

MANAGEMENT AGREEMENT  
BETWEEN  
AK-CHIN INDIAN COMMUNITY  
AND  
HARRAH'S ARIZONA CORPORATION

DATED AUGUST 6, 1993

AS REVISED

JANUARY 25, 1994

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MANAGEMENT AGREEMENT

*DW* y THIS MANAGEMENT AGREEMENT has been entered into <sup>JANUARY 25</sup> ~~August 6,~~ 1998, by and between the AK-CHIN INDIAN COMMUNITY and its permitted successors and assigns (the "Community"), and HARRAH'S ARIZONA CORPORATION, a Nevada corporation, and its permitted successors and assigns ("the Manager").

1. Recitals.

1.1 The Community is a federally recognized Indian tribe, organized pursuant to the Indian Reorganization Act of 1934. The Community possesses sovereign governmental powers over the land described in Exhibit A hereto (the "Property"), located in the State of Arizona (the "State"), pursuant to the Community's recognized powers of self-government, the Indian Reorganization Act of 1934, and the Articles of Association, statutes and ordinances of the Community.

1.2 The Property is owned by the United States of America in trust for the Community. The Community desires to use the Property to improve the economic conditions of its members, to enable it to serve the social, economic, educational and health needs of the Community, to increase Community revenues and to enhance the Community's economic self-sufficiency and self-determination.

1.3 The Community is seeking technical experience and expertise for the operation of the Enterprise and instruction for members of the Community in the operation of the Enterprise. The Manager is willing and able to provide such experience, expertise and instruction.

1.4 The Community wants to grant the Manager the exclusive right and obligation to develop, manage, operate and maintain the Enterprise and any expansion thereof whether on lands currently held by the United States of America in trust for the Community or on land hereafter placed in trust, and to train Community members and others in the operation and maintenance of the Enterprise during the terms of the Development and Construction Agreement and the Management Agreement and conforming with the provisions of this Agreement. The Manager wishes to perform these functions exclusively for the Community as limited in Article 3.3 below.

1.5 This Agreement is entered into pursuant to the Indian Gaming Regulatory Act of 1988, PL 100-497, 25 U.S.C. § 2701 et seq. (herein the "IGRA").

2. Definitions. As they are used in this Agreement, the terms listed below shall have the meaning assigned to them in this Article:

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2.1 Additional Principal Payment. "Additional Principal Payment" shall mean

2.2 Ak-Chin Community Gaming Code ("Community Gaming Code"). The "Community Gaming Code" is the ordinance and any amendments thereto enacted by the Ak-Chin Indian Community, which authorizes and regulates gaming on the Maricopa Reservation.

2.3 Articles of Association. "Articles of Association" shall mean the Articles of Association of the Ak-Chin Indian Community ratified on September 16, 1961, and any amendments thereto.

2.4 Business Board. The "Business Board" shall consist of two persons: the Council Representative and the Managing Officer. Either member of the Business Board may designate another person to exercise his or her authority by written notice signed by such Business Board member and given in accordance with Article 7 of this Agreement. The Business Board shall remain active during the entire term of this Agreement.

2.5 Bureau of Indian Affairs ("B.I.A."). "B.I.A." is the Bureau of Indian Affairs under the Department of the Interior of the United States of America.

2.6 Centralized Services. "Centralized Services" shall mean those services some of which may be provided by Manager or its affiliates in Memphis, TN, or at locations other than the Facility.

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2.7 Class II Gaming. "Class II Gaming" shall mean Class II Gaming as defined in IGRA.

2.8 Class III Gaming. "Class III Gaming" shall mean Class III Gaming as defined in IGRA.

2.9 Commencement Date. "Commencement Date" shall mean the first date that the Facility is complete, open to the public and that Class II and Class III Gaming is conducted in the Facility pursuant to the terms of this Agreement. The Manager shall memorialize the Commencement Date in a writing signed by the Manager and delivered to the Community and to the Area Director, Phoenix Area Office, B.I.A.



**2.10 Community Council.** "Community Council" shall mean the Ak-Chin Community Council created pursuant to the Community's Articles of Association or, at the option of the Community, a designee committee or council created pursuant to resolution or ordinance of the Ak-Chin Community Council.

**2.11 Community Employees.** "Community Employees" shall mean those employees working at the Facility who are not employees of Manager.

**2.12 Compact.** "Compact" shall mean the Community-State Compact executed on June 24, 1993, between the Community and the State of Arizona pursuant to IGRA as same may, from time to time, be amended, or such other compact that may be substituted therefor.

**2.13 Completion Date.** "Completion Date" shall mean the date upon which Manager receives (i) an architect's certificate from the Architect identified in the Development and Construction Agreement as having responsibility for the design and supervision of construction, equipping and furnishing of the Facility certifying that the Facility has been fully constructed substantially in accordance with the Plans and Specifications; (ii) certification from Manager (or the division, department or designee of Manager having responsibility to assure compliance with any operational standards) stating that the Facility, as completed, is in compliance with any such standards; (iii) a permanent or temporary certificate of occupancy from the government authority or authorities pursuant to whose jurisdiction the Facility is to be constructed, permitting the use and operation of all portions of the Facility in accordance with this Agreement; and (iv) certificates of such professional designers, inspectors or consultants or opinions of counsel, as Manager may determine to be appropriate, verifying construction and furnishing of the Facility in compliance with all Legal Requirements.

**2.14 Council Representative.** "Council Representative" shall mean the person designated by the Community Council to sit on the Business Board.

**2.15 Development and Construction Agreement.** "Development and Construction Agreement" shall mean that certain agreement, dated August 6, 1993, by and between Manager and the Community providing the terms under which Manager will develop the Facility, including without limitation, design, construction and furnishing and equipping same.

**2.16 Effective Date.** The "Effective Date" shall mean the date five days following the date on which all of the following listed conditions are satisfied:

- (i) written approval of this Agreement, the \_\_\_\_\_ is granted by the Chairman of the NIGC and/or the BIA as appropriate;
- (ii) negotiation and execution of the Loan Agreement and Note as well as written approval of same granted by the Chairman of the NIGC and/or the BIA as appropriate;
- (iii) written approval of a Community Gaming Code in form and substance satisfactory to Manager is granted by the B.I.A., U.S. Department of Interior or Chairman of the NIGC;
- (iv) written confirmation that the B.I.A., U.S. Department of Interior or the NIGC, as appropriate, has approved Community background checks of the Manager;
- (v) Manager has received a certified copy of the ratifying Resolution reciting that it is the law of the Community that the Management Agreement, Development and Construction Agreement and the exhibited documents attached thereto are the legal and binding obligations of the Community, valid and enforceable in accordance with their terms;
- (vi) Manager has satisfied itself as to the Community's control of the site and its suitability for construction of the contemplated Facility;
- (vii) The Compact has been signed by the Secretary of the Interior and published in the Federal Register as provided in 25 U.S.C. 2710(d)(8)(D); and
- (viii) Receipt by Manager of all applicable licenses.

The Community agrees to cooperate and to use its best efforts to satisfy all of the above conditions at the earliest possible date. Manager agrees to memorialize the satisfaction of (vi), (vii), and (viii) each as well as the Effective Date in a writing signed by Manager and delivered to the Area Director, Phoenix Area Office, B.I.A.

**2.17 Enterprise.** The "Enterprise" is any commercial enterprise of the Community authorized by IGRA and/or the Compact and operated and managed by Manager in accordance with the terms and conditions of this Agreement to engage in (a) gaming defined as Class II and Class III Gaming under IGRA;

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The Community shall have the sole proprietary interest in and responsibility for the conduct of all Gaming conducted by the Enterprise, subject to the rights and responsibilities of the Manager under this Agreement.

2.18 Enterprise Employee Policies. "Enterprise Employee Policies" shall have the meaning given to it in Article 4.19.

2.19 Facility. "Facility" shall mean the buildings, improvements, and fixtures, now or hereafter located therein or thereon and associated and adjacent real property owned by the Community, within which the Enterprise will be housed, all as located on the Property. Title to the Property and the Facility shall merge and continue to be held by the United States of America in trust for the Community.

2.20 Furnishings and Equipment. "Furnishings and Equipment" shall mean all furniture, furnishings and equipment required in the operation of the Enterprise in accordance with the plans and specifications of the Facility.

2.21 Gaming. "Gaming" shall mean any and all activities defined as Class II or Class III Gaming under IGRA.

2.22 Gaming Agency. "Gaming Agency" shall mean the body created pursuant to the Community Gaming Code to regulate Gaming in accordance with the Compact, IGRA and the Community Gaming Code.

2.23 General Manager. "General Manager" shall mean the person employed by Manager to direct the operation of the Facility.

2.24 Gross Gaming Revenue (Win).

2.25 Gross Revenues. Gross Revenues shall mean

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2.26 Hard Count. "Hard Count" shall mean the count of the coin or tokens in a drop bucket (Slots).

2.27 IGRA. "IGRA" shall mean the Indian Gaming Regulatory Act of 1988, PL 100-497, 25 U.S.C. § 2701 et seq. as same may, from time to time, be amended.

2.28 Legal Requirements. "Legal Requirements" shall mean singularly and collectively all applicable laws including without limitation the Community Gaming Code, IGRA, the Compact and applicable federal and Arizona statutes.

2.29 Loan Agreement. "Loan Agreement" shall mean

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2.30 Manager's Representative. "Manager's Representative" shall mean the person designated by the Manager to sit on the Business Board.

2.31 Managing Officer. The "Managing Officer" shall be designated by Manager by notice given to the Community in accordance with Article 7 of this Agreement. The Managing Officer shall serve as a liaison between the Manager and the Community. There shall be a Managing Officer during the entire term of this Agreement.

2.32 Minimum Balance. "Minimum Balance" shall mean

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2.33 Minimum Priority Payment. "Minimum Priority Payment"

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2.34 National Indian Gaming Commission ("NIGC"). The "NIGC" is the commission established pursuant to 25 U.S.C. § 2704.

2.35 Net Revenues (gaming). Net Revenues (gaming) for the

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2,35.1 Net Revenues (other). Net Revenues (other) for

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2.36 Note. "Note" shall mean

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2.37 Operating Expenses. "Operating Expenses" shall mean

(8) advertising and marketing, including busing and transportation of patrons to the Facility; (9) the cost of Promotional Allowances; (10) professional fees; (11) security costs; (12) reasonable travel expenses for officers and employees of the Enterprise, Manager or its affiliates to inspect and oversee the Enterprise, subject to the budget agreed upon by the Business Board; (13) furniture, fixtures, and equipment lease payments; (14) trash removal; (15) costs of goods sold; (16) other expenses designated as Operating Expenses in accordance with the Accounting Standards as referred to in Article 4.29.3; (17) expenses specifically designated as Operating Expenses in this Agreement; (18) depreciation; (19) recruiting and training expenses; (20) fees due to the NIGC under IGRA or the State of Arizona pursuant to the Compact; (21) Accounting fees; and (22) any expenses not referenced or provided for in this Article which are added as Operating Expenses after approval of this Agreement by the B.I.A. must first be approved in writing by the Phoenix Area Office, B.I.A. or the NIGC.

**2.38 Promotional Allowances.** Promotional Allowances shall

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**2.39 Property.** "Property" shall mean the parcel of land described in Exhibit A hereto held by the United States of America in trust for the Community.

**2.40 Security and Reimbursement.** "Security and Reimbursement Agreement" shall mean :

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**2.41 Soft Count.** "Soft Count" shall mean the count of the contents in a drop box (Tables).

**3. Covenants.** In consideration of the mutual covenants contained in this Agreement, the parties agree and covenant as follows:

**3.1 Engagement of Manager.** The Community hereby retains and engages the Manager as an independent contractor for the purposes of managing the Enterprise and training Community members and others in the management of the Enterprise. Nothing contained herein grants or is intended to grant Manager a titled interest to the Facility or to the Enterprise. The Manager hereby accepts such retention and engagement.

3.2 Term. The term of this Agreement .

3.3 Exclusivity of Operations.

3.4 Establishment and Operation of Business Board.

Following the Effective Date, (a) the Manager shall designate the Manager's Representative and notify the Community of his/her identity pursuant to Article 7 and (b) the Community shall designate the Council Representative and notify the Manager of his/her identity pursuant to Article 7. The Business Board shall have the obligations, rights and powers described in this Agreement. In order to be effective, any action of the Business Board must be the result of mutual agreement of the two Business Board members or their designees. In the event mutual agreement cannot be reached, the appropriate action shall be determined in the manner provided in Article 20.

3.5 Manager's Compliance With Law; Licenses. The Manager covenants that it will at all times comply with all Legal Requirements, including the Community's Gaming Ordinance, IGRA, the Compact, applicable Arizona Statutes and any licenses issued under any of the foregoing. The Manager, Manager's executive officers and all other persons required by applicable law shall be licensed to operate the Enterprise pursuant to the Community Gaming Code. The Community shall not unreasonably withhold, withdraw, qualify or condition such licenses.

3.6 Community Amendments to Community Gaming Code. The Community covenants that any amendments made to the Community Gaming Code will be a legitimate effort to ensure that Gaming is conducted in a manner that adequately protects the environment, the public health and safety, and the integrity of the Enterprise. The Community further covenants that any amendments to the Community Gaming Code will comply with the foregoing standard.

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3.7 Management Fee.

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4. Business and Affairs in Connection with Enterprise.

4.1 Manager's Authority and Responsibility. All business and affairs in connection with the day-to-day operation, management and maintenance of the Enterprise and the Facility, shall be the responsibility of the Manager. The Manager is hereby granted the necessary power and authority to act, through the General Manager, in order to fulfill its responsibilities under this Agreement.

4.2 Duties of the Manager. In managing, operating, maintaining and repairing the Enterprise and the Facility, which under this Agreement, the Manager's duties shall include, without limitation, the following:

4.2.1 Management. The Manager shall use reasonable measures for the orderly administration, management, and operation of the Enterprise and the Facility, including without limitation cleaning, painting, decorating, plumbing, carpeting, grounds care and such other maintenance and repair work as is reasonably necessary.

4.2.2 Compliance. The Manager shall comply with all present and future statutes, regulations and ordinances of the Community. The Community shall take no action and adopt no statute or ordinance

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or that violates the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303). Prior to any changes in the Community's land use or zoning regulations or ordinances during the term of this Agreement, the Manager and the Community shall jointly determine whether the Property shall be exempt from such changes.

4.2.3 Required Filings. The Manager shall comply with all applicable provisions of the Internal Revenue Code including, but not limited to, the prompt filing of any cash transaction reports and W-2G reports that may be required by the Internal Revenue Service of the United States or under the Compact.

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4.2.4 Contracts in Community's Name and at Arm's Length. Contracts for the operations of the Enterprise shall be entered into in the name of the Community and signed by the General Manager. Any contract requiring an expenditure



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shall be approved by the Business Board. No contracts for the supply of goods or services to the Enterprise shall be entered into with parties affiliated with the Manager or its officers or directors unless the affiliation is disclosed to the Business Board, and the contract terms are no less favorable for the Enterprise than could be obtained from a non-affiliated contractor. Nothing in this Article shall preclude the application of Article 4.15 to any contract. Notwithstanding anything to the

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**4.3 Security.** The Manager shall provide for appropriate security for the operation of the Enterprise. All aspects of the Facility security shall be the responsibility of the Manager. Any security officer shall be bonded and insured in an amount commensurate with his or her enforcement duties and obligations.

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Operating Expense.

**4.4 Damage, Condemnation or Impossibility of the Enterprise.** If, during the term of this Agreement, the Facility is damaged or destroyed by fire, war, or other casualty, or by an Act of God, or is taken by condemnation or sold under the threat of condemnation, or if Gaming on the Property is prohibited as a result of a decision of a court of competent jurisdiction or by operation of any applicable legislation, the Manager shall have the following options:

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**4.4.1 Recommencement of Operations.** The Manager shall have the option to continue its interest in this Agreement and to commence or recommence the operation of Gaming at the Facility if, at some point during the term of this Agreement, such commencement or recommencement shall be legally and commercially feasible :

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**4.4.2 Repair or Replacement.** If the Facility is damaged, destroyed or condemned so that Gaming can no longer be conducted at the Facility, the insurance or condemnation proceeds shall, ... be utilized to restore or replace the Facility and to reopen the Enterprise, and the Manager may within 60 days after the casualty, choose to reconstruct the Facility to a condition at least comparable to that before the casualty occurred.

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**4.4.3 Other Business Purposes.** The Manager shall have the option to use the Facility for other purposes included in the Enterprise and reasonably incidental to Class II and Class III Gaming, provided the Business Board has approved such purposes (which approval shall not be unreasonably withheld). For any purpose other than Gaming, the Manager and the Business Board shall obtain all approvals necessary under applicable law.

**4.4.4 Termination Of Gaming.** The Manager shall have the option at any time following the cessation of Gaming on the Property to notify the Community in writing that it is terminating operations under this Agreement.

**4.4.5 Tolling Of the Agreement.** If, after a period of cessation of Gaming on the Property, the recommencement of Gaming is possible, and if the Manager has not terminated this Agreement under the provisions of Article 4.4.4, the period of such cessation shall not be deemed to have been part of the term of the Management Agreement and the date of expiration of the term of the Management Agreement shall be extended by the number of days of such cessation period. Any reasonable payments made to any third party to eliminate rights acquired in the Property, the Facility or the Enterprise during the period of cessation

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**4.5 Alcoholic Beverages and Tobacco Sales.** During the term of this Agreement alcoholic beverages may be served at the Facility if permissible in accordance with applicable law. The parties acknowledge that no enabling Community legislation for the sale of alcoholic beverages is now in force, and that such legislation would be necessary in order to serve alcoholic beverages at the Facility. If such legislation is subsequently enacted, and if other requisite approvals are obtained, the Community and the Manager may mutually agree to include service of such beverages within the Enterprise.

Tobacco may be sold at the Facility subject to and in accordance with the Community's licensing requirements.

**4.6 Employees.**

**4.6.1 Manager's Responsibility.** Manager shall have, subject to the terms of this Agreement, the exclusive responsibility and authority to direct the selection, control and discharge of all employees performing regular services for the Enterprise in connection with the maintenance, operation, and management of the Enterprise and the Facility and any activity upon the Property.

**4.6.2 Manager's Employees.** It is anticipated that Manager will initially employ persons holding the following job titles at the Facility: General Manager, Chief Financial Officer, Director of Casino Operations, Director of Marketing and Director of Human Resources. Nothing contained herein is intended to limit Manager's right to expand, consolidate, or eliminate any of these positions.

**4.6.3 Community's Employees.** All other employees of the Enterprise will be employees of the Community.

**4.6.4 Off-Site Employees.** Manager shall also have the right to use employees of Manager, Manager's parent and subsidiary and affiliated companies not located at the Facilities to provide services to the Facilities ("Off-Site Employee").

**4.6.5 Community Inspector(s).** The Community shall select the Community Inspector(s) who shall be employed by the Community and shall have the full access to inspect all aspects of the Enterprise, including the daily operations of the Enterprise, and to verify daily Gross Revenues and all income of the Enterprise, at any time without notice. The

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General Manager or his or her designee may accompany any Community Inspector upon any inspection. The salary and benefits, if any, of the Community Inspector(s) and other terms of employment shall be approved by the Business Board. The Community Inspector(s) shall report directly to the Community.

#### 4.6.6 Indian Preference and Wages.

Employment. In order to maximize benefits of the Enterprise to the Community, the Manager shall, during the term of this Agreement, give preference in recruiting, training and employment to qualified members of the Community and their spouses and children in all job categories of the Enterprise, including management positions. Thereafter, preference shall be given to enrolled members of other federally recognized Tribes in Arizona. The Manager shall provide training programs for Community members and their spouses and children. Such training programs shall be available to assist Community members in obtaining necessary skills and qualifications relating to all job categories.

In order to recruit Community members, spouses and children, the Manager shall take the following actions: provide job fairs for members of the Community and clearly specify in all job advertisements the preference for Community members.

4.6.7 Removal of Employees. The General Manager will act in accordance with the Enterprise Employee Policies with respect to the discharge, demotion or discipline of any Enterprise employee. The Community shall have the right to remove the Community Inspector(s), subject to any contractual rights of such persons. Before any such removal, the Manager or the Community, as the case may be, shall notify the Community and the Manager.

4.7 Marketing and Advertising. The Manager shall have responsibility to advertise and promote the Enterprise and may do so in coordination with the sales and marketing programs of Manager and other Harrah's Casinos, the budget for which shall be included in the annual budget approved by the Council as described in Section 4.9. Manager may participate in sales and promotional campaigns and activities involving complimentary rooms, food, beverage, shows, chips and tokens. Manager, in marketing and advertising the Facility, shall, pursuant to Article 4.6.4, have the right to use marketing and advertising services of employees of Manager and its parent and affiliated companies not located at the Facility.

4.8 Pre-Opening. Six ( 6) months prior to the scheduled Opening Date, Manager shall commence implementation of a pre-opening program which shall include all activities necessary to financially and operationally prepare the Facilities for opening. To implement the pre-opening program, Manager shall prepare a comprehensive pre-opening budget which shall be submitted to the Business Board for its approval sixty (60) days after the Effective Date ("Pre-Opening Budget").

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4.9 Operating Budgets. Manager shall, prior to the scheduled Commencement Date, submit to the Council, for its approval, a proposed operating budget for the remainder of the current fiscal year ("Operating Budget"). Thereafter, Manager shall, not less than sixty (60) days prior to the commencement of each full or partial fiscal year, submit to the Council, for its approval, a proposed Operating Budget for the ensuing full or partial fiscal year, as the case may be.

The Council's approval of the Operating Budget shall not be unreasonably withheld or delayed. Manager shall meet with the Council to discuss the proposed Operating Budget and the Council's approval shall be deemed given unless a specific written objection thereto is delivered by him/her to Manager within thirty (30) days after Manager and the Council have met to discuss the proposed Operating Budget. If the Council for any reason declines to meet with Manager to discuss a proposed Operating Budget, it shall be deemed to have given its consent unless a specific written objection is delivered by it to Manager within fifteen (15) days after the date the proposed Operating Budget is submitted to the Council. The Council shall review the Operating Budget on a line-by-line basis. To be effective, any notice which disapproves a proposed Operating Budget must contain specific objections in reasonable detail to individual line items.

If the initial proposed Operating Budget contains disputed budget item(s), the Council and Manager agree to cooperate with each other in good faith to resolve the disputed or objectionable proposed item(s). In the event the Council and Manager are not able to reach mutual agreement concerning any disputed or objectionable item(s) within a period of fifteen (15) days after the date the Council provides written notice of its objection to Manager, either party shall be entitled to submit the dispute to arbitration in accordance with Article 20. If the Council and Manager are unable to resolve the disputed or objectionable

item(s) prior to the commencement of the applicable fiscal year,

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Manager may, after notice to the Council, revise the Operating Budget from time to time, as necessary, to reflect any unpredicted significant changes, variables or events or to include significant, additional, unanticipated items of expense. Manager may, after notice to the Council reallocate part or all of the amount budgeted with respect to any line item to another line item and to make such other modifications to the Operating Budget as Manager deems necessary.

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**4.10 Capital Budgets.** Manager shall, not less than sixty (60) days prior to the commencement of each fiscal year, submit to the Council a recommended "Capital Budget" for the ensuing full or partial fiscal year, as the case may be, for furnishings, equipment, and ordinary capital replacement items ("Capital Replacements") as shall be required to operate the Enterprise in accordance with sound business practices. The Council and Manager shall meet to discuss the proposed Capital Budget and the Council shall be required to make specific written objections to

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a proposed Capital Budget in the same manner and within the same time periods specified in Article 4.9 with respect to an Operating Budget. The Council shall not unreasonably withhold or delay its consent. Unless the Council and Manager otherwise agree, Manager shall be responsible for the design and installation of Capital Replacements, subject to the Council's approval and right to inspect.

**4.11 Capital Replacements.** The Community shall effect and expend such amounts for any Capital Replacements as shall be required, in the course of the operation of the Enterprise, to maintain the Enterprise in compliance with any Legal Requirements

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**4.12 Reserve Fund for Capital Replacements.** Manager shall establish a reserve for Capital Replacements on the books of account of the Enterprise,

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**4.13 Periodic Contributions to Reserve Fund.** Except as otherwise provided in this Article 4.13 there shall be paid over into the Reserve Fund

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AMOUNT OF RESERVE FUND  
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4.14 Use and Allocation of Reserve Fund.

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4.15 Contracting. In entering contracts for the supply of goods and services for the Enterprise, the Manager shall give preference to qualified members of the Community, their spouses and children, and qualified business entities certified by the Community to be controlled by members of the Community.

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"Qualified" shall mean a member of the Community, a Member's spouse or children, or a business entity certified by the Community to be controlled by members of the Community, who or which is able to provide services at competitive prices, has demonstrated skills and abilities to perform the tasks to be undertaken in an acceptable manner, in the Manager's opinion, and can meet the reasonable bonding requirements of the Manager. The Manager shall provide written notice to the Community in advance of all such contracting, subcontracting and construction opportunities.

**4.16 Determination of Qualifications and Compensation.**

Manager shall have the sole responsibility for determining whether a prospective employee is qualified and the appropriate level of compensation to be paid thereto.

**4.17 Litigation.**

If the Community, the Manager, the Business Board or any employee of the Manager at the Facility or of the Enterprise is sued by any person or is alleged to have engaged in unlawful or discriminatory acts in connection with the operation of the Enterprise, the Community or the Manager, as appropriate, shall defend such action.

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**4.18 Employee Background Check.**

A background investigation shall be conducted by the Community in compliance with all Legal Requirements, to the extent applicable, on each applicant for employment as soon as reasonably practicable. No individual whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest, the effective regulation of Gaming, or to the gaming licenses of the Manager or any of its affiliates, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of Gaming, shall be employed by the Manager or the Community. The background investigation procedures employed by the Community shall be formulated in consultation with the Manager and shall satisfy all regulatory requirements independently applicable to the Manager.

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**4.19 Enterprise Employee Policy.**

The Manager shall prepare a draft of personnel policies and procedures (the "Enterprise Employee Policies"), including a job classification system with salary levels and scales, which policies and procedures shall be approved by the Community Council. The Enterprise Employee Policy

shall include a grievance procedure in order to establish fair and uniform standards for the employees of the Community engaged in the Enterprise. Any revisions to the Enterprise Employee Policy shall not be effective unless they are approved in the same manner as was the original Enterprise Employee Policy. All such actions shall comply with applicable Community law.

**4.20 No Manager Wages or Salaries.** Except as otherwise provided, with respect to Manager's employees described in Article 4.6.2 and Off-Site Employees described in Article 4.6.4, neither the Manager nor any of its officers, directors or shareholders shall be compensated by wages from or contract payments by the Enterprise for their efforts or for any work which they perform under this Agreement,

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under Article 6.4 Nothing in this subsection shall restrict the of the Enterprise to purchase or hold in the Manager, its parents, subsidiaries or affiliates where (i) such stock is publicly held, and (ii) such employee acquires, on a cumulative basis,

**4.21 Internal Control Systems.** The Manager shall install systems for monitoring of all funds, which systems shall be submitted to the Business Board for approval in advance of implementation, which approval shall not be unreasonably withheld. The Community shall retain the right to review all Internal Control Systems and any changes instituted to the Internal Control Systems of the Enterprise. The Community shall have the right to retain an auditor to review the adequacy of the Internal Control Systems prior to the Commencement Date.

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Any significant changes in such systems after commencement of operation of the Facility also shall be subject to review and approval by the Community. The Community and the Manager shall have the right and duty to maintain and police its Internal Control Systems in order to prevent any loss of proceeds from the Enterprise. The Community shall have the right to inspect and oversee the systems and to have the Community Inspector present to oversee the Hard Count and Soft Count room procedures at all times. The Manager shall install a closed circuit television system to be used for monitoring the cash handling activities of the Enterprise. The Community Inspector shall have full access to the closed circuit television system for use in monitoring the cash handling activities of the Enterprise.

**4.22 Bank Accounts.** The Business Board shall select a bank or banks for the deposit and maintenance of funds and shall establish such bank accounts as the Manager deems appropriate and necessary in the course of business and as consistent with this Agreement.

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4.23 Daily Deposits to Depository Account. The Manager

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4.24 Disbursement Account. The Manager shall establish for

4.25 No Cash Disbursements. The Manager shall not make any cash disbursements from the bank accounts except for the payment of cash prizes and expenditures from the Cash Contingency Reserve Fund and Petty Cash Fund described in Article 4.26, any and all payments or disbursements by the Manager shall be made by check or wire transfer drawn against a bank account.

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4.26 Cash Contingency Reserve Fund. Manager shall establish and maintain a Cash Contingency Reserve Fund and a Petty Cash Fund, the amounts in which shall be established by the Business Board in conjunction with the establishment of the annual operating budget,

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4.27 Transfers Between Accounts. The Manager has the

**4.28 Insurance.** The Manager, on behalf of the Community, shall maintain, or cause its agents to maintain, with responsible insurance carriers licensed to do business in the State of Arizona, insurance satisfactory to Community covering the Facility and the operations of the Enterprise, naming the Community, the Manager, its parent and other affiliates as insured parties, as follows.

4.28.1 During the course of any new construction or remodeling, builder's risk insurance on an "all risk" basis (including collapse) on a non-reporting form for full replacement value covering the interest of the Community in all work incorporated in the Facility, all materials and equipment on or about the Facility and any new construction or remodeling of the Facility. All materials and equipment in any off-site storage location intended for permanent use in the Facility, or incident to the construction thereof, shall be insured on an "all risk" basis as soon as the same have been acquired by the Community.

4.28.2 Commercial general liability insurance in an per occurrence for all activities on, about or in connection with the Facility. The commercial general liability insurance shall include premises liability, contractor's protective liability on the operations of all subcontractors, completed operations and blanket contractual liability. The automobile liability insurance shall cover owned, non-owned and hired vehicles.

4.28.3 Upon completion of the construction of the Facility, "all risk" insurance on the Facility against loss by fire, lightning, extended coverage perils, collapse, water damage, vandalism, malicious mischief and all other risks and contingencies, subject only to such exceptions as the Community and the Manager may approve in an amount equal to the actual replacement costs thereof, without deduction for physical depreciation, with coverage for demolition and increased costs of construction, and providing coverage in an "agreed amount" or without provision for co-insurance.

4.28.4 Worker's Compensation and Employer's Liability Insurance subject to the statutory limits of the State of Arizona in respect of any work or other operations on, about or in connection with the Facility.

4.28.5 Such other insurance with respect to the Facility and in such amounts as the Business Board from time to time may reasonably request against such other insurable hazards which at the time are commonly insured against in respect of property similar to the Facility.

4.28.6 The insurance policies required under Articles 4.28.1, 4.28.3 and 4.28.5 above shall have a standard noncontributory endorsement naming Manager as an additional loss payee. The insurance required under Article 4.28.2 above shall name the Manager as an additional insured. All insurance required hereunder shall contain a provision requiring at least 60 days' prior written notice to the Manager and the Community before any cancellation, material changes or reduction shall be effective. Any deductibles must be approved by Manager. The Manager may effect any insurance coverage required by this Agreement under blanket insurance policies, provided that the Community shall be furnished evidence satisfactory that the protection afforded the Community and the Manager under such blanket insurance policy is not less than that which would have been afforded under separate policies relating only to the Facility.

#### 4.29 Accounting and Books of Account.

4.29.1 Statements. The Manager shall prepare and provide to the Community on a monthly, quarterly, and annual basis, operating statements which after the full year of operation will include comparative statements of all revenues, and all other amounts collected and received, and all deductions and disbursements made therefrom in connection with the Enterprise. An independent certified public accounting firm selected by the Community shall perform an annual audit of the books and records of the Enterprise and of all contracts for supplies, services or concessions reflecting Operating Expenses. The Community, the B.I.A. and the NIGC shall also have the right to perform special audits of the Enterprise on any aspect of the Enterprise at any time without restriction.

Such audits shall be provided by the Community to all applicable federal and state agencies, as required by law, and may be used by the Manager for reporting purposes under federal and state securities laws, if required.

4.29.2 Books of Account. The Manager shall maintain full and accurate books of account at an office in the Facility and at such other location as may be determined by the Manager. The Community and the Community Inspector shall have access to the daily operations of the Enterprise and shall have the unlimited right to inspect, examine, and copy all such books and supporting business records. Such rights may be exercised through an agent, employee, attorney, or independent accountant acting on behalf of the Community. Nothing contained herein is intended to restrict Manager's right to utilize centralized accounting in Memphis, Tennessee for the Enterprise.

4.29.3 Accounting Standards. Manager shall maintain the books and records reflecting the operations of the Enterprise in accordance with the accounting practices of Manager in conformity with Generally Accepted Accounting Principles consistently applied and shall adopt and follow the fiscal accounting periods utilized by Manager in its normal course of business (i.e., a fiscal month, fiscal quarter and fiscal year). The Facility level generated accounting records reflecting detailed day-to-day transactions of the Facility's operations shall be kept by Manager at the Facility or at Manager's corporate headquarters. The accounting systems and procedures shall, at a minimum (i) include an adequate system of internal accounting controls; (ii) permit the preparation of financial statements in accordance with generally accepted accounting principles; (iii) be susceptible to audit; (iv) allow the Class II gaming operation, the Community and the NIGC to calculate the annual fee payable pursuant to 25 Code of Federal Regulations Section 514.1; (v) permit the calculation and payment of the Management Fee described in Section 3.7; and (vi) provide for the allocation of operating expenses or overhead expenses among the Tribe, the Tribal gaming operation, the contractor, and any other user of shared facilities and services.

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5. Liens. The Community specifically warrants and represents to the Manager that during the term of this Agreement the Community shall not act in any way whatsoever, either directly or indirectly, to cause any party to become an encumbrancer or lienholder of the Property or the Facility, other than Manager or to allow any party to obtain any interest in this Agreement without the prior written consent of the Manager, and, where applicable, consent from the United States. The Manager specifically warrants and represents to the Community that during the term of this Agreement the Manager shall not act in any way, directly or indirectly, to cause any party to become an encumbrancer or lienholder of the Property or the Facility, or to obtain any interest in this Agreement without the prior written consent of the Community, and, where applicable, the United States. The Community and the Manager shall keep the Facility and Property free and clear of all mechanics' and other liens resulting from the construction of the Facility and all other liens which may attach to the Facility or the Property, which shall at all times remain the property of the United States in trust for the Community. If any such lien is claimed or filed, it shall be the duty of the Community and the Manager to discharge the lien within 30 days after having been given written notice of such claim, either by payment to the claimant, by the posting of a bond and the payment into the court of the amount necessary to relieve and discharge the Property from such claim, or in any other manner which will result in the discharge of such claim.

Notwithstanding the foregoing, purchase money security interests in personal property may be granted with the prior written consent of the Community and, when necessary, the B.I.A., United States Department of Interior and/or the NIGC as appropriate.

6. Management Fee, Reimbursement and Disbursement.

6.1 Management Fee. Subject to the provisions of Article 6.4,

6.2 Disbursements. As and when received by Manager, Revenues shall be deposited in the Bank Account(s) created pursuant to Article 4.22 of this Agreement. There shall, in turn, be disbursed by Manager, on a monthly basis, for and on behalf of the Community, funds from the Bank Account(s) to pay to the extent available Operating Expenses and required deposits into the Reserve Fund for Capital Replacements.

Manager will reserve funds (in excess of the Minimum Balance), on an annualized basis, in the Bank Account each Fiscal Month for payment of any Operating Costs or any of the above items which Manager has a duty to pay that are not paid on a monthly basis (e.g., insurance premiums, etc.).

6.3 Adjustment to Bank Account. After the disbursements pursuant to Article 6,

6.4 Payment of Fees and Community Disbursement. Within 21 days after the end of each calendar month of operations, the Manager shall calculate and report to the Community the Gross Revenues, Operating Expenses, and Net Revenues of the Enterprise for the previous month's operations and the year's operations to date.

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6.5 Operative Dates. For purposes of this Article 6, the first year of operations shall begin on the Commencement Date and continue until the first day of the month following the first anniversary of the Commencement Date, and each subsequent year of operations shall be the 12-month period following the end of the previous year. Notwithstanding the foregoing, with the exception of 4.4.5, the term of this Agreement shall not extend beyond.

6.6 Payment of Net Revenues. The Manager is authorized to transfer funds from the bank accounts of the Enterprise to the bank accounts of the Manager and the Community in order to distribute Net Revenues and any other amounts due under this Article 6. The Net Revenues paid to the Community pursuant to this Article 6 shall be payable to the Community official or bank account specified by the Council Representative pursuant to Article 7.

6.7 Advance Payment. On or before twenty (20) days after the Effective Date, Manager

7. General Provisions.

7.1 Notice. Any notice required to be given pursuant to this Agreement shall be delivered to the appropriate party by Certified Mail Return Receipt Requested, addressed as follows:

If to the Community:

Ak-Chin Indian Community  
Council  
42507 West Peters & Nall Road  
Maricopa, AZ. 85239  
Attn: Mr. Martin Antone, Sr.,  
Chairman

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Copy to:

William E. Strickland, Esq.  
4400 E. Broadway, Suite 700  
Tucson, AZ 85711-3517.

If to Manager:

Harrah's Arizona Corporation  
1023 Cherry Road  
Memphis, TN 38117  
Attn: Thomas J. Carr, Jr.

Copy to:

William L. Buffalo, Esq.  
1023 Cherry Road  
Memphis, TN 38117

or to such other different address(es) as the Manager or the Community may specify in writing using the notice procedure called for in this Article 7. Any such notice shall be deemed given two days following deposit in the United States mail or upon actual delivery, whichever first occurs.

**7.2 Authorization.** The Community and Manager represent and warrant to each other that they each have full power and authority to execute this Agreement and to be bound by and perform the terms hereof. On request, each party shall furnish the other evidence of such authority.

**7.3 Relationship.** Manager and the Community shall not be construed as joint venturers or partners of each other by reason of this Agreement and neither shall have the power to bind or obligate the other except as set forth in this Agreement.

**7.4 Manager's Contractual Authority in the Performance of this Agreement.** Manager is authorized to make, enter into and perform in the name of and for the account of the Community any contracts deemed necessary by Manager to perform its obligations under this Agreement.

**7.5 Further Actions.** The Community and Manager agree to execute all contracts, agreements and documents and to take all actions necessary to comply with the provisions of this Agreement and the intent hereof.

**7.5.1 Fire and Safety.** The Facility shall be constructed and maintained in compliance with all fire and safety statutes, ordinances, and regulations which would be applicable if the Facility were located outside of the jurisdiction of the Community although those requirements would not otherwise apply within that jurisdiction. Nothing

in this Article shall grant any jurisdiction to the State of Arizona or any political subdivision thereof over the Property or the Facility. Fire protection services for the Facility which is located on property within the service area of the Ak-Chin Community Fire Department will be provided by the Community.

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7.5.2. Taxes. If the State of Arizona or any local government attempts to impose any possessory interest tax upon any party to this Agreement or upon the Enterprise, the Facility or the Property, the Business Board, in the name of the appropriate party or parties interest, may, upon unanimous vote, resist such attempt through legal action.

This Article shall in no manner be construed to imply that any party to this Agreement or the Enterprise is liable for any such tax.

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7.5.3 Community Taxes.

7.5.4 Situs of the Contracts. This Agreement, as well as all contracts entered into between the Community and any person or any entity providing services to the Enterprise, shall be deemed entered into at the Executive Office of the Community in Maricopa, Arizona, and shall be subject to all Legal Requirements of the Community and federal law as well as approval by the Secretary of the Interior where required by 25 U.S.C. § 81 or IGRA.

7.5.5 Compliance With The National Environmental Policy Act. The Community shall supply the NIGC with all information necessary for the NIGC to comply with any regulations of the Commission issued pursuant to the National Environmental Policy Act (NEPA).

7.6 Defense. Except for disputes between the Community and Manager, Manager shall bring and/or defend and/or settle any claim or legal action brought against Manager or the Community, individually, jointly or severally in connection with the operation of the Enterprise. Manager shall retain and supervise legal counsel, accountants and such other professionals,

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Nothing contained herein is a grant to the Manager of the right to waive tribal immunity. That right is strictly reserved to the Community.

7.7 Waivers. No failure or delay by Manager or the Community to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy consequent upon the breach thereof, shall constitute a waiver of any such breach or any subsequent breach of such covenant, agreement, term or condition. No covenant, agreement, term, or condition of this Agreement and no breach thereof shall be waived, altered or modified except by written instrument. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

7.8 Captions. The captions for each Article are intended for convenience only.

7.9 Severability. If any of the terms and provisions hereof shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any of the other terms or provisions hereof. If, however, any material part of a party's rights under this Agreement shall be declared invalid or

unenforceable, (specifically including Manager's right to receive its Management Fees) the party whose rights have been declared invalid or unenforceable shall have the option to terminate this Agreement upon thirty (30) days written notice to the other party, without liability on the part of the terminating party.

7.10 Interest.

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7.11 Reimbursement. The performance by Manager of its responsibilities under this Agreement are conditioned upon the Enterprise generating sufficient funds to Manager on a timely basis to enable Manager to perform its obligations hereunder. Nevertheless, Manager shall, according to the terms of this Agreement

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Manager shall keep appropriate records to document all reimbursable expenses paid by Manager, which records shall be made available for inspection by the Community or its agents upon request.

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7.12 Travel and Out-of-Pocket Expenses. Subject to the annual budget.

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7.13 Third Party Beneficiary. This Agreement is exclusively for the benefit of the parties hereto and it may not be enforced by any party other than the parties to this Agreement and shall not give rise to liability to any third party other than the authorized successors and assigns of the parties hereto.

7.14 Brokerage. Manager and the Community represent and warrant to each other that neither has sought the services of a broker, finder or agent in this transaction, and neither has employed, nor authorized, any other person to act in such capacity other than as disclosed herein on Schedule 1. Manager and the Community each hereby agrees to indemnify and hold the

other harmless from and against any and all claims, loss, liability, damage or expenses (including reasonable attorneys' fees) suffered or incurred by the other party as a result of a claim brought by a person or entity engaged or claiming to be engaged as a finder, broker or agent by the indemnifying party.

**7.15 Survival of Covenants.** With the exception of the obligation to make the Minimum Priority Payment described at Article 6.4, any covenant, term or provision of this Agreement which, in order to be effective, must survive the termination of this Agreement, shall survive any such termination.

**7.16 Estoppel Certificate.** Manager and the Community agree to furnish to the other party, from time to time upon request, an estoppel certificate in such reasonable form as the requesting party may request stating whether there have been any defaults under this Agreement known to the party furnishing the estoppel certificate and such other information relating to the Enterprise as may be reasonably requested.

**7.17 Periods of Time.** Whenever any determination is to be made or action is to be taken on a date specified in this Agreement, if such date shall fall on a Saturday, Sunday or legal holiday under the laws of the state of Arizona or the state of Tennessee, then in such event said date shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

**7.18 Preparation of Agreement.** This Agreement shall not be construed more strongly against either party regardless of who is responsible for its preparation.

**7.19 Exhibits.** All exhibits attached hereto are incorporated herein by reference and made a part hereof as if fully rewritten or reproduced herein.

**7.20 Successors, Assigns, and Subcontracting.** The benefits and obligations of this Agreement shall inure to and be binding upon the parties hereto and their respective successors and assigns. The Community's consent shall not be required for Manager to assign or subcontract any of its rights, interests or obligations as Manager hereunder to any parent, subsidiary or affiliate of Manager or The Promus Companies Incorporated or its successor corporation, provided that any such assignee or subcontractor agrees to be bound by the terms and conditions of this Agreement. The acquisition of Manager or its parent company by a party other than the parent, subsidiary, or affiliate of Manager, or The Promus Companies Incorporated, or its successor corporation, shall not constitute an assignment of this Agreement by Manager and this Agreement shall remain in full force and effect between the Community and Manager, subject only to NIGC completion of its background investigation of the purchaser. Other than as stated above, this Agreement may be assigned or its

non-gaming obligations subcontracted by the Manager, subject to approval by the Community, which approval shall not be unreasonably withheld, and the Chairman of the NIGC or his authorized representative after a complete background investigation of the proposed assignee. The Community shall, without the consent of the Manager but subject to approval by the Secretary of the Interior or the Chairman of the NIGC or his authorized representative, have the right to assign this Agreement and the assets of the Enterprise to an instrumentality of the Community or to a corporation wholly owned by the Community organized to conduct the business of the Enterprise for the Community that assumes all obligations herein. Any assignment by the Community shall not prejudice the rights of the Manager under this Agreement. No assignment authorized hereunder shall be effective until all necessary government approvals have been obtained.

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7.21 Confidential Information. Both parties agree that any information received concerning the other party during the performance of this Agreement, regarding the parties' organization, financial matters, marketing plans, or other information of a proprietary nature, will be treated by both parties in full confidence and except in response to legal process or appropriate and necessary governmental inquiry will not be revealed to any other persons, firms or organizations.

7.22 Employment Solicitation Restriction Upon Termination. The Community and the Council hereby agree not to solicit the employment of Manager's employees at any time during the Term of this Agreement without Manager's prior written approval. Furthermore, the Community and the Council agree not to employ such personnel for a period of twelve (12) months after the termination or expiration of this Agreement, without Manager's prior written approval.

7.23 Patron Dispute Resolution. Manager shall submit all patron disputes concerning play to the Gaming Agency pursuant to the Community Gaming Code, the regulations promulgated thereunder, and the Compact.

7.24 Modification. Any change to or modification of this Agreement must be in writing signed by both parties hereto and shall be effective only upon approval by the Chairman of the NIGC, the date of signature of the parties notwithstanding.

## 8. Warranties.

8.1 Warranties. The Manager and the Community each warrant and represent that they shall not act in any way whatsoever, directly or indirectly, to cause this Agreement to be amended,

modified, canceled, or terminated, except pursuant to Article 7.24. The Manager and the Community warrant and represent that they shall take all actions necessary to ensure that this Agreement shall remain in full force and effect at all times.

**8.2 Interference in Community Affairs.** The Manager agrees not to interfere in or attempt to influence the internal affairs or government decisions of Community government by offering cash incentives, by making written or oral threats to the personal or financial status of any person, or by any other action, except for actions in the normal course of business of the Manager that only affect the activities of the Enterprise. For the purposes of this Article 8.2, if any such undue interference in Community affairs is alleged by the Community in writing and the NIGC finds that the Manager has unduly interfered with the internal affairs of the Community government and has not taken sufficient action to cure and prevent such interference, that finding of interference shall be grounds for termination of the Agreement. The Manager shall be entitled to immediate notice of any complaint to the NIGC.

**8.3 Prohibition of Payments to Members of Community Government.** The Manager represents and warrants that no payments have been or will be made any member of the Community government, any Community official, any relative of a member of Community government or Community official, or any Community government employee for the purpose of obtaining any special privilege, gain, advantage or consideration.

**8.4 Prohibition of Hiring Members of Community Government.** No member of the Community government, Community official, relative of a member of the Community government or Community official or employee of the Community government may be employed at the Enterprise without a written waiver of this Article 8.4 by the Community, and where required by applicable law, the Area Director, Phoenix Area Office, B.I.A. or the NIGC or other appropriate federal official.

**8.5 Prohibition of Financial Interest in Enterprise.** No member of the Community government or relative of a member of the Community government shall have a direct or indirect financial interest in the Enterprise greater than the interest of any other member of the Community; provided, however, nothing in this subsection shall restrict the ability of a Community member to purchase or hold stock in the Manager, its parents, subsidiaries or affiliates where (i) such stock is publicly held, and (ii) the Community member acquires

64 such person shall comply with all applicable law, including, without limitation, the Compact.

**8.6 Definitions.** As used in this Article 8, the term "member of the Community government" means any member of the Community Council, the Gaming Commission or any independent board or body created to oversee any aspect of Gaming and any Community court official; the term "relative" means an individual residing in the same household who is related as a spouse, father, mother, son or daughter.

**9. Grounds for Termination.**

**9.1 Voluntary Termination and Termination for Cause.** This Agreement may be terminated pursuant to the provisions of Articles 4.4.4, 8.2, 9.2, 9.3, 9.4, and 9.5.

**9.2 Voluntary Termination.** This Agreement may be terminated upon the mutual written consent and approval of the parties.

**9.3 Termination for Cause.** Either party may terminate this Agreement if the other party commits or allows to be committed any material breach of this Agreement. A material breach of this Agreement shall include, but not be limited to, a failure of either party to perform any material duty or obligation on its part for any 20 consecutive days after notice. Neither party may terminate this Agreement on grounds of material breach unless it has provided written notice to the other party of its intention to declare a default and to terminate this Agreement and the defaulting party thereafter fails to cure or take steps to substantially cure the default within 60 days following receipt of such notice. The discontinuance or correction of a material breach shall constitute a cure thereof.

The Community may also terminate this Agreement where the Manager has had its license withdrawn because the Manager, or a director or officer of the Manager, has been convicted of a criminal felony or misdemeanor offense directly related to the performance of the Manager's duties hereunder; provided, however, the Community may not terminate this Agreement based on a director or officer's conviction where the Manager terminates such individual within ten days after receiving notice of the conviction.

In the event of any termination for cause, regardless of fault, the parties shall retain all money previously paid to them pursuant to Article 6 of this Agreement; and the Community shall retain title to all Enterprise facility fixtures, improvements, supplies, equipment, funds and accounts, subject to the rights of Manager under any security agreement and to the rights of the Manager to any accrued and unpaid Net Revenues due under Article 6 of this Agreement. The Manager shall continue to have



the right to repayment of unpaid principal and interest and other amounts due under the Security and Reimbursement Agreement and any other agreements entered pursuant hereto.

An election to pursue damages or to pursue specific performance of this Agreement or other equitable remedies while this Agreement remains in effect pursuant to the provisions of Article 9.6 or 9.7 shall not preclude the injured party from providing notice of termination pursuant to this Article 9.3. Neither shall termination preclude a suit for damages.

**9.4 Involuntary Termination Due to Changes in Legal Requirements.** It is the understanding and intention of the parties that the establishment and operation of the Enterprise conforms to and complies with all Legal Requirements. If during the term of this Agreement, the Enterprise, any material aspect of Gaming or any material aspect of the Compact is determined by the Congress of the United States, the Department of the Interior of the United States of America, the NIGC, or the final judgment of a court of competent jurisdiction to be unlawful under federal law, the obligations of the parties hereto shall cease, and this Agreement shall be of no further force and effect; provided that

**9.5 Manager's Right to Terminate Agreement.** Manager may terminate this Agreement by written notice effective upon receipt if:

- (i) Any Community, State or Federal authority where approval is required fails to approve this Agreement or otherwise objects to the performance by Manager of any obligation imposed on it under this Agreement.
- (ii) Manager has been notified by any regulatory agency that the performance by it of any obligation imposed by this Agreement will jeopardize the retention of any license, or approvals granted thereunder, held by Manager or any of its affiliates in Nevada, New Jersey, or any other jurisdiction, and the Community refuses to allow the Manager to immediately rectify any such complaint.

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- (iii) Manager has reason to believe that the performance by it or the Community of any obligation imposed under this Agreement may reasonably be expected to result in the breach of any applicable Community, State or Federal law.
- (iv) The Community fails to make any payment to Manager when due.

**9.6 Consequences of Manager's Breach.** In the event of the termination of this Agreement by the Community for cause under Article 9.3, the Manager shall not, prospectively from the date of termination, except as provided in Article 9.3, have the right

**9.7 Consequences of Community's Breach.** In the event of termination of this Agreement by the Manager for cause under Article 9.3, the Manager shall not be required to perform any further services under this Agreement and the Community shall indemnify and hold the Manager harmless against all liabilities of any nature whatsoever relating to the Enterprise, but only insofar as these liabilities result from acts within the control of the Community or its agents or created by the termination of this Agreement. The Manager and the Community acknowledge and agree that termination of this Agreement may not be a sufficient or appropriate remedy for breach by the Community, and further agree that pursuant to the other provisions of this Agreement, including but not necessarily limited to, Articles 16 and 21, the Manager shall, upon breach of this Agreement by the Community,

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10. Conclusion Of the Management Term. Upon the conclusion of the term of the Management Agreement, or the termination of this Agreement under other of its provisions, in addition to other rights under this Agreement, the Manager shall have the following rights:

10.1 Transition. If termination occurs at any time other than upon the conclusion of its Term, Manager shall be entitled to a reasonable period of not less than thirty (30) days to transition management of the Enterprise to the Community or its designee.

10.2 Undistributed Net Revenues. If the Enterprise has accrued Net Revenues which has not been distributed under Article 6 of this Agreement, the Manager shall receive that Management Fee equal to that Fee it would have received had the distribution occurred during the term of the Management Agreement.

11. Consents and Approvals.

11.1 Community. Where approval or consent or other action of the Community is required, such approval shall mean the written approval of the Community Council evidenced by a duly enacted resolution thereof, or, if provided by resolution of the Community Council, the approval of the Gaming Commission, the Gaming Commission Representative or such other person or entity designated by resolution of the Community Council. Any such approval, consent or action shall not be unreasonably withheld or delayed; provided that the foregoing does not apply where a specific provision of this Agreement allows the Community an absolute right to deny approval or consent or withhold action.

11.2 Manager. Where approval or consent or other action of the Manager is required, such approval shall mean the written approval of the Managing Officer. Any such approval, consent or other action shall not be unreasonably withheld or delayed.

12. Disclosures.

12.1 Shareholders and Directors. The Manager warrants that on the date of this Agreement its affiliates, shareholders, directors and officers are as follows:

SHAREHOLDERS AND AFFILIATES OF HARRAH'S ARIZONA CORPORATION:

<u>Name</u>	<u>Date and State of Incorporation</u>	<u>Percentage Owned</u>
Harrah's Club a wholly-owned subsidiary of;	6/7/71 Nevada	100%
Harrah's a wholly-owned subsidiary of;	1/21/80 Delaware	
Embassy Suites, Inc. a wholly-owned subsidiary of;	8/8/83 Delaware	
The Promus Companies Incorporated	11/2/89 Delaware	

DIRECTORS: Harrah's Arizona Corporation

<u>Name</u>	<u>Date of Birth</u>
Michael D. Rose	
Philip G. Satre	

OFFICERS:

Philip G. Satre	President
Thomas J. Carr, Jr.	Sr. V.P. & Secretary
Colin V. Reed	Sr. V.P. & Treasurer
Stephen H. Brammell	Assistant Secretary

12.2 Warranties. The Manager further warrants and represents as follows: (i) no person or entity has any beneficial ownership interest in the Manager other than as set forth herein; (ii) no officer, director or owner of 5% or more of the stock of the Manager has been arrested, indicted for, convicted of, or pleaded nolo contendere to any felony or any gaming offense, or had any association with individuals or entities known to be connected with organized crime; and (iii) no person or entity listed in Article 12.1 of this Agreement, including any officers and directors of the Manager, has

been arrested, indicted for, convicted of, or pleaded nolo contendere to any felony or any gaming offense, or had any association with individuals or entities known to be connected with organized crime.

**12.3 Criminal and Credit Investigation.** The Manager agrees that all of its shareholders, directors and officers (whether or not involved in the Enterprise), shall:

(a) consent to background investigations to be conducted by the Community, the State of Arizona, the Federal Bureau of Investigation (the "FBI") or any other law enforcement authority if requested by the Community and to the extent required by the IGRA and the Compact,

(b) be subject to licensing requirements in accordance with Community law,

(c) consent to a background, criminal and credit investigation to be conducted by the BIA,

(d) consent to a financial and credit investigation to be conducted by a credit reporting or investigation agency at the request of the Community,

(e) cooperate fully with such investigations, and

(f) disclose any information requested by the Community which would facilitate in the background and financial investigation.

Any materially false or deceptive disclosures or failure to cooperate fully with such investigations by an employee of the Manager or an employee of the Community shall result in the immediate dismissal of such employee. The results of any such investigation may be disclosed by the Community to federal officials as required by law.

**12.4 Disclosure Amendments.** The Manager agrees that whenever there is any material change in the information disclosed pursuant to this Article 12 it shall immediately notify the Community of such change not later than 30 days following the change or within ten days after it becomes aware of such change, whichever is later. The Community shall, in turn, provide the Secretary of the Interior and/or the NIGC (whichever is applicable) copies of any such notifications. All of the warranties and agreements contained in this Article 12 shall apply to any person or entity who would be listed in this Article 12 as a result of such changes.

**12.5 Breach of Manager Warranties and Agreements.** The material breach of any warranty or agreement of the Manager contained in this Article 12 shall be grounds for immediate termination of this Agreement; provided that (a) if a breach of the warranty contained in clause (ii) of Article 12.2 is discovered, and such breach was not disclosed by any background check conducted by the FBI as part of the B.I.A. or other federal approval of this Agreement, or was discovered

by the FBI investigation but all officers and directors of the Manager sign sworn affidavits that they had no knowledge of such breach, then the Manager shall have 30 days after notice from the Community to terminate the interest of the offending person or entity and, if such termination takes place, this Agreement shall remain in full force and effect; and (b) if a breach relates to a failure to update changes in financial position or additional gaming related activities, then the Manager shall have 30 days after notice from the Community to cure such default prior to termination.

13. Recordation. At the option of the Manager or the Community, any security agreement related to the Loan Agreement may be recorded in any public records. Where such recordation is desired in the public records of the BIA, the Community will accomplish such recordation upon the request of the Manager.

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No such recordation shall waive the Community's sovereign immunity.

14. Authority to Execute. Each party warrants to the other that it has full authority to execute this Agreement.

15. No Present Lien, Lease or Joint Venture. The parties agree and expressly warrant that neither the Management Agreement nor any exhibit thereto is a mortgage or lease and, consequently, does not convey any present interest whatsoever in the Facility or the Property, nor any proprietary interest in the Enterprise itself. The parties further agree and acknowledge that it is not their intent, and that this Agreement shall not be construed, to create a joint venture between the Community and the Manager; rather, the Manager shall be deemed to be an independent contractor for all purposes hereunder.

16. Community's Limited Waiver of Sovereign Immunity.

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16.1 Preference for Community or Federal Court Jurisdiction.  
Community's Limited Waiver of Sovereign Immunity

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16.2 Limitation of Actions. The Community's waiver of immunity from suit is specifically limited to the following actions and judicial remedies:

16.2.1 Damages. The enforcement of an award of money damages by arbitration pursuant to Article 20; provided that the arbitrator(s) and/or the court shall have no authority or jurisdiction to order execution against any assets or revenues of the Community except (i) assets of the Enterprise (not including the Facility or the realty on which it is located), (ii) undistributed or future proceeds of the Enterprise, and (iii) if it has been specifically found by an arbitrator that the Community has prejudiced the Manager's rights under this Agreement or accompanying agreements, or has in any material way caused the lack of business success of the Enterprise, the future proceeds of any other gaming operations conducted by the Community. In no instance shall any enforcement of any kind whatsoever be allowed against any assets of the Community other than the limited assets of the Community specified in this Article 16.2.1.

16.2.2 Consents and Approvals. The enforcement of a determination by an arbitrator pursuant to Article 20 that the Community's consent or approval has been unreasonably withheld contrary to the terms of this Agreement.

16.2.3 Injunctive Relief and Specific Performance. The enforcement of a determination by an arbitrator pursuant to Article 20 that prohibits the Community from taking any action that would prevent the Manager from operating the Enterprise pursuant to the terms of this Agreement, or that requires the Community to specifically perform any obligation under this Agreement (other than an obligation to pay money which is provided for in Article 16.2.1).

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

18. Community Assets. Nothing in this Agreement shall obligate or authorize the payment or encumbrance of any funds or assets of the Community other than the revenues and assets of the Enterprise (excluding the Facility and the realty on which it is located).

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19. Notice Provision. The Community will give the Manager notice of any alleged violation of the Community Gaming Control Ordinance and thirty (30) days opportunity to cure before the gaming agency may take any action based on such alleged violation.

20. Dispute Resolution. Any controversy or claim arising out of or relating to this Agreement shall, except to the extent modified by the mutual agreement of the parties, be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in a court subject to the provisions of Article 16. Either party may specify and require that any arbitrator selected shall be an attorney licensed to practice law in any state or a United States District Court. If more than one arbitrator is used, the Community shall select one, the Manager shall select one, and the two so selected shall select a third. The party desiring to submit any matter to arbitration under this Article 20 shall do so by written notice to the other party which notice shall set forth the item(s) to be arbitrated, such party's position as to such items and such party's choice of an arbitrator. The party receiving such notice shall have fifteen (15) days after receipt of such notice to designate one of the remaining two arbitrators by written notice to the first party and to set forth in writing its position as to such items, and the two arbitrators shall, within fifteen (15) days after designation, select the third arbitrator. The arbitration panel shall be required to render a decision within thirty (30) days after being notified of their selection. The fees and expenses of the arbitration panel will be paid by the non-prevailing party unless there is no prevailing party, in which event the parties shall each pay one-half (1/2) of such expenses. In all arbitration proceedings submitted to the arbitration panel, the panel shall be required to agree upon and approve the substantive position advocated by either Owner or Harrah's with respect to each disputed item(s). Any decision rendered by the panel that does not reflect a substantive position advocated by either Harrah's or Owner shall be beyond the scope of authority granted to the panel and shall be void. The arbitrators shall be persons familiar, by profession or experience, with the issue(s) in controversy. The awards of any arbitration shall be governed by Title 9 of the United States Code except as the same may be changed or limited by the provisions of this Agreement. The parties agree that binding arbitration shall be the sole remedy as to financial disputes arising out of this Agreement and that disputes requiring injunctive or declaratory relief shall be pursued as provided in Article 16 unless the parties mutually agree otherwise.

21. Performance During Disputes. It is mutually agreed that during any kind of controversy, claim, disagreement or dispute, including a dispute as to the validity of this Agreement, Manager shall remain in possession of the Facility as Manager; and the Community and Manager shall continue their performance of the provisions of this Agreement

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and its exhibits. Manager shall be entitled to injunctive relief from a civil court or other competent authority to maintain possession in the event of a threatened eviction during any dispute, controversy, claim or disagreement arising out of this Agreement.

22. Harrah's Marks. Prior to the Commencement Date and from time to time during the Term hereof, Manager agrees to erect and install, in accordance with local codes and regulations, all signs Manager deems necessary in, on or about the Facility, including, but not limited to, signs bearing the Harrah's Marks. ?

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The Community agrees to recognize the exclusive right of ownership of Harrah's Club to all Harrah's service marks, trademarks, copyrights, trade names, patents or other similar rights or registrations now or hereafter held or applied for in connection therewith (collectively, the "Harrah's Marks"). The Community hereby disclaims any right or interest therein, regardless of any legal protection afforded thereto. The Community acknowledges that all of Harrah's Marks might not be used in connection with the Enterprise, and Manager, with the prior written consent of Harrah's Club, shall have sole discretion to determine which Harrah's Marks shall be so used. The Community covenants that in the event of termination, cancellation or expiration of this Agreement, whether as a result of a default by Manager or otherwise, the Community shall not hold itself out as, or continue operation of the Enterprise as a Harrah's casino nor will it utilize any of Harrah's Marks or any variant thereof in the operation of its Facility. The Community agrees that Manager or Harrah's Club or their respective representative may, at any time thereafter, enter the Facility and may remove all signs, furnishings, printed material, emblems, slogans or other distinguishing characteristics which are now or hereafter may be connected or identified with Harrah's or which carry any Harrah's Mark. The Community shall not use the name Harrah's, or any variation thereof, directly or indirectly, in connection with (a) a private placement or public sale of securities or other comparable means of financing or (b) press releases and other public communications, without the prior written approval of Manager and Harrah's Club.

The Community and Manager hereby agree that in the event the Community and/or Manager is (are) the subject of any litigation or action brought by an party seeking to restrain the use, for or with respect to the Enterprise, by the Community and/or Manager of any Harrah's Mark used by Manager for or in connection with the Enterprise, any such litigation or action, notwithstanding that Manager may not be named as a party thereto. In the event the Community desires to bring suit against any user of any Harrah's Mark, seeking to restrain such user from using any Harrah's Mark, then such suit shall be brought

only with the consent of Manager and Harrah's Club a  
notwithstanding that such user may be a prior or  
subsequent user. In all cases the conduct of any suit whether brought  
by the Community and/or Manager or instituted against the Community  
and/or Manager shall be under the absolute control of the Manager  
notwithstanding that Manager may not be a party to such suit. The  
Community shall have the right to engage its own  
legal counsel and the Community's own counsel shall have the right to  
non-controlling participation in any such litigation. The Community  
shall have the right at any time during the course of such litigation  
to withdraw from participation therein. Manager hereby agrees to hold  
the Community harmless from and to indemnify the Community against any  
judgments or awards of any court or administrative agency of competent  
jurisdiction, whether such awards be in the form of damages, costs or  
otherwise, which the Community is required to pay and/or pays arising  
from the use of any Harrah's Marks or names or similar rights or  
registrations for or in connection with the Enterprise; provided,  
however, that the Community cannot effect a settlement of such suit  
without the prior written consent of Manager.

23. Confidential and Proprietary Information. The Community agrees  
that Manager has the sole and exclusive right, title and ownership to  
(i) certain proprietary information, techniques and methods of  
operating gaming businesses; (ii) certain proprietary information,  
techniques and methods of designing games used in gaming businesses;  
(iii) certain proprietary information, techniques and methods of  
training employees in the gaming business; and (iv) certain  
proprietary business plans, projections and marketing, advertising and  
promotion plans, strategies, and systems including, but not limited  
to; its computer-based Casino Management System and Patron Data Base  
System, all of which have been developed and/or acquired over many  
years through the expenditure of time, money and effort and which  
Manager and its affiliates maintain as confidential and as a trade  
secret(s) (collectively, the "Confidential and Proprietary  
Information").

The Community further agrees to maintain the confidentiality of  
such Confidential and Proprietary Information, and upon the  
termination of this Agreement, return same to Manager, including but  
not limited to, documents, notes, memoranda, lists, computer programs  
and any summaries of such Confidential and Proprietary Information.

24. Execution. This Agreement is being executed in four  
counterparts, two to be retained by each party. Each of the four  
originals is equally valid. This Agreement shall be deemed "executed"  
and shall be binding upon both parties when properly executed and  
approved by the Area Director, Phoenix Area Office, B.I.A., or the  
Chairman of the NIGC.

25. Enterprise Name. The Enterprise shall be operated under the business name of Harrah's Ak-Chin or such other name as the parties may agree.

26. Intent to Negotiate New Agreement.

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27. Entire Agreement. This Agreement, including the Schedules and Exhibits referred to herein and any documents executed by the parties simultaneously herewith, constitutes the entire understanding and agreement of the parties hereto and supersedes all other prior agreements and understandings, written or oral, between the parties.

28. Government Savings Clause. Each of the parties agrees to execute, deliver and, if necessary, record any and all additional instruments, certifications, amendments, modifications and other documents as may be required by the United States Department of the Interior, B.I.A., the NIGC, the office of the Field Solicitor, or any applicable statute, rule or regulation in order to effectuate, complete, perfect, continue or preserve the respective rights, obligations, liens and interests of the parties hereto to the fullest extent permitted by law; provided, that any such additional instrument, certification, amendment, modification or other document shall not materially change the respective rights, remedies or obligations of the Community or the Manager under this Agreement or any other agreement or document related hereto.

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

AK-CHIN INDIAN COMMUNITY

By: Martin J. Antone  
Name: Martin J. Antone

Title: Chairman,  
Ak-Chin Indian Community Council

HARRAH'S ARIZONA CORPORATION

By: Peter J. Weien  
Name: Peter J. Weien  
Title: Director Gaming Development.

Approved pursuant to 25 U.S.C. § 2711 and  
Approved pursuant to 25 U.S.C. § 81

NATIONAL INDIAN GAMING COMMISSION

By: *[Signature]* *2/12/94*  
Name: *Andrew J. Hope*  
Title: *Commissioner*

First Amendment to Management Agreement  
dated January 25, 1994, between Ak-Chin Indian Community  
and Harrah's Arizona Corporation

This First Amendment to the Management Agreement by and between the Ak-Chin Indian Community and Harrah's Arizona Corporation dated January 25, 1994, is made and entered into this 27 day of April, 1994, .

Recitals

WHEREAS the parties hereto executed a Management Agreement dated August 6, 1993, which Agreement was subsequently revised on January 25, 1994; and

WHEREAS for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree to amend the provisions of the Management Agreement dated January 25, 1994, as follows:

One:

Article 2.33 is amended by deleting it and replacing it with the following:

2.33 Minimum Priority Payment. "Minimum Priority Payment" shall mean that

Two:

Article 3.2 is amended by deleting it and replacing it with the following:

3.2 Term.

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b4

b4

Three:

Article 3.7 is amended by deleting it and replacing it with the following:

3.7 Management Fee.

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Four:

Article 4.4.2 is amended by deleting it and replacing it with the following:

4.4.2 Repair or Replacement. If the Facility is damaged, destroyed or condemned so that Gaming can no longer be conducted at the Facility, the insurance or condemnation proceeds shall, be utilized to restore or replace the Facility and to reopen the Enterprise, may within 60 days after the casualty, choose to reconstruct the Facility to a condition at least comparable to that before the casualty occurred.

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If the insurance proceeds are not used to repair the Facility, shall have the sole right to adjust and settle any and all claims for such insurance proceeds or condemnation awards,

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Five:

Article 26 is amended by deleting it and replacing it with the following:

26. Intent to Negotiate New Agreement.

Exhibit A is completed with the following:

Approximately 40 gross acres located in the southeast quarter southeast quarter of Section 4, Township 5S, Range 3E. The irrigated agricultural field is referred to by the Ak-Chin Indian Community as field number 19C of the west half of the Reservation.

IN WITNESS WHEREOF, the parties have executed this First Amendment to the Management Agreement as of the day and year first above written.

AK-CHIN INDIAN COMMUNITY

By: 

Name: Martin J. Antone

Title: Chairman,

Ak-Chin Indian Community Council

(Signatures continue on next page)

HARRAH'S ARIZONA CORPORATION

By: \_\_\_\_\_

Name: Thomas J. Carr, Jr.

Title: Director Gaming Development

Approved pursuant to 25 U.S.C. § 2711 and  
Approved pursuant to 25 U.S.C. § 81

NATIONAL INDIAN GAMING COMMISSION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_