United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

TAKE PRIDE IN AMERICA

OCT 14 1993

Honorable John W. Steele
President
Oglala Sioux Tribe
Pine Ridge, South Dakota 57770

Dear President Steele:

On August 30, 1993, we received the compact between the Oglala Sioux Tribe (Tribe) and the State of South Dakota (State), dated August 25, 1993.

We have completed our review of your Tribe's 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 my delegated authority and Section 11 of the 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.

Notwithstanding our approval of the Compact, be advised that Section 11(d)(1)(A) of the IGRA, 25 U.S.C. § 2710(d)(1)(A), requires that gaming cannot be conducted without a tribal gaming ordinance approved by the Chairman of the National Indian Gaming Commission (NIGC). On July 8, 1992, the NIGC published in the FEDERAL REGISTER proposed regulations to govern the approval of Class II and Class III gaming ordinances. The final regulations were published in the FEDERAL REGISTER on January 22, 1993 (58 Fed. Reg. 5802), and became effective on February 22, 1993. Pursuant to the IGRA and the regulations, even previously existing gaming ordinances must be submitted to the NIGC for approval when requested by the Chairman.

Some tribal constitutions have an independent requirement that certain types of tribal ordinances be submitted to the Secretary of the Interior for approval before being effective. Article IV, Section 4 of the Constitution of the Oglala Sioux Tribe appears to require Secretarial review of certain resolutions or ordinances. If the Tribes' gaming ordinance falls within the scope of this section, BIA approval must be had. Authority to approve such ordinances on behalf of the Secretary has been delegated to the Superintendent.

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In addition, if the Tribe intends to enter into a management contract for the operation and management of the Tribe's gaming facility, the contract must likewise be submitted to, and approved by the Chairman of the NIGC pursuant to Section 11(d)(9) of the IGRA, 25 U.S.C. § 2710(d)(9) and the NIGC's regulations governing management contracts. The Tribe may want to contact the NIGC at (202) 632-7003 for further information on submitting the ordinance and the management contract for approval by the NIGC.

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

Sincerely,

/S/ Marshall M Cutsforth

Ada E. Deer
Acting For Assistant Secretary - Indian Affairs

Enclosures

Identical Letter Sent to: Honorable Walter D. Miller
Governor of South Dakota
State Capitol
500 East Capitol
Pierre, SD 57501-5070

cc: Aberdeen Area Director w/copy of approved Compact
Supt., Pine Ridge Agency w/copy of approved Compact
National Indian Gaming Commission w/copy of approved Compact
Twin Cities Field Solicitor w/copy of approved Compact
South Dakota United States Attorney w/copy of approved Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Oglala Sioux Tribe and the State of South Dakota Gaming Compact of 1993, which was enacted on August 25, 1993.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: October 14, 1993.

Ada E. Deer,

Acting for Assistant Secretary—Indian Affairs, Marshall M. Cutsforth.

[FR Doc. 93–26508 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–02–P

GAMING COMPACT

BETWEEN THE

OGLALA SIOUX TRIBE

AND THE

STATE OF SOUTH DAKOTA

IGMS
RECEIVED
8-30-93

GAMING COMPACT
BETWEEN THE
OGLALA SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

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GAMING COMPACT
BETWEEN THE
OGLALA SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

This Agreement is made and entered into as of the 25th day of August, 1993 by and between the Oglala Sioux Tribe (Tribe), and the State of South Dakota (State).

RECITALS

WHEREAS, the Tribe is a federally recognized Indian Tribe; and

WHEREAS, the State has, through constitutional provisions and legislative acts, authorized limited gaming activities to be conducted in South Dakota; and

WHEREAS, the Congress of the United States has enacted the Indian Gaming Regulatory Act (IGRA), Public Law 100-497, 102 Stat. 2426, 25 U.S.C. § 2701, et seq. (1988) which permits Indian tribes to operate Class III gaming activities on Indian reservations pursuant to a Tribal-State Compact entered into for that purpose; and

WHEREAS, the Tribe intends to operate gaming activities on the Pine Ridge Reservation in South Dakota; and

WHEREAS, the Tribe and the State desire to negotiate a Tribal-State Compact to permit the operation of such gaming activities; and

WHEREAS, a measure whereby the South Dakota Legislature increased certain of its gaming limits has been referred to a vote of the people of the state, and election thereon is scheduled for September 14, 1993, and it is appropriate to address alternative contingencies in a Tribal-State compact under such circumstances;

NOW, THEREFORE, in consideration of the foregoing, the Tribe and the State do promise, covenant, and agree as follows:

1. DECLARATION OF POLICY.

In the spirit of cooperation, the Tribe and the State hereby set forth in joint effort to implement the terms of the Indian Gaming Regulatory Act (IGRA). The State recognizes the positive economic benefits that gaming may provide to the Tribe. The Tribe and the State recognize the need to insure that the health, safety and welfare of the public and the integrity of the gaming industry in South Dakota is protected.

2. PURPOSE AND SCOPE OF COMPACT.

This Compact and the Tribe's gaming regulations and ordinances shall govern the regulation and operation of gaming on the Pine Ridge Reservation. The purpose of this Compact is to provide the Tribe with the opportunity to operate gaming activities in a manner that will benefit the Tribe economically, that will insure fair operation of the games, and that will minimize the possibility of corruption.

3. TYPE OF GAMING PERMITTED.

3.1 Games. The Tribe shall operate blackjack, poker and slot machines pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances. The Tribe shall be permitted to operate such other gaming as may be authorized by state law after the date of the signing of this Compact, upon written amendment of this agreement.

3.2 Definition of Games. For the purposes of this Compact, the terms "blackjack," "poker" and "slot machines" are defined in South Dakota Codified Laws 42-7B-4(3), (18), (21), respectively, except that the term "slot machines" does not include "video lottery machines" as defined by SDCL 42-7A-1(13).

4. OPERATION OF GAMING.

4.1 Tribal Ordinances and Regulations. The Tribe shall operate its gaming activities pursuant to this Compact and the ordinances and regulations enacted by the Tribe, which ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in Ch. 42-7B and ARSD 20:18, et seq. All such ordinances and regulations shall be made available to the State.

4.2 Tribal Gaming Commission. The Tribe shall appoint a Tribal Gaming Commission which shall supervise the gaming activities, issue licenses as provided herein, inspect all premises where gaming is conducted and otherwise be responsible for enforcing the Tribe's Gaming Act and regulations. The Tribe shall furnish the State with copies of such ordinances and regulations and shall advise the State of any amendment, revision or rescission of the gaming regulations. The Tribe agrees that in no event shall it amend, revise or rescind any gaming regulations which would result in the tribal regulations being less stringent than the statutes and rules adopted by the State of South Dakota.

4.3 Scope of Tribal Gaming Commission Responsibility. The Tribal Gaming Commission shall have primary responsibility for the supervision and regulation of gaming on the Pine Ridge Reservation. This shall include, but not be limited to, the licensing of gaming employees and the inspection and regulation of all gaming devices. Any discrepancies in the gaming operation and any violation of Tribal Gaming Commission regulations and rules or this

Compact shall be immediately reported to the Tribal Gaming Commission and the South Dakota Commission on Gaming for appropriate action by the Tribal Gaming Commission pursuant to the terms of this Compact.

4.4 Location of Class III Gaming Activities. Unless and until the parties agree in writing otherwise, all Class III gaming activities contemplated by this compact shall be conducted at the following location: The Northwest quarter (NW 1/4) of section fifteen (15), Township thirty-seven North (T 37 N), Range forty-eight West (R 48 W) of the 6th Principal Meridian, in Shannon County, South Dakota, a tract within the boundaries of the Pine Ridge Reservation, held in trust for the Oglala Sioux Tribe by the United States government.

4.5 Disciplinary Action for Misconduct by Licensees. Any suspected violation of any law or rule, adopted in the State/Tribal Compact, shall be reported to the Tribal Gaming Commission and the South Dakota Commission on Gaming. If either the State or the Tribe concludes that a violation has occurred, the violation will be addressed by the Tribe within five (5) days. If the executive director of the South Dakota Commission on Gaming concludes that the disciplinary action undertaken by the Tribal Gaming Commission is inadequate, a more severe penalty shall be imposed by the Tribal Gaming Commission as requested by the executive director of the South Dakota Commission on Gaming.

5. LAW ENFORCEMENT.

Criminal proceedings arising from conduct related to the gaming activities which are the subject of this compact or arising on the premises where such gaming is conducted shall be investigated and prosecuted on the following basis: Criminal proceedings against defendants who are members of the Oglala Sioux Tribe shall occur in tribal court. Criminal proceedings against defendants who are nonmembers shall be prosecuted in state court. Nothing contained in this provision shall deprive the federal courts of any jurisdiction which they might otherwise have.

6. CIVIL JURISDICTION (OTHER THAN APPEALS FROM THE TRIBAL GAMING COMMISSION).

6.1 Forums for Proceedings. Cases involving only tribal members shall be heard in tribal court. Any civil case in which a party is not a member of the Oglala Sioux Tribe shall be heard in state court. The parties may stipulate that an action may be heard in another court.

6.2 Limitations. It is understood by the parties that the provisions of this paragraph are limited to civil cases arising from transactions related to or arising from gaming conducted on the Pine Ridge Reservation pursuant to this Compact. This provision shall not be construed to be a waiver of the sovereign immunity of the Oglala Sioux Tribe.

7. LICENSING OF GAMING OPERATORS AND EMPLOYEES.

7.1 Operators and Employees Licenses. All individuals who operate or manage a gaming operation on the Pine Ridge Reservation shall be licensed by the Tribal Gaming Commission. All individuals employed to work directly with the gaming operation shall be licensed by the commission.

7.2 Application and Background Investigation Requirements. The Tribal Gaming Commission shall have primary responsibility for the licensing of individuals who operate or manage a gaming operation or who are employed in the tribal gaming operation. Any person seeking to be licensed hereunder shall first submit an application to the Tribal Gaming Commission which application shall include a written release by the applicant authorizing the State to conduct a background investigation of the applicant on behalf of the Tribal Gaming Commission. The State shall agree to conduct an investigation of the applicant on behalf of the Tribal Gaming Commission, upon receipt of the executed release and payment of the fee as provided in the South Dakota Commission on Gaming rules and regulations for such investigations. The State shall provide the Tribal Gaming Commission with a written report regarding each applicant within thirty (30) days of the receipt of the request and fee or as soon thereafter as practical.

7.3 Suitability of Applicants. The Tribal Gaming Commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who is determined suitable by the Tribal Gaming Commission according to tribal ordinance and by the South Dakota Commission on Gaming pursuant to SDCL Ch. 42-7B and the South Dakota Commission on Gaming rules and regulations.

7.4 License Renewals. Because each licensee must, in any case, be relicensed annually, the State agrees not to require additional relicensing of any person to operate, manage or be employed in any gaming operation conducted under the authority of this Compact, provided that the person has obtained the applicable license to operate, manage or be employed in any gaming operation in Deadwood, South Dakota, or any gaming operation conducted under the authority of a compact between the State of South Dakota and any Indian tribe.

7.5 Arbitration of Disagreements. Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure: The dispute shall be determined by a three- (3-) person binding Arbitration Board. One member of the Board shall be selected by the Tribal Gaming Commission, one member shall be selected by the State Gaming Commission, and one member shall be jointly selected by the State Gaming Commission and the Tribal Gaming Commission. Within thirty (30) days of the signing of this Agreement, the parties hereto shall appoint the members to the Arbitration Board for a three- (3-) year term. In the event of death, resignation, or expiration of a term, new members shall be appointed on the same basis as the original members. The Arbitration Board shall determine whether the applicant is deemed suitable, taking into consideration the ordinances and regulations adopted by the Tribal Gaming Commission and the

statutes and rules adopted by the State of South Dakota. The Arbitration Board shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the arbitration decision to federal district court.

8. REGULATORY STANDARDS FOR GAMING ON THE PINE RIDGE RESERVATION.

8.1 Establishment of Standards. In recognition of the valid public policy interests of the State, which are similarly appreciated as desirable by the Tribe, the following regulatory standards are established for gaming operated and played within the federally-recognized boundaries of the Reservation.

8.2 No Credit Extended. All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated with the Reservation, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who actively play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business with the State.

8.3 Minimum Age for Players. No person under the age of twenty-one (21) shall be permitted on the premises where gaming is conducted pursuant to this Compact.

8.4 Technical Standards for Gaming Devices. All gaming machines operated and played within the Pine Ridge Reservation pursuant to this Compact shall meet or exceed the hardware and software specifications set forth by the South Dakota Commission on Gaming and SDCL 42-7B-43 prior to play. Gaming machine prototypes will be tested and approved prior to play by the State according to State procedures and by the Tribe according to Tribal Gaming Commission procedures.

8.5 Approval of Gaming Devices. No gaming device shall be operated on the Pine Ridge Reservation unless:

8.6 Acquisition from Licensed Source. The gaming device is purchased, leased or acquired from a manufacturer or distributor licensed to sell, lease or distribute gaming devices by the State, pursuant to SDCL Ch. 42-7B and ARSD 20:18.

8.7 Testing, Approval and Certification of Devices. The gaming device or a prototype thereof, has been tested, approved and certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a gaming test

laboratory shall be a laboratory agreed to and designated in writing by the South Dakota Commission on Gaming and the Tribal Gaming Commission.

8.8 **Limits on Wagers and Number of Gaming Devices--Alternatives Dependent on State Referendum**. The parties acknowledge that at its regular session in 1993 the South Dakota Legislature amended SDCL Ch. 42-7B, which amendment would significantly increase the limits on wagers and the number of gaming devices permitted per gaming establishment and per individual owner, and provides for even larger numbers of devices in gaming establishments which meet certain lodging and convention facility requirements, and that said legislation has been referred to a vote of the people, and must be approved at an election now scheduled for September 14, 1993, before it becomes effective. Therefore, the parties provide herein for the limits on wagers and the number of devices permitted under this Compact if said legislation is disapproved by South Dakota voters and does not become the law of South Dakota and, in the alternative, for limits on wagers and the number devices permitted under this Compact if said legislation is approved and becomes the law of South Dakota.

8.9 **Limit on Wagers Under Existing State Law**. Until the aforesaid amendment to State law is decided, and thereafter if it is disapproved, the amount of a bet may not be more than Five Dollars ($5) on the initial bet or subsequent bet subject to rules promulgated by the Tribal Gaming Commission. Gaming operations on the Pine Ridge Reservation may offer such higher bet limits as are consistent with the acts of the South Dakota legislature and the regulations of the South Dakota Commission on Gaming and authorized by the Tribal Gaming Commission.

8.10 **Number of Gaming Devices Under Existing State Law**. Until the aforesaid amendment to State law is decided, and thereafter if it is disapproved, the Tribe shall be authorized to operate one hundred eighty (180) gaming devices in tribal gaming establishments to be located on the Pine Ridge Reservation.

8.11 **Correlation to Limits in State Law**. The parties acknowledge that the gaming device limitation of one hundred eighty (180) authorized here corresponds with the ninety (90) gaming devices permitted per individual, in State law. Any increase or decrease of this gaming device limitation contained in State law will automatically result in a proportional increase or decrease in the one hundred eighty (180) gaming devices set forth in this paragraph.

8.12 **Authorization of Additional Gaming Devices**. It is further understood and agreed that an additional seventy (70) approved gaming devices shall be authorized in tribal gaming establishments if the following conditions are met:

8.13 **Time for Evaluation**. Nine (9) months have elapsed since a tribal gaming establishment was open for business.

8.14 **Revenues Required**. That within the last sixty (60) consecutive business days from the day on which nine (9) months have elapsed since a tribal gaming establishment was open for business, seventy-five percent (75%) of the projected adjusted gross revenue (as defined by the

South Dakota Commission on Gaming rules and regulations) per device per day has been realized on the average on all one hundred eighty (180) devices. The projected adjusted gross revenue, for purposes of this calculation, shall be Eighty-five Dollars ($85) per device per day.

8.15 **Limit on Wagers Under Amended Law**. In the event the aforesaid amendment to State law is approved, the amount of a bet may not be more than Twenty-five Dollars ($25) on the initial bet or subsequent bet subject to rules promulgated by the Tribal Gaming Commission. Effective July 1, 1994, said limit is increased to Fifty Dollars ($50), and effective July 1, 1995, said limit is increased to One Hundred Dollars ($100). Gaming operations on the Pine Ridge Reservation may offer such higher bet limits as are consistent with the acts of the South Dakota legislature and the regulations of the South Dakota Commission on Gaming and authorized by the Tribal Gaming Commission.

8.16 **Number of Gaming Devices Under Amended Law**. In the event the aforesaid amendment to State law is approved, the Tribe shall be authorized to operate two hundred forty (240) gaming devices in tribal gaming establishments to be located on the Pine Ridge Reservation without regard to size or nature of any convention facilities the Tribe may construct or operate pursuant to this Compact. In the event the Tribe constructs and operates convention facilities hereunder, then the maximum number of gaming devices which it may operate may be increased as hereinafter provided.

8.17 **Correlation to Limits in State Law**. The parties acknowledge that the gaming device limitation of two hundred forty (240) authorized here corresponds with the one hundred twenty (120) gaming devices permitted per individual, in State law. Any increase or decrease of this gaming device limitation contained in State law will automatically result in a proportional increase or decrease in the two hundred forty (240) gaming devices set forth in this paragraph.

8.18 **Authorization of Additional Gaming Devices**. It is further understood and agreed that an additional seventy (70) approved gaming devices shall be authorized in the tribal gaming establishment if the following conditions are met:

8.19 **Time for Evaluation**. Nine (9) months have elapsed since the tribal gaming establishment was open for business.

8.20 **Revenues Required**. That within the last sixty (60) consecutive business days from the day on which nine (9) months have elapsed since the tribal gaming establishment was open for business, seventy-five percent (75%) of the projected adjusted gross revenue (as defined by the South Dakota Commission on Gaming rules and regulations) per device per day has been realized on the average on all two hundred forty (240) devices. The projected adjusted gross revenue, for purposes of this calculation, shall be Eighty-five Dollars ($85) per device per day.

8.21 **Maximum Number of Devices for Convention Facilities**. In the event the aforesaid amendment to State law is approved, notwithstanding any other provision of this compact, a tribal gaming establishment including a hotel-motel convention facility used and kept

open for the hosting of large groups of guests which has at least fifty (50) rooms which are suitable lodging accommodations and convention facilities with seating for at least four hundred (400) persons is entitled to three hundred sixty (360) gaming devices plus a gaming device for each rental unit if the lodging establishment has over two hundred fifty (250) rental units and is sited on a tract of at least fifty (50) contiguous acres. The maximum number of additional gaming devices authorized under this paragraph is six hundred-forty (640). The parties acknowledge that the gaming device limitations herein correspond with the limitations set forth in SDCL 42-7B-16.1. Any increase or decrease of the gaming device limitation contained in State law will automatically result in a proportional increase or decrease in the gaming device limitation set forth in this paragraph.

8.22 **Maximum Number of Devices.** In the event the aforesaid amendment to state law is approved, the total number of gaming devices available under the various provisions of this compact, including paragraphs 8.16, 8.18 and 8.21 is 950 devices.

8.23 **Replacement Devices**. The Tribe shall be entitled to have up to ten (10) gaming devices to be used to replace gaming devices which are out of service as a result of electronic or mechanical problems. These additional devices are only to be used in such an event and shall not be operated in addition to the maximum number of devices authorized by this provision. Further, these additional devices shall meet the requirements of ¶ 8.7 of this Compact.

8.24 **Inspection of Gaming Establishments**. South Dakota Commission on Gaming agents shall be authorized to inspect (not to include audits) the tribal gaming establishment in accordance with the laws and rules adopted in the Compact.

8.25 **Inspection Procedure**. Any periodic inspection of gaming machines shall only occur if the state inspector is accompanied by a member of the Tribal Gaming Commission, the executive secretary of the Tribal Gaming Commission, or a designee. Any such testing shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and the South Dakota Commission on Gaming shall be notified of all such testing and the results of such testing.

8.26 **Extent and Nature of Inspection**. In addition to the gaming machine inspections authorized above, any inspections of other gaming devices and the tribal gaming establishment by state inspectors shall be limited to a maximum of one hundred twenty (120) hours per year plus travel. These inspections are specifically authorized to be unannounced and may be in the nature of an undercover inspection. The Tribal Gaming Commission and the South Dakota Commission on Gaming shall be notified of the results of such inspections. Any violations detected pursuant to this paragraph shall be enforced consistent with the procedure contained in the above section entitled Disciplinary Action for Misconduct by Licensees.

8.27 **Remedies for Non-Complying Gaming Devices**. Upon inspection pursuant to ¶¶ 8.24-8.26, the State may designate gaming devices which it believes do not comply with tribal

gaming laws. The machine shall immediately be removed temporarily from play or sealed. Within five (5) days of receipt of such written designation, the Tribe shall either:

8.28 **Concurrence with State Findings**. Accept the finding of non-compliance, remove the gaming devices from play, and take appropriate action to ensure that the Tribe, manufacturer, distributor or other responsible party cures the problem; or

8.29 **Arbitration of Disputed Finding**. Contest the finding of non-compliance before the Arbitration Board created pursuant to ¶ 7.5 herein. In the event the Arbitration Board finds that the gaming device is noncomplying, such device shall be removed from play. If permitted by law, either the State or Tribe may appeal the decision of the Arbitration Board to federal district court.

8.30 **Reinstatement of Devices Found Out of Compliance**. Gaming devices removed from play pursuant to this section may be returned to play only after such gaming device comes into compliance with the provisions of ¶ 8.7 herein.

8.31 **Non-Exclusive Remedies**. Nothing in this section shall limit the rights or remedies available to the parties under any other provision of this Compact or under the IGRA.

9. ACCOUNTING AND AUDIT PROCEDURES.

9.1 **Accounting Standards**. The Tribe shall adopt accounting standards which meet or exceed those standards established in Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming.

9.2 **Audits**. The Tribe shall conduct independent audits of the gaming operation and provide copies to the State. At the request of the Tribe and at the Tribe's expense, the State may at its discretion audit the tribal operation.

9.3 **Audit Procedures**. The Tribe shall engage an independent certified public accountant to audit the books and records of all gaming operations conducted pursuant to this Compact and shall make copies of the audit and all current internal accounting and audit procedures available to the State upon written request. The Tribe shall permit the State to consult with the auditors before or after any audits or periodic checks on procedures which may be conducted by the auditors, and shall allow the State to submit written or oral comments or suggestions for improvements regarding the accounting and audit procedures. Within thirty (30) days of receipt of any written or oral comments, the Tribe shall: (a) accept the comments and modify the procedures accordingly; or (b) respond to the comments with counterproposals or amendments.

10. DURATION.

10.1 Effective Date. This Compact shall become effective upon execution by the Governor of the State and the President of the Tribe, approval by the Secretary of the Interior and publication of that approval in the Federal Register pursuant to the IGRA.

10.2 Review, Notice and Extension. The terms of this Compact shall be subject to review at two- (2-) year intervals dating from the effective date of the Compact as set in the previous paragraph. At least one hundred eighty (180) days prior to the expiration of the two- (2-) year period, either party to the Compact may give notice to the other party of provisions they believe require review or amendment. Such notice shall be in writing and shall be sent by certified mail to the Governor of the State or President of the Tribe at the appropriate governmental office. If no notice is given by either party at least one hundred eighty (180) days prior to the expiration of the two- (2-) year period or any subsequent two- (2-) year period, the Compact shall automatically be extended for an additional two (2) years. Upon receipt of notice of provisions that a party believes require review or amendment as set forth in the paragraph immediately above, the parties shall engage in good faith efforts to resolve issues arising relating to such provisions and to any other provisions of the Compact.

10.3 Negotiation and Remedies. The parties shall have until the expiration of the two- (2-) year term of the Compact to negotiate and remedies available under the IGRA shall apply. The State and the Tribe may agree in writing to extend the negotiating period without prejudice to the rights of either party.

10.4 Expiration and Termination. In the event the parties are unable to resolve their differences prior to expiration of the two- (2-) year term of the Compact or to the extension of the negotiating period, whichever comes later, this Compact shall terminate and the parties shall be subject to the procedures provided for in the IGRA. If the parties are able to resolve their differences, they shall sign a new Compact incorporating any revisions they believe necessary and appropriate.

10.5 Termination for Cause. Either party may terminate this Compact upon a substantial breach by the other party regardless of any other provision of this Compact. Upon identification of what either party believes to be a substantial breach of the terms of this Compact, such party shall notify the other party in writing, via certified mail, return receipt requested, as to the nature of the substantial breach. The party issuing the notice of noncompliance shall refrain from terminating this Compact until thirty (30) days have elapsed from receipt of notice of noncompliance by the other party.

10.6 Termination if State Discontinues Legalized Gaming. Notwithstanding any other provisions of this compact, including the paragraph immediately above, it is agreed between the parties that at such time as a matter of South Dakota law the operation of slot machines, poker or blackjack, is criminally prohibited within the state of South Dakota, this compact shall expire and be of no further force with regard to such gaming activity.

11. GENERAL PROVISIONS.

11.1 Application of General Provisions. The following conditions shall be applicable throughout the term of this Agreement:

11.2 Actions to Resolve Disputes. The parties hereto agree that in the event a dispute arises as to an interpretation of the provisions of this Compact in any of the rights, responsibilities or obligations attaching to the parties hereto, either party may commence an action in federal district court for the purpose of resolving such dispute.

11.3 Tribal Reimbursement of State Costs and Expenses. The parties hereto agree that the Tribe will be responsible for the costs incurred by the State and associated with the State's performance of its responsibilities as provided for herein. The intent of this Compact is to provide for the reimbursement of the costs and expenses of the State in performing its responsibilities as provided herein. Unless and until agreed in writing otherwise, the hourly rate to be paid to the State for its services pursuant to this Compact is Thirty Dollars ($30.00). Travel, per diem, and other expenses shall be paid to the Sate at the rates set out in South Dakota Administrative Rules, ARSD 05:01:02. Should the rates set out in the Administrative Rules be changed during the time of this Compact, the rates to be paid to the State shall likewise be altered.

11.4 Form and Means of Notification. Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto may desire or may be required to give to the other party hereto shall be in writing and shall be personally delivered or sent by telegram or first class certified or registered United States Mail, postage prepaid, return receipt requested, and sent to the other party at its address appearing below or such other address as any party shall hereinafter inform the other party hereto by written notice given as aforesaid:

Notice to the Tribe shall be sent to:

Oglala Sioux Tribe
Pine Ridge SD 57770

Notice to the State shall be sent to:

Office of the Governor
500 East Capitol
Pierre SD 57501-5070

11.5 Time of Effect of Notices. All notices, payments, requests, reports, information or demand so given shall be deemed effective upon receipt or if mailed, upon receipt or the

expiration of the third day following the day of mailing, whichever occurs first, except that any notice of change of address shall be effective only upon receipt by the party to whom said notice is addressed.

11.6 **Entire Agreement and Means of Modification**. This agreement is the entire Agreement between the parties and supersedes all prior agreements whether written or oral, with respect to the subject matter hereof. Neither this Agreement nor any provision herein may be changed, waived, discharged, or terminated orally, but only by an instrument in writing.

11.7 **Execution in Counterparts**. This Agreement may be executed by the parties hereto in any number of separate counterparts with the same effect as if the signatures hereto and hereby were upon the same instrument. All such counterparts shall together constitute but one and the same documents.

11.8 **Non-Assignability**. The State and/or the Tribe may not assign any of its respective right, title, or interest in this Agreement, nor may the State and/or the Tribe delegate any of its respective obligations and duties under this Agreement, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

11.9 **IGRA Remedies and Limitation**. Nothing in this Compact shall be construed to limit the rights or remedies available to the parties hereto under the IGRA except that the Tribe agrees not to bring suit during the life of this Compact for failure of the State to compact for gaming other than as specified in this Compact.

11.10 **Non-Waiver of Sovereignty**. This Compact shall not be construed to waive or diminish the sovereignty of the Oglala Sioux Tribe or the State of South Dakota, except as specifically provided by the terms of the Compact set forth above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

7/28/93

OGLALA SIOUX TRIBE

BY: John Yellow Bird Steele
John W. Steele
President

8/25/93

STATE OF SOUTH DAKOTA

BY: Walter D. Miller
Walter D. Miller
Governor

Marshall M. Cutfinger

Ada E. Deer
Acting For Assistant Secretary - Indian Affairs

OCT 14 1993
Date