to signing the check to be mailed to the customer.

5. If the ticket is presented for payment within this one hundred twenty (120) day period by other than the patron represented on the lost ticket report; or if a dispute arises from the foregoing procedures, it will be the Gaming Facility's responsibility to resolve such disputes.

K. MAIL PAYMENTS:

Only original wagered tickets are acceptable for mail payments.

All mail payment requests are opened and logged by personnel independent of the Gaming Facility. A copy of the log is retained by the accounting department for auditing mail tickets paid. The mailed ticket is forwarded directly to the Gaming Facility Manager's office, where it is then entered into a writer/cashier's terminal for unpaid ticket update to indicate that the ticket is no longer outstanding.

A request for disbursement and the approved ticket are forwarded to the controller for payment.

Only the controller or a designate is authorized to approve mail payments.

L. REPORT DESCRIPTIONS:

The race auditor has the ability to generate the following reports from the RMC each day:

Recap Report - This report will contain information by track and total Information regarding write, refunds, payouts, outs, payments on outs, and federal tax withholding for each track will also be included. Additionally, information regarding SAM voucher activity will be included. This report will provide daily amounts.

Daily Reconciliation Report - This report will summarize information in total by track. Report information will include write, today's winning ticket total, total commission and breakage due the licensee, and net funds transfer to or from the licensee's bank account.

Window Activity Report - This report will summarize for each window the following information: Sales, cash outs, cancels, draws, returns, vouchers sold, vouchers cashed, over/short.

Teller Balance Report - This report will summarize daily activity by track and writer/cashier, and SAM terminals. Specifically, the report will contain the following: tickets sold, tickets cashed, tickets canceled, draws, returns, computed cash turn-in, actual turn-in, and over/short.

Teller Details Report - This report will summarize teller activity. Specifically, for each teller the report will contain tickets sold, tickets cashed, tickets canceled, tickets refunded, W-2G withholdings, funds returned, draws and over/short. Session Sales Summary - This report will summarize sales activity for each type of wager placed, for each race run, and for each track opened. Additionally, total sales will be provided. Specific information included will be sales, cancels, sales, from previous sessions, refunds, and net sales.

Cashed Tickets Report - This report will list all paid winning tickets by track and race. This report will include the ticket number, date, tickets written, horse or greyhound selection and type of bet made amount of bet or bets, total take, and pay amount. The report will also include IRS withholdings, if applicable.

Canceled Tickets Report - This report will list all tickets that were canceled for the day. Specific information will include ticket serial number, sale window, cancellation window, and amount.

Refunded Tickets Report - This report will list all tickets refunded for the day. Specifically, this report will include ticket serial number, ticket description, and amount.

SAM Activity Report - This report will contain a summary of Screen Activated Machines (SAM) activity. Specifically, this report will include the SAM number, ticket sales, ticket cash outs, voucher sales, and voucher cash outs.

Cashed Voucher Report - This report will contain a detailed listing of all vouchers cashed for the day. Specifically, this report will contain the ticket serial number, the window(s) at which the voucher was sold and cashed, and the amount of the voucher cashed.

IRS Tax Report-Cashed - This report will contain a detailed listing of all tickets cashed that were subject to federal withholding. This report will include the customer's social security number, ticket serial number, ticket conditions, race date, amount of payout, withholding amount, net payout, cashing and selling window(s), and teller identification.

Future Tickets Report - This report will contain a detailed listing of all tickets bet on events occurring subsequent to the current day. This report will include ticket serial number, window where the ticket was bet, cost, amount, type of bet, race number, and horses chosen.

Outsbook Tickets Report - This report will contain a listing by window, race, track and in summary of winning tickets which remain unpaid. Specifically, this report will include ticket number, window, pay amount, and IRS withholding (if applicable).

Public Results Information Report - This report will contain race results and prices paid.

Transaction Search Report - This report will contain a listing of all tickets and vouchers written and paid per station. Also the report contains canceled tickets.

Exception Report - This report will contain a listing of all systems functions and overrides not involved in the actual writing or cashing of tickets. This report will also include sign-on/off tickets, voids, and manually entered paid tickets.

APPENDIX B

GAMING FACILITY LOCATION

GAMING FACILITY LOCATION

The proposed location for the Kaw Gaming Facility is 5650 North L.A. Cann Road, Newkirk, Oklahoma 74647. The site is located on property held in trust by the United States of America for the benefit of the Kaw Nation and legally described as:

> A tract of land situated in the Northwest quarter of Section 30, Township 28 North, Range 3 East of the Indian Meridian, Kay County, Oklahoma, more particularly described as follows:
>
> Beginning at a point on the West line of said Section 30, Township 28 North, Range 3 East of the Indian Meridian, kay County, Oklahoma, said point being 714.45 feet South of the Northwest corner of said Section 30; thence East, parallel to the North line of said Section 30, a distance of 932.78 feet to a point; thence South, parallel to the West line of said Section 30, a distance of 933.50 feet to a point; thence East, parallel to the North line of said Section 30, a distance of 167.82 feet to a point; thence South, parallel to the West line of said Section 30, a distance of 989.44 feet to a point on the South line of the Northwest quarter of said Section 30; thence West along the south line of the said Northwest quarter of Section 30, a distance of 1100.62 feet to the Southwest corner of the said Northwest quarter of Section 30; thence North along the West line of said Section 30, a distance of 1924.13 feet to the point of beginning. Containing 45 acres, more or less, and excluding road rights-of-way.

A copy of the General Warranty Deed to the site follows.

COPY

(FILING STAMP HERE)

Warranty Deed

OKLAHOMA STATUTORY FORM

THIS INDENTURE, made this 2 day of November, A.D. 19 82, between Audrey C. Lovell, joined by her husband, John J. Lovell, of Tulsa County, in the State of Oklahoma, party of the first part, and The United States of America, in Trust for the Kaw or Kansa Tribe of Oklahoma, party of the second part.

WITNESSETH, That in consideration of the sum of TEN DOLLARS, the receipt of which is hereby acknowledged, said party of the first part does, by these presents, grant, bargain, sell and convey unto said party of the second part, its successors and assigns, all of the following described real estate, situated in the County of Kay, State of Oklahoma, to-wit:

See attached Schedule for legal description.

TO HAVE AND TO HOLD THE SAME, together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining forever.

And said Audrey C. Lovell, joined by her husband, John J. Lovell her heirs, executors or administrators does hereby covenant, promise and agree to and with said party of the second part, at the delivery of these presents that she is lawfully seized in her own right of an absolute and indefeasible estate of inheritance in fee simple, of and in, all and singular the above granted and described premises, with the appurtenances; that the same are free, clear, and discharged and unencumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments and encumbrances of whatever nature and Kind, EXCEPT, This conveyance is made pursuant to the authority of Section 5 of the Act of June 18, 1934 [48 Stat. 985; 25 U.S.C. 465]

and that she will WARRANT AND FOREVER DEFEND the same unto the said party of the second part, its successors and assigns, against said party of the first part, her heirs or assigns and all and every person or persons whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, the said party of the first part has hereunto set her hand the day and year first above written.

Audrey C. Lovell
AUDREY C. LOVELL

John J. Lovell
JOHN J. LOVELL
(INDIVIDUAL)

STATE OF OKLAHOMA,
County of Tulsa } SS.

OKLAHOMA ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public, in and for said County and State, on this 2 day of November, A.D., 19 82, personally appeared Audrey C. Lovell and John J. Lovell

to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

My commission expires Nov 20, 1984

John B. Nelson
Notary Public

NOTICE – This form is supplied by GUARANTY ABSTRACT COMPANY, Tulsa, Oklahoma, for the convenience of ATTORNEYS-AT-LAW. No legal document should ever be made or form filled in by other than an Attorney.

SCHEDULE OF LEGAL DESCRIPTION

Audrey C. Lovell to the United States of America, in Trust for the Kaw or Kansa Tribe of Oklahoma

A tract of land situated in the Northwest quarter of Section 30, Township 28 North, Range 3 East of the Indian Meridian, Kay County, Oklahoma, more particularly described as follows:

Beginning at a point on the West line of said Section 30, Township 28 North, Range 3 East of the Indian Meridian, Kay County, Oklahoma, said point being 714.45 feet South of the Northwest corner of said Section 30; thence East, parallel to the North line of said Section 30, a distance of 932.78 feet to a point; thence South, parallel to the West line of said Section 30, a distance of 933.50 feet to a point; thence East, parallel to the North line of said Section 30, a distance of 167.82 feet to a point; thence South, parallel to the West line of said Section 30, a distance of 989.44 feet to a point on the South line of the Northwest quarter of said Section 30; thence West along the South line of the said Northwest quarter of Section 30, a distance of 1100.62 feet to the Southwest corner of the said Northwest quarter of Section 30; thence North along the West line of said Section 30, a distance of 1,924.13 feet to the point of beginning. Containing 45 acres, more or less and excluding road rights-of-way.

APPENDIX C

GAMING ORDINANCES

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BINGO ORDINANCE OF 1993

Section 1. Scope

This Title shall apply to all games of Bingo conducted within the territorial jurisdiction of the Tribe in which a prize is offered or awarded to any participant or in which a participant is required or requested to provide any legal consideration in order to participate, whether in person or by agent.

Section 2. Purpose

This Title is intended to promote the peace, safety and welfare of all persons coming within the jurisdiction of the Tribe by insuring that any game of Bingo conducted within the tribal jurisdiction is conducted in a fair and responsible manner, by providing a safe and wholesome means of recreational activity in a community setting, by ensuring that the public order, peace, and safety be maintained, and by providing a source of revenue for the Tribal Government. This Title shall be liberally, construed to promote such purposes.

Section 3. Definitions

As used in this Title, unless the context clearly indicates that a different meaning is intended, the term:

A. "Act" means the Indian Gaming Regulatory Act of 1988, P.L. 100-497 [S.555], 102 Stat. 2467, October 17, 1988, to be codified at 25 U.S.C. 2701 et. seq.

B. "Attorney General" means the Attorney General of the United States.

C. "Agreement" means a Bingo Management Contract in which a contract is entered into with an outside person or entity, not a regular employee of the Tribe, to manage and operate a tribal Bingo Operation at a Bingo Facility on a specified Bingo Site.

D. "Bingo Facility" means a building or buildings for the operation of Bingo Games, including access roads, parking lot, outside lighting, water and sewer facilities, electrical facilities, heating and air conditioning equipment, and any other improvements reasonable and necessary to a facility for the operation of Bingo Games.

E. "Bingo Games" means the term Class II gaming as defined in 25 CFR 502.3:

1. Bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players:

a. Play for prizes with cards bearing numbers or other designations;

b. Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and

c. Win the game by being the first person to cover a designated pattern on such cards:

2. If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo;

3. Nonbanking cards games that:

a. State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and

b. Players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.

F. "Bingo Site" or "Site" means the real estate upon which is located the Bingo Facility.

G. "Bingo Operation" means the business, created by this Ordinance, of providing entertainment and amusement through the playing of Bingo Games at a Bingo Facility owned and licensed by the Tribe.

H. "Chairman" means the Chairman of the National Indian Gaming Commission. Until the Commission is organized and prescribes regulations, the term "Chairman" as used in this Title or any Agreement shall mean the Secretary of the United States Department of the Interior or his authorized representative.

I. "Commission" means the National Indian Gaming Commission established pursuant to section 5 of the Act.

J. "Concessions" means all soft drinks, food, novelty items, and bingo paraphernalia sold at the Bingo Facility.

K. "Contractor" means a person or entity (other than the Tribe) who is party to an Agreement having responsibility for the Management of a particular Bingo Operation on a particular Bingo Site.

L. "Council" means the Executive Council of the Tribe.

M. "Court" means the Courts of the Tribe.

N. "Criminal Investigator" means the criminal investigator assigned to the Bureau of Indian Affairs Agency having jurisdiction over the land of the Tribe, or, in his absence, the Superintendent.

O. "Equipment" means all gaming, office, concession, and maintenance equipment necessary to the operation of Bingo Games and the Bingo Facility.

P. "Equipment Costs" as to any item of Equipment or period of time, means the lowest cost at which Bingo Equipment may be acquired.

Q. "Facilities Costs" as to the Bingo Facility or any period of time, means the cost of acquiring a Bingo Site and establishing thereon a Bingo Facility.

R. "Gross Receipts" means, all gaming related revenues, as to any period, all income derived, produced, or created in any manner whatsoever related to or as a result of business done, sales made and services rendered at, in, about, from, or upon the Bingo Site during such period by the Contractor and its affiliates, whether individuals, corporations, partnerships, firms, or other business entities and shall further include income to the Contractor hereunder produced or derived from the subleasing, sub-renting, permitting, contracting, or other authorized use of the Bingo Site or Bingo Facility by individuals, partnerships, corporations, firms, or other business entities, at the fair annual rental value of each part or portion of the premises so subleased, sub-rented, permitted, or otherwise contracted for use in accordance with an Agreement, the lease of the Bingo Site granted to Contractor, and this Title; provided however, that all sales made on credit shall be treated as "gross receipts" as of the date the sale is made. Further, the term "gross receipts" shall include all money and other things of value received by or paid to Contractor, or to others for Contractor's use or benefit including specifically the face value of all checks or drafts returned to Contractor unpaid for any reason, and all credit extended by Contractor in connection with the business conducted by Contractor, directly, or indirectly, on or from the foregoing, the sale of all merchandise, of whatever kind or character, and all services performed by Contractor, or anyone working for Contractor, for which payment is received. The term "gross receipts" shall not include, however, any sums collected and paid out for any sales or excise tax imposed by any duly constituted governmental taxing authority where such tax is billed to the purchaser as a separate item. It shall not include the exchange of merchandise between the stores, if any, of Contractor or subcontractor where such exchanges of goods or merchandise are made solely for the convenient operation of the business of Contractor or subcontractor and not for the purpose of consummating a sale which has theretofore been made at, in, for, or upon the Bingo Site or Bingo Facility. Said term shall not include sales of fixtures not in the regular course of business, but shall

include similar sums collected by a Manager or Contractor when the Bingo Games are being conducted by such persons.

S. "Gross Revenues" means all gaming related revenues.

T. "Key Employee" means:

a. A person who performs one or more of the following functions:
   (1) Bingo caller
   (2) Counting room supervisor
   (3) Chief of security
   (4) Custodian of gaming supplies or cash
   (5) Floor Manager
   (6) Pit boss
   (7) Dealer
   (8) Croupier
   (9) Approver of credit; or
   (10) Custodian of gaming devices including persons with access to cash and accounting records within such devices
   (11) A relative of a Primary Management official of contractor
   (12) A person who supervises directly or indirectly 5 or more employees of the Bingo Operation

b. If not otherwise included, any other person whose total cash compensation is in excess of $20,000 per year; or

c. If not otherwise included, the five most highly compensated persons in the gaming operation.

U. "Loan" means the non-recourse loan or loans made by the Contractor, or others at his request, to the Bingo Operation for the purpose of acquisition, improvement, or operation of the Site and Bingo Facility. The exclusive source for the repayment of all such loans shall be the Revenues of the Bingo Games conducted at the Bingo Facility, without recourse against the Tribe or its officers, agencies, other businesses, if any, or employees in the event that the Revenue of the Bingo Operation is insufficient to repay the principal and/or interest of said loans, in which event, the loan or loans shall be deemed forgiven and no right of action shall exist in any Court as against the Tribe, its officers, agencies, other businesses, or employees for the repayment of such loans and/or any interest thereon, and Contractor shall hold the Tribe harmless in such regard.

V. "Manager" means an individual person hired by the Tribe as a regular employee of the Tribe with overall management responsibility for a Bingo Operation.

W. "Operating Costs" as to any period of time, means all reasonable and necessary costs incurred in the operation of the Bingo Facility and the conduct of Bingo Games, including but not limited to reasonable payroll expenses, advertising, security, insurance, applicable taxes, utilities, printing, and the costs of goods sold, and excluding depreciation of the Bingo Facility and Equipment, amounts paid to amortize loans used to construct or acquire the Bingo Facility or Equipment, and any management fees. The term "Operating Costs" does not include that portion of payroll payments to Primary Management Officials and Key Employees of Contractor in excess of $20,000.00 per annum.

X. "Ordinance" or "Title" means the Bingo Ordinance of the Tribe as now in force or as hereafter amended.

Y. "Owner" means the not-for-profit entity authorized to conduct Bingo pursuant to Chapter Four of this Ordinance.

Z. "Police Chief" means the Chief of the Tribal Police Department.

AA. "Primary Management Officials" means:

a. Each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and every person who owns directly or indirectly, either individually or by agent, including Relatives, any stock in a corporate Contractor or equity interest in the association which is the Contractor however those shares be designated, or a person having sufficient voting power individually or by proxy to elect at least one member to the Board of Directors or other managing entity of the Contractor. This term also includes all other persons employed by Contractor in any capacity, and Relatives of persons who are defined as Primary Management Officials by the preceding sentences of this paragraph, having five percent (5%) or more equity ownership, either individually or by agent, including Relatives, in any other business entity hired by Contractor or doing any business with Contractor with respect to the Agreement entered into by said Contractor.

b. Any person who has authority:

(1) To hire and fire employees; or

(2) To set up working policy for the gaming operation; or

c. The chief financial officer or other person who has financial management responsibility.

BB. "Prize Costs" as to any period of time means the total amount of all money and property (limited to the actual acquisition costs of property prizes) given away as prizes to bona fide participants of Bingo Games played in the Bingo Facility at the Bingo Site.

CC. "Relative" means an individual related to the referenced person as a father, mother, son, daughter, brother, sister, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

DD. "Net Revenue" means gross gaming revenues of an Indian Gaming operation less -

a. Amounts paid out as, or paid for, prizes; and

b. Total gaming-related operating expenses, excluding management fees.

EE. "Title" or "this Title" means the Bingo Ordinance of the Tribe as now in force or as hereafter amended.

FF. "Tribal Prosecutor" means the Tribal Attorney or other chief law enforcement officer of the Tribe.

GG. "Superintendent" means the chief administrative officer assigned to the Bureau of Indian Affairs Agency having jurisdiction over the land of the Tribe.

HH. "Tribe" means the Kaw Tribe of Oklahoma.

GENERAL PROVISIONS

Section 101. **Bingo Prohibited-Exceptions**

No person shall conduct any game of bingo within the Indian Country subject to the jurisdiction of the Tribe, for which a charge is made or other consideration requested or required for participation, or to the winner of which any prize is awarded, provided, that a person licensed pursuant to this Title may conduct or operate bingo games pursuant to this Title.

Section 102. **Limitations on Hiring of Employees**

A. Managers, Contractors, Operators, and Owners licensed to conduct Bingo pursuant to this Title shall never allow any of the following persons to become an employee of such Manager, Contractor, Operator, or Owner, or otherwise receive any salary, renumeration, dividend, benefit, or recompense in any manner whatsoever, either directly or indirectly as a result of, or due to, the Manager, Contractor, Operator, or Owner conducting Bingo within the Tribal jurisdiction:

(a) Any person less than eighteen (18) years of age,

(b) Any person who has been convicted by any court of competent jurisdiction of a felony, a gaming offense, or other crime involving moral turpitude,

(c) Any person who holds any elective office of the Tribe, including any member of the Council.

(d) Any person who is a Relative of any person described in subparagraph (c) of this section.

B. Primary Management Officials, Key Employees, and all other General employees of the Bingo Operation shall be subject to Regular, Random and Routine tests, for the abusive or illegal use of substances prohibited by Section 108 of this Ordinance in accordance with the following:

(1) Definitions. The following terms and their equivalents or derivatives shall have the meaning given, unless a different meaning is apparent from the context:

(a) "Test" shall mean an examination of the hair, urine, and blood (with consent of the employee for the extraction of the blood or hair sample), or breath of an employee by a Qualified Laboratory by methods generally accepted within the scientific community for the presence or absence of alcohol or a substance prohibited by Section 108 of this Ordinance.

(b) "Regular Test" shall mean a Test:

(i) in which all Primary Management Officials and Key Employees are tested at regular or scheduled intervals, as determined from time to time by the Bingo Board, but without prior notice of the specific date of the test, provided, that each Primary Management Official and Key Employee shall be tested approximately the same number of times during any calendar year.

(ii) in which all employees (other than Primary Management Officials and Key Employees) are tested without prior notice at a time determined by the Bingo Board, provided, that no employee other than Primary Management Officials and Key Employees may be tested pursuant to this subsection more than twice in a calendar year, provided further, that the Bingo Board may provide that regular employees may be tested in "batches" at various times during the calendar year so long as each employee is subjected to approximately the same number of Routine Tests.

(c) "Random Test" shall mean a test conducted at random by lot wherein a predetermined number of names will be drawn for a particular test, the names of all employees of the Bingo operation are equally susceptible to being drawn for testing from a "jury wheel" type device in which the person(s) drawing the names for testing cannot view the names prior to their being removed from the drawing pool, and where the employees have no advance notice the test will be conducted at any particular time.

(d) "Routine Test" shall mean a test which is conducted as to specific employees, which test shall be ordered by the management of the Bingo facility, of the Chairperson of the Bingo Board or the Chairperson's designee, when:

(i) an accident (or unsafe practice which has been explicitly prohibited in a writing given to the employee) occurs in which human life or limb was placed in serious jeopardy, in which a human being sustained injuries requiring medical assistance or care, or in which damage to property in excess of One Hundred Dollars ($100.00) was sustained, and it appears that the conduct of the employee(s) to be tested may have caused or contributed to the direct causal chain of events which resulted in the accident.

(ii) a shortage or unexplained loss or disappearance of money or property of the Tribe or of others, having a value in excess of Ten Dollars ($10.00) occurs, and the employee(s) to be tested either had (a) custody and control of said money or property at the time of its disappearance, or (b) access to said money or property without direct supervision subsequent to the last time such money or property was definitely accounted for.

(iii) an employee(s) engages in fighting or other violent actions, not in the course and line of their duty, and it appears that the employee(s) may have been the aggressor or may have participated willingly in such conduct.

(iv) by reason of slurred speech, unsteady gait, lack of balance when upright, flushing of the face or extremities, inability to comprehend and respond to normal conversation, the discovery of alcoholic beverage containers or paraphernalia associated with the use of illegal drugs at about or upon the person of such employee or any one or more of said factors, a person who is a Primary Management Official pursuant to Section 3 (AA)(b) of this Ordinance, or a Key Employee pursuant to Section 3 (S)(a)(2), such person to be presently abusing alcohol or using illegal drugs in his presence on the grounds of the Bingo facility, and such determination is concurred in by any of the listed persons senior to the person making the initial determination or by a law enforcement officer.

(v) As part of, or as a follow-up to, counseling or rehabilitation for abuse of alcohol or illegal drug use through the Tribal social service departments,or agencies to which such employee has been referred for treatment.

(vi) As part of the hiring process prior to the employee obtaining permanent status as provided by this subsection B.

(e) "Qualified Laboratory" means a laboratory operated or licensed by the Federal, State, or Tribal Government, or within a licensed medical facility, having the necessary personnel, equipment, learning, and experience to provide accurate, timely, and thorough testing of samples submitted to said laboratory for the substances referred to in Section 108 of the Ordinance. The admission of test results of a particular laboratory for the presence or absence of such substances in a state,

federal, or tribal court in a criminal case, or designation of a particular laboratory as "qualified" by the Kaw Executive Council shall be prima facia evidence that a particular laboratory is a qualified laboratory. Notwithstanding the foregoing, the testing for blood alcohol content by a mechanical or electrical "Breath-analyzer" by a qualified technician in a manner consistent with the admissibility of such test results in the Courts of the Kaw Nation shall be considered as test performed by a Qualified Laboratory.

(f) "Abuse of Alcohol" means the drinking of alcoholic beverages, including beer, ale, wine, spirits, liquor, and similar substances to the point of intoxication at any place, at any time, the drinking of any alcoholic beverage within eight (8) hours prior to reporting for duty, the drinking of any alcoholic beverage while on duty, or reporting for duty with a blood alcohol content sufficient to sustain a conviction for Operating a Motor Vehicle While Impaired under the laws of the Kaw Nation or the State of Oklahoma, provided, that simple possession, use and consumption of alcoholic beverages, at places where such possession, use, and consumption are legal in accordance with law, and not to the point of intoxication shall not be regarded as Abuse of Alcohol.

(g) "Abuse of Illegal Drugs" means any use of a substance referred to in Section 108 of this Ordinance other than alcohol, provided, that use of such substances in accordance with the instructions of licensed medical practitioners, the use of peyote in accordance with the ceremonies and practices of the Native American Church shall not be construed to be abuse of illegal drugs, even though such use may compel management to place a person who cannot adequately perform their assigned duties due to such use on leave or to take other authorized employee action pursuant to the Personnel Policies of the Kaw Nation.

(h) "Employment Assistance Program" means the alcohol abuse and illegal drug use prevention program established by the Bingo Operation pursuant to subsection (3) of this Section.

(i) "Voluntary Treatment Program" means a treatment program established as a portion of the Employee Assistance Program for those employees who, prior to being detected as an alcohol abuser or user of illegal drugs by test or observation, volunteers for treatment for the abuse of alcohol or the use of illegal drugs, and where the employee may discontinue participation at any time without adverse personnel action by reason of such

discontinuance.

(j) "Mandatory Treatment Program" means a treatment program established as a portion of the Employee Assistance Program for those employees who have been detected as an alcohol abuser or user of illegal drugs, confirmed by testing, where the employee may not discontinue participation without the approval of the medical or professional personnel responsible for treatment of the employee without suffering adverse personnel action.

(2) Statement of Policy. The Kaw Nation requires all its employees to refrain from the abuse of alcohol and the use of illegal drugs whether on or off duty. Persons who abuse alcohol or use illegal drugs are not suited to employment by the Kaw Nation, and are particularly not suited for employment at a Kaw Bingo Operation due to the sensitive nature of the Bingo Operation and the necessity of avoiding even the appearance of impropriety in the conduct of the Bingo Operation.

(3) Employee Assistance Program. The management of the Bingo Operation shall establish an Employee Assistance Program consisting of regular and substantial direction, education, counseling, and referral to rehabilitation and treatment programs for alcohol abuse and use of illegal drugs in consultation with tribal, state, and federal agencies which may provide assistance in such matters.

(4) Testing of Newly Hired Employees. All newly hired employees, including Primary Management Officials pursuant to Section 3 (AA)(b) and (c) of this Ordinance, and Key Employees, shall be subject, and in any case shall submit to one routine test pursuant to subsection (1)(d)(vi) of this Section at a time determined by their supervisor prior to being placed on permanent status, and in any case within the first three months of their employment. Any newly hired employee who refuses to submit to such routine test shall be promptly terminated from employment. The results of such routine testing shall be transmitted to the Bingo Board within ten (10) days after their receipt by management.

(5) Testing of Permanent Employees. Permanent employees, including Primary Management Officials pursuant to Section 3 (AA)(b) and (c) of this Ordinance, and Key Employees, shall be subject to regular testing, random testing, and routine testing, pursuant to subsection (1)(b), (c), and (d) of this Section at a time and in the manner determined by the Bingo Board in accordance with the provisions of this Section, provided that blood or hair tests may not be used without the voluntary consent of the employee. Any permanent employee who

refuses to submit to such test shall be promptly terminated from employment. The results of such test shall be transmitted to the Bingo Board within ten (10) days after their receipt by management.

(6) Rights of Employees. Employees shall have the following rights with respect to the testing required by this Section:

(a) Upon written request, the employee shall have a right to receive a copy of any records relating to such employee's test including chain-of-custody documentation,a nd/or any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings concerning the qualifications of the laboratory which conducted the test on the same received from the employee.

(b) To have the results of the employee's test held in strict confidence by all those entitled to review the same, and to not have such results disclosed to any person by one having knowledge of those results unless the disclosure would be to:

(i) A professional involved in the treatment of such employee pursuant to the Employee Assistance Program required by this Section, a Voluntary Treatment Program entered by the employee, or a Mandatory Treatment Program in which the employee is enrolled.

(ii) The Bingo Board for use in its licensing determinations.

(iii) To the supervisory or management official(s) having authority to take adverse personnel action against such employee.

(iv) To any Court of competent jurisdiction where required by type Government of the Kaw Nation to defend against any adverse personnel action taken against the employee.

(c) To refuse any test ordered to be given as provided in this Section, provided, that refusal to submit to such test shall be grounds for immediate termination, and revocation of any applicable gaming license.

(7) Drug and Alcohol Testing Implementation and Procedures. The Bingo Board shall, from time to time, establish and determine testing schedules, the employees to be tested, and the type of test to be administered. It shall be the responsibility of the management of a Bingo Operation to make the employees available for testing, conduct the actual tests in the presence of the Bingo

Board or their authorized representative with the assistance of such Tribal, professional, or technical personnel as may be necessary for such tests, and to establish and maintain the Employee Assistance Program required by this Section. In accordance with this shared responsibility:

(a) Within sixty (60) days after the approval of this Ordinance, Management of the Bingo Operation shall contact responsible agencies, tribal, state, and federal, establish the Employee Assistance Program as required by this Section, submit a written plan to implement the Employee Assistance Program to the Executive Council and the Bingo Board and inform all employees of the procedures for obtaining assistance through the Employee Assistance Program.

(b) Not less than sixty (60) days prior to the implementation of the drug and alcohol testing program pursuant to this Section, the Bingo Board shall notify all employees of the Bingo Operation that testing for use of illegal drugs and abuse of alcohol is to be conducted, and that they may voluntarily seek counseling and rehabilitation through the Employee Assistance Program.

(c) Within thirty (30) days after the approval of this Ordinance, Management of the Bingo Operation shall revise employment application forms to contain the following notice: "Employment at this Bingo Operation is conditioned upon the employee refraining from the abuse of alcohol and any use of illegal drugs as provided by the laws of the Kaw Nation. By accepting employment, you will have agreed to testing for the abuse of alcohol and the use of illegal drugs in order to remain employed. At the time of any such test, you have the right to submit medical documentation that may support a legitimate use for a specific drug, and have other rights as provided by the laws of the Kaw Nation. Please ask your interviewer or your supervisor for a written copy of those rights if you wish to review them."

(d) Within thirty (30) days after the decision to drug test, Management shall produce one or more posters to be routinely displayed in areas where employees normally work, gather, take breaks, or other areas where they will come to the attention of the employees, which posters shall set out the definitions of "Abuse of Alcohol" and "Use of Illegal Drugs" along with a listing of the drugs contained in the schedules referred to in Section 208 of this Ordinance, the policy statement in subsection (2) of this Section, that all employees are subject to testing for alcohol abuse and use of illegal drugs, the availability of the Employee Assistance Program, and the rights of the employee set out in subsection (6) of this Section.

(e) Within one hundred twenty (120) days after approval of this Ordinance, the Bingo Board shall prepare draft written rules and regulations for timely submission of requests for retention of records and specimens, retesting, protection of test results and related medical and rehabilitation records, and other procedures necessary for the implementation of this Section, provided, that procedures for the providing and collection of urine specimens must allow individual privacy, unless management or the Bingo Board have reason to believe that a particular individual may alter or substitute the specimen to be provided. copies of the draft procedures shall be delivered to the management of the Bingo Operation and the Executive Council, and posted in the offices of the Kaw Nation and at the Bingo Operation for the use of the employees who shall be entitled to review and copy the draft, along with a notice that the Bingo Board will receive written comments on the draft rules and regulations for period stated in said notice which shall not be less than thirty (30) days after the date such draft is posted, and that the Bingo Board will hold a public hearing on said draft within the thirty-day (30) notice period on a date, and at a time and place stated in the notice. The Bingo Board shall issue final rules and regulations within sixty (60) days after the comment period expires.

(f) The rules and regulations promulgated pursuant to subsection (e) of this Section shall contain provisions providing for Voluntary Treatment Programs for those employees who volunteer for such program conducted by the Employee Assistance Program, and Mandatory Treatment Programs for those employees who are determined to abuse alcohol or use illegal drugs.

(8) Finding of Abuse of Alcohol or Use of Illegal Drugs. The determination that any employee abuses alcohol or uses illegal drugs may be made on the basis of any appropriate evidence, including direct observation, a criminal conviction, administrative inquiry, or the results of the tests authorized herein. Positive test results may be rebutted by other evidence that an employee has not abused alcohol or used illegal drugs.

(9) Adverse Employee Actions. The purpose of the employee testing program is to improve the health and safety of employees by prevention, detection,a nd treatment of alcohol abuse and illegal drug use, and to protect the integrity of the Bingo Operation from the effects of alcohol abuse and illegal drug use, including the ability of criminal elements to impact the gaming conducted by the Bingo Operation, or the revenues receivable by the Tribe from the Bingo Operation, through the providing or withholding of illegal drugs to employees, or the blackmail of employees. Consistent with these purposes:

(1) Whenever it is alleged that an employee has abused alcohol or used illegal drugs, and there is evidence to support such allegation, management shall notify the Bingo Board in writing of such allegations setting forth the particulars of the allegations, and serve a copy of the notice on the affected employee.

(2) The Bingo Board shall, within thirty (30) days after receipt of such notice, schedule a hearing to determine whether the license of such employee shall be revoked and shall notify the employee and management of the Bingo Operation of the date, time, and place of such hearing at least ten (10) days prior hereto. At the hearing the employee shall have the right to be represented by an attorney or other person at his request, to confront the witnesses against him, to compulsory process to present witnesses in his defense, and to present evidence in his own behalf. A record shall be made of such proceeding, which shall be subject to review by the Courts of the Kaw Nation pursuant to Section 208 of this Ordinance.

(3) The Bingo Board shall determine whether the employee abused alcohol or used illegal drugs, and whether the license of the employee shall continue, be suspended, or revoked, and shall have the authority to defer a suspension or revocation an employee's license conditioned upon his future conduct and successful completion of a Mandatory Treatment Program. If the Bingo Board makes a determination that the employee abused alcohol or used illegal drugs, it shall order the employee to enroll in the Mandatory Treatment Program regardless of its decision regarding the employee's license.

(4) If the Bingo Board revokes the license of the employee, and does not defer such revocation, management shall terminate the individual form employment with the Bingo Operation forthwith.

(5) If the Bingo Board suspends the license of the employee and does not defer such suspension, management of the Bingo Operation shall place the individual on administrative leave without pay for the term of the suspension of the license in addition to any other adverse personnel action which management shall deem appropriate under the circumstances.

(6) Management of the Bingo Operation shall initiate disciplinary action against any employee who is found by the Bingo Board to use illegal drugs or abuse alcohol, through and including termination, and shall have the authority to place an employee on administrative leave with or without pay, according to the substance of the charge and quality of the evidence in support of said charge, pending resolution of the charges against him, <u>provided</u>, that such action is not

required for an employee who voluntarily identifies himself as a user of illegal drugs or abuser of alcohol prior to being identified by other means, obtains counseling or other rehabilitation through the Employee Assistance Program, and thereafter refrains from using illegal drugs or abusing alcohol.

(7) The Bingo Operation shall not allow any employee to remain on duty in Primary Management Official or Key Employee position who is found to abuse alcohol or use illegal drugs prior to successful completion of rehabilitation through the Employee Assistance Program. However, as part of the rehabilitation or counseling program, management, with the consent of the Bingo Board, may, in its discretion, allow a Primary Management Official or Key Employee to return to duty in such position if it is determined that the employee can be properly supervised, and that this action would not pose a danger to public health or safety or to the integrity of the Bingo Operation.

(8) The Bingo Operation shall terminate any employee who is found to abuse alcohol or use illegal drugs who refuses to obtain counseling or rehabilitation through the Employee Assistance Program, or who does not thereafter refrain from abusing alcohol or using illegal drugs.

(9) The results of testing and information developed by management, or the Bingo Board in the course of the testing or the hearing provided for above, may be considered in processing any adverse action against the employee, or for other administrative purposes. Preliminary test results may not be used in an administrative proceeding against the employee unless they are confirmed by a second analysis of the same sample, or unless the employee confirms the accuracy of the initial test by admitting the abuse of alcohol or use of illegal drugs. In the case of "breath-tests" for alcohol, a second sample taken promptly after the first sample satisfies the requirement of this subsection that the test results be confirmed.

(10) No admissions made by an employee to gain access to the Voluntary Treatment Program prior to being identified as an abuser of alcohol or user of illegal drugs, , nor admissions made by an employee in counseling or rehabilitation in the Voluntary Treatment Program or Mandatory Treatment Program concerning his abuse of alcohol or use of illegal drugs may be used in any adverse employee action or court proceeding.

(11) Any action to discipline an employee who is abusing alcohol or using illegal drugs shall, subject to the provisions of this subsection, be taken in compliance with otherwise applicable procedures.

(10) Use in Criminal Proceedings Prohibited. Testing pursuant to this Section shall not be conducted for the purpose of gathering evidence for use in criminal proceedings. The Bingo Operation, Bingo Board, and other persons who are advised of the results of the tests conducted pursuant to this Section, including police officers who may administer certain tests, are not required to report to the Attorney General for investigation or prosecution any information, allegation, or evidence relating to violations of the Criminal Code of the Kaw Nation received as a result of the operation of the testing program established by this Section, provided, that evidence of intoxication or use of alcohol or drugs independent of the testing program established by this section, including specifically, evidence that an employee was intoxicated or using illegal drugs at the Bingo Operation observed by witnesses and not initially disclosed during treatment within the Employee Assistance Program, shall be admissible in any civil or criminal proceeding, providing further, that nay confirmation of such evidence which could be provided by reference to test results or admissions made during participation in the Employee Assistance Program shall not be admissible or alluded to in such court proceedings unless the employee procures their admission, or alleges that the evidence is insufficient because no tests were conducted or admitted into evidence.

Section 103. Implied Consent for Audits and Reviews

Any person, organization, or corporation which applies for or receives a license to conduct Bingo Pursuant to this Title shall be deemed to have consented to the audit and review of its records by authorized accounting or law enforcement agencies or officers of the Tribe without notice or warrant at any reasonable time, including spot checks or field audits of its operations during Bingo sessions in return for the privilege of conducting Bingo Games within the Tribal jurisdiction.

Section 104. Annual Audits

A. Not less frequently than once each calendar year, a complete independent audit, which may be encompassed within the existing independent Tribal audit system, will be conducted by a Certified Public Accountant designated by the Bingo Board with respect to each gaming operation.

B. All contracts for supplies, services, or concessions for a contract amount in excess of $25,000.00 annually (except contracts for professional legal or accounting services) relating to a gaming operation shall be subject to such independent audits, and each such contract shall contain a clause whereby each party thereto agrees to cooperate and comply with said audit.

C. The Bingo Board shall levy upon each gaming operation a fee sufficient to pay for the expenses associated with the audit or

audits provided for by this section. Such levy, upon being filed in the office of the clerk of the Tribal Court, shall be subject to collection in the same manner as money judgments entered by the Tribal Court.

D. The annual independent audit will be submitted to the commission pursuant to 25 CFR Section 522.4 (b) (3).

Section 105. Environmental Protection

A. The Manager, Owner, Operator, or Contractor shall construct and maintain the Bingo Facility and operate the Bingo Games in a manner which adequately protects the environment and the public health and safety.

B. The Bingo Board shall have jurisdiction to make and enforce any regulations necessary to protect the environment and the public health and safety with regard to the construction, maintenance, and operation of a Bingo Facility. In doing so, it may request the assistance of the Tribal Health Department, the Tribal Prosecutor, the Tribal Police, and other interested tribal agencies.

Section 106. Prohibition Against Credit Sales and Limitations on Free Gaming

A. All admission fees, if any, and all sales of any Bingo Operation will be cash sales.

B. Direct purchase of Bingo Games by Credit Cards, Checks, and any other debit (Bank Cards) or credit sales are prohibited.

C. All winners of Bingo Games must collect their prizes during the current session of Bingo Games.

D. Free gaming is limited and requires approval of the Bingo Board on a case-by-base basis. Free gaming includes, but is not limited to, coupons and free play as Bingo prizes for future sessions.

Section 107. Allowable Charges

In any game of Bingo in which the prize offered does not exceed One Hundred Dollars ($100.00), a maximum charge of Three (3) Dollars per card played may be charged for participation. In all other games, a maximum charge of Ten (10) Dollars per card played may be charged for participation.

Section 108. Public Notice of Prizes. Charges and Rules

A list of Prizes to be given away by game, the charges for participation by game, and the rules of each game with appropriate

examples, shall be prominently displayed within the room in which Bingo is to be conducted in such manner that the public shall have immediate and unrestricted access thereto.

Section 109. Resolving Disputes Between the Gaming Public and Tribe or Management Officials, If Any

The Kaw Nation and Management Contractors, if any, will resolve disputes between the gaming public and Gaming management in the following manner:

A. The gaming public will first present their complaint/ grievance to the Manager on duty and they will attempt to settle the dispute during the session.

B. If the parties are not satisfied, a formal hearing will be conducted by the Bingo Board in a regular or special meeting.

C. If the dispute is not settled after a decision has been given by the bingo Board, then the parties may file for a hearing in Tribal Court (Kaw Tribal Members), CFR Court, U.S. Federal Court (for non-Indians) or be settled by a mutually agreed upon arbitrator who is a member of the American Arbitrator Association.

Section 110. Intoxicating Beverage Prohibited

No person shall sell, serve, give away, consume, furnish, or possess any beer, ale, wine, liquor, spirits, or any other beverage or product containing alcohol for ingestion by human beings or any substance listed in Section 812 of Title 21 of the United States Code or added to the schedules contained therein as provided by federal law, at or near any game or session of Bingo conducted within the Tribal jurisdiction. Any Indian violating this section shall be guilty of an offense. Any non-Indian violating this section shall be expelled from the Indian Country subject to the jurisdiction of the Tribe, or held for the federal authorities.

Section 111. Age Restrictions

No person under the age of eighteen (18) years shall be permitted to play Bingo.

Section 112. Discrimination Prohibited

No person shall be discriminated against due to race, color, creed, sex, or national origin at any game of Bingo, or for employment by any Manager, Contractor, Owner, or Operator.

Section 113. Indian Preference Required

Every Manager, Contractor, Operator, or Owner shall give preference in hiring and employee retention practices to members of

federally recognized Indian Tribes.

Section 114. Civil Penalties

A. Any violations of this Title are hereby declared to be a public nuisance.

B. The Tribal Prosecutor is authorized to bring a civil action against any person violating the provisions of this Title.

C. Upon finding that a violation has occurred, the Court may impose a civil penalty not to exceed One Thousand Dollars ($1,000.00) for each separate violation in addition to any or all actual damages, administrative costs, court costs, and the fees of the Tribal Prosecutor. Each Bingo game played at which a continuing violation occurs shall be deemed a separate violation.

Section 115. Criminal Penalties

Any Indian person violating the provisions of this Title shall be guilty of an offense and shall upon conviction thereof be punished by the confinement in the tribal jail for a period of not less than six months nor more than one year, and a fine of not less than Five Hundred ($500.00) nor more than Five Thousand Dollars ($5,000.00) or by both such fine or imprisonment for each separate violation, in addition to court costs and the fees of the Tribal Prosecutor.

Section 116. Requirements to Receive a Prize

In addition to being the first player to properly cover a predetermined and publicly announced pattern of squares upon the card being used by him, a player, in order to qualify to receive a prize, must furnish:

(a) Acceptable proof of said winners name, address, and social security number. Acceptable proof may be a driver's license, photo identification, or other identification. An oral statement of the winner's social security number may be acceptable when accompanied by two forms of identification, one of which is a photo identification.

(b) A signed receipt acknowledging acceptance and receipt of the prize awarded.

Sections 117 - 196. Reserved

Section 197. Severability

The provisions of this Title are severable. If any part or provision hereof shall be held void by any Court of competent jurisdiction, the decision of the Court so holding shall not effect

or impair any of the remaining parts or provisions of this Title.

Section 198. **Effective Date**

This Title shall be effective from and after the date of approval by the Tribe and the Chairman.

Section 199. **Citation**

This Title may be cited as the "Bingo Ordinance of 1993."

CHAPTER TWO
BINGO BOARD

Section 201. **Bingo Board Defined**

The Kaw Economic Development Board, Chairman of the Kaw Tribe or his designated representative, and the Tribal Prosecutor, acting as legal counsel, shall constitute the Bingo Board. The chairman of the Kaw Economic Development Board shall be chairman of the Bingo Board.

Section 202. **Powers of the Bingo Board**

The Bingo Board shall have the power:

A. to approve the annual operating budget of a Contractor or Manager, including Equipment Costs for the replacement or necessary upgrading of Equipment, and budget modifications.

B. to submit the annual budget of the Bingo Board to the Council for approval.

C. by majority vote to authorize the chairman to issue subpoenas, which subpoenas shall be of like effect as subpoenas issued by the Court.

D. to designate such of its members as may be necessary to act as chairman during the chairman's absence, incapacity, or refusal or failure to act in accordance with the directives of the Board.

E. to order the temporary or permanent closing of a gaming activity upon a violation of this Title, the Act, or other applicable laws of the Tribe. A decision to order permanent closure pursuant to this Section may be appealed upon the record directly to the Supreme Court of the Tribe.

F. to monitor Bingo Games conducted within the jurisdiction of the Tribe, and to oversee the conduct of the management and employees of gaming enterprises on a continuing basis.

G. to inspect and examine all Bingo Sites and Bingo Facilities within the jurisdiction of the Tribe at such times as the Board may deem proper to determine whether the environment and the public health and safety are being maintained, and to verify compliance with this Title.

H. to conduct or cause to be conducted such background investigations as may be necessary or required by this Title, and in particular to conduct thorough checks upon the background and suitability of Contractors, Owners, Operators, Managers, Primary Management Officials, and Key Employees.

I. to demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues and operations of Bingo Games conducted within the jurisdiction of the Tribe and any other matters necessary to carry out the duties of the Bingo Board pursuant to this Title.

J. to use such Tribal buildings and other property in the performance of its duties as shall be approved by the Council or the tribal agency having jurisdiction or use of said buildings or other property.

K. to procure supplies, services, and property by contract in accordance with applicable Tribal laws and regulation.

L. to enter into contracts with Federal or Tribal governments or their subdivisions and private entities for activities necessary to the discharge of the duties of the Bingo Board, and, to the extent feasible, contract with the National Indian Gaming Commission for the responsibility to enforce the regulations of the National Indian Gaming Commission.

M. to hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Bingo Board deems appropriate.

N. to administer oaths or affirmations to witnesses appearing before the Bingo Board,

O. to promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Title, and to provide for its own rules of procedure, provided that all such rules and regulations shall be filed with the Tribal Secretary and Court and shall be public records open to inspection by any person during normal business hours.

P. to conduct or cause to be conducted the annual audit required by Section 104 of this Title, and to report the results of said audit to the Council and the Commission.

Q. to approve, issue, disapprove, suspend, cancel, or renew licenses as provided in Chapter Three of this Title.

R. to take such other actions as may be reasonable and proper to exercise any of the foregoing powers or other powers granted to the Board by this Title, and to enforce the provisions of this Title according to its purposes.

Section 203. <u>Reports</u>

The Bingo Board shall submit a report, including the views of individual members if submitted, to the Council once during the month of January each calendar year. The report shall include

information relative to:

A. whether the Bingo Board should be full or part time officials,

B. funding, including income and expenses, of the Bingo Board,

C. recommendations for amendments to this Title,

D. a summary of gaming licenses issued and denied by type,

E. any other matter considered appropriate by the Bingo Board.

Section 204. Bingo Board Staffing

A. The Tribal Prosecutor shall act as General Counsel to the Bingo Board. The General Counsel may appoint such Assistant General Counsel as may be approved by the Bingo Board.

B. The Bingo Board may appoint and supervise other staff of the Bingo Board without regard to the personnel policies of the Tribe, at such rates of pay as shall be reflected in the budget of the Bingo Board as approved by the Council, provided, that no person may be appointed to the staff of the Bingo Board who is a Relative of a member of the Bingo Board, the Council, or a Bingo Manager, Contractor, Operator, Owner, Primary Management Official, or Key Employee.

C. The Board may procure temporary and intermittent services necessary to the conduct of its duties pursuant to this Title, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for a GS-18 of the General Schedule of the United States Civil Service.

D. Upon the request of the Board, the head of any Tribal agency or department is authorized to detail any of the personnel of such agency or department to the Bingo Board to assist the Board in carrying out its duties under this Title, unless otherwise prohibited by law or contract.

Section 205. Board Access to Information

The Bingo Board may secure from any department or agency of the Tribal government, and from cooperating agencies or departments of the government of any Indian Tribe, any State, or the United States information necessary to enable it to carry out its function under this Title. Upon request of the Board, the head of any tribal department or agency shall furnish such information to the Bingo Board unless otherwise prohibited by law.

Section 206. Board Distribution of Information

The Bingo Board is authorized, upon request for law enforcement purposes or as required by law, to distribute to the Commission, the Oklahoma Indian Gaming Commission, and any agency of another federally recognized tribe or state having authority to regulate gaming or prosecute offenders for violations of the appropriate gaming laws within the jurisdiction of such tribe or state, such information as it may have available, unless otherwise prohibited by law.

Section 207. Assessment of Fees

A. The Bingo Board shall establish a schedule of fees to be paid to the Commission annually by each Manager, Owner, Operator, or Contractor operating a Bingo Facility that is regulated by this Title, and shall review said schedule annually during its budget process.

B. The rate of fees imposed under this Section shall be:

1. no less than 0.5 percent nor more than 2.5 percent of the first $1,000,000 of Gross Receipts, and

2. no more than 5 percent of the Gross Receipts in excess of the first $1,000,000 of the Gross Receipts from each entity regulated by this Title.

C. Failure to pay the fees imposed under the schedule of fees established by the Board shall, subject to the regulations of the Board, be grounds for revocation or suspension of the license of the nonpaying entity or person required by this Title for the operation of Bingo Games and a Bingo Facility.

D. To the extent that revenue derived from fees imposed under the schedule established by this Section is not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each entity or person who paid fees during that year pro rata against such fees imposed for the succeeding year.

Section 208. Judicial Review

A. The decisions of the Board denying, suspending, or revoking a license, or ordering permanent closure of a Bingo Operation or Bingo Games, shall be subject to judicial review in a suit, in the Tribal Court only, naming the Board as the sole defendant notwithstanding Tribal sovereign immunity. The Tribal Court may enter declaratory and injunctive relief only against the Board, provided, that the limited waiver of immunity herein contained is conditioned upon the plaintiff in such action posting a bond with good and sufficient sureties in an amount not less than $5,000.00 to be determined by the Court for the payment of the

Tribal Prosecutor's fees and court costs in the event that the plaintiff therein does not prevail, and provided further, that no temporary restraining order or preliminary injunction may be issued in favor of such plaintiff absent a clear showing upon hearing of testimony and other evidence that (1) the plaintiff is likely to prevail upon the law and facts, (2) that the public health, welfare, and safety will not be harmed by such temporary relief, (3) that the balance of equity is strongly in favor of such plaintiff, (4) the plaintiff will suffer irreparable harm absent such temporary relief other than simply loss of profits or fees, and (5) at least forty-eight hours notice to the Tribal Prosecutor.

B. The individual members of the Bingo Board shall be absolutely immune from civil suit in all actions at law or in equity for any actions taken or statements made within the scope of their authority as members of the Bingo Board, or in a good faith belief that their actions or statements were within the scope of their authority.

Section 209. Subpoena and Deposition Authority

A. The Board shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, documents, and things relating to any matter under consideration or investigation.

B. The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Board may request the Commission to bring appropriate action to enforce any subpoena under this Section.

C. The Court, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such person to appear before the Board, and produce books, papers, documents, or things as so ordered, and give evidence concerning the matter in question, and any failure to obey such order of the Court may be punished by the Court as a contempt thereof.

D. The Board may order testimony to be taken by deposition in any proceeding or investigation pending before the Board at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Board and having the power to administer oaths. Reasonable notice must first be given to the Board in writing by the party or his attorney proposing to take such deposition, and, in cases in which the Board proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, documents, or things in the same manner as witnesses may be compelled to appear and testify and produce like physical or documentary evidence before the Board

as hereinbefore provided.

E. Every person deposing as herein provided shall be cautioned and shall be required to swear or affirm to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing where possible by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent in the same manner as depositions in civil cases. All depositions shall be promptly filed with the Board.

F. Where any current or proposed Manager or licensee, or a Primary Management Employee, Key Employee, or other employee or Relative of a potential licensee or current licensee fails or refuses to comply with a subpoena issued pursuant to this Section, the Board may presume that the testimony and evidence which would have been presented to the Board would be adverse to the interests of the current or potential licensee in the matter under investigation.

Section 210. <u>Referrals for Prosecution</u>

A. The Board shall, when information received during an investigation indicates a violation of Tribal, Federal, or State statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials.

B. The Tribal Prosecutor shall investigate activities associated with gaming authorized by this Title which may be a violation of Tribal law.

Section 211. <u>Authorization for Appropriations</u>

There are hereby authorized to be appropriated such sums as may be necessary for the operation of the Board.

CHAPTER THREE
LICENSING REQUIREMENTS

Section 301-A. **Types of Licenses to be Issued**

The Board shall issue the following licenses with respect to gaming operations under a management contract and/or individual operator:

A. A Bingo Manager License

B. Key Employee License

C. General Employee License

D. A Bingo Contractor License

E. A Primary Management Official License

F. A Bingo Facility License

SECTION 301-B.

The Board shall issue the following licenses with respect to gaming operations owned and operated by the Tribe:

A. A Bingo Manager License

B. Key Employee Licenses

C. General Employee Licenses

D. Primary Management Official License

E. Facility License

Section 302-A. **License Fees for Contract Management Company(s)**

The proponent of any license shall tender the following fees to the Board at the time application is made for a license:

A. Bingo Manager License - $500.00

B. Bingo Owner License - $1,500.00

C. Bingo Operator License - $1,000.00

D. Bingo Contractor License - $2,500.00

E. Primary Management Official License - $1,500.00

F. Key Employee License - $1,500.00

G. General Employee License - $250.00

H. Facility License - $2,500.00

Section 302-B.

License fees for Tribally owned and operated gaming facilities:

A. Bingo Manager - $50.00

B. Key Employee - $20.00

C. General Employee - $15.00

D. Primary Management Official - $20.00

E. Facility License - $20.00

Section 303. Consolidation of License Hearings

The Board may, by order, consolidate some or all of the license hearings pending in which either the same person or entity is applying for more than one license or type of license, or different persons are applying for one or more types of licenses for one location.

Section 304. Hearing Procedure

The Board shall have power to determine its own rules of procedure, not inconsistent with this Title, in its conduct of licensing hearings and other investigations.

Section 305. License Applications

Applications for licenses shall be made in writing in such form as the Board shall by rule provide, subject to the following requirements:

A. Application Forms

1. The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

> In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need

for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe's being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

2. Existing key employees and primary management officials shall be notified in writing that they shall either:

a. Complete a new application form that contains a Privacy Act Notice; or

b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

3. The following notice shall be placed on the application form for a key employee or a primary official before that form is filled out by an applicant.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment.
(U.S. Code, title 18, section 1001.)

4. The Tribe shall notify in writing existing key employees and primary management officials that they shall either:

a. Complete a new application form that contains a notice regarding false statements; or

b. Sign a statement that contains the notice regarding false statements.

B. All individuals to be licensed in any capacity shall submit at a minimum:

1. a complete resume

2. their social security number

3. a statement as to whether the individual is a member, or Relative of a member, of the governing body of the Tribe, any other Constitutional or statutory agency or body of the Tribe, or a tribal employee

4. whether the individual has been convicted of any felony, gaming offense, or offense involving moral turpitude

5. all prior experience or contact with Indian gaming enterprises in any capacity, and the gaming industry generally, including specifically the name, address, and telephone number of any regulatory or licensing agency having jurisdiction over or records of such prior actions

6. any previous contact that the individual has had with persons involved with organized crime.

7. a complete statement as to prior arrests, convictions, and civil suits whether as plaintiff or defendant, including the name of the court, the style and number of the case, a description of the claims by each of the parties, and the outcome. Whenever possible, the final judgment, and opinion if available, of the Court should be attached to the application.

8. A complete financial statement showing assets, liabilities, net worth, all debts owed and leases exceeding a term of one year, and including specifically any financial agreements made relative to the gaming operation with any person.

C. Non-individuals to be licensed in any capacity shall submit at a minimum:

1. A complete statement as to the form of the organization, including copies of its governing documents and the name, address, and telephone number of the governmental body having copies of such records on file or responsible for oversight of the organization

2. A complete certified copy of the organizations minute book(s), records relating to ownership, governance, and management of the organization, and a complete list of all owners of equity interests in the organization or other interests convertible to equity interests

3. The organizations federal tax identification number, the address and telephone number of all places at which it has or does conduct business, and the name, address, and telephone of its service agent, if any

4. A statement as to whether any Primary Management Official or Key Employee of the organization is a member, or Relative of a member, of the governing body of the Tribe, any other Constitutional or statutory agency or body of the Tribe, or a tribal employee

5. Whether the organization, or any Primary Management Official or Key Employee of the organization, has been convicted of any felony, gaming offense, or offense involving moral turpitude

6. All prior experience or contact of the organization, its Primary Management Officials and Key Employees, with Indian gaming enterprises in any capacity, and the gaming industry generally, including specifically the name, address, and telephone number of any regulatory or licensing agency having jurisdiction over or records of such prior actions

7. Any previous contact that the organization, its Primary Management Officials and Key Employees, has had with persons involved with organized crime

8. A complete statement as to prior arrests, convictions, and civil suits whether as plaintiff or defendant of the organization, its Primary Management Officials and Key Employees, including the name of the court, the style and number of the case, a description of the claims by each of the parties, and the outcome. Whenever possible, the final judgment, and any opinion if available, of the Court should be attached to the application.

9. A complete list of every other organization with which it is affiliated, including without limitation, a parent, subsidiary, owner of equity interests sufficient to name one person to a managing entity, organization with which the applicant has at least one common director, officer, Primary Management Official, or Key Employee even though the individual's status may not be the same in both organizations.

10. A description of the safeguards the organization has in place to prevent any person from becoming a Primary Management Official or Key Employee of said organization without first obtaining a license from the Bingo Board.

11. The names, addresses, telephone numbers (work and residence), social security number, and complete resume showing every place of employment and residence for the next preceding twenty years of every Primary Management Official and Key Employee of said organization.

D. Applications for a Bingo Facility License must contain at a minimum:

1. A complete legal description of the Bingo Site, including evidence that said Site is within the territorial jurisdiction of the Tribe

2. A complete and accurate description of the Bingo Facility, including where possible blueprints, drawings, floor plans including square footage, utility services, waste services, parking plans, and photographs

3. Evidence that the proposed Bingo Facility complies with national building and fire codes

4. Evidence that the proposed Bingo Facility is insurable against fire and other hazards, and that liability insurance may be obtained to protect the public from hazards which may exist in or around the proposed Bingo Facility.

E. Every application for a license shall be verified under oath or affirmation.

Section 306. Manner Of Filing Instruments With Board

Any document, affidavit, return, report, fee or other instrument or payment required to be filed with, delivered to, or served upon the Bingo Board by this Title shall be deemed to be properly filed, delivered, or served, as the case may be if it is filed, delivered, or served upon the Chairman of the Bingo Board at the Tribal Complex, or such Tribal employee at the Tribal Complex as the Bingo Board shall designate in writing.

Section 307. Issuance of Instruments by Board

Any license, registration form, receipt, or other instrument which the Bingo Board is required or permitted to issue pursuant to this Title, may be issued by the Chairman of the Bingo Board pursuant to the order of the Board, or in such other manner as the Board shall by rule provide.

Section 308. Investigation of License Application

A. Upon receipt of any application forms or of any affidavit or other instrument listing the names of any Primary Management Officials, Key Employees, owners, employees, or other persons involved in Bingo conducted or to be conducted pursuant to this Title, the Bingo Board shall request the Chairman, the Police Chief and the Criminal Investigator to verify that, after due investigation no record can be found of a conviction of any such persons of a felony, a gaming offense, or other crime involving moral turpitude.

B. Background Investigations

1. The Tribe shall request from each primary management official and from each key employee all of the following information:

a. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

b. Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (1) (b) of this section;

d. Current business and residence telephone numbers;

e. A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;

f. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

g. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

i. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (1)(h) or 1(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such

license or permit was granted;

l. A current photograph;

m. Any other information the Tribe deems relevant; and

n. Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).

2. The Tribe shall conduct an investigation sufficient to make a determination under subsection D. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

C. Eligibility Determination

The Tribe shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Tribe determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a Tribal gaming operation shall not employe that person in a key employee or primary management official position.

D. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribe shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection D of this section.

2. The Tribe shall forward the report referred to in subsection F of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

3. The gaming operation shall not employ as a key employee or primary management official a person who does not have a license after 90 days.

E. Report to the National Indian Gaming Commission

1. Pursuant to the procedures set out in subsection E of this

section, the Tribe shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

a. Steps taken in conducting a background investigation;

b. Results obtained;

c. Conclusions reached; and

d. The bases for those conclusions.

2. The Tribe shall submit, with the report, a copy of the eligibility determination made under subsection D of this section.

3. If a license is not issued to an applicant, The Tribe:

a. Shall notify the National Indian Gaming Commission; and

b. May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to key employees and primary management officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

F. Granting a Gaming License

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph G. 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

G. License Suspension Instituted by the Board

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection D. above, the Tribe shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribe shall decide to revoke or to reinstate a gaming license. The Tribe shall notify the National Indian Gaming Commission of its decision.

H. The Bingo Board shall request the Chairman, the Police Chief, and the Criminal Investigator to investigate the accuracy of any information submitted or required to be submitted to the Board pursuant to this Title as may be appropriate.

I. The results of such investigations shall be reported to the Bingo Board, the Tribal Prosecutor, and the Chairman.

Section 309. Issuance of Licenses

Whenever it appears to the Board upon investigation that a proposed license would be consistent with the Act, this Title, and the public interest, it shall issue the requested license after thirty days notice of intent to issue said license to the Chairman unless, during the notice period, the Board is directed by the Commission to delay issuance of said license for further investigation. It shall be a condition of said licenses that the licensee or the proponent of the license notify the Bingo Board in writing within working 72 hours of any event which would change any of the answers or information submitted with their license application.

Section 310. Suspension and Revocation of Licenses by the Board

Whenever it appears that a holder of a license is not eligible to hold that license, or that the holder of a license is

in violation of the Act, this Title, or other applicable Tribal law, or that continued licensing of the licensee would pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of Bingo, the Board may suspend and after a hearing cancel such license.

Section 311. <u>Persons not Eligible for Licensing</u>

No license may be approved if:

A. a person:

(1) is an elected member of the governing body of the Tribe;

(2) has been or subsequently is convicted of any felony or gaming offense;

(3) has knowingly and willfully provided materially important false statements or information to the Commission or the Tribe pursuant to the Act or this Title, or has refused to respond to a subpoena issued pursuant to this Title; or

(4) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

B. A management contractor:

1. has or has attempted to unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

2. has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act; or

a person is otherwise not eligible for licensing under the Act or this Title.

Section 312. <u>Term of Licenses</u>

Every license shall be valid for a term of one year.

Section 313. Renewals

Every license shall be renewable upon request in such form as the Bingo Board shall by rule determine, provided that the renewal request shall specifically identify any changes in the renewal applicant's original license application or renewal license application, as the case may be, since the issuance of said license, and the renewal applicant shall pay a renewal fee established by the Board not to exceed 3/4 of the fee for the original issuance of the license to be renewed.

CHAPTER FOUR
TRIBAL BINGO

Section 401. **Establishment of Bingo Operation(s)**

There is hereby established a Tribal Bingo Operation for each county and incorporated city or town within the Tribal jurisdiction which shall be a body corporate of the Tribe and which shall have the authority to conduct Bingo Games and sessions within the jurisdiction of the Tribe under the terms and conditions herein or hereafter prescribed by law.

Section 402. **Commencing Operations**

No Bingo Operation may begin operations except upon written resolution by the Council which shall provide for (1) the name in which the particular Bingo Operation is to be conducted, (2) the method of management, (3) the particular Bingo Site upon which Bingo Games will be conducted, and (4) the beginning date. Every such resolution shall be delivered promptly to the Bingo Board.

Section 403. **Tribe to be Sole Proprietor**

The Tribe will have the sole proprietary interest and responsibility for the conduct of bingo within its jurisdiction as provided in this Title and the Act. Tribal Bingo Operations shall never issue any capital stock.

Section 404. **Use of Net Revenue**

A. The portion of the Revenue belonging to the Tribe as a result of any gaming operation is not to be used for any purposes other than:

(1) to fund Tribal government operations and programs,

(2) to provide for the general welfare of the Tribe and its members, or

(3) to promote Tribal economic development, or

(4) to donate to charitable organizations, or

(5) to help fund operations of local government agencies.

B. In order to adequately account for the portion of the Revenue belonging to the Tribe as a result of any gaming operation, the Treasurer shall deposit all such Revenue in a separate account, identified as such, and all such Revenue shall be expended only upon authority of a Resolution appropriating such funds for one or more of the purposes identified in subsection A of this section.

C. No per capita payment of such Revenues may be made.

Section 405. Administration and Regulations by Tribal Subdivision

Except for those Bingo Operations managed via Contractors, each separate Tribal Bingo Operation shall be administered by the Kaw Economic Development Authority sitting as its Board of Directors and regulated by the Bingo Board as provided for and to the extent of the Act, and the Commission. All Bingo Operations shall be subordinate agencies of the Tribe.

Section 406. Designation of the Bingo Manager

The Council may appoint and employ one individual person for each Tribal Bingo Operation who shall be designated the Manager of the particular Bingo Facility. In order to enter into employment, said Manager must obtain a Bingo Manager's License from the Bingo Board.

Section 407. Powers and Miscellaneous Provisions

Each Bingo Operation shall have the following powers which it may exercise consistent with the purpose for which it is established:

(a) To have perpetual succession by its corporate name.

(b) To sue in its corporate name, and to be sued where sovereign immunity has been waived by tribal law.

(c) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to beimpressed or affixed or in any other manner reproduced.

(d) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated, when useful to its conduct of Bingo Games, provided, that title to any real property acquired by such corporation shall be taken in the name of the United States of America in trust for the Tribe with the approval of the Secretary of the Interior. Such acquisition shall be made with the prior notice to the Council. At the time of such acquisition, the Tribe shall lease or patent such real property to the Bingo Operation for business purposes for a period of twenty-five (25) years with an option to renew such lease or revocable patent for an additional period of twenty-five (25) years or such other maximum period as may be authorized by Tribal law. The consideration received for exercising the option for the additional twenty-five (25) year term shall be One Dollar ($1.00). The rights

created by such lease or patent shall be enforceable in the Tribal Court against the Tribe not withstanding the defense of sovereign immunity, and the lease or revocable patent shall be considered a contract and property right which may not be abridged by the Tribe without just compensation.

(e) To enter into agreements, contracts, and undertakings with any governmental agency, tribal, federal, state, or local or with any person, partnership, corporation, and to agree to any conditions attached to federal financial assistance.

(f) To lend money and use its credit to assist its employees.

(g) To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the Bingo Operation may determine not inconsistent with this Title, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgages or pledge of all or any of its property or investments.

(h) To lease property from or to the Tribe and others for such periods as are authorized by law, and to hold and manage or sublease the same.

(i) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same.

(j) To pledge the assets, other than real property, as security for debts and to acquire, sell, lease, exchange, transfer or assign personal property or interest therein.

(k) To make rules and regulations regarding its activities pursuant to this Title as the Bingo Operation may deem necessary and desirable to effectuate the powers granted by this Title. Provided, that all such rules and regulations shall be filed for record in the tribal Secretary's office and the Tribal Court Clerk's office and approved by the Council prior to being given any force or effect.

(l) To purchase insurance from any stock or mutual company for any property or against any risk or hazards, and the sovereign immunity of the Bingo Operation is hereby waived to the limit of the scope and extent of such insurance as may be in force as to any claim payable by such insurance.

(m) To invest such funds as are not required for immediate disbursements.

(n) To establish and maintain such bank accounts as may be necessary or convenient, subject to audit by tribal

officials.

(o) To employ such officers as may be necessary or convenient, and to employ technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Bingo Operation may require, to establish the conditions of their employment, and to delegate to such officers and employees their powers or duties.

(p) To take such further actions, not inconsistent with this Title, as are commonly engaged in by public or corporate bodies of this character.

(q) To enter into partnerships, joint ventures, and other business arrangements with any legal entity to effectuate the purposes of the Bingo Operation.

(r) To adopt such rules and regulations for the government of its internal affairs as the Operation deems necessary or appropriate to administer or enforce this Title and its activities thereunder, Provided, that all such rules and regulations shall be filed for record in the Tribal Secretary's office and the Tribal CourtClerk's Office and approved by the Council prior to being given any force or effect.

(s) To operate, manage, use, and control, including entering into leases as herein before provided, such real or personal property which the Council shall assign to its use.

(t) To use such name as may be approved by the Council in any of its business activities within or without the tribal jurisdiction, and to incorporate or hold stock in such other corporations as may be necessary or convenient.

(u) To exercise, in conformity with Tribal law, the power of eminent domain excepting land or interest therein held by any other agency of the Tribe, in order to further the purposes and powers express in this Title.

(w) To operate Bingo Games in the manner provided for by this Title at a particular Bingo Facility and Site approved by the Council.

Section 408. Duties of the Bingo Manager

It shall be the duty of the Bingo Manager to manage and conduct all Bingo Games of the Tribal Bingo Operation in a fiduciary capacity to maximize the Revenues of said operation, to cause to be prepared and submitted to the Council such reports as

may be required by law, to account for all monies and property entrusted to the Tribal Bingo Operation, to collect and pay over all taxes due the Tribe and all assessments due the Commission and the Bingo Board, and to perform any other duties as may be required by law.

Section 409. Supplies and Equipment

Subject to the approval of the Council, the Manager may incur such expenses and purchase such equipment as may be necessary for the conduct of the Tribal Bingo Operation. All equipment purchases shall be the property of the Tribe.

Section 410. Location of Bingo Sessions

All games and sessions of Bingo conducted by a Bingo Operation shall be conducted at a Bingo Facility approved by the Tribe within the territorial jurisdiction of the Tribe for that Bingo Operation.

Section 412. Report of Winners

The Bingo Manager shall file with the Treasurer a list of each winner or winners of any game of Bingo at each session of Bingo. The list shall be itemized by session and game and shall include the name of the winner, the address of the winner, the social security number of the winner, the amount or fair market value of the prize won, and the method of identification from the driver's license or other acceptable identification of the winner prior to issuing the prize to the winner. It shall be the duty of the Manager to comply with 25 U.S.C. § 2719(d).

Section 413. Report of Receipts and Disbursements

The Bingo Manager shall file with the Treasurer a verified report of all receipts and disbursement of all funds relating to said Bingo games or sessions. At the time of filing said report, the Manager shall deposit with the Treasurer the Net Revenues of the Bingo Operation for the reporting period. Such report shall contain an itemized list of all Gross Receipts from Bingo Games conducted, Concessions, and any and all related activities. Such reports shall also contain an itemized list of all disbursements including but not limited to Operating Costs, Equipment Costs, Facilities Costs, materials, supplies, and equipment furnished and prizes paid.

Section 414. Verification of Report

The Bingo Manager shall verify the accuracy of each report submitted to the Treasurer.

Section 415. **Time for Submission of Reports**

Unless the Council shall by rule require reports from the Bingo Operation on a monthly basis, the Bingo Manager shall submit reports for each week not later than the close of business on Wednesday of the next week after the Bingo games or session to be reported.

Section 416. **Deposit of Bingo Monies**

A. The Manager shall deliver all monies received, less amounts retained for petty cash, the bank(s), and other cash funds approved by the council, on a same day basis to the Tribal Treasurer. The Treasurer shall issue a written receipt for said monies to the Manager.

B. The Treasurer shall deliver all monies received from the Bingo Operation to the Accounting Office on a same day basis for deposit in the Tribal Gaming Funds Account. The Accounting Office shall issue a written receipt for said monies to the Treasurer.

C. The Accounting Office shall deposit said monies in the special gaming account required by this Title on a same day basis.

Section 417. **No Tribal Liability**

Neither the Tribe, nor its officers, agents, or agencies, shall be responsible for the debts or liabilities of any Bingo Operation, it being the intent of the Council that each Bingo Operation shall be a corporate entity solely responsible (with its Contractor when provided for by contract) for its own debts, torts, and other liabilities, and subject to suit in its own name to the extent explicitly provided for by this Title.

Section 418. **Appropriations for Bingo Operation**

The Council may appropriate such sums as may be necessary for the function of the Bingo Operation based upon a written budget request submitted by the Manager through the Treasurer. The Council shall not be bound by any requested budget when making such appropriations.

Section 419. **Employee Grievances**

Any employee of a Tribal Bingo Operation aggrieved by a decision of the Manager or Contractor with respect to promotion, retention, termination, or violations of the Bingo Operation's personnel policies may appeal such decision to the Court naming the Manager or Contractor and the Bingo Operation as the sole defendants. In such cases, the Court may grant declaratory and injunctive relief against the Manager, Contractor, or Bingo Operation as may be appropriate.

CHAPTER FIVE
MANAGEMENT CONTRACTS

Section 501. **Appointment of Contractor**

In lieu of hiring and appointing a Manager for a particular authorized Bingo Operation, the Council may enter into an Agreement with a Contractor to provide for the management and administration of that Bingo Operation upon such terms and conditions not inconsistent with the Act or this Title as the Council may deem appropriate.

Section 502. **Duties of the Contractor**

It shall be the duty of the Contractor:

A. To manage and conduct all Bingo Games of the Bingo Operation for, which the Contractor has management responsibility in a fiduciary capacity to maximize the Revenues of said Bingo Operation, to cause to be prepared and submitted to the Council such reports as may be required by law or contract, to account for all monies and property entrusted to the Bingo Operation for which the Contractor has management responsibility, to collect and pay over all taxes due the Tribe, and all assessments due the Commission, and to perform any other duties as may be required by law or contract.

B. To perform all the duties of a Manager imposed by law.

Section 503. **Requirements for Management Contracts**

Every Agreement for the management of a Tribal Bingo Operation shall provide:

A. for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the tribal governing body on a monthly basis;

B. for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

C. for a minimum guaranteed payment to the Tribe that has preference over the retirement of development and construction costs;

D. for an agreed ceiling for the repayment of development and construction costs;

E. for a contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may

authorize a contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied that the capital investment required, and the income projections, for the particular gaming activity require the additional time; and

F. for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

And every Agreement with a Contractor for the management of a Bingo Operation shall be deemed to contain said provisions whether or not such provisions are reproduced in said management contract.

Section 504. Licensing Required

No Contractor may enter into its duties until it has satisfied all applicable licensing requirements for a Contractor License, a Facility License, and licenses for its Primary Management Officials and Key Employees. General Employee licenses shall be secured before new employees are allowed to actually begin work.

Section 505. License Locations

The Tribe shall issue a separate license to each place, facility, or location on Indian lands where Class II gaming is conducted under this ordinance.

CHAPTER SIX
NONPROFIT BINGO

Section 601. **Licensing of Certain Nonprofit Organizations**

The clerk of the Court shall be authorized to issue a license to conduct bingo games to any organization that is a bona fide religious, charitable, labor, fraternal, educational organization or any branch, lodge, chapter or auxiliary thereof or any veterans' or firemen's organization which operates without profit to its members, and provided that such organization has been in existence for not less than two (2) years prior to making application for license and is exempt from tax under paragraphs (3), (4), (5), (6), (7), (8), and (19) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, if no part of the receipts derived from such activity, except actual expenses incurred in the conduct thereof, is to inure to the benefit of any individual shareholder, member or employee of the organization, except as compensation for actual expenses incurred by him in the conduct of such activity and provided that such game is conducted or operated by the officers, employees or members of such organization without compensation therefor other than that to which the officer, employee or member is entitled for the performance of his regular duties, and not by agreement or contract with any other person or organization for which any consideration or compensation is provided.

Section 602. **License Not to be Leased or Assigned--Persons Selling Concessions to Obtain Sales Tax Permit**

The license to conduct a Bingo Game shall not be leased or assigned to a commercial establishment. Provided, persons selling food, drink or any other concession items at any location at which Bingo Games are authorized under the provisions of this chapter shall be required to obtain a sales tax permit pursuant to the provisions of the Tribal tax laws prior to such sale.

Section 603. **Application for License--Form--Information Required--Fees--Renewals--Protests--Lease, Assignment or Sale of License Prohibited--Felons**

Any organization or association may apply to the clerk of the Court for a license to conduct Bingo Games. The application shall be on such form as designed by the Judges of the Courts and shall state sufficient facts to enable a determination as to whether the license should be issued. Except in the case of churches which are naturally immune from taxation according to the Internal Revenue Code, said application shall be accompanied by a copy of the Tribal sales tax permit in the name of the organization, a copy of a letter or other certificate from the Internal Revenue Service wherein it is recognized that the applicant or parent organization or association of the applicant is a nonprofit organization and

exempt from payment of federal income taxes, a copy of the minutes of a meeting of such applicant designating current officers of such organization or association and their terms of office; a copy of the minutes of a meeting of such applicant authorizing the application for a bingo license; a certified copy of the applicant's articles of incorporation or corporate trade name report or the organizations constitution and bylaws, if unincorporated under Section 501(c)(5) of the Internal Revenue Code; and a copy of the federal identification number of the applicant or of the parent organization or association of the applicant. Said application shall state that the applicant is an organization or association which has been in existence for longer than two (2) years continuously immediately preceding the date of such application; that it proposes to conduct bingo at a specific location and setting forth such location, provided, no more than three licenses may be issued for any one location or building. Except that different organizations may conduct bingo at a single location for pot to exceed six (6) days a week, however, bingo shall not be conducted more than two days in a given week on a single license, no license shall be issued if a license has previously been issued and has not expired or been revoked pursuant to the provisions of this chapter for the location specified in the application; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such games except when the recompense will be paid to any person for conducting such games except when the conducting of such games is only incidental to the regular employment of employees of such organization; that the applicant will abide by all the provisions of this chapter. Said application shall also state the name and address of some person authorized to receive notice in behalf of said licensee. All of the requirements provided for in this section shall be sworn and attested to by a designated principal officer of said non profit organization or association or by the attorney of record for the organization or association. The applicant applying for such license shall pay to the court clerk a fee of Thirty Dollars ($30.00) for the issuance of the initial license. At the end of one (1) calendar year from the date of the issuance of the initial license, the licensee shall renew such license for a period of one (1) year. A charge of Seven Dollars and fifty cents ($7.50) per year shall be charged for the issuance of such renewal license. All such fees shall be deposited in the court fund. Upon application being filed, the court clerk shall give five (5) days' notice by causing the same to be posted on the front of the building in which such bingo games are to be conducted. A copy of said notice shall be mailed to the district attorney, the sheriff and the chief of police or marshall of any city or town in which said bingo games are to be held and the Bingo Board. Said notice shall contain the name of the applicant and the location of said place of business and the time and place the said clerk will act upon said application. If there are no protests and the application is sufficient on its face, then said license shall be granted by the court clerk. Provided, that if any citizen of

the county or member of the Tribe files a written protest setting forth objections, then the court clerk shall advise the chief judge who shall hear the application or assign such application to a district judge or associate district judge or special judge for hearing. Said hearing shall be held within thirty (30) days and after due notice. The application for such license must be in writing and verified by the presiding officer of the applicant organization. All testimony before the tribal court shall be under oath.

A license granted pursuant to the provisions of this section shall not be leased, assigned, sold or transferred to any other organization, person or entity of any nature and no bingo game shall be administered or conducted pursuant to the provisions of this chapter except by the organization to which a license has been issued.

An applicant organization shall be denied a license if any officer of the organization has been convicted of a felony, gaming offense, or crime involving moral turpitude pursuant to the laws of the United States, any Indian tribe, or any state.

Section 604. Annual Report--Contents--Other Reports

Prior to April 1 of each year, every organization which has conducted bingo games pursuant to the provisions of this Chapter shall file a report with the Tribal Tax Commission on forms provided by the Tribal Tax Commission. The report shall contain the following information:

1. The gross receipts received by the organization in conducting the bingo games;

2. The amount of the gross receipts given or to be given to the purpose represented by the organization;

3. The aggregate amount paid or to be paid for the expenses of conducting the bingo games; and

4. Any other information required by the Tribal Tax Commission.

An organization which maintains its books on other than a calendar year basis, upon application to the Tribal Tax Commission, may be permitted to file its report within ninety (90) days after the close of its fiscal year. The report when filed shall be a public record in the Office of the Tribal Tax Commission.

Section 605. **License Fees Not Required for Limited Activity**

Any organization qualifying under the provisions of this chapter which conducts bingo activities three times or fewer per year shall, upon filing of a verified application with the court clerk, signed by the executive officer of said organization setting forth that said organization shall conduct bingo activities three times or fewer per year and the dates and times and location wherein such activities shall occur, shall be exempt from the payment of any license fees provided in this chapter; provided, however, that such organization shall be subject to all other provisions of this chapter.

Section 606. **Revocation of License**

The Tribal Prosecutor may file a petition in the Tribal court to revoke the license of any licensee alleging the violation by the licensee, its agents, officers or employees of any of the provisions of this Title. Thereafter, following at least ten (10) days' notice by certified mail to the person designated to receive such notice in the application filed to obtain the license sought to be revoked, the Court, sitting without jury, shall hear said petition and enter its order thereon. If said license is revoked, said licensee shall not be permitted to reapply for another license hereunder for a period of one (1) year from date of revocation. Provided that notwithstanding any other provisions of this chapter, any licensee whose license has been previously revoked one time shall pay the sum of One Hundred Fifty Dollars ($150.00) as renewal fee and the sum of Three Hundred Dollars ($300.00) for any renewal following a second or subsequent revocation.

Section 607. **Limitation on Applicants**

No applicant whose existence as an organization is less than two (2) years shall be granted a license.

Section 608. **Payment of Commissions, Salaries, etc. Prohibited Exception**

No licensee shall pay any commission, salary, compensation, reward or recompense to any person for conducting bingo except when such conducting is only incidental to the regular employment of such employees of such licensees, and in no event shall commission, salary, compensation, reward or recompense, either directly or indirectly, be based upon a percentage of the receipts accruing to such licensee by virtue of such bingo operation. Provided, that employees of a nonprofit organization may be paid a fair and reasonable wage for their actual time spent conducting bingo.

No licensee shall employ in any capacity a person who has been convicted of a felony, gaming offense, or crime involving moral turpitude pursuant to the laws of the United States, any Indian tribe, or any state.

Section 609. Fair and Reasonable Rental for Premises

No licensee shall pay more than the fair and reasonable rental value for premises rented or leased for the purpose of conducting bingo. In no case shall such fair and reasonable rental value be based on a percentage of the receipts accruing to such licensee by virtue of such bingo operation.

Section 610. Sunday Bingo Prohibited--Hours

No bingo shall be conducted by any licensee on the first day of the week, commonly known and designated as Sunday. No bingo shall be conducted between the hours of midnight and 10:00 a.m. on weekdays.

Section 611. Limitation on Sessions and Prizes

No licensee may conduct more than one session per day, each session not to exceed thirty bingo games per session nor may any licensee conduct bingo games in excess of two (2) days per week. At each location each day, a single game of bingo shall not be conducted pursuant to more than one license. No prize greater in the amount or value than Five Hundred dollars ($500.00) shall be offered or given in any single game of bingo conducted under any such license and the aggregate amount of all prizes offered or given in all games played in a single session under any such licensee shall not exceed Three Thousand Dollars ($3,000.00)

Section 612. Intoxicating and Non-intoxicating Beverages Prohibited

No licensee shall sell, serve or permit to be consumed any intoxicating and nonintoxicating beverages as defined in the laws of Oklahoma in any room or outdoor area where bingo is conducted during the time that it is so conducted.

Section 613. License Required--Admission Charges

A. No person, except a licensee operating pursuant to this chapter shall conduct any game of bingo for which a charge is made.

B. No licensee shall collect an admission charge for admittance to the premises where any game of bingo is conducted.

Section 614. Minors

No minor shall be permitted to play bingo unless accompanied by a parent or guardian except when such game of bingo is conducted by an organization exempt from the license fee as provided by Section 404 hereof.

Section 615. Discrimination Prohibited

No licensee shall practice racial or sex discrimination at any game of bingo.

Section 616. Penalties

Any violation of this chapter is hereby declared to be a public nuisance. Any person violating the provisions of this chapter except as otherwise provided in this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by confinement in the Tribal jail for a period of time not to exceed one (1) year and by a fine of not less than Two Hundred Dollars ($200.00) and not more than Two Thousand Dollars ($2,000.00), or by both such fine and imprisonment.

Section 617. Additional Licensing Requirements Imposed by the Act

A. Not less than 60 percent of the net revenues of such nonprofit bingo shall be paid over to the Tribal Treasurer's office for deposit in the Tribe's bingo revenue account.

B. The income to the Tribe from nonprofit gaming must be used only for the same purposes as other gaming income under the Act.

C. The Operator of the nonprofit bingo shall pay an appropriate assessment to the Commission as required by the Act.

CHAPTER SEVEN

Section 700. Repeal

To the extent that they are inconsistent with this ordinance, all prior gaming ordinances are hereby repealed.