United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JAN 27 1999

Honorable Elmer Blackbird
Chairman
Omaha Tribe of Nebraska
P.O. Box 368
Macy, Nebraska 68039

Dear Chairman Blackbird:

On December 14, 1998, we received the Compact between the Omaha Tribe of Nebraska (Tribe) and the State of Iowa (State), dated December 10, 1998. 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 interpret Section 2.2(f) of the Compact to allow the Tribe to engage in sports betting if the Tribe meets one of the exceptions of the Professional and Amateur Sports Protection Act , 28 U.S.C. §§ 3701-3704 (PASPA). PASPA makes it unlawful for a governmental entity, including an Indian tribe, to sponsor, operate or authorize by law or compact, gaming based on the outcome of professional and amateur sports competitions. This prohibition does not extend to parimutuel animal racing or jai-alai games. To be lawful, any prohibited sports gaming pursuant to Section 2.2(f) of the Compact must come within one of the two exceptions in PASPA which are applicable to Indian tribes.

Under the first exception, the general prohibition does not apply to a State or other governmental entity, including an Indian tribe, to the extent that the sports gaming activity was conducted by that State or other governmental entity between January 1, 1976 and August 31, 1990. The second exception establishes two criteria which must be met to authorize an otherwise prohibited

sports betting activity within a State or governmental entity: (1) the activity must actually have been authorized by a statute in effect on October 2, 1991; and (2) the activity must actually have been conducted at some point between September 1, 1989 and October 2, 1991 pursuant to the law of that State or other governmental entity. We are not, however, in a position to verify the factual basis for establishing whether the Tribe comes within one of the two exceptions described above. Therefore, we express no opinion on the matter.

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

Sincerely,

/s/ Kevin Gover

Assistant Secretary - Indian Affairs

Enclosure

Identical Letter Sent to: Kim D. Schmett
Director, Iowa Department of
Inspections & Appeals
Lucas State Office Building
Des Moines, Iowa 50319

cc: Aberdeen Area Director w/copy of approved Compact
Supt., Winnebago Agency w/copy of approved Compact
National Indian Gaming Commission w/copy of approved Compact
Twin Cities Field Solicitor w/copy of approved Compact
Iowa U.S. Attorney-Southern Dist. w/copy of approved Compact
Iowa Dept. of Justice 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 Section 11 of the Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 25 U.S.C. 2710, 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 his delegated authority, has approved the Omaha Tribe of Nebraska and the State of Iowa Gaming Compact, which was executed on December 10, 1998.

DATES: This action is effective on February 8, 1999.

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

Dated: January 27, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–2912 Filed 2–5–99; 8:45 am]

BILLING CODE 4310-02-P

COMPACT BETWEEN THE SOVEREIGN INDIAN NATION OF THE OMAHA TRIBE OF NEBRASKA AND THE SOVEREIGN STATE OF IOWA TO GOVERN CLASS III GAMING ON INDIAN LANDS OF THE OMAHA TRIBE OF NEBRASKA IN IOWA

THIS TRIBAL/STATE COMPACT made and entered into this 10th day of December, 1998, by and between the OMAHA TRIBE OF NEBRASKA, a federally-recognized Indian Tribe acting through its Chairman, the Honorable Elmer Blackbird, and the STATE OF IOWA, acting through the Director of the Department of Inspections and Appeals, Kim D. Schmett.

RECITALS

A. This Compact is made with reference to and in compliance with the Indian Gaming Regulatory Act, and sets forth the procedure and requirements for investigating, licensing and regulating Class III Gaming on Indian Lands.

B. The purposes of this Compact include:

(1) To assure that the Omaha Tribe is the primary beneficiary of the gaming operation and that a minimum of twenty (20) percent of the profits received by the Tribe from the operation of Class III Gaming are used to promote the general welfare of the Tribe;

(2) To protect the health, welfare, and safety of the public;

(3) To assure that the profits derived from Class III Gaming are accurately reported, are transferred to the rightful parties and are used for the purposes intended;

(4) To assure honesty and financial integrity of all

Class III Gaming activities conducted pursuant to this Compact;

(5) To deter any criminality, or the potential for any criminality to occur, and to shield any Class III Gaming activity from any involvement with organized crime or other corrupting influences;

(6) To protect, preserve, and enhance the economic and general welfare of the public and the citizens of both the Omaha Tribe and the State of Iowa;

(7) To develop and implement an effective regulatory scheme for the conduct of Class III Gaming on Indian Lands to assure that such gaming is clean, well-run, and provides safe and fair entertainment for its customers;

(8) To enhance the official government-to-government relationship between the sovereign Indian Nation of the Omaha Tribe and the sovereign State of Iowa and to mutually recognize and re-emphasize the separate sovereign status and governmental powers of both governments;

(9) To provide a basis for the operation and regulation of Class III Gaming by the Omaha Tribe as a means of promoting tribal economic development, self-sufficiency, full employment and strong tribal government, all of which are mutual goals of the State of Iowa and the Omaha Tribe.

Now, therefore, in consideration of these purposes and other good and valuable consideration, the receipt and sufficiency of

which is hereby acknowledged, the Omaha Tribe and the State of Iowa promise, covenant and agree as follows:

1. DEFINITIONS

1.1 The term "Act" means the Indian Gaming Regulatory Act, §§ 2-24, Pub. L. 100-497, 102 Stat. 2425, (codified at 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168 (1998).

1. 2 The term "Chairman" means the Chairman of the National Indian Gaming Commission.

1.3 The term "Class III Gaming" means all gaming which is not Class I gaming or Class II gaming, as defined in Sections 4(6) and 4(7) of the Act, 25 U.S.C. §s 2703 (6) (7), and the regulations promulgated pursuant to these sections of the Act.

1.4 The term "Commissioner" means a member of the Omaha Tribal Gaming Commission.

1.5 The term "Compact" means this tribal state Compact, including the Appendices to this Compact, between the Omaha Tribe and the State of Iowa.

1.6 The term "DCI" means the division of criminal

investigation of the Iowa Department of Public Safety or the division's designee.

1.7 The term "Director" means the Director of the Iowa Department of Inspections and Appeals or the Director's designee.

1.8 The term "Gambling Device" means Video Games of Chance, Progressive Slot Machines and Slot Machines.

1.9 The terms "Gaming Ordinance" and "Ordinance" mean the laws, rules and regulations of the Omaha Tribe, as amended from time to time, which authorize, among other things, Class III Gaming on Indian Lands.

1.10 The term "Indian Land" or "Indian Lands" means all lands within the Omaha Reservation in Iowa and all lands within the state of Iowa held in trust by the United States for the benefit of the Omaha Tribe or held by the Omaha Tribe or any individual subject to restriction by the United States against alienation and over which the Omaha Tribe exercises governmental power which existed on the date of enactment of the Act, and lands within the State which may be acquired by the Omaha Tribe

in the future and which meet the requirements of Section 20 of the Act, 25 U.S.C. S 2719.

1.11 The terms "Iowa" and "State" mean the State of Iowa including individuals, entities, political subdivisions (including counties), agencies and all others using, claiming or in any manner asserting any right or power under the authority of the State of Iowa.

1.12 The term "Lottery" means a game for which tickets are sold, the winning ticket or tickets being secretly predetermined or later selected in a chance drawing and in which the holders of winning tickets receive money or something of value. The term "chance drawing" includes the identification of winning numbers or symbols by a mechanical, electronic or electromechanical device which makes the selection in a random manner. The term "Lottery" includes keno, if conducted as a Class III Game, and the types of games actually being conducted by the Iowa Lottery unless the game is by definition a Video Game of Chance or Slot Machine.

1.13 The term "Management Contract" means the complete agreement between the Tribe and a Management Contractor including all collateral agreements relating to gaming activity.

1.14 The term "Management Contractor" means any individual, sole proprietorship, partnership or corporation which operates a Class III Gaming facility on behalf of the Omaha Tribe pursuant to a management contract submitted for approval or approved by the Bureau of Indian Affairs, the Chairman of the National Indian Gaming Commission or such other federal agency or authority exercising the appropriate jurisdiction under the Act.

1.15 The term "Omaha Tribe" or "Tribe" means the Omaha Tribe of Nebraska including the Tribal Gaming Commission, tribal law enforcement authorities and all governmental persons or entities acting under the authority of the Omaha Tribe.

1.16 The term "Operator" means any individual, sole proprietorship, partnership, corporation or other entity which operates an authorized Class III Gaming activity on behalf of the Tribe pursuant to a management contract approved as required by

the Act and this Compact or the Tribe if no management contract has been approved.

1.17 The term "Pari-mutuel" means a betting system in which all persons bet share in an established prize pool of similar bets.

1.18 The term "Parlay Cards" means a form of Sports Betting in which the player must correctly select the winners in a specified minimum number of events in order to win.

1.19 The term "Progressive Slot Machine" means a Slot Machine with a payoff which increases as the Slot Machine is played.

1.20 The term "Regulations" means the gaming regulations promulgated by the Tribe pursuant to this Compact.

1.21 The term "Revoke" shall mean to permanently void and recall all rights and privileges to hold or obtain a license.

1.22 The term "Secretary" means the Secretary of the United States Department of Interior.

1.23 The term "Simulcasting" means the closed-circuit

television or radio transmission of a horse or dog race at a racetrack to another facility at the same time the race is being conducted.

1.24 The term "Slot Machine" means a mechanical or electronic Gaming Device into which a player deposits coins or tokens and from which certain numbers or coins are paid out when a particular, random configuration of symbols appears on the reels or screen of the device.

1.25 The term "Sports Betting" means the placing of bets or wagers on the outcome of any athletic event, sporting event or similar contest including, but not limited to, the playing of Parlay Cards.

1.26 The term "Sports Betting Pool" means a game in which numbers are randomly selected for the participants, and winners are determined by whether the numbers selected correspond to numbers relating to an athletic event in the manner prescribed by the rules of the game.

1.27 The term "Suspend" means to cause a temporary

interruption of all rights and privileges of a license.

1.28 The term "Tribal Chairman" means the duly elected Chairman of the Omaha Tribe.

1.29 The term "Tribal Citizen" means a person who is an enrolled member of the Omaha Tribe of Nebraska or a person under the age of eighteen (18) who is eligible for enrollment.

1.30 The terms "Tribal Gaming Commission," "Gaming Commission" and "Commission" mean the Omaha Tribal Gaming Commission established by the Omaha Tribe pursuant to this Compact.

1.31 The term "Video Game of Chance" means a game of chance played on microprocessor-controlled devices that simulate games commonly referred to as poker, blackjack, craps, hi-lo, keno, roulette, line-up symbols and numbers, or other common gambling forms which are activated by the insertion of a coin, token or currency and which award coins, additional plays or a written or displayed statement of the amount of a prize which is redeemable for cash.

2. CLASS III GAMING--WHEN PERMISSIBLE

2.1 When Permissible. The Omaha Tribe may engage in Class III Gaming on Indian Lands provided:

(a) Such gaming is conducted in accordance with the requirements of the Act;

(b) Iowa permits such gaming for any purpose by any person, organization or entity and;

(c) Such gaming is conducted in conformance with the terms of this Compact, the Regulations and the Gaming Ordinance.

Any Class III Gaming activity conducted on Indian Land which does not meet these requirements is illegal.

2.2 Permissible Class III Gaming. As of the effective date of this Compact, the parties agree that the Omaha Tribe may conduct under the Act and in compliance with the terms of this Compact the following Class III Gaming activities:

(a) Dice games when played in accordance with this Compact and when named and described in Appendix "D";

(b) Slot Machines, Progressive Slot Machines, and video Games of Chance;

(c) Wheel games when played in accordance with this Compact and when named and described in Appendix "D";

(d) Simulcasting when conducted in accordance with this Compact including the game rules specified in Appendix "D";

(e) Card games when played in accordance with this Compact and when named and described in Appendix "D";

(f) Sports Betting Pools and Sports Betting, including Parlay Cards when played in accordance with this Compact and the game rules specified in Appendix "D";

(g) Lotteries, including Keno, when played in accordance with this Compact and the Keno rules described in Appendix "D";

(h) Parlor games when played in accordance with this Compact and when named and described in Appendix "D".

2.3 Additional Class III Games. At any time following the effective date of this Compact, the Tribe may submit an application to the Director requesting an amendment to this Compact, including any Appendix to this Compact, which would authorize any additional type or types of Class III Gaming that is permitted in Iowa for any purpose by any person, organization, or entity. The application shall be in writing and shall be submitted by the Tribal Chairman to the Director. The application shall identify with specificity the additional

proposed gaming activity or activities and any proposed amendments to this Compact, including any Appendix to this Compact, the Gaming Ordinance or the Regulations. The application shall also include a citation to the particular Iowa law which authorizes the type of gaming sought and a statement to the effect that the Tribe intends to conduct such gaming following any necessary amendments to this Compact. Within forty-five (45) days following receipt by the Director of a proper application, the Director shall provide the Tribal Chairman with a proposed written amendment to this Compact covering any additional terms relative to the additional, proposed gaming activity or a statement indicating that the type of gaming sought is not authorized by Iowa law. Any proposed amendments to this Compact shall be consistent with the policies and purposes of this Compact.

3. GAMING OWNED BY TRIBE

Class III Gaming conducted pursuant to this Compact shall be owned solely by the Tribe.

4. CONDUCT AND REGULATION OF CLASS III GAMING

The Tribe shall conduct authorized Class III Gaming activities pursuant to the terms of the Act, this Compact and the Gaming Ordinance and Regulations. The Tribe shall take the necessary steps to incorporate the terms of this Compact and the Regulations into the laws of the Tribe which shall be in effect on all Indian Land prior to conducting any authorized gaming activity. Nothing in this Compact shall be construed as preventing the Tribe or the Gaming Commission from implementing policies or procedures applicable to authorized gaming which are in addition to or more restrictive than the minimum requirements specified in this Compact provided that the additional terms or restrictions do not conflict with this Compact. The Tribe shall take all reasonably necessary steps to regulate Class III Gaming as required by this Compact, to enforce the terms of this Compact, the Gaming Ordinance, the Regulations and other applicable laws on Indian Lands and to prosecute or request the United States Attorney or other appropriate governmental

authority to prosecute persons or entities violating the terms of this Compact, the Gaming Ordinance, the Regulations and other applicable laws.

5. TRIBAL GAMING COMMISSION

The Tribe will establish a Gaming Commission which will be called the Omaha Tribal Gaming Commission and which will be comprised of three (3) members with staggered terms who shall be under the direct authority of the Tribe. Commissioners of the Tribal Gaming Commission and members of their immediate families shall not have any financial interest in the gaming regulated by the Tribal Gaming Commission other than the financial interest enjoyed equally by all Tribal Citizens, and the Commissioners shall not have any financial interest in any business supplying equipment or services for authorized Class III Gaming activities. "Immediate families" as used in this Section means a Commissioner's spouse and the father, mother, brother, sister, grandparent, child or step child of a Commissioner or a Commissioner's spouse who resides in the same household as the

Commissioner.

The Tribal Gaming Commission shall have full jurisdiction over and shall regulate and supervise all authorized Class III Gaming. The Tribal Gaming Commission shall have and perform duties and powers as prescribed by the Tribe which shall include the following duties and powers which shall be exercised consistently with the Act and this Compact:

(a) To draft and propose Regulations consistent with the Act, the Gaming Ordinance and this Compact under which all Class III Gaming shall be conducted and all Class III Gaming facilities maintained.

(b) To specify the wagering structure for Class III Gaming which shall include a maximum wager and maximum loss equal to or less than the maximum wager and maximum loss specified by law for games played pursuant to Iowa's excursion boat gambling laws on all authorized gaming conducted by the Tribe except pari-mutuel wagering on Simulcasting, Lotteries, Sports Betting Pools and Sports Betting including Parlay Cards. The maximum wager and maximum loss limits currently applicable to such games shall be specified in Appendix "D" of the Compact. The Tribe may submit its procedure for the regulation of its wager and loss limits to the Director for comment and may take such action as the Tribe deems appropriate in view of the Director's comments on the Tribe's procedure. Notwithstanding anything herein to the contrary, the Tribe's failure to enforce the loss and wager limit shall not be construed

to be a default under the terms of this Compact provided that the Tribe has made a good faith effort to adopt and enforce a procedure reasonably expected to ensure compliance with the wager and loss limits.

Pari-mutuel wagering on Simulcasting and Lotteries may be conducted without a wagering or loss limitation.

Sports Betting Pools may be conducted without a loss limitation, but the maximum wager shall not exceed the maximum wager specified in Appendix "D."

Sports Betting, including betting on Parlay Cards, shall be conducted within the limitations specified in Appendix "D."

(c) To enter the office facilities or other places of business of an Operator to determine compliance with this Compact, the Gaming Ordinance, the Regulations and other applicable laws.

(d) To identify occupations within Class III Gaming operations which require licensing and to adopt standards for licensing the occupations.

(e) To investigate alleged violations of this Compact, the Gaming Ordinance, Regulations and other applicable laws and to take appropriate disciplinary action against an Operator or the holder of an occupational license for a violation or to institute appropriate legal action for enforcement or both.

(f) To assess fines and Revoke or Suspend licenses for conduct violating the terms of this Compact, the Gaming Ordinance, the Regulations or other applicable laws.

(g) To specify the payout from Class III Gaming consistent with the limitations in this Compact.

(h) To provide for the surveillance and video taping of all authorized gaming activities.

(i) To provide for reasonably adequate security at all facilities in which authorized gaming is conducted.

(j) To confiscate or shut down all equipment and gaming supplies failing to conform to the required standards.

Prior to appointing a Commissioner the Tribe shall conduct a background investigation on the proposed Commissioner which shall meet the requirements for Management Contractor backgrounds set forth in this Compact. The Tribe shall not appoint a Commissioner if the individual does not meet the criteria in Section 7 of this Compact

6. MANAGEMENT CONTRACTOR

The Tribe may contract with a Management Contractor to operate the gaming authorized by this Compact provided that the Management Contract does not contain terms contradicting the terms of the Regulations, Ordinance, this Compact and other applicable laws, the Management Contract has been submitted, for

approval or has been approved by the Chairman of the National Indian Gaming Commission and the Management Contract prohibits the Management Contractor from subcontracting, assigning, or transferring its rights and duties under the contract or any ownership interest. The Management Contractor's background investigation conducted by the Commission or its designee shall be completed and approved by the Director in writing, and the Management Contractor shall be licensed by the Commission prior to the conduct of any authorized gaming activity. The Tribe shall not allow a Management Contractor to operate the gaming authorized by this Compact if the Chairman of the National Indian Gaming Commission has disapproved the Management Contractor or has disapproved (without suggesting modifications) the Management Contract.

The Commission shall submit the proposed Management Contract to the Director along with the completed background investigation. The Director shall have thirty (30) days following receipt of the Management Contract and the results of

the Management Contractor background investigation to approve or disapprove the proposed Management Contractor.

7. OCCUPATIONAL LICENSING

7.1 Licenses, Issuance, Qualifications. Every person participating in Class III Gaming as an employee, concessionaire, contract holder, including, without limitation, Management Contractors, equipment manufacturers and equipment distributors, or in any other capacity which requires their presence at the Class III Gaming facility shall have an occupational license issued by the Tribal Gaming Commission. The Tribal Gaming Commission shall specify licensing requirements which shall include the following limitations:

(a) Applicants must be at least eighteen (18).

(b) Applicants must not have been convicted, within the last ten (10) years, of a gambling related offense, an offense involving fraud, misrepresentation or deception, a drug related offense or any felony. If a conviction for any of these offenses occurred more than ten (10) years prior to the date of the application, the Commission may issue a license if the Commission determines that sufficient evidence of rehabilitation exists. The Commission shall temporarily deny a license and shall Suspend an existing license if

charges are pending against an applicant which, if resulting in a conviction, would disqualify the applicant from receiving or holding a license.

(c) Applicants must not have been denied a gaming license by the State of Iowa, currently have a gaming license which has been Suspended by the State of Iowa or have had a gaming license Revoked by the State of Iowa.

(d) Applicants must not be employed in any part-time or full-time employment with a government or private employer in any capacity which would create a conflict of interest between the applicant's employment and the interests and objectives of the licensed employment.

(e) Applicants must be of good moral character.

(f) Applicants must be trainable or qualified (by experience or otherwise) to perform the duties required.

(g) The Applicant must agree to comply with the Regulations, Gaming Ordinance, this Compact and with all other applicable laws.

(h) The license shall be nontransferable and shall prohibit the licensee from transferring any of its rights or duties relating to the license either directly or indirectly.

7.2 Revocation of License. The Tribal Gaming Commission shall Revoke an existing license upon the happening of any event which would have made the licensee ineligible for a license if

the event had occurred prior to the issuance of a license.

7.3 Background Investigations. Prior to issuing a license the Tribal Gaming Commission shall cause background investigations to be conducted on applicants to verify the truthfulness of the information provided by the applicant to the Tribal Gaming Commission and to ensure that persons and entities licensed by the Tribal Gaming Commission are eligible for licensure. However, temporary licenses may be issued pending background investigations for a period of up to six (6) months for all occupations except Management Contractors.

Provided that a proposed Management Contractor is licensed in a capacity substantially similar to the position of a Management Contractor by the states of Nevada, New Jersey or South Dakota, and provided that the Commission's background investigation of the Management Contractor has been completed and the Director approves the Management Contractor following review of the results of such background investigation, such Management Contractor may receive a temporary license valid until the

Management Contract and associated background check has been completed by the Bureau of Indian Affairs or the National Indian Gaming Commission. A permanent license may be issued to a Management Contractor only after the Management Contract has been approved by either the Bureau of Indian Affairs or the National Indian Gaming Commission and the associated background check through such agency has been completed and is favorable to the issuance of a permanent license. In the event that a Management Contractor is determined by either the Bureau of Indian Affairs or the National Indian Gaming Commission to be ineligible to be a party to such a Management Contract, the Tribal Gaming Commission shall Suspend any temporary license issued to such Management Contractor as soon as reasonably possible.

Background investigations performed for the Commission or required by any federal agency must be completed prior to the issuance of a permanent license. Background investigations performed for the Commission may be performed by Tribal law enforcement authorities provided that such authorities have

access to the law enforcement records of the Federal Bureau of Investigation and such authorities are certified graduates of the federal law enforcement academy or the Nebraska or Iowa law enforcement academy, by the Federal Bureau of Investigation, by the DCI, or by another entity mutually agreeable to the Tribe and the Director.

If a Management Contractor is used by the Tribe the Commission shall cause a thorough background investigation of the Management Contractor to be conducted prior to issuing a permanent or temporary license. Management Contractor background investigations shall be conducted on each person or entity having a direct financial interest in or management responsibility for the Management Contract with the Tribe and on all parties-in-interest.

"Parties-in-interest" shall include all trustees and beneficiaries of a trust and spouses of such trustees or beneficiaries, partners of a partnership and spouses of such partners, whether the partnership is a limited partnership or a

general partnership, the members of an association and spouses of such members and, in the case of corporations, those individuals who are members of the board of directors or officers of such corporation and spouses of such members of the board or officers and each of its stockholders and spouses of such stockholders who hold, directly or indirectly, applying the attribution rules of § 318 of the Internal Revenue Code (1986), five percent (5%) or more of its issued and outstanding stock, or warrants or stock options entitling the holder to acquire five percent (5%) or more of its issued and outstanding stock at any time, and such other entities having a direct financial interest in, or management responsibility for, a Management Contractor or a Class III Gaming facility and if any stockholder owning more than five percent (5%) of the stock of a corporate Management Contractor is a corporation or partnership, every partner of such partnership and spouses of such partners or stockholder and spouses of such stockholders which own more than five percent (5%) of the stock of such corporation as well as corporate officers or members of

the board of directors of such corporation and spouses of such officers of members as well as those holding warrants or stock options entitling them to acquire at any time five percent (5%) or more of the stock then such corporation shall also be considered a party-in-interest to the Management Contractor. In the event that a proposed Management Contractor is a publicly held corporation or partnership, whether general or limited, the term parties-in-interest shall mean all general partners and any limited partners holding greater than thirty (30%) of the issued and outstanding partnership units of any class, and with respect to the publicly held corporation, the officers and directors plus any person holding greater than thirty percent (30%) of the issued and outstanding stock of any class as well as the spouses of such officers, members of the board of directors, and partners, whether general or limited as well as those individuals holding options or warrants which would entitled them to acquire thirty percent (30%) or more of the outstanding stock of such corporations or units of a partnership, applying the attribution

rules of § 318 of the Internal Revenue Code (1986).

At a minimum, Management Contractor background applications shall require the applicant to make a sworn statement containing the following information:

(a) Name;

(b) Date of birth;

(c) Social security number;

(d) Physical description;

(e) The applicant's residence since age eighteen (18);

(f) The applicant's employment history since age eighteen (18);

(g) The applicant's criminal history, including major traffic offenses, including the date, place, details surrounding any arrest or charges, and the disposition of any charges filed;

(h) Whether the applicant has ever held a professional or occupational license issued by any state or Indian tribe, the type of license, the license number, and the details surrounding the suspension, revocation, or other disciplinary action based on the license, and if not current, the reason it is not current;

(i) Whether the applicant has ever held a gambling related license issued by any state, Indian tribe or any other jurisdiction, the jurisdiction in which the license was

issued, the type of license, the license number, the details surrounding any suspension, revocation, or other disciplinary action taken based on the license, and if not current, the reason it is not current;

(j) Whether the applicant has ever had any experience related to any agreement with any gaming operation, the exact nature of the applicant's role in the operation, the name and address of all parties to the agreement, the place the agreement was performed, and the dates covered by the agreement;

(k) A complete financial statement of the applicant; and

(l) The applicant's commitment to provide any additional information as may be required by the Tribal Gaming Commission.

In addition to the sworn statement, the applicant shall be required to submit two (2) sets of fingerprints on forms of the type commonly used by the Federal Bureau of Investigation and to provide a current photograph with the application.

8. MINIMUM STANDARDS FOR INSPECTION AND APPROVAL OF GAMBLING DEVICES

Prior to the installation and use of a Gambling Device, the Tribal Gaming Commission shall inspect, test and consider the Gambling Device for its approval. The Tribal Gaming Commission shall not approve a Gambling Device unless the tests conducted

indicate that such Gambling Device meets the following minimum standards set forth in Appendix "A" of this Compact (as amended from time to time by mutual agreement of the parties) or unless an identical Gambling Device is currently approved for use by the Iowa Racing and Gaming Commission. If an identical Gambling Device is currently approved for use by the Iowa Racing and Gaming Commission, the Tribal Gaming Commission may waive the inspection and testing requirements for such Gambling Device.

In the event a particular Gambling Device has not been approved by the Iowa Racing and Gaming Commission but has been approved by a gaming regulatory body of the states of Nevada, South Dakota or New Jersey, and the test results from such jurisdictions show that the Gambling Device meets the standards set forth in Appendix "A", then the Gambling Device may be authorized for use by the Tribal Gaming Commission provided that a copy of the test results indicating that the device complies with Appendix "A" is obtained and forwarded to the Tribal Gaming Commission and the manufacturer of the Gambling Device certifies

to the Tribal Gaming Commission and the Director that each Gambling Device to be shipped complies in all respects with the standards in Appendix "A." The Director and the Tribe shall agree upon the identity of the gaming test laboratories which can be utilized under this Section 8.

9. SECURITY AND SURVEILLANCE

The Tribal Gaming Commission shall require Operators to provide and adhere to minimum security and surveillance standards, at least as stringent as those described in Appendix "B" of this Compact as modified from time to time by mutual agreement of the parties.

10. ACCOUNTING AND CASH CONTROL

The Tribal Gaming Commission shall require all Operators to adhere to accounting and cash control procedures as least as stringent as those set forth in Appendix "C" of this Compact as amended from time to time by mutual agreement of the parties.

11. OPERATING PROCEDURES AND GAME RULES

All Class III Gaming shall be played in conformance with this Compact including the operating restrictions set forth in

Appendix "E" and the game rules set forth in Appendix "D".

12. AUDITS INSPECTIONS AND FACILITY AND RECORDS ACCESS

The Tribe shall cause an independent certified public accountant approved by the Director to audit the books, records and gaming and cash procedures and equipment of all authorized Class III Gaming activities at least twice in each fiscal year. The Tribe and the Director shall mutually agree on the scope of the audits to be conducted by the auditor. At a minimum the audits shall include the review of all records necessary to determine whether authorized gaming is being conducted in conformance with this Compact, the Gaming Ordinance, the Regulations and other applicable laws and equipment testing and an audit of casino procedures as necessary to ensure that equipment and casino personnel function as required by this Compact, the Ordinance and the Regulations. All audits shall be conducted pursuant to the AICPA standards for Audits of Casinos when applicable. The Director may attend the entrance and exit conference between the Tribe and the auditors and shall be

provided copies of the audits, including any audit notes, within fifteen (15) days of receipt. In the event that Iowa has probable cause to believe that there is a violation of this Compact, the Gaming Ordinance, the Regulations or other applicable laws, the Director may notify the Tribal Gaming Commission and may request that the Commission obtain an audit of the books, records, equipment and procedures of any authorized gaming operation, including the records of any Management Contractor and the records of the Tribal Gaming Commission and the Tribe to ensure compliance with this Compact, the Gaming Ordinance, the Regulations and other applicable laws. In the event the Tribe chooses not to procure a requested audit, Iowa may conduct such an audit, and the Tribe shall cause the foregoing records to be made available to Iowa during ordinary business hours. The State's audits may include equipment testing. The Tribe shall, within seventy (70) days from receipt of an itemized statement from Iowa, reimburse Iowa for the actual cost of such audit up to thirty thousand dollars ($30,000) in any

one (1) fiscal year. The State shall provide copies of such audits to the Tribe provided that provision of such audits would not compromise any law enforcement activities.

Authorities of Iowa may enter upon the premises of an authorized gaming facility at any time during ordinary business hours for purposes of conducting the audits specified in this Section or to conduct routine facility inspections. Routine inspections may include random equipment testing on the premises and casino surveillance. Upon the reasonable request of Iowa, the Tribe and the Tribal Gaming Commission shall provide Iowa access to all areas of their Class III gaming facilities and their records and shall ensure that all licensees make their records and facilities available to Iowa. The Tribe shall ensure that information requested by Iowa is provided by all persons possessing the requested information and that a suitable office is provided in which the State may review records and other information provided by the Tribe. The Tribe agrees that the State may copy, remove from the premises and retain copies of

materials and documents related to Class III Gaming. A reasonable amount of equipment may be removed from the premises for a reasonable time to facilitate examination and testing.

Throughout the term of this Compact and during the pendency of any litigation arising from this Compact, and for one (1) year following the termination of this Compact, the Tribe shall ensure that all books and records relating to authorized gaming activities, including the records of any Management Contractor, the Tribe and the Tribal Gaming Commission are separately maintained in order to facilitate auditing of these books and records to ensure compliance with this Compact. All records shall be maintained pursuant to generally accepted accounting principles and shall be suitable for audit pursuant to the standards of the American Institute of Certified Public Accountants.

13. TRIBE'S ACCESS TO STATE RECORDS

The Tribe shall have the right to inspect and copy all records received by Iowa from the Tribe or the Tribal Gaming

Commission concerning authorized Class III Gaming by the Tribe provided that inspection and copying by the Tribe would not violate any applicable law or compromise any ongoing law enforcement investigations or activities.

14. DOCUMENTS PROVIDED BY THE TRIBE TO THE STATE

Within a reasonable time following request, the Tribe shall provide the Director with a copy of any information reasonably related to Class III Gaming on Indian Lands. In addition, the Tribe shall routinely provide the Director with a copy of its current Gaming Ordinance, it Regulations, all subsequent amendments to the Gaming Ordinance and the Regulations, a copy of all audit reports, including auditor's notes, of Class III Gaming activities prepared by the Tribe or an independent auditor hired by the Tribe, a copy of the results of all equipment or program tests, all Management Contracts and all contracts or leases for gaming equipment or services. The Tribe shall routinely provide the DCI with a copy of all background applications and the results of all background investigations, with information

concerning any suspected or proven violations of the terms of this Compact, the Gaming Ordinance, the Regulations or other applicable laws and with information describing the steps taken by the Tribe or the Tribal Gaming Commission to remedy such violations.

All copies shall be provided by the Tribe as soon as is reasonably practical but no later than ten (10) calendar days after the documents are received by the Tribe or the Tribal Gaming Commission or the Tribe becomes aware of a suspected or proven violation of this Compact, the Gaming Ordinance, the Regulations or other applicable laws.

15. COVENANT OF CONFIDENTIALITY

Except as otherwise required by law or as allowed by the exceptions specified below, Iowa agrees to forever maintain in confidence and never to disclose to any third party any financial information, proprietary ideas, plans, methods, data, developments, inventions or other proprietary information regarding the gambling enterprises of the Omaha Tribe, games

conducted by the Omaha Tribe, or the operation thereof which is provided to the State by the Tribe without the prior written approval of a duly authorized representative of the Omaha Tribe provided that the information is marked as confidential information when received by Iowa. Nothing contained in this Section 15 shall be construed to prohibit:

(a) The publication of statistics so classified as to prevent the identification of a particular report or record;

(b) The furnishing of any information to a law enforcement or regulatory agency of the United States government or another State, to any subdivision of the State of Iowa, including without limitation counties, or to the National Indian Gaming Commission;

(c) Iowa from making known the names of persons, firms or corporations conducting Class III Gaming activities pursuant to the terms of this Compact, locations at which such activities are conducted or the dates on which such activities are conducted;

(d) Publishing the terms of this Compact;

(e) Disclosing information as necessary to audit, investigate or prosecute violations of this Compact or other applicable laws or to defend suits against the State;

(f) Complying with any law, subpoena or court order;

(g) Disclosing the results of audits or test results provided that the disclosure would not compromise the security of the gaming facility or reveal proprietary information.

16. GAMING CONDUCTED SOLELY ON INDIAN LANDS

Except as indicated in the following paragraph all authorized Class III Gaming shall be conducted solely on Indian Lands as defined in this Compact. Authorized Class III Gaming is conducted solely on Indian Lands only if all consideration wagered is placed by players physically located on Indian Lands at the time the wager is made, all activities performed by the player to participate in the game physically occur on Indian Lands, and all activities related to determining and validating winners occur on Indian Lands. The activities prohibited by this Section, include, without limitation, placing bets, placing wagers, or playing games by telephone, by mail, by internet, or by any other means of communication unless communications both originate and terminate on Indian Lands and unless communication is sent from an address on Indian Lands to an address on Indian Lands. Winners may receive prize winnings outside the boundaries

of Indian Lands without violating this provision.

Nothing is this Section 16 shall prevent the Tribe from conducting inter-reservation Class III Gaming by means of telecommunications, satellite or technologic or computer enhancement provided that the inter-reservation gaming conforms to the requirements of federal law including the Act, this Compact, to the laws, and rules and regulations of all Tribes involved in the gaming and to the terms of an effective tribal/state compact which governs the gaming activities of each tribe participating in the gaming. Inter-reservation gaming must, however, be conducted solely on "Indian lands" (as that term is currently defined in Section 4(4) of the Act, 25 U.S.C. § 2703(4), and as that term is limited by Section 20 of the Act, 25 U.S.C. § 2719) which belongs to one of the participating tribes.

17. JURISDICTION

17.1 Division of Criminal and Civil Jurisdiction. Except for the criminal prosecution of persons who are not Tribal Citizens, the Tribe shall exercise complete civil and criminal

jurisdiction over players of authorized gaming, licensees and all other persons or entities whose acts or omissions relate to any authorized or unauthorized Class III Gaming activities on Indian Lands and over all property related to Class III Gaming activities on Indian Land. The Tribe shall be responsible for addressing and solving all law enforcement problems arising from its Class III Gaming activities.

Whenever the Tribe has reason to believe that any person or entity has violated this Compact, the Regulations, the Gaming Ordinance or other law applicable to a Class III Gaming activity, the Tribe shall request that law enforcement authorities of the Tribe and the United States investigate the violation. The Tribe shall take all reasonable steps to ensure that all violations are detected and appropriately prosecuted by the Tribe or the United States Attorney.

Except for the criminal prosecution of Tribal Citizens, the State shall exercise complete civil and criminal jurisdiction over all players of authorized gaming, all licensees and all

other persons or entities whose acts or omissions relate to any authorized or unauthorized Class III Gaming activities on Indian Lands, and all property which is related to any authorized or unauthorized Class III Gaming activities on Indian Lands, for the purposes of administering, monitoring, auditing, investigating, enforcing and prosecuting violations of this Compact, the Regulations, the Gaming Ordinance and other laws applicable to Class III Gaming activities. In furtherance of an exercise of its jurisdiction, the State may take any action on Indian Land which would be lawful elsewhere in the State of Iowa.

17.2 Prosecution of Offenses by Iowa and the Tribe. The State of Iowa shall have jurisdiction to commence proceedings to remedy the violation of any applicable civil law or regulatory requirement, not inconsistent with this Compact, arising out of any investigation conducted by any governmental authority of any sovereign. The State of Iowa shall have jurisdiction to commence prosecutions for violation of any applicable criminal law arising out of any investigation conducted by any governmental authority

provided that the subject of such criminal prosecution is not a Tribal Citizen.

The Tribe shall have jurisdiction to commence proceedings to remedy the violation of any applicable civil law or regulatory requirement, not inconsistent with this Compact, arising out of any investigation conducted by any governmental authority of any sovereign. The Tribe shall have jurisdiction to commence prosecutions for violation of any applicable criminal law arising out of any investigation conducted by any governmental authority provided that the subject of such criminal prosecution is a Tribal Citizen. If the subject of a criminal prosecution is not a Tribal Citizen, the Tribe shall request that the offender be prosecuted by the United States.

17.3 Concurrent Jurisdiction. If exercised, Iowa's jurisdiction shall be exercised concurrently with, but independently of, the civil and criminal jurisdiction over such activities, property, persons, and entities held by the Tribe and the United States.

17.4 Exercise of Jurisdiction at Discretion of Iowa. The jurisdiction held by Iowa does not obligate Iowa to take any action on Indian Lands pursuant to its jurisdiction. The jurisdiction held by Iowa shall not be construed as creating an obligation between Iowa and the Tribe or between Iowa and any third party which would require Iowa to exercise it jurisdiction on Indian Lands.

17.5 Cross-Deputization Agreements. Iowa or the Tribe may enter into cross-deputization or similar agreements with each other or with agencies of the United States to facilitate law enforcement activities on Indian Lands.

17.6 Transfer to Appropriate Sovereign. Both the Tribe and Iowa and their respective agencies and instrumentalities shall have the power to arrest on Indian Land in Iowa and to detain any person whatsoever for any suspected violation of this Compact, or any law, rule, or regulation of any governmental authority respecting gaming on Indian Lands. Upon identification of the appropriate authority under this Compact for the prosecution of

such suspected offense, the arresting governmental sovereign shall release such detained person to the custody of the sovereign or sovereigns which are empowered to prosecute the suspected offender under this Compact, applicable law, rule or regulation.

18. TAXES

Nothing in this Compact shall be construed as imposing any tax on any Class III Gaming activity. In addition, nothing in this Compact shall be construed as expanding or diminishing Iowa's authority, if any, to impose any tax on the Tribe or any person or entity authorized by the Tribe to engage in authorized Class III Gaming on Indian Lands or on any Class III Gaming activity.

The Tribe agrees to collect Iowa sales and/or use taxes that Iowa has the lawful authority to impose on transactions made to non-Indians at the Tribe's Gaming Facility. The Tribe agrees to continue to withhold Iowa income taxes for all persons subject to Iowa income tax who are employed by the Tribe at the Gaming

Facility and to withhold Iowa income taxes that Iowa has the lawful authority to impose on all gaming winnings of non-Indians. The Tribe shall promptly remit all monies collected on behalf of the State of Iowa to the Iowa Department of Revenue and Finance.

During the term of this Compact, the Tribe agrees, as a matter of administrative convenience, to be registered with the Iowa Department of Revenue and Finance for withholding income tax and for sales tax purposes and shall have Iowa identification number(s) in order to facilitate collection and remittal of the taxes collected by the Tribe on behalf of the State. Iowa tax withheld shall be submitted to the Iowa Department of Revenue and Finance on a quarterly basis.

19. EMPLOYEE PROTECTION

Both the Tribe and the State acknowledge that the Tribe has offered and expects to continue to offer employment and worker's compensation protection to all its Gaming Facility employees under the State's legal framework. Accordingly, with respect to all those employed at the Gaming Facility, the Tribe agrees that

as long as it participates with the State's unemployment and worker's compensation framework it will comply with applicable regulatory, administrative, and legal processes. Further, the Tribe agrees that as long as it participates within the State's unemployment and worker's compensation framework it will remit all fees or monies due under that framework. Prior to employment, the Tribe will inform the prospective employee of that person's right to unemployment and worker's compensation protection. Should the Tribe discontinue offering these employee protections to its Gaming Facility employees the Tribe shall notify the Director in writing thirty (30) days prior to discontinuance.

20. AMENDMENTS AND WAIVERS

The terms and conditions of this Compact shall not be modified, amended or otherwise altered except by written agreement of the parties and approval by the Secretary provided, however, that approval of the Secretary shall be deemed immediately given to any written waiver of any provision or

requirement of this Compact signed by the party waiving the provision and to any modification of any Appendix to this Compact that is agreed upon by the parties in writing. The Director may waive any provision or requirement of this Compact which are imposed by Iowa on the Tribe by providing the Tribe with written notice of the waiver. Any waiver provided by the Director shall not constitute a waiver of any future deviation from the terms of this Compact unless the waiver specifically addresses future deviations. The Tribe may waive any provision or requirement of this Compact imposed on the State in a similar manner and with similar effect.

21. REMEDIES FOR BREACH OF COMPACT

21.1 Breach Of This Agreement By Tribe And Dispute Resolution. In the event that the Tribe fails to comply with any material term of this Compact, the Director may suspend this Compact in whole or in part and/or seek any other remedy authorized by law. In the event of suspension this Compact shall no longer be in effect and any gaming activities previously

conducted pursuant to this Compact shall cease. Gaming activities conducted in violation of the suspension shall be illegal. All remedies provided in this Compact are cumulative and nonexclusive.

Prior to suspending this Compact or seeking any other remedy authorized by law, the Director shall deliver a written notice to the Tribe which identifies the conduct which violates this Compact, describes the steps which must be taken to cure any default, if a cure is possible, and which specifies the date on which the notice period will end. The notice must precede remedial action taken by the State by a minimum of thirty (30) calendar days provided, however, that if the Tribe notifies the Director within such period that the alleged default is not reasonably susceptible to cure within such thirty (30) day period, the Director may agree to an extension of the period in which the default may be cured. If the default is not cured by expiration of the notice period (together with any extension granted by the Director), the Director may immediately suspend

this Compact and/or seek any other remedy authorized by law or equity.

In the event that the Director reasonably determines that the default has not been cured within the cure period (together with any extension granted by the Director), the Director may revoke this Compact by providing the Tribe with a written notice stating his intention to revoke. The notice of revocation shall provide the Tribe with a minimum of an additional thirty (30) day period in which to remedy the default. If the default remains uncured at the expiration of the thirty (30) day period the Director may revoke this Compact by delivering notice of revocation to the Tribe.

21.2 Breach Of This Agreement By The State And Dispute Resolution. In the event that the State fails to comply with any material term of this Compact, the Tribe may seek any remedy authorized by law or equity.

Prior to seeking any such remedy the Tribe shall deliver a written notice to the Director which identifies the conduct which

violates this Compact, describes the steps which must be taken to cure any default, if a cure is possible, and which specifies the date on which the notice period will end. The notice must precede remedial action taken by the Tribe by a minimum of (30) thirty calendar days. If the default is not cured within the notice period the Tribe may immediately seek any available remedy without further notice.

21.3 Dispute Resolution--Non-Exclusiveness. Nothing in this Section 21 of this Compact shall be construed to preclude, limit or restrict the ability of the parties to pursue, by mutual agreement, alternative methods of dispute resolution, whether binding or non-binding including, but not limited to, arbitration, mediation, mini-trials, or judicial resolution firms; provided, however, that neither party is under any obligation to agree to such alternative methods of dispute resolution.

22. EXTENSION OF OBLIGATIONS

The expiration or termination of this Compact shall not

relieve either the State of Iowa or the Omaha Tribe of any obligation which arose under this Compact during the period in which it was in effect.

23. SEVERABILITY

If any part of this Compact is finally found to be in violation of any applicable law by a court of competent jurisdiction, the illegal portion shall be severed from this Compact if possible and the remainder of this Compact shall remain valid and enforceable provided that continuation of the Compact does not alter the fundamental intent of the parties.

24. THIRD-PARTY BENEFICIARIES

This Compact is not intended to create any third-party beneficiaries and is entered into solely for the benefit of the Omaha Tribe and the State of Iowa.

25. PROVISION OF COMPACTS TO THE TRIBE

In the event that another Indian Tribe executes a compact with Iowa for the conduct of Class III Gaming, Iowa shall provide a copy thereof to the Omaha Tribe within five (5) days following execution by both the Tribe and the State.

26. NOTICES

Unless otherwise indicated differently, all notices, payments, requests, reports, information or demands which any party hereto may desire and may be required to give the other party hereto, shall be in writing and shall be personally delivered or sent by telefax, 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 either party shall hereinafter inform the other party by written notice given as previously required:

If to Iowa:

State of Iowa
Department of Inspections
and Appeals
Attn: Director
Lucas State Office Building
Des Moines, Iowa 50319
FAX No. (515) 242-6863

With a copy to:

Iowa Department of Justice
Attn: Indian Gaming Contact
Hoover State Office Building
2nd Fl.
Des Moines, Iowa 50319
FAX No. (515) 281-4209

If to the Tribe:

Omaha Tribe of Nebraska
Attn: Chairman
P.O. Box 368
Macy, Nebraska 68039
FAX No. (402) 837-5308

All notices, payments, requests, reports, information or demands so given shall be deemed effective 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 which the notice is addressed.

27. CALCULATION OF TIME

In computing any period of time prescribed or allowed by this Compact or any laws, rules or regulations of the Omaha Tribe, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless the last day is a Saturday, Sunday or a legal holiday under Omaha Tribal law, Iowa law, or federal law. If the act to be done is the filing of or providing access to any report or document, and

the last day of the period falls on a day in which the weather or other conditions have made the office in which the report or document is to be filed inaccessible, the designated period shall extend until the end of the next day on which the office is accessible which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays and legal holidays under Omaha Tribal law, Iowa law or federal law shall be excluded from the computation period.

28. COUNTERPARTS

This Compact may be executed by the parties in any number of separate counterparts with the same effect as if the signatures were upon the same instrument. All such counterparts shall together constitute one and the same document.

29. ASSIGNMENT OF COMPACT BY IOWA OR THE OMAHA TRIBE

Neither Iowa nor the Omaha Tribe may assign any of its respective rights, title or interest in the Compact, nor may Iowa or the Omaha Tribe delegate any of their respective obligations and duties under this Compact, except as expressly provided in

this Compact. Any attempt at assignment or delegation in contravention of the foregoing shall be null and void. The Omaha Tribe may, without violating this Section, delegate its regulatory responsibilities to the Tribal Gaming Commission, enter into a Management Contract, or enter into a cross-deputization, mutual assistance or other similar agreement with a law enforcement agency of the United States or the State of Iowa. The State may, without violating this Section, delegate its responsibilities to any subdivision of the State of Iowa, to any county authorities in the State of Iowa or enter into a cross-deputization agreement with a law enforcement agency of the United States.

30. GOVERNING LAW

This Compact is, in all respects, to be governed by the laws of the United States of America. In the event the governing law of the United States looks to the law of a particular state for its content, the law applicable in this instance shall be the laws of the State of Iowa.

31. RENEGOTIATION

Renegotiations of the provisions of this Compact as contemplated in Section 35, and negotiations to conduct additional individual Class III games which are not specifically provided for in this Compact, as contemplated in Section 2, shall be conducted in good faith pursuant to the terms of this Compact and the terms of the Act as though they were a request to negotiate a Compact. The Tribe and the State shall both execute their obligations pursuant to this Compact reasonably and in good faith.

32. RIGHTS AVAILABLE UNDER THE ACT

Nothing in this Compact shall be construed to limit the rights or remedies available to the parties under the Act.

33. TRIBAL AND STATE-SOVEREIGNTY

This Compact shall not be construed to waive or diminish the sovereignty of the Tribe or Iowa, except as specifically provided by the terms set forth in this Compact. To the extent allowed by statutory, constitutional and common law, and with the approval of the Secretary of the Interior, the Tribe specifically waives

any defense of sovereign immunity which it might have in an action for declaratory and/or injunctive relief brought by Iowa or the Director which seeks to enforce this Compact or exercise any of the remedies provided to Iowa by this Compact. The State, by entering into this Compact, does not waive the sovereign immunity protection of the Eleventh Amendment to the United States Constitution. None of this Compact's language should be construed or interpreted as a waiver of the State's sovereign immunity protection under the Eleventh Amendment to the United States Constitution.

(a) This Compact does not alter any waiver of either State or Tribal immunity which may have been effectuated by Congress in passing the Act. This Compact in no way limits the application of 25 U.S.C.A. sec. 2710(d)(7)(A)(ii) [Supp. 1998] which provides an enforcement mechanism for violation of this Compact.

(b) In addition to the enforcement mechanism under subsection (a), both the State and the Tribe agree that suit to enforce any provision of this Compact may be brought in federal

court by either the State or the Tribe against any official or employee of either the State or the Tribe. Said suit may be brought for any violation of the terms of this Compact or violation of any applicable state or federal law. Relief in said suit shall be limited to prospective declaratory or injunctive relief. An allegation that an official or employee violated this Compact shall be deemed as an allegation that said official or employee is acting in excess of his/her authority for purposes of jurisdiction only. The State and the Tribe will bear their own costs of litigation for any action to enforce this Compact, including but not limited to, attorneys' fees.

(c) These enforcement provisions are an essential part of this Compact, and if they are found to violate the sovereign immunity of either the State or the Tribe or should the courts otherwise determine they lack jurisdiction to enforce the Compact, the parties will immediately resume negotiations to create a new enforcement mechanism.

(d) Any action brought to enforce this Compact shall be

brought in Federal District Court for the Northern District of Iowa if jurisdiction and venue are proper in this court. The choice of venue by the parties shall not be construed as a waiver of any immunity which either party might have.

34. EFFECTIVE DATE

This Compact shall be effective upon signature by both parties, approval by the Secretary and publication by the Secretary in the Federal Register in accordance with the Act.

35. DURATION

Unless earlier terminated pursuant to the terms of this Compact, this Compact shall remain effective through December 31, 2006 and shall automatically renew for successive eight (8) year terms unless either party gives notice in writing of its intent to renegotiate this Compact at least six (6) months, but no more than one (1) year prior to the expiration of the current term. The notice to renegotiate shall be in writing and shall describe the issues to be reconsidered. Negotiations shall commence as soon as is practical following the end of the notice period and shall be conducted in good faith by both parties. In the event

that the parties are unable to reach an agreement as to the terms of the new compact, this Compact will automatically terminate at the conclusion of the existing term.

36. AUTOMATIC TERMINATION

This Compact shall automatically terminate if the Tribe passes an ordinance or series of ordinances which result in discontinuing all authorized Class III Gaming for a period of at least one (1) year. Nothing in this Compact shall be interpreted as preventing the Tribe from terminating any gaming activity conducted pursuant to this Compact at any time.

37. NO SEPARATE ENTITY OR COOPERATIVE RELATIONSHIP

This Compact is not intended to create any separate administrative or legal entity. Nothing in this Compact shall be construed as creating any third-party beneficiaries, a partnership, joint venture, or other joint or cooperative relationship between Iowa and the Tribe for the purposes of conducting or regulating authorized Class III Gaming activities. The Tribe shall not represent to others that the gaming conducted by or on behalf of the Tribe is licensed or endorsed by Iowa or a

subdivision of Iowa.

38. MONITORING FEE

The Tribe shall remit, no later than October 30, 1999, and thereafter annually during the term of this Compact, to the Iowa Department of Inspections and Appeals for the purpose of monitoring Indian gaming according to standards determined by the Director, the sum of $30,000. This sum shall annually be increased by five (5) percent over the amount of the payment for the previous year, for the duration of the Compact.

It is the intent of the Director to negotiate monitoring fees from all other Tribes operating Class III Gaming facilities on Indian Land in the State of Iowa as each tribal compact comes up for renewal. If any tribal-state compact subsequently entered into or extended or renewed by the State with any other Indian Tribe for a term longer than five years provides a monitoring fee of less than the amount due under this Section, this Section shall be subject to renegotiation upon written notice to the Director by the Tribe. During any such renegotiation period, the

obligation of the Tribe to tender any sums due under this Section, that exceed the amount paid by other tribes, shall be suspended. The renegotiation of this Section pursuant to this provision shall have no effect on any other Section of this Compact, and all other provisions and terms of this Compact shall remain valid and have full force and effect.

39. REVOCATION OF PREVIOUS COMPACTS

The Tribe and the State declare this Compact to be the current Compact governing Class III gaming on Indian lands of the Omaha Tribe of Nebraska in Iowa and hereby revoke all former Class III gaming compacts between the Tribe and the State.

40. INTEGRATION

This Compact, including the attached Appendices "A", "B", "C", "D" and "E", which are fully incorporated into this Compact by this reference as if written here, constitutes the entire agreement between the parties. Neither party is relying on any prior or other written or oral representation in entering into this Compact.

41. EXECUTION

Elmer Blackbird
Chairman of the Omaha
Tribe of Nebraska

December 10th, 1998
Date

Kim D. Schmett
Director, Iowa Department of
Inspections & Appeals

December 10th, 1998
Date

Consistent with 25 U.S.C.A. Sec. 2710 (d)(8), the Compact between the Sovereign Nation of the Omaha Tribe of Nebraska and the Sovereign State of Iowa dated December 10, 1998, is hereby approved on this 27th day of January, 1999, by the Assistant Secretary - Indian Affairs, United States Department of the Interior.

UNITED STATES DEPARTMENT OF THE INTERIOR

Kevin Gover
Assistant Secretary - Indian Affairs