



SEP 3 2002

Peter Garcia, Jr., Chairman
San Juan Pueblo Gaming Commission
P.O. Box 1521
San Juan Pueblo, NM 87566

RE: Gaming Ordinance of the San Juan Pueblo

Dear Chairman Garcia:

This letter responds to your request to the National Indian Gaming Commission (NIGC) for the review and approval of the Gaming Ordinance (Ordinance) of the San Juan Pueblo (Tribe). The Tribal Council enacted the Ordinance by Resolution 2002-027 on June 26, 2002. The Ordinance was received by the NIGC on July 25, 2002. Under the Indian Gaming Regulatory Act (IGRA) and the regulations promulgated by the NIGC, the Chairman has 90 days to review an ordinance and either approve or disapprove it. 25 C.F.R. § 522.4.

The Ordinance is a revision of a prior ordinance submitted by the Tribe on April 30, 2002, and disapproved by the Chairman on June 18, 2002. In our disapproval letter, we advised the Tribe of the deficiencies which resulted in the disapproval. The Tribe has corrected those deficiencies. Therefore, this letter constitutes approval of the revised Ordinance under the IGRA.

We note that the prior ordinance submission, at Section 1-3-1 B, provided that non-profit organizations may conduct small bingo games on Pueblo lands, and set forth procedures to govern the conduct of these small bingo games. We advised the Tribe in our disapproval letter that the only form of gaming conducted on Indian lands that is not subject to the regulatory provisions of the IGRA is class I gaming. In the letter accompanying the revised Ordinance, the Tribe indicates that it has revised Section 1-3-1 B. We have reviewed this section and find that it is not substantially different from the original. We reiterate our position that the small bingo games contemplated by the revised Ordinance must comply with applicable NIGC regulations. Enclosed for your information is a copy of an NIGC Bulletin on the regulation of charitable gaming.

Thank you for submitted the Tribe's Ordinance. If you have any questions concerning this letter or the ordinance review process, please contact staff attorney Maria Getoff at (202) 632-7003. We look forward to working with you in implementing the IGRA.

Sincerely yours,

A handwritten signature in black ink that reads "Montie R. Deer". The signature is written in a cursive style.

Montie R. Deer
Chairman



San Juan Pueblo Gaming Commission

P.O. Box 1521 • (Highway 68, behind the old casino.)
San Juan Pueblo, New Mexico 87566
(505) 753-8101 • FAX (505) 753-5803

RESOLUTION OF THE TRIBAL COUCIL OF THE PUEBLO OF SAN JUAN AMENDING GAMING ORDINANCE

RESOLUTION 2002-027

The following Resolution was considered and adopted by the Tribal Council of the Pueblo of San Juan at a meeting held on the 26 day of June, 2002, at which a quorum was present.

WHEREAS, the Tribal Council of the Pueblo of San Juan (“Pueblo”) is the governing body of the Pueblo; and

WHEREAS, Congress has enacted the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168 (“IGRA”) to regulate Class I and Class II Gaming on Indian Lands subject to oversight by the National Indian Gaming Commission (“N.I.G.C.”) and to authorize Class III Gaming on Indian Lands by Indian tribes and states pursuant to tribal-state compacts; and

WHEREAS, the Tribal Council enacted the Pueblo of San Juan Class II Gaming Ordinance No. 94-27 (June 15, 1994) (“Class II Gaming Ordinance”) and the Pueblo of San Juan Gaming Ordinance No. 95-06 (January 22, 1995) and revised those Ordinances in the Pueblo of San Juan Class III Gaming Ordinance No. 95-13 (“Class III Gaming Ordinance “); and

WHEREAS, the Tribal Council, pursuant to Tribal Council Resolution 2002-010, dated March 13, 2002 approved a new ordinance known as the Pueblo of San Juan Gaming Ordinance that incorporated certain procedures required under the 2001 Tribal – State Compact and other necessary changes; and

WHEREAS, the Pueblo submitted the Pueblo of San Juan Gaming Ordinance to the Nation Indian Gaming Commission (“NIGC”) for review and approval; and

Amending Gaming Ordinance

WHEREAS, the NIGC declined approval of the Ordinance because certain items pertaining to Class II gaming were not included in the Pueblo of San Juan Gaming Ordinance; and

WHEREAS, the Tribal Council finds that it is in the best interest of the Pueblo to approve the revisions to the Pueblo of San Juan Gaming Ordinance that address the concerns of the NIGC.

NOW, THEREFORE, BE IT ORDAINED by the Tribal Council that the Tribal Council approves and enacts the amendments to the Pueblo of San Juan Gaming Ordinance, attached hereto as Exhibit A.

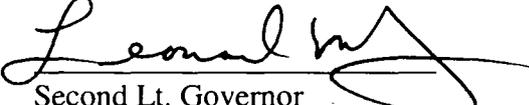
BE IT FURTHER OBTAINED by the Tribal Council that the Governor of the Pueblo is hereby authorized to resubmit the Pueblo of San Juan Gaming Ordinance for review and approval by the National Indian Gaming Commission and to do all things necessary and proper to accomplish the purposes of this ordinance.

CERTIFICATION

The foregoing Resolution was considered by the Tribal Council of the Pueblo of San Juan at a duly called meeting and was adopted and enacted by the Tribal Council with a quorum being present at such meeting on the 26th day of June, 2002.



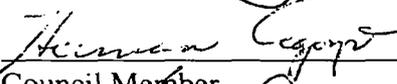
Governor



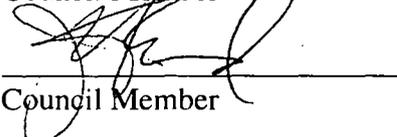
Second Lt. Governor



Council Member



Council Member



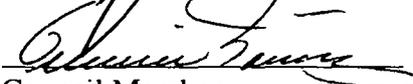
Council Member



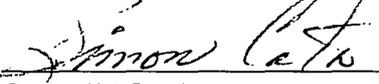
First Lt. Governor



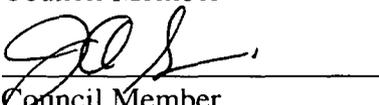
Tribal Sheriff



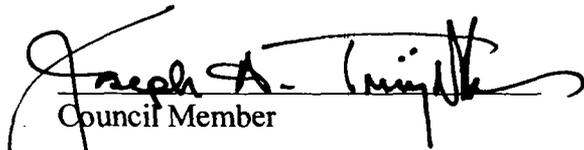
Council Member



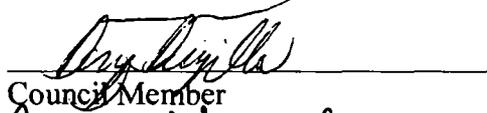
Council Member

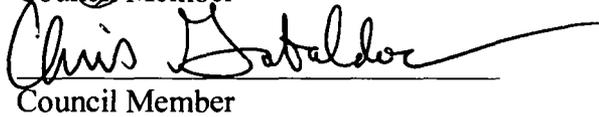


Council Member


Council Member

Absent - Anthony Moquino
Council Member


Council Member


Council Member


Attest: Secretary

Absent - Jerry Garcia
Council Member

Absent - Donald Cata
Council Member

Absent - Earl Salazar
Council Member


Council Member

JUL 25 2002



SAN JUAN PUEBLO

GAMING ORDINANCE

RESOLUTION 2002-27

PUEBLO OF SAN JUAN

GAMING ORDINANCE

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**PUEBLO OF SAN JUAN
GAMING ORDINANCE**

PART I - San Juan Pueblo Gaming Ordinance

1-1 PURPOSE AND INTENT

1-1-1 Short Title. This ordinance may be cited as the San Juan Pueblo Gaming Ordinance.

1-1-2 Purpose and Interpretation. This ordinance shall be deemed as exercise of the police power of SAN JUAN PUEBLO for the protection of the public welfare, health, peace and morals of the people of the SAN JUAN PUEBLO and all provisions of this ordinance shall be liberally construed to accomplish the following purposes:

- A. To legalize and regulate the conduct of Gaming on Pueblo Lands;
- B. To maintain the highest standards of integrity in the conduct of Gaming on Pueblo Lands;
- C. To produce revenue to fund tribal governmental operations and programs;
- D. To promote the health education and welfare of the Pueblo and its members; and
- E. To promote tribal economic development.

1-2 DEFINITIONS. In this ordinance, unless the context otherwise requires:

1-2-1 Act means the Indian Gaming Regulatory Act of 1988, Pub. L. No. 100-497, 25 U.S.C. §§ 2701-2721 and 18 U.S.C. §§ 1166-1168, as amended, and all regulations promulgated thereunder.

1-2-2 Bingo Game means: the Class II gaming activity commonly known as “bingo” wherein participants pay a sum of money for the use of one or more cards. When the games commence, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the cards which they have purchased until a player receives a given order of numbers in sequence that has been pre-announced for that particular game. The first player to call out “bingo” and be declared the winner will receive a predetermined prize.

1-2-3 Class I Gaming means Class I gaming as defined in the Act and as regulated by the customary law of the Pueblo of San Juan.

1-2-4 Class II Gaming means Class II gaming as defined in the Act.

1-2-5 Class III Gaming means Class III gaming as defined in the Act and 25 C.F.R. §502.4.

1-2-6 Commission means the Pueblo of San Juan Gaming Commission as established by this Ordinance.

1-2-7 Compact means the Tribal-State Compact set out in Part II of this Ordinance, and entered into pursuant to the Act.

1-2-8 Council means the Tribal Council of San Juan Pueblo.

1-2-9 Gaming Activity means all forms of Class II Gaming and Class III Gaming conducted by a Gaming Enterprise on Pueblo lands.

1-2-10 Gaming Device means any gambling device as defined in 15 U.S.C.A. §1171(a).

1-2-11 Gaming Employee means a person connected directly with the conduct of Class II or Class III Gaming or handling the proceeds thereof or handling any Gaming Machine; but “Gaming Employee” does not include:

- A. Bartenders, cocktail serves or other persons engaged solely in preparing or serving food or beverages;
- B. Secretarial or janitorial personnel;
- C. Stage, sound and light technicians;
- D. Other nongaming personnel.

1-2-12 Gaming Enterprise means any tribal entity created and designated by the Pueblo of San Juan as having authority to conduct Class II or Class III gaming pursuant to the Compact.

1-2-13 Gaming Equipment means any equipment, device, or contrivance used to conduct gaming.

1-2-14 Gaming Facility means the building, room or location at which Class II or III gaming is conducted.

1-2-15 Gaming Machine means a mechanical, electromechanical or electronic contrivance or machine that, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate a game, whether the payoff is made automatically from the gaming Machine or in any other manner.

1-2-16 Gaming-Related Contract means a contract or agreement providing for any goods, services or concessions to the Pueblo, a Gaming Enterprise, or Management Contractor in connection with the conduct of Class II or Class III Gaming in a Gaming Facility in an amount in excess of \$25,000 annually, except for professional, legal or accounting services. No Gaming-Related Contract may

be broken up into parts for the purpose of avoiding this definition and any requirement of licensure or certification.

1-2-17 Gross Receipts means, in relation to Class II gaming, receipts from the sale of shares, tickets or rights in any manner connected with participation in a game of bingo or the right to participate therein, including any admission fee or charge, the sale of equipment or supplies and all other income from any other Class II gaming source.

1-2-18 Key Employee means that term as defined in 25 C.F.R. §502.14, or, if more comprehensive, a Person employed by a Gaming Enterprise or Management Contractor and

- A. Who performs one or more of the following functions:
 - 1. Bingo caller;
 - 2. Counting room supervisor;
 - 3. Chief of security;
 - 4. Custodian of gaming supplies or cash;
 - 5. Floor manager;
 - 6. Pit boss;
 - 7. Dealer;
 - 8. Croupier;
 - 9. Custodian of gambling devices, including Persons with access to cash and accounting records within such devices;

B. If not otherwise included, any Persons whose total cash compensation is in excess of \$50,000 per year; or

C. If not otherwise included, the four most highly compensated Persons employed by a Gaming Enterprise or Management Contractor.

1-2-19 Management Contract means a contract as defined in 25 U.S.C.A. § 2710(d)(9) and any contract, subcontract, or collateral agreement between the Pueblo and a Management Contractor or between a Management Contractor and a subcontractor if such contract or agreement provides for the management of all or part of a Gaming Enterprise.

1-2-20 Management Contractor means any Person who enters into a Management Contract with the Pueblo.

1-2-21 Net Revenues means gross revenues of any Gaming Activity less amounts paid out as, or paid for prizes and total operating expenses, but excluding management fees paid to a Management Contractor.

1-2-22 Net Win means Class III Gaming “net win” as that term is defined in the Compact set out in Part II of this Ordinance.

1-2-23 N.I.G.C. means National Indian Gaming Commission.

1-2-24 Non-profit organization means an organization not for profit, and operated for charitable, religious, educational or public purposes within Pueblo lands and which has been so engaged for two (2) years immediately prior to conducting or operating a bingo game.

1-2-25 Occasion means a gathering at which Class II games, including, but not limited to bingo, are played.

1-2-26 Ordinance means the Pueblo of San Juan Gaming Ordinance, as amended.

1-2-27 Premises means any room, hall, building, enclosure or outdoor area used for the purpose of playing a game of bingo.

1-2-28 Person means a natural person, firm association, corporation or other legal entity, except the Pueblo of San Juan.

1-2-29 Primary Management Official” means that term as defined in 25 C.F.R. §502.19, or, if more comprehensive:

- A. The person having management responsibility for a Management Contract;
- B. Any person who has authority to:
 - 1. Hire and fire employees;
 - 2. Set up working policy for a Gaming Enterprise;
 - 3. Exercise financial management responsibility for a Gaming Enterprise,including, but not limited to the chief financial officer.

1-2-30 Pueblo means the Pueblo of San Juan, a federally recognized Indian Pueblo, its authorized officials, agents and representatives.

1-2-31 Pueblo Lands means (a) all land within the exterior boundaries of the San Juan reservation and its confirmed grants from prior sovereigns, or (b) land over which the Pueblo exercises governmental power and that is either (i) held in trust by the United States for the benefit of the Pueblo or its members, or (ii) held by the Pueblo or its members subject to restrictions by the United States against alienation, but does not include any land within the boundaries of a municipality outside the boundaries of the Tribe’s reservation or confirmed grants from prior sovereigns as those boundaries existed on October 17, 1988.

1-2-32 Secretary means the Secretary of the Interior or his duly authorized representative.

1-2-33 State means the State of New Mexico, its authorized officials, agents and representatives.

1-2-34 Tribal Bingo Game means a bingo game or other Class II games conducted or operated by the Pueblo or a Management Contractor in accordance with the provisions of Part I of the Ordinance applicable to Class II gaming.

1-3 NATURE AND SCOPE OF GAMING.

1-3-1 Authorized Gaming.

A. A Gaming Enterprise may conduct all forms of Gaming in any Gaming Facility, subject to the provisions of the Compact limiting how and where Class III gaming can take place and other applicable law. All other gaming must be conducted pursuant to applicable laws of the Pueblo.

B. Small Bingo Games. This ordinance is not intended to prevent community organizations and residents of the Pueblo from conducting a bingo game as defined in this ordinance in their home as part of a private social occasion which is played by for prizes of minimal value. Social gaming shall include gaming sponsored by a non-profit entity organized for governmental, charitable, or religious purposes. Such entity may conduct or operate a small bingo game on Pueblo lands subject to the following restrictions:

a. The non-profit organization shall maintain such status and no member, director, officer, employee or agent of the non-profit organization may receive any direct or indirect pecuniary benefit other than being able to participate in the game on a basis equal to all other participants.

b. The non-profit organization shall have been in existence continuously on the Pueblo for a ten year period immediately prior to conducting the game.

c. The gross receipts from the game shall not exceed Two Thousand Dollars (\$2,500) in the aggregate on any occasion.

d. The sponsoring organization must apply for and receive a permit for each occasion it wishes to conduct a small bingo game. Such application shall be to, and such permit shall be issued by the Commission, which may in its discretion set a fee for issuance of such permits.

e. The sponsoring organization proposing to conduct or operate a small bingo game and the Gaming Manager of a tribal bingo game shall designate one or more officers or employees to be in charge of and primarily responsible for the conduct of gaming on each occasion. The officer in charge shall supervise all activities on the occasion of which he is in charge and shall be present on the premises continuously during the games and for a period of at least thirty minutes after the last game.

f. All persons who hold, operate, or conduct or assist in holding or conducting a small bingo game shall be bona fide local members of the sponsoring organization.

g. Within sixty (60) days after the end of the fiscal year for the non-profit entity conducting a small bingo game, the organization shall provide to the Commission a statement showing:

- (1) Gross receipts;
- (2) Net win as defined in this Title; and
- (3) The use of all net revenues, consistent with §1-4-3(B).

h. In any year where the non-profit entity conducts more than ten (10) game events, an audit prepared by a certified public accountant (CPA) must be submitted within five (5) months of the fiscal year end.

i. Failure to comply with the provisions of this subsection shall be a basis for denying a permit under §1-3-1(B)(6).

1-3-2 Forms of Payment. All payment for wagers made in any Class II or III Gaming conducted by a Gaming Enterprise shall be made by cash, chips or tokens. A Gaming Enterprise shall not extend credit including, but not limited to, the acceptance of IOUs or markers from patrons. Unless otherwise prohibited by applicable law or the Compact, chips or tokens may be purchased using cash, checks or credit card.

1-3-3 Prohibition on Certain Financial Transactions with Patrons. No Gaming Enterprise shall cash any paycheck or any type of government assistance check, including Social Security TANF, pension and other similar checks for any patron.

1-3-4 Wagering Limitations. The Commission may set by regulation the maximum wager for any type of Gaming on Pueblo lands.

1-3-5 Hours of Operation. The Commission may set by regulation the days and hours of operation for any Class II or Class III gaming on the Pueblo. For the purposes of Class III gaming, The operation of any Class III Gaming Activity is prohibited for at least four consecutive hours daily, Monday through Thursdays (except federal holidays).

1-3-6 Prohibition of Minors. No person under the age of 18 shall participate in any Class II Gaming. No person under the age of 21 shall participate in any Class III gaming. However, a person under the age of 21 may be employed by a Gaming Enterprise or Management Contractor for positions excepted from the definition of Gaming Employee in this Ordinance.

1-3-7 Operation of Games.

A. Inspections.

1. The premises where any gaming is being held and any gaming facility, operated and conducted shall at all times be open to inspection by the Commission and its agents, Pueblo Administration, Council, and upon authorization by the Pueblo Governor or his designee, by the Pueblo's Accounting Manager, auditors, N.I.G.C. representatives, and Pueblo Police Chief.

2. Inspection of cash and cash counting activities must take place in the presence of a member of the Commission, Tribal Administration or a person with written authorization of the Pueblo Governor or Commission.

3. The State Gaming Representative shall have access to inspect all aspects of the Class III gaming operations as provided by this Ordinance and the Compact.

B. Value of Prizes. When any merchandise prize is awarded, its value shall be its current retail price.

1-4 COMPLIANCE WITH THE ACT.

1-4-1 Ordinance Consistent with Act. This Ordinance shall be construed in a manner that conforms to the Act in all respects, and, if the Ordinance is inconsistent with the Act in any manner, the provisions of the Act shall govern.

1-4-2 Proprietary Interest. The Pueblo shall have the sole proprietary interest in and responsibility for the conduct of any Class III or Tribal Class II Gaming on Pueblo lands; however, nothing in this Ordinance shall prevent the Pueblo from entering into a Management Contract.

1-4-3 Use of Net Revenues.

A. From Class I Gaming. Any revenues derived from Tribal Class I games, after payment of operating, if any, and after provisions for reserves, investment in and improvement of Class I games in accordance with the yearly Gaming business plan and budget has been made, shall be used in accordance with Tribal Council directives. The business plan and budget shall be reviewed by the San Juan Gaming Commission and sent to the Governor and Tribal Council for final approval.

B. From Any Class II and III Gaming. Net Revenues from any Class II and III Gaming shall be used for the following purposes:

1. To fund the Pueblo's government operations or programs;
2. To provide for the general welfare of the Pueblo and its members;
3. To promote the Pueblo's economic development;
4. To donate to charitable organizations;
5. To help fund operations of local government agencies; or
6. Any other purposes permitted under the Act.

1-4-4 Annual Audit. Each Gaming Enterprise shall be audited at least annually by a certified public accountant (CPA) selected by the Commission.

A. Copies of the independent audit reports for each year (including financial statements and management letters) will be provided to the Governor of the Pueblo and the Commission by May 15 of the following year. A copy of each annual audit report of gaming activities shall be provided to the Council and then to the N.I.G.C.

B. The scope of each audit shall include but not be limited to all Gaming Related Contracts, as that term is defined in this Ordinance.

1-4-5 Public Safety Standards. Each Gaming Facility shall be constructed and maintained in a manner that adequately protects the environment and public health and safety.

1-5 COMPLIANCE WITH THE COMPACT.

1-5-1 Any Class III Gaming Enterprise and Management Contractor shall comply with standards and requirements equivalent to or more stringent than those contained in the federal Fair Labor Standards Act of 1938, the federal Occupational Safety and Health Act of 1970, and any other federal laws generally applicable to Indian tribes relating to wages, hours of work and conditions of work, and the regulations issued thereunder.

1-5-2 Any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds, shall pay all workers wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act.

1-5-3 The Pueblo, the Gaming Enterprise and any Management Contractor are prohibited from discriminating in the employment of persons to work for the Gaming Enterprise or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap, provided however, that nothing herein shall be interpreted to prevent the Pueblo from granting Indian preference in employment actions to Pueblo members or other Indians in accordance with established tribal laws and policies.

1-5-4 All employees of a gaming establishment must be provided with employment benefits including, at a minimum, sick leave, life insurance, paid annual leave and medical and dental insurance as well as providing unemployment insurance and workers' compensation insurance through participation in programs offering benefits at least as favorable as those provided by comparable State programs.

1-5-5 In cases of disciplinary or punitive action taken against an employee in a gaming establishment, the gaming employee must be permitted (1) a reasonable period of time to submit a grievance to the employee's immediate supervisor, and (2) a process for an appeal to persons of greater authority than the immediate supervisor of the employee. The Gaming Enterprise and any

Management Contractor, or other employer of employees in a gaming establishment shall provide a copy of their grievance process to the Commission for approval.

1-5-6 No Gaming Facility shall prohibit or otherwise take action to prevent the state Department of Environment inspectors from inspecting the Gaming Facility's food service operations during normal Gaming Facility business hours to assure that standards and requirements equivalent to the State's Food Service Sanitation Act [Chapter 25, Article 1 NMSA 1978] are maintained.

1-5-7 Each electronic or electromechanical gaming device in use at a Gaming Facility must pay out a mathematically demonstrable percentage of all amounts wagered which must not be less than eighty percent (80%).

1-5-8 A Gaming Enterprise shall post on each Gaming Machine the odds of a player achieving a winning outcome from the games available on that Gaming Machine.

1-5-9 To the extent technically feasible, any automatic teller machines on Gaming Facility premises shall be programmed so that the machines will not accept cards issued by the State to TANF recipients for access to TANF benefits.

1-5-10 All Gaming Machines on the premises of the Gaming Facility shall be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual basis the activity of each Gaming Machine in use at the Gaming Facility. No later than ninety (90) days after the Compact takes effect, the wager and payout data of each machine, one it is fed into the Gaming Enterprise's central computer, may be accessed electronically by the State Gaming representative by a dedicated telecommunications connection, on a "read-only" basis, upon entry of appropriate security codes.

1-5-11 An employee of the Gaming Enterprise is prohibited from selling, serving, giving or delivering an alcoholic beverage to an intoxicated person or from procuring or aiding in the procurement of any alcoholic beverage for an intoxicated person at the Gaming Facility.

1-5-12 All Gaming Enterprise employees that dispense, sell, serve or deliver alcoholic beverages must first attend Alcohol Server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act.

1-5-13 Any Gaming Enterprise that dispenses, sells, serves or delivers alcoholic beverages shall purchase and maintain a liquor liability insurance policy that will provide, at a minimum, personal injury coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year.

1-5-14 No Alcoholic Beverages shall be sold, served, delivered or consumed in that part of a Gaming Facility where Class III gaming is allowed.

1-5-15 Each Gaming enterprise shall spend an amount that is no less than one-quarter of one percent (.25%) of its Net Win annually to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities, and for the prevention of compulsive gambling in New Mexico. A substantial portion of such funds shall be distributed to an organization that has expertise in and provides counseling, intervention or other services for compulsive gamblers in New Mexico and whose services are available to all persons without regard to race or tribal membership.

1-5-16 No Gaming Enterprise or the Pueblo shall provide, allow, contract to provide or arrange to provide alcoholic beverages for no charge or at reduced prices. No Gaming Enterprise, or the Pueblo shall provide or allow, contract to provide or arrange to provide food or lodging for no charge or at nominal prices, at a Gaming Facility or lodging facility as an incentive or enticement for patrons to game.

1-5-17 The Pueblo, the Gaming Enterprise and the Management Contractor shall report to the Secretary of State, in the same manner and at the same times as are required of political committees under the provisions of the State's Campaign Reporting Act (NMSA 1978 §§ 1-19-25 through 1-19-36) any and all contributions, whether directly or through an agent, representative or employee, of any moneys derived from revenue from the Gaming Enterprise, or of anything of value acquired with that revenue, to a candidate, political committee or person holding an office elected or to be elected at an election covered by the State's Campaign Reporting Act. In the event any report required to be made hereunder is not made within the time specified herein, or is false or incomplete in any respect, the Pueblo shall be liable to pay to the Secretary of State a penalty in the amount of fifty dollars (\$50.00) for each working day after the day on which the report was due until the day on which the complete or true report is filed, up to a maximum of five thousand dollars (\$5,000), except that with respect to the report due on the Friday before an election the penalty shall be five hundred dollars (\$500) for the first working day after the due date and fifty dollars (\$50.00) per working day thereafter, up to a maximum of five thousand dollars (\$5,000).

1-5-18 In the event that the Pueblo is held liable to pay the Secretary of State a penalty incurred as a result of the actions of the Gaming Enterprise or the Management Contractor, whether directly or through an agent, representative or employee, upon written notice from the Pueblo, the Gaming Enterprise or the Management Contractor shall pay to the Pueblo an amount equal to twice the penalty incurred by the Pueblo.

1-5-19 The Pueblo, either through the Gaming Enterprise, the Management Contractor or the Commission shall maintain the following records for not less than five (5) years:

- A. Revenues, expenses, assets, liabilities and equity for each Gaming Enterprise;
- B. Daily cash transactions for each Class III Gaming activity at each Gaming Facility, including but not limited to transactions relating to each gaming table bank, game dropbox and gaming room bank;

C. Individual and statistical game records, except for card games, to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;

D. Contracts, correspondence and other transaction documents relating to all vendors and contractors;

E. Records of all tribal gaming enforcement activities;

F. Audits prepared by or on behalf of the Tribe; and

G. Personnel information on all Class II and Class III Gaming employees or agents, including rotation sheets, hours worked, employee profiles and background checks.

1-6 LICENSING.

1-6-1 Class II and Class III Licensing Requirements.

A. Key Employees and Primary Management Officials. The Commission shall license each Primary Management Official and Key Employee of a Class II or a Class III Tribal Gaming Enterprise and any Management Contractor.

B. Persons Employed in Gaming. The Commission shall license any person, other than a Key Employee or Primary Management Official employed by a Gaming Enterprise or Management Contractor.

C. Management Contractor. Pursuant to the Act, the N.I.G.C. shall license a Management Contractor and any Person having a direct or indirect financial interest in a Management Contract. The Commission shall also license such contractor or person.

D. Gaming Devices, Machines and Gaming Equipment. The Commission shall license each Gaming Device, Machine or other Equipment.

E. Gaming-Related Contractors. The Commission shall license each Person proposing to enter into a Gaming-related contract.

F. Other Persons. The Commission may require licensure of such other Persons as it deems necessary to carry out the purposes of this Ordinance.

G. Gaming Facilities. Any Gaming Facility within San Juan Pueblo must be licensed by the Commission to conduct gaming activity. A separate license is required for each gaming facility.

H. Licenses Required for All Employees. Every regular employee involved in gaming at San Juan Pueblo must have a valid San Juan Gaming License. Until an employee receives a San Juan Pueblo Gaming License that individual shall be considered on probation subject to dismissal with or without cause.

I. Authority. A San Juan Pueblo Gaming License is valid after signature by the Commission.

J. Standards. The Commission may not issue a San Juan Pueblo Gaming License to any person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation of gaming at San Juan Pueblo. No license shall be issued to any person who may create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming at San Juan Pueblo.

K. License Conditions.

1. Term. A San Juan Pueblo Gaming Employee License shall be valid for two (2) years. A San Juan Pueblo non-gaming employee license shall be valid for one (1) year. Any employee license will be automatically revoked upon termination of employment. A San Juan Pueblo gaming vendor license shall be valid for one (1) year. Any license for a Management Contractor shall be renewed automatically each year during the term of the Management Contract unless the Commission determines that the Management Contractor is in violation of applicable law. A licensee who has submitted the required application for renewal and any other information required by the Commission at least thirty (30) days before the expiration of his license may continue to be employed under the expired license or until final action is taken on the renewal application by the Commission or, if required by the Act, the N.I.G.C., Such licensee shall provide updated material and information as requested on the appropriate renewal application, but shall not be required to resubmit historical data already provided or otherwise available to the Commission.

2. Form. Each San Juan Pueblo Gaming License shall be in the form of an identification Card with a photograph, and the first and last name of the license holder, employee number, signature, the words SAN JUAN PUEBLO GAMING LICENSE clearly shown, and date of expiration.

3. Must Be Worn. Every holder of a San Juan Pueblo Gaming License must have their license clearly visible while they are working at any San Juan Gaming site permitted pursuant to this Ordinance.

L. Fees for Licenses. The fees for licenses shall be set by the Commission. If the actual costs incurred by the Commission for a background investigation exceed the amount deposited by the applicant, those costs may be assessed to the applicant in the discretion of the Commission. In such cases, the Commission shall submit a detailed billing of the costs and an explanation as to why the excess costs were incurred.

1-6-2 Applications for Gaming Licenses.

A. A Person applying for a license shall provide all the information required by Section 1-7-2 of this Ordinance and the Act on an application form adopted by the Commission for that purpose. The applicant shall pay any fees required by the Commission or the N.I.G.C.

B. The Commission shall require each applicant to sign and submit a Privacy Act notice on an application form as required by the Act that consist of:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C.A. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in the San Juan Pueblo gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by the Pueblo of San Juan or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in The Pueblo of San Juan Gaming Enterprise or its management contractor being unable to hire you in a primary management official or key employee position.

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

C. The Commission shall require each applicant to sign and submit a notice regarding false statements on an application form as required by the Act.

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

D. The Commission shall notify in writing each Person who is required to be licensed pursuant to Section 1-6-1 of this Ordinance, but who has not signed and submitted an application form containing the Privacy Act Notice or the False Statements Notice, to either complete a new application form that contains the Privacy Act Notice and the False Statements Notice; or sign a statement that contains the Privacy Act Notice and the False Statements Notice.

E. On its application, a Gaming Enterprise or Management Contractor shall designate an agent to accept service on its behalf of any official determination, order, subpoena or notice of violation that may be served by the Commission or N.I.G.C. pursuant to the Act.

1-6-3 Suitability Determination.

A. The Commission shall review a person's prior activities, criminal record, if any, reputation, habits and associations to make a finding concerning the eligibility of a an applicant,

including, but not limited to an applicant for a key employee or primary management official for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, San Juan Gaming Enterprises shall not employ that person, or otherwise issue the license applied for.

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

1. Unless otherwise directed by N.I.G.C., When a key employee or primary management official begins work at a gaming enterprise authorized by this ordinance, the Commission shall forward to the N.I.G.C. a completed application for employment, conduct the background investigation, and make the determination referred to in this section.

2. The Commission shall forward the report referred to in subsection 4 of this section to the N.I.G.C. within sixty (60) days after a key employee or primary management official begins work or within sixty (60) days of the approval of this initial approval of a Pueblo of San Juan Gaming Ordinance by the Chairman of the N.I.G.C., whichever is later.

3. A Gaming Enterprise shall not employ as a key employee or primary management official a person who does not have a license within ninety (90) days after applying for a Gaming License.

4. Report to the National Indian Gaming Commission. Pursuant to the procedures set out in Section 1-7, the Commission shall receive or prepare and forward to the N.I.G.C. an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The bases for those conclusions.

5. The Commission shall submit, with the report, a copy of the suitability determination made under this section.

6. If a license is not issued to an applicant, the Commission:

- a. Shall notify the N.I.G.C.; and
- b. May forward copies of its suitability determination and investigative report (if any) to the N.I.G.C. for inclusion in the Indian Gaming Individuals Records System.

7. With respect to key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the chairman of the N.I.G.C. or his designee for no less than five (5) years, from the date of termination of employment.

1-6-4 Granting a Gaming License.

A. If, within a thirty (30) day period after the N.I.G.C. receives a report, the N.I.G.C. notifies the Commission that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official the Commission may issue a license to such applicant.

B. The Commission shall respond to a request for additional information from the Chairman of the N.I.G.C. concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the thirty (30) day period under paragraph (C) of this section until the Chairman of the N.I.G.C. receives the additional information.

C. If, within the thirty (30) day period described above, the N.I.G.C. provides the Commission with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official, the Commission shall reconsider the application, taking into account the objections itemized by the N.I.G.C. The Commission shall make the final decision whether to issue a license to such applicant.

1-6-5 License Suspension and Revocation.

A. If, after the issuance of a gaming license, the Commission obtains reliable information from the N.I.G.C. or other source indicating that a licensee is not eligible for a license under the standard set forth in Section 1-6-3 of this Ordinance, the Commission shall suspend such license and shall notify the licensee in writing of the suspension and the proposed revocation.

B. The Commission shall also notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

C. After a revocation hearing, the Commission shall decide to revoke or to reinstate the license. The Commission shall notify the N.I.G.C. of its decision.

D. Any San Juan Pueblo gaming license may be suspended or revoked for cause.

1-6-6 Licensing Providers of Gaming Equipment, Devices, or Supplies.

A. Required.

1. The Commission shall have responsibility for licensing providers of gaming devices and supplies, including those required by the Compact. The Commission shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct and indirect financial interest in the lessor or the lease/purchase agreement concerning gaming equipment, devices or supplies, to allow the Commission to make an informed decision.

2. All providers of supplies, services, and concessions with one or more contracts which in total exceed \$25,000 annually (except contracts for professional legal or accounting services) relating to San Juan gaming shall be subject to licensure. The Commission shall also have authority to license a small vendor if that is in the best interest of the Pueblo.

B. Licensing Standards. The Commission will apply the same standards for the licensing of vendors as are applicable under this ordinance for gaming employee licenses.

C. License suspension and revocation. The provisions of this ordinance applicable to employee license, suspension and revocation shall apply to the suspension and revocation of any vendor's license issued by the Commission.

D. License Fee. Each person applying to the Commission for a vendor's license shall pay a fee pursuant to a fee schedule established by the Commission.

1-7 BACKGROUND INVESTIGATIONS.

1-7-1 Commission Authority. The Commission shall conduct a background investigation of each Person required to be licensed pursuant to Section 1-6-1 of this Ordinance.

1-7-2 Required Information. Each Person required to be licensed pursuant to Section 1-6-1 of this Ordinance shall provide to the Commission the following information on an application form for that purpose:

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

B. Currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;

C. The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph B of this section;

D. Current business and residence telephone numbers;

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

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

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

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

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

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

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

L. A current photograph;

M. Any other information the Commission deems relevant; and

N. Fingerprints consistent with procedures set out in this Ordinance

1-7-3 Release Form. The Commission shall obtain from each applicant a release form signed by the applicant authorizing the Commission and N.I.G.C. to obtain any information related to the applicant's activities, including schools, property interests (real and personal), employment, criminal justice agencies, regulatory agencies, businesses, financial institutions, lending institutions, medical institutions, hospitals, and health care professionals.

1-7-4 Procedures for Conducting Background Investigations. The Commission shall conduct a background investigation of each Person required to be licensed pursuant to Section 1-6-1 of this Ordinance sufficient to enable the Commission to make a determination of suitability pursuant to the requirements of this Ordinance.

A. An applicant for a license shall provide to the Commission all the information required pursuant to Section 1-7-2 of this Ordinance and copies of the applicant's birth certificate, social security card, driver's license, passport and other documents deemed necessary by the Commission to conduct a background investigation of the applicant.

B. The Commission shall confirm, verify, and investigate the information provided by the applicant and obtain any additional information pursuant to the signed release form. In conducting a background investigation, the Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

C. Once the Commission has satisfied itself of the accuracy of the information provided by the applicant and other information obtained pursuant to a signed release form, the Commission shall analyze such information to make the Suitability Determination. The Commission may conduct any further background investigation should the circumstances warrant.

1-7-5 Fingerprint Check.

A. The Chairman of the Commission is authorized to negotiate and enter into an agreement with the N.I.G.C. or a State or federal law enforcement agency for the purpose of processing fingerprint cards to obtain criminal history record information ("CHRI") of Persons required to be licensed pursuant to Section 1-6-1 of this Ordinance.

B. The San Juan Pueblo Police Department is hereby designated as the law enforcement agency responsible for taking fingerprints of applicants for licenses. The Chairman of the Commission is also authorized to negotiate and enter into an agreement with a State or federal law enforcement agency to take such fingerprints. Such law enforcement agency shall designate an individual for the purpose of communicating with the Commission and the N.I.G.C. regarding the taking of fingerprints.

C. The Commission shall impose a fee sufficient to cover the cost of the processing of the fingerprint cards.

1-7-6 Procedure for Processing Fingerprint Cards.

A. Upon receipt of a completed application for a license and the payment of any required fees, the Commission is authorized to take fingerprints. The Commission shall take the applicant's fingerprints on cards provided by the N.I.G.C. for that purpose. The fingerprint cards shall be printed by a certified print technician and shall be of a quality as to be classifiable. The fingerprint cards shall be signed by the person taking the prints and the applicant. After taking the applicant's fingerprints, the Commission shall forward the fingerprint cards directly to the N.I.G.C. for an FBI fingerprint check.

B. The Commission shall also send to the N.I.G.C. a check in an amount sufficient to cover the cost of processing each applicant's fingerprint card and a list containing the following information:

1. The names of each applicant whose fingerprint cards will be sent to the N.I.G.C. by the law enforcement agency;
2. The social security number for each applicant;
3. The date of birth of each applicant; and
4. The name of the law enforcement agency taking the fingerprints.

1-7-7 Criminal History Record Information. The Commission may use the CHRI for the purpose of making a Suitability Determination and any other lawful purpose permitted by an agreement with the N.I.G.C. or a State or federal law enforcement agency. The Commission shall abide by all conditions or limitations imposed by such agreement on the release, dissemination or use of the CHRI. The Commission shall further ensure that the CHRI is restricted to the personnel directly involved in the licensing deliberations. The Commission shall maintain records of the identities of all personnel receiving access to the CHRI and shall furnish such records to the N.I.G.C. upon request.

1-8 MANAGEMENT CONTRACTS.

1-8-1 Requirement for Review and Approval. The Pueblo may enter into a Management Contract subject to approval of the Commission and the N.I.G.C.

1-8-2 Required Provisions.

A. Governmental Authority. The Pueblo shall not enter into a Management Contract unless it provides that all Class III Gaming conducted by a Management Contractor be conducted in accordance with this Ordinance, as amended or restated, the Compact, the Act and all applicable federal regulations.

B. Assignment of Responsibilities. A Management Contract shall identify the responsibilities of each party for each identifiable function set forth in the Act, and Parts I and II of this Ordinance.

C. Accounting and Record Keeping. A Management Contract shall provide for the establishment and maintenance of satisfactory accounting systems and procedures that shall include an adequate system of internal accounting controls and permit the preparation of financial statements in accordance with generally accepted accounting principles. The Management Contractor shall maintain adequate written records of bingo, and other Class II gaming activities on the premises for

a period of at least four (4) years. Records for Class III gaming activities shall be maintained for a period of at least five (5) years. These records shall include:

1. Gross Receipts.
2. Records of prizes, maintain pursuant to paragraph E above.
3. Any and all expenses.
4. Capital expenditures
5. Contract.
6. Net profits.
7. Payments to Pueblo's general fund.
8. Documents and calculations required to be maintained to satisfy terms of the

Compact.

D. The Management Contract shall require the Management Contractor, at its own cost and expense to provide monthly verifiable financial reports to the Pueblo, the Commission, and if required by the Act, the N.I.G.C., including any reports that the Compact requires the Management Contractor to make to the New Mexico Secretary of State or other State agencies or representatives.

E. Access.

1. A Management Contract shall require a Management Contractor to allow immediate access to a Gaming Facility or Enterprise, including its books and records, by authorized officials of the Pueblo, the Commission, or N.I.G.C. who shall have the right to verify the daily gross revenues and income from the Gaming Facility or Enterprise and agree to any other gaming-related information that such authorized officials deem appropriate.

2. A Management Contract shall provide that the State Gaming Representative shall have access to inspect all aspects of the gaming operations as provided by the Compact.

F. Guaranteed Payment. A Management Contract shall provide for a minimum guaranteed monthly payment in a sum certain to the Gaming Enterprise that has preference over the retirement of any development and construction costs.

G. Development and Construction Costs. A Management Contract shall provide for an agreed upon maximum dollar amount per month of revenues for the recoupment of development and construction costs.

H. Term. Pursuant to the Act, a Management Contract shall not be for a term exceeding five (5) years unless, upon request of the Pueblo, the N.I.G.C. authorizes a longer contract term not to exceed seven (7) years.

I. Compensation. Pursuant to the Act, a Management Contract shall not provide for more than thirty percent (30%) of the Net Revenues of a Gaming Enterprise to be paid to a

Management Contractor unless, upon request of the Pueblo, the N.I.G.C. authorizes a higher percentage not to exceed forty percent (40%). The balance of any Net Revenues shall be paid to the Treasurer of the Pueblo or other Pueblo entity as set forth in a Management Contract.

J. Termination; Disputes. A Management Contract shall provide the grounds and mechanisms for modifying or terminating such contract and include a mechanism to resolve disputes between a Gaming Enterprise or Facility and Management Contractor, Management Contractor and patrons, and Management Contract and/or its employees. Such grounds and mechanisms must comply with applicable provisions of the Compact and this Ordinance. In the event of any conflict, the provisions of the Compact shall prevail.

K. Assignments and Subcontracting. A Management Contract shall provide to what extent contract assignments and subcontracting are permissible. A Management Contract shall also provide that any assignment or subcontract, assignee or subcontractor, must agree to comply with all provisions of the Act, applicable federal regulations, this Ordinance and the Compact.

L. Ownership Interest. A Management Contract shall provide that changes in the ownership interest in such contract shall require the advance approval of the Pueblo, the Commission, and if required by the Act, the N.I.G.C.

M. Prohibited provisions. A Management Contract shall not transfer or convey any interest in Pueblo Lands unless consistent with the Act and authorized by the Pueblo, federal law, including, but not limited to applicable federal regulations.

1-9 DISPUTE RESOLUTION.

1-9-1 Patron Dispute Resolution Procedures Regarding Payouts. If a Gaming Enterprise or Management Contractor refuses to pay alleged winnings to a patron engaged in Gaming and a Gaming Enterprise or Management Contractor are unable to resolve the dispute the following procedures shall be used:

A. If the dispute involves at least \$250, the Gaming Enterprise or Management Contractor shall notify the Commission in writing of the dispute within five calendar days of the date the dispute arises, or the date of the written complaint, whichever is later (“Notice of Dispute”), and shall provide a copy of this Section of the Ordinance (Section 1-9-1) to the patron.

B. If the dispute involves less than \$250, the Gaming Enterprise or Management Contractor shall inform the patron that the patron has the right within five calendar days of the date the dispute arises to make a written request to the Commission to conduct an investigation (“Request for Investigation”).

C. The failure of a patron to make a Request for Investigation within the five day period shall bar the claim to any money in dispute.

D. The failure of the Gaming Enterprise or Management Contractor to give a Notice of Dispute within the five (5) day period set forth in paragraph A above, absent a showing of good cause, shall bar the Gaming Enterprise or Management Contractor from contesting any patron dispute regarding payouts later submitted to the Commission in writing by the patron.

E. Investigation and Hearing. Upon receipt of Notice of Dispute, Request for Investigation or written notice of a patron dispute submitted by a patron, the Commission shall conduct whatever investigation it deems necessary to resolve the dispute. The Commission shall hold a hearing on the matter within ten calendar days after concluding the investigation of the dispute. At the hearing, the Gaming Enterprise or Management Contractor and patron may submit any documentation or other evidence to the Commission to support their respective positions.

F. Decision. Within ten (10) calendar days after the hearing, the Commission shall issue a written decision resolving the dispute and shall mail the written decision, by certified mail, return receipt requested, to the patron and the Gaming Enterprise or Management Contractor. The effective date of a decision of the Commission made under this Section is the date the decision is received by the aggrieved party as reflected on the return receipt ("Effective Date").

G. Review of Decision. The decision of the Commission shall be final and subject to review by the Tribal Court, if the aggrieved party files a petition for review with the Tribal Court within ten calendar days of the Effective Date.

1-9-2 Other Patron Disputes. All other patron disputes that are recognized in the Compact shall be resolved pursuant to the dispute resolution procedures set forth in the Compact.

1-10 GAMING COMMISSION.

1-10-1 Establishment of the Commission, Appointment, Term. The terms of this ordinance, as previously adopted by the Pueblo in Resolution 95-13, provided for the establishment of a Board to be known as the Pueblo of San Juan Gaming Board, consisting of three (3) members appointed by the Council to serve staggered terms of three (3) years commencing on the date of their appointment. Henceforth the Pueblo of San Juan Gaming Board shall be designated the Pueblo of San Juan Gaming Commission, and Members of the Pueblo of San Juan Gaming Board shall be designated as the Pueblo of San Juan Gaming Commissioners. The Commission shall continue to have three members who shall be appointed by the Council to serve staggered terms of three years commencing on the date of their appointment.

1-10-2 Compensation. The Council shall establish the compensation, if any, for the Pueblo of San Juan Gaming Commissioners.

1-10-3 Removal. The Council may remove any Commissioner for any reason at any time.

1-10-4 Vacancies. The Council may fill any vacancies in the Commission.

1-10-5 Designation as Agent and Tribal Gaming Agency. The Commission is hereby appointed as the agent for the Pueblo to accept on behalf of the Pueblo service of any official determination, order, notice of violation that may be served by the N.I.G.C. pursuant to the Act. The Commission is also designated as the Tribal Gaming Agency for purposes of the Compact.

1-10-6 Powers and Duties. The Commission shall have the following powers:

A. To monitor and regulate any Gaming Activity conducted on Pueblo Lands except as provided by applicable law or the Compact;

B. To inspect and examine all Gaming Enterprises, Facilities or Premises on Pueblo lands on which any Gaming Activity is conducted.

C. To conduct background investigations as may be necessary and to conduct such other investigations to protect the public interest in the integrity of any Gaming Activity and to prevent improper or unlawful conduct in the course of any Gaming Activity.

D. To demand access to, inspect, examine, photocopy, or audit or to cause an audit to be conducted on all papers, books, and records of any Gaming Enterprise or Management Contractor relating to any Gaming Activity conducted on Pueblo Lands and any matters necessary to carry out its duties pursuant to this Ordinance, the Compact, and applicable law.

E. To compel any Person to appear before it and provide such information, documents or other materials as may be in such person's possession and to administer oaths or affirmations to witnesses appearing before it.

F. To promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance, the Compact or other applicable law.

G. To issue, suspend and revoke licenses in accordance with this Ordinance.

H. To enforce the health and safety standards applicable to any Gaming Facility.

I. To levy and collect fees and to impose any penalties and fines for violations of this Ordinance.

J. To adopt an annual operating budget subject to the approval of the Council, and, in accordance with such budget, to employ a staff as it deems necessary to fulfill its responsibilities under this Ordinance, and to retain legal counsel, consultants and other professional services, including investigative services, to assist it in carrying out its powers.

K. To issue any order or make any decision which the Commission has the power to issue or make pursuant to applicable law and to take any action as may be required to protect the public interest in any Gaming Activity.

L. To conduct any hearing, take testimony, and receive any evidence and to compel the production of any information or documents.

M. To enter into such contracts and agreements with State, federal and private entities for activities necessary to the discharge of its duties.

N. To take any other action necessary and proper to carry out its powers set forth in this Ordinance.

1-10-7 Assuring Compliance with Compact. In addition to the powers and duties set out in Section 1-9-6, the Commission will assure that the Pueblo will comply with all of the provisions set out in the Compact for the Conduct of Class III Gaming, and that the Pueblo shall adopt laws as set forth in the Compact.

1-10-8 Executive Director. The Commission may appoint and retain an individual to serve as executive director of the Commission to administer and execute its duties and responsibilities hereunder and other staff as the Commission may deem necessary to carry out such duties and responsibilities. The Executive Director shall be responsible for coordination of the functions with the N.I.G.C. and other federal, state, and local agencies as necessary.

1-10-9 Certificate of Self Regulation. As provided in the Act, the Commission on behalf of the Pueblo may petition the N.I.G.C. for a certificate of self regulation.

1-10-10 Procedures of the Commission.

A. Regular Meetings. Regular meetings of the Commission may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the Commission. Unless otherwise specified by the Commission, no notice of such regular meetings shall be necessary.

B. Special Meetings. Special meetings of the Commission may be called by the Chairman of the Commission or may be held by teleconference or by polling. The chairman of the Commission shall fix the time and place of the special meeting. Neither the business to be transacted at, nor the purposes of, any regular or special meeting of the Commission need to be specified in the notice of the meeting.

C. Quorum. At any meeting of the Commission, a majority of the Commission members shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the Commission. The chairman

of the Commission shall preside at all meetings of the Commission unless the chairman of the Commission designates another member to preside in his absence. Approval of action telephonically or by polling is also authorized.

D. Notice of Commission Action: Hearings. No action of the Commission taken pursuant to this Ordinance shall be valid unless the Person affected is given notice of the proposed action and the opportunity to appear and to be heard before the Commission and to submit such evidence as the Commission deems relevant to the matter at issue. Any hearing conducted may, at the direction of the Commission be conducted by the Executive Director or by one or members of the Commission designated by the Commission for that purpose.

E. Rules and Procedures. The Commission may adopt such additional procedures and rules as it deems necessary or convenient to govern its affairs consistent with applicable law.

1-11 PROHIBITED ACTS. It shall be a violation of this Ordinance for any Person to:

1-11-1 Conduct or participate in any Gaming Activity on Pueblo Lands other than at a licensed Gaming Facility.

1-11-2 Receive, distribute, apply or divert any property, funds, proceeds, or other assets of a Gaming Facility or Enterprise to the benefit of any Person except as authorized by this Ordinance, the Compact or other applicable law.

1-11-3 Tamper with any Gaming Device, Machine or other Gaming Equipment used in the conduct of any Gaming Activity with the intent to cause any Person to win or lose any wager other than in accordance with the publicly-announced and approved rules of a Gaming Operation.

1-11-4 Do any act in connection with the conduct of any Gaming Activity with the intent to affect the outcome of any wager other than in accordance with the publicly-announced and approved rules of a Gaming Facility or Gaming Enterprise.

1-11-5 Alter or misrepresent the outcome of any event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

1-11-6 Place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.

1-11-7 Claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a Gaming Device, Gaming Machine or other Gaming Equipment, with intent to defraud,

without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.

1-11-8 Place or increase a wager or bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including post-posting and pressing bets.

1-11-9 Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including pinching bets.

1-11-10 Manipulate, with the intent to cheat, any Gaming Device, Gaming Machine or Gaming Equipment, including but not limited to manipulating a Gaming Device, Gaming Machine or Gaming Equipment with knowledge that the manipulation affects the outcome of such device, machine or equipment.

1-11-11 Knowingly use other than coins or tokens approved by the Commission or other lawful coin, legal tender of the United States of America, or to use a coin not of the same denomination as the coin intended to be used in the Gaming Device, Gaming Machine or Gaming Equipment.

1-11-12 Possess, with the intent to use, any device to assist in projecting the outcome of the game, in keeping track of the cards played, in analyzing the probability of the occurrence of an event relating to Gaming Activity or in analyzing the strategy for playing or betting to be used in the Gaming Activity.

1-11-13 Use any device or means to cheat, or to possess any such device or means while at a Gaming Facility.

1-11-14 Knowingly entice or induce another to go to any place where Gaming Activity is being conducted or operated in violation of the provisions of this Ordinance, the Act, the Compact, or other applicable law with the intent that the other person play or participate in that Gaming Activity.

1-12 PENALTIES.

1-12-1 Any person who violates any provision of this Ordinance shall be subject to civil penalties, termination of employment by the Gaming Facility, Gaming Enterprise or Management Contractor, denial, suspension or revocation of a license, exclusion from any Gaming Facility, or exclusion from Pueblo Lands. The Commission may impose a fine of not more than Five Thousand Dollars (\$5,000) for each violation. The Commission shall have the jurisdiction to impose any penalties on any Person within the jurisdiction of the Pueblo.

1-13 SEVERABILITY.

1-13-1 In the event that any section or provision of Part I of this Ordinance or its application to any particular activity is held to be invalid, the remaining sections and provisions of Part I of this

Ordinance and the remaining applications of such section or provision shall continue in full force and effect.

1-14 SOVEREIGN IMMUNITY.

1-14-1 Unless required under the Compact or the Act, the Pueblo does not in any way waive its sovereign immunity from suit in any court. However, decisions of the Commission may be appealed to and shall be subject to final appellate review only in the Tribal Court. No decision of the Commission shall be reversed unless the San Juan Pueblo Tribal Court finds that the Commission's action was arbitrary, capricious or not in accordance with the law. No compensatory, punitive, monetary or exemplary damages may be awarded against the Commission for any action taken or decision made by the Commission.

1-15 PROTECTION OF COMMISSION.

1-15-1 The Pueblo sovereign immunity protects the Commissioners, employees and agents against any suit arising from their official actions or employment. The Pueblo of San Juan will defend, protect, and indemnify any person in any legal action arising from performing acts set out in this ordinance while serving for the Pueblo Gaming Commission.

1-16 REPEAL.

1-16-1 To the extent inconsistent with this Ordinance, all prior ordinances, regulations or parts thereof adopted by the Council are hereby repealed. Nothing in this section is intended to repeal regulations adopted by the Commission unless inconsistent with the provisions of this Ordinance.

1-17 AMENDMENTS.

1-17-1 Part I of this Ordinance may be amended by the Council.

PART II - Indian Gaming Compact

2-0 INTRODUCTION.

A. The State of New Mexico ("State") is a sovereign State of the United States of America, having been admitted to the Union pursuant to the Act of June 20, 1910, 36 Statutes at Large 557, Chapter 310, and is authorized by its constitution to enter into contracts and agreements, including this Compact, with the Tribe;

B. The Pueblo of San Juan ("Tribe") is a sovereign federally recognized Indian tribe and its governing body has authorized the officials of the Tribe to enter into contracts and agreements of every description, including this Compact, with the State;

C. The Congress of the United States has enacted the Indian Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-2721 (hereinafter "IGRA"), which permits Indian tribes to conduct Class III Gaming on Indian Lands pursuant to a tribal-state compact entered into for that purpose;

D. The 1999 State legislature has enacted SB 737, as 1999 N.M. Laws, ch. 252, known as the "Compact Negotiation Act," creating a process whereby the State and the Tribe have engaged in negotiations leading to this Compact, with review by a joint legislative committee, and with final approval by a majority vote in each house of the legislature;

E. The Tribe owns or controls Indian Lands and by Ordinance has adopted rules and regulations governing Class III games played and related activities at any Gaming Facility; the State and the Tribe, in recognition of the sovereign rights of each party and in a spirit of cooperation to promote the best interests of the citizens of the State and the members of the Tribe, have engaged in good faith negotiations recognizing and respecting the interests of each party and have agreed to this Compact.

NOW, THEREFORE, the State and the Tribe agree as follows:

2-1 TERMS AND CONDITIONS SECTION.

2-1-1 PURPOSE AND OBJECTIVES.

The purpose and objectives of the State and the Tribe in making this Compact are as follows:

A. To evidence the good will and cooperative spirit between the State and the Tribe;

B. To continue the development of an effective government-to-government relationship between the State and the Tribe;

C. To provide for the regulation of Class III Gaming on Indian Lands as required by the IGRA;

D. To fulfill the purpose and intent of the IGRA by providing for tribal gaming as a means of generating tribal revenues, thereby promoting tribal economic development, tribal self-sufficiency, and strong tribal government;

E. To provide revenues to fund tribal government operations or programs, to provide for the general welfare of the tribal members and for other purposes allowed under the IGRA;

F. To provide for the effective regulation of Class III Gaming in which the Tribe shall have the sole proprietary interest and be the primary beneficiary; and

G. To address the State's interest in the establishment, by the Tribe, of rules and procedures for ensuring that Class III Gaming is conducted fairly and honestly by the owners, operators, employees and patrons of any Class III Gaming enterprise on Indian Lands.

H. To settle and resolve certain disputes that have arisen between the Tribe and the State under the provisions of the Predecessor Agreements.

2-2 DEFINITIONS. For purposes of this Compact, the following definitions pertain:

A. "Class III Gaming" means all forms of gaming as defined in 25 U.S.C. § 2703(8), and 25 C.F.R. § 502.4.

B. "Compact" means this compact between the State and the Tribe.

C. "Gaming Employee" means a person connected directly with the conduct of Class III Gaming, or handling the proceeds thereof or handling any Gaming Machine; but "Gaming Employee" does not include:

1. Bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages;

2. Secretarial or janitorial personnel;

3. Stage, sound and light technicians; or

4. Other nongaming personnel.

D. "Gaming Enterprise" means the tribal entity created and designated by the Tribe as having authority to conduct Class III Gaming pursuant to this Compact.

E. "Gaming Facility" means the buildings or structures in which Class III Gaming is conducted on Indian Lands.

F. "Gaming Machine" means a mechanical, electromechanical or electronic contrivance or machine that, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate a game, whether the payoff is made automatically from the Gaming Machine or in any other manner.

G. "Indian Lands" means:

1. All lands within the exterior boundaries of the Tribe's reservation and its confirmed grants from prior sovereigns; or

2. Any other lands title to which is either held in trust by the United States for the exclusive benefit of the Tribe or a member thereof or is held by the Tribe or a member thereof subject to restrictions against alienation imposed by the United States, and over which the Tribe exercises jurisdiction and governmental authority, but not including any land within the boundaries of a municipality that is outside of the boundaries of the Tribe's reservation or confirmed Spanish grant, as those boundaries existed on October 17, 1988.

H. "Key Employee" means that term as defined in 25 C.F.R. Section 502.14.

I. "Management Contract" means a contract within the meaning of 25 U.S.C. §§ 2710(d)(9) and 2711.

J. "Management Contractor" means any person or entity that has entered into a Management Contract with the Tribe.

K. "Ordinance" means the gaming ordinance and any amendments thereto adopted by the Tribal Council of the Tribe.

L. "Predecessor Agreements" means the tribal-state class III gaming compact and the accompanying revenue sharing agreement entered into between the Tribe and the State pursuant to 1997 Laws, ch. 190, §§ 1, 2.

M. "Primary Management Official" means that term as defined in 25 CC.F.R. Section 502.19.

N. "State" means the State of New Mexico.

O. "State Gaming Representative" means that person designated by the gaming control board pursuant to the Gaming Control Act [60-2E-1 to 60-2E-60 NMSA 1978] who will be responsible for actions of the State set out in the Compact. The State Legislature may enact

legislation to establish an agency of the State to perform the duties of the State Gaming Representative.

P. "Tribal Gaming Agency" means the tribal governmental agency which will be identified to the State Gaming Representative as the agency responsible for actions of the Tribe set out in the Compact. It will be the single contact with the State and may be relied upon as such by the State.

Q. "Tribe" means any Indian Tribe, Nation or Pueblo located within the State of New Mexico entering into this Compact as provided for herein.

2-3 AUTHORIZED CLASS III GAMING.

2-3-1 The Tribe may conduct, only on Indian Lands, subject to all of the terms and conditions of this Compact, any or all forms of Class III Gaming.

2-3-2 Subject to the foregoing, the Tribe shall establish, in its discretion, by tribal law, such limitations as it deems appropriate on the number and type of Class III Gaming conducted, the location of Class III Gaming on Indian Lands, the hours and days of operation, and betting and pot limits, applicable to such gaming.

2-4 CONDUCT OF CLASS III GAMING.

2-4-1 Tribal Gaming Agency. The Tribal Gaming Agency will assure that the Tribe will:

A. Operate all Class III Gaming pursuant to this Compact, tribal law, the IGRA and other applicable Federal law;

B. Provide for the physical safety of patrons in any Gaming Facility;

C. Provide for the physical safety of personnel employed by the Gaming Enterprise;

D. Provide for the physical safeguarding of assets transported to and from the Gaming Facility and cashier's cage department;

E. Provide for the protection of the property of the patrons and the Gaming Enterprise from illegal activity;

F. Participate in licensing of primary management officials and key employees of a Class III Gaming Enterprise;

G. Detain persons who may be involved in illegal acts for the purpose of notifying law enforcement authorities; and

H. Record and investigate any and all unusual occurrences related to Class III Gaming within the Gaming Facility.

2-4-2 Regulations. Without affecting the generality of the foregoing, the Tribe shall adopt laws:

A. Prohibiting participation in any Class III Gaming by any person under the age of twenty-one (21);

B. Prohibiting the employment of any person as a Gaming Employee who is under the age of twenty-one (21) or who has not been licensed in accordance with the applicable requirements of federal and tribal law;

C. Requiring the Tribe to take all necessary action to impose on its gaming operation standards and requirements equivalent to or more stringent than those contained in the federal Fair Labor Standards Act of 1938, the federal Occupational Safety and Health Act of 1970, and any other federal laws generally applicable to Indian tribes relating to wages, hours of work and conditions of work, and the regulations issued thereunder;

D. Requiring that on any construction project involving any Gaming Facility or related structure that is funded in whole or in part by federal funds, all workers will be paid wages meeting or exceeding the standards established for New Mexico under the federal Davis-Bacon Act;

E. Prohibiting the Tribe, the Gaming Enterprise and a Management Contractor from discriminating in the employment of persons to work for the gaming Enterprise or in the Gaming Facility on the grounds of race, color, national origin, gender, sexual orientation, age or handicap, provided, however, that nothing herein shall be interpreted to prevent the Tribe from granting preference in employment actions to tribal members or other Indians in accordance with established tribal laws and policies;

F. Providing to all employees of a gaming establishment employment benefits, including, at a minimum, sick leave, life insurance, paid annual leave and medical and dental insurance as well as providing unemployment insurance and workers' compensation insurance through participation in programs offering benefits at least as favorable as those provided by comparable state programs;

G. Providing a grievance process for an employee in cases of disciplinary or punitive action taken against an employee that includes a process for appeals to persons of greater authority than the immediate supervisor of the employee;

H. Permitting State Department of Environment inspectors to inspect Gaming Facilities' food service operations during normal Gaming Facility business hours to assure that standards and requirements equivalent to the State's Food Service Sanitation Act [Chapter 25, Article 1 NMSA 1978] are maintained;

I. Prohibiting a gaming enterprise from cashing any paycheck or any type of government assistance check, including Social Security, TANF, pension and other similar checks, for any patron;

J. Prohibiting a gaming enterprise from extending credit by accepting IOUs or markers from its patrons;

K. Requiring that the Gaming Enterprise post on each Gaming Machine the odds of a player achieving a winning outcome from the games available on that Gaming Machine;

L. Requiring that automatic teller machines on Gaming Facility premises be programmed so that the machines will not accept cards issued by the State to TANF recipients for access to TANF benefits;

M. Providing that each electronic or electromechanical gaming device in use at the Gaming Facility must pay out a mathematically demonstrable percentage of all amounts wagered, which must not be less than eighty percent (80%);

N. Providing that all gaming machines on the premises of the Gaming Facility will be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual basis the activity of each Gaming Machine in use at the Gaming Facility, and that by no later than ninety days after this Compact takes effect, the wager and payout data of each machine, once it is fed into the Gaming Enterprise's central computer, may be accessed electronically by the State Gaming Representative by a dedicated telecommunications connection, on a "read-only" basis, upon entry of appropriate security codes; but provided that in no event shall the State Gaming Representative be able to alter or affect the operation of any Gaming Machine or other device on the premises of the Gaming Facility, or the data provided to the central computer, and provided further that the system for electronic access to the machine wager and payout data collected by the Gaming Enterprise's central computer shall be constructed and installed at the State's cost, and shall be designed in conjunction with Gaming Enterprise technical staff so as to preserve the integrity of the system and the data contained therein, to minimize any possibility of unauthorized access to the system or tampering with the data, and to minimize any access by the State Gaming Representative to information other than machine wager and payout data residing in the central reporting and auditing system;

O. Enacting provisions that:

1. Prohibit an employee of the Gaming Enterprise from selling, serving, giving or delivering an alcoholic beverage to an intoxicated person or from procuring or aiding in the procurement of any alcoholic beverage for an intoxicated person at the Gaming Facility;

2. Require Gaming Enterprise employees that dispense, sell, serve or deliver alcoholic beverages to attend Alcohol Server Education Classes similar to those classes provided for in the New Mexico Liquor Control Act; and

3. Require the Gaming Enterprise to purchase and maintain a liquor liability insurance policy that will provide, at a minimum, personal injury coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) aggregate per policy year;

P. Prohibiting alcoholic beverages from being sold, served, delivered or consumed in that part of a Gaming Facility where gaming is allowed;

Q. Requiring the gaming enterprise to spend an amount that is no less than one-quarter of one percent (.25%) of its net win as that term is defined herein annually to fund or support programs for the treatment and assistance of compulsive gamblers in New Mexico or who patronize New Mexico gaming facilities, and for the prevention of compulsive gambling in New Mexico; and requiring that a substantial portion of such funds be distributed to an organization that has expertise in and provides counseling, intervention or other services for compulsive gamblers in New Mexico, and whose services are available to all persons without regard to race or tribal membership;

R. Governing any Management Contract regarding its Class III Gaming activity so that it conforms to the requirements of tribal law and the IGRA and the regulations issued thereunder;

S. Prohibiting the operation of any Class III Gaming for at least four (4) consecutive hours daily, Mondays through Thursdays (except federal holidays);

T. Prohibiting a Tribal Gaming Enterprise and the Tribe from providing, allowing, contracting to provide or arranging to provide alcoholic beverages for no charge or at reduced prices, or from providing, allowing, contracting to provide or arranging to provide food or lodging for no charge or at nominal prices, at a Gaming Facility or lodging facility as an incentive or enticement for patrons to game; and

U. Requiring the Tribe, the Tribal Gaming Enterprise or a Management Contractor to report to the secretary of state, in the same manner and at the same times as are required of political committees under the provisions of the State's Campaign Reporting Act (NMSA 1978 §§ 1-19-25 through 1-19-36) any and all contributions, whether directly or through an agent, representative or employee, of any moneys derived from revenue from the Gaming Enterprise, or of anything of value acquired with that revenue, to a candidate, political committee or person holding an office elected or to be elected at an election covered by the State's Campaign Reporting Act and provided that in the event any report required to be made hereunder is not made within the time specified herein, or is false or incomplete in any respect, the Tribe shall be liable to pay to the secretary of state a penalty in the amount of fifty dollars (\$50.00) for each working day after the day on which the report was due until the day on which the complete or true report is filed, up to a maximum of five thousand dollars (\$5000), except that with respect to the report due on the Friday before an election the penalty

shall be five hundred dollars (\$500) for the first working day after the due date and fifty dollars (\$50.00) per working day thereafter, up to a maximum of five thousand dollars (\$5000).

2-4-3 Copies of Tribal Laws to State Gaming Representative. The Tribal Gaming Agency will provide true copies of all tribal laws and regulations affecting Class III Gaming conducted under the provisions of this Compact to the State Gaming Representative within thirty (30) days after the effective date of this Compact, and will provide true copies of any amendments thereto or additional laws or regulations affecting gaming within thirty (30) days after their enactment or approval, if any.

2-4-4 Audit and Financial Statements. The Tribal Gaming Agency shall require all books and records relating to Class III Gaming to be maintained in accordance with generally accepted accounting principles. All such books and records shall be retained for a period of at least five (5) years from the date of creation, as required by 25 C.F.R. § 571.7(c). Not less than annually, the Tribal Gaming Agency shall require an audit and a certified financial statement covering all financial activities of the gaming enterprise by an independent certified public accountant licensed by the State. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall be submitted to the Tribal Gaming Agency within one hundred twenty (120) days of the close of the Tribe's fiscal year. Copies of the financial statement and the audit shall be furnished to the State Gaming Representative and the state treasurer by the Tribal Gaming Agency within one hundred twenty days of the agency's receipt of the documents, but such documents shall be subject to the provisions of § 4(E)(3) of this Compact. The Tribe will maintain the following records for not less than five (5) years:

- A. Revenues, expenses, assets, liabilities and equity for each Gaming Enterprise;
- B. Daily cash transactions for each Class III Gaming activity at each Gaming Facility, including but not limited to transactions relating to each gaming table bank, game dropbox and gaming room bank;
- C. All markers, IOUs, returned checks, hold checks or other similar credit instruments;
- D. Individual and statistical game records, except for card games, to reflect statistical drop and statistical win; for electronic, computer, or other technologically assisted games, analytic reports which show the total amount of cash wagered and the total amount of prizes won;
- E. Contracts, correspondence and other transaction documents relating to all vendors and contractors;
- F. Records of all tribal gaming enforcement activities;
- G. Audits prepared by or on behalf of the Tribe; and

H. Personnel information on all Class III Gaming employees or agents, including rotation sheets, hours worked, employee profiles and background checks.

2-4-6 Violations. The agents of the Tribal Gaming Agency shall have unrestricted access to the Gaming Facility during all hours of Class III Gaming activity, and shall have immediate and unrestricted access to any and all areas of the Gaming Facility for the purpose of ensuring compliance with the provisions of this Compact and the Ordinance. The agents shall report immediately to the Tribal Gaming Agency any suspected violation of this Compact, the Ordinance, or regulations of the Tribal Gaming Agency by the gaming enterprise, Management Contractor, or any person, whether or not associated with Class III Gaming.

2-4-7 State Gaming Representative.

A. Upon written request by the State to the Tribe, the Tribe will provide information on primary management officials, key employees and suppliers, sufficient to allow the State to conduct its own background investigations, as it may deem necessary, so that it may make an independent determination as to the suitability of such individuals, consistent with the standards set forth in Section 5 of this Compact. The Tribe shall consider any information or recommendations provided to it by the State as to any such person or entity, but the Tribe shall have the final say with respect to the hiring or licensing of any such person or entity.

B. Notwithstanding that the Tribe has the primary responsibility to administer and enforce the regulatory requirements of this Compact, the Tribal Gaming Agency will certify annually to the State Gaming Representative that the Tribal Gaming Agency has met its obligations under this Compact. Additionally, the State Gaming Representative shall have the right to inspect a Gaming Facility, Class III Gaming activity, and all records relating to Class III Gaming of the Tribe, subject to the following conditions:

1. With respect to public areas of a Gaming Facility, at any time without prior notice during normal Gaming Facility business hours;

2. With respect to private areas of a Gaming Facility not accessible to the public, at any time during normal Gaming Enterprise business hours, immediately after notifying the Tribal Gaming Agency and Gaming Enterprise of his or her presence on the premises and presenting proper identification, and requesting access to the non-public areas of the Gaming Facility. The Tribe, in its sole discretion, may require an employee of the Gaming Enterprise or the Tribal Gaming Agency to accompany the State Gaming Representative at all times that the State Gaming Representative is on the premises of a Gaming Facility, but if the Tribe imposes such a requirement, the Tribe shall require such an employee of the Gaming Enterprise or the Tribal Gaming Agency to be available at all times for such purpose;

3. With respect to inspection and copying of all management records relating to Class III Gaming, at any time without prior notice between the hours of 9:00 a.m. and 4:00 p.m.

Monday through Friday, excluding official holidays. The reasonable costs of copying will be borne by the State; and

4. Whenever the State Gaming Representative, or his designee, enters the premises of the Gaming Facility for any such inspection, such Representative, or designee, shall identify himself to security or supervisory personnel of the Gaming Enterprise.

The State Gaming Representative may contract with private persons, firms or other entities for the purpose of performing certain of his functions, but the State Gaming Representative will be the single contact with the Tribe and may be relied upon as such by the Tribe.

C. Documents and Communications.

1. Any information, documents or communications provided to the State Gaming Representative, his agents or contractors, or to any other official, agency or entity of the State (all of which are collectively hereinafter referred to as "the State entities") by the Tribe, the Tribal Gaming Agency or the Gaming Enterprise, or prepared from information obtained from the Tribe, the Tribal Gaming Agency or the Gaming Enterprise, under the provisions of this Compact or under the provisions of the Predecessor Agreements, are confidential. Any State entity that has received any information, documents or communications from the Tribe, the Tribal Gaming Agency or the Gaming Enterprise: i) may release or disclose the same only with the prior written consent of the Tribe or pursuant to a lawful court order after timely notice of the proceeding has been given to the Tribe; ii) shall maintain all such information, documents and communications in a secure place accessible only to authorized officials and employees of the State entity that has received the same; and iii) shall adopt procedures and regulations to protect the confidentiality of the information, documents and communications provided by the Tribe, Tribal Gaming Agency or Gaming Enterprise.

2. These prohibitions shall not be construed to prohibit:

a. The furnishing of any information to a law enforcement or regulatory agency of the Federal Government;

b. The State from making known the names of persons, firms, or corporations conducting Class III Gaming pursuant to the terms of this Compact, locations at which such activities are conducted, or the dates on which such activities are conducted;

c. Publishing the terms of this Compact;

d. Disclosing information as necessary to audit, investigate, prosecute or arbitrate violations of this Compact or other applicable laws or to defend suits against the State; and

e. Complying with subpoenas or court orders issued by courts of competent jurisdiction.

3. Notwithstanding the foregoing, the Tribe agrees that:

a. The following documents and information may be released by a State entity to the public: the Tribe's gaming ordinance and regulations of the Tribal Gaming Agency; official rulings of the Tribal Gaming Agency in matters not subject to a confidentiality order imposed by the Agency; other information and documents of the Tribal Gaming Agency or the Gaming Enterprise ordinarily available to the public; quarterly Net Win figures used as the basis for computation of the Tribe's revenue sharing payment under the provisions of Section 11 of this Compact; and correspondence between the Tribe or a tribal entity and a State entity, unless such correspondence is specifically labeled "Confidential;"

b. A State entity may release to the public aggregate figures compiled by totaling comparable figures from the annual financial statements of all of the New Mexico gaming tribes; and

c. The report of the annual audit of the Gaming Enterprise that is provided by the Tribe to the State Gaming Representative shall be available to the public to the same extent that similar information that is required to be provided to the State by non-Indian gaming entities is available to the public, pursuant to the provisions of applicable law and the policies and regulations of the Gaming Control Board, at the time the request for the report of the annual audit is made.

4. To the fullest extent allowed by State law, the Tribe shall have the right to inspect State records concerning all Class III Gaming conducted by the Tribe; the Tribe shall have the right to copy such State records, with the Tribe bearing the reasonable cost of copying.

5. The Tribe shall reimburse the State for the costs the State incurs in carrying out any functions authorized by the terms of this Compact. The Tribe and the State agree that to require the State to keep track of and account to the Tribe for all such costs would be unreasonably burdensome, and that a fair estimate of the State's costs of such activity as of the date on which this Compact takes effect is one hundred thousand dollars (\$100,000) per year, and that those costs will increase over time. The Tribe therefore agrees to pay the State the sum of one hundred thousand dollars (\$100,000) per year as reimbursement of the State's costs of regulation, which amount shall increase by three percent (3%) each year, beginning as of January 1 of the first calendar year after this Compact has been in effect for at least twelve (12) months, in quarterly payments of one-fourth of the annual amount due each, in advance, beginning with the first day of the first full calendar quarter after this Compact takes effect, and on the first day of each quarter thereafter, for as long as this Compact remains in effect. The Tribe and the State further agree that such amount fairly reflects the State's costs of regulation during the period of time that the Predecessor Agreements were in effect, and that the Tribe should pay the State that amount for such period, but no more. The Tribe

therefore agrees that with its first quarterly payment due to the State under the provisions of this Paragraph, it will also pay to the State an amount equal to the number of full calendar quarters that the Predecessor Agreements were in effect, times twenty-five thousand dollars (\$25,000), less the total amount that the Tribe actually paid to the State during such period under the provisions of Section 4(E)(5) of the compact portion of the Predecessor Agreements. If the amount thus determined is a negative number, such amount shall be credited against the payments due to the State under the provisions of this Paragraph until the Tribe has recouped such amount in full, but in such case the Tribe shall nevertheless provide to the State, on or before the due date for each quarterly payment, a statement of the amount of the overpayment still to be recouped, and the amount credited for the current payment.

6. In the event the State believes that the Tribe is not administering and enforcing the regulatory requirements set forth herein, it may invoke the procedures set forth in Section 7 of this Compact.

2-4-8 Compliance with Bank Secrecy Act. The Tribe shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, and all reporting requirements of the Internal Revenue Service.

2-5 LICENSING REQUIREMENTS.

2-5-1 License Required. The Gaming Facility operator, but not including the Tribe, including its principals, primary management officials, and key employees, the Management Contractor and its principals, primary management officials, and key employees (if the Tribe hires a Management Contractor); any person, corporation, or other entity that has supplied or proposes to supply any gaming device to the Tribe or the Management Contractor; and any person, corporation or other entity providing gaming services within or without a Gaming Facility, shall apply for and receive a license from the Tribal Gaming Agency before participating in any way in the operation or conduct of any Class III Gaming on Indian Lands. The Tribal Gaming Agency shall comply fully with the requirements of this Section and of the Indian Gaming Regulatory Act, especially at 25 U.S.C. §§ 2710-2711, and the regulations issued thereunder at 25 C.F.R. Parts 550-559, as well as the requirements of the Tribe's gaming ordinance and any regulations issued thereunder, in processing license applications and issuing licenses.

2-5-2 License Application. Each applicant for a license shall file with the Tribal Gaming Agency a written application in the form prescribed by the Tribal Gaming Agency, along with the applicant's fingerprint card, current photograph and the fee required by the Tribal Gaming Agency.

2-5-3 Background Investigations. Upon receipt of a completed application and required fee for licensing, the Tribal Gaming Agency shall conduct or cause to be conducted a background investigation to ensure that the applicant is qualified for licensing.

2-5-4 Provision of Information to State Gaming Representative. Whenever the Tribal Gaming Agency is required by federal or tribal law or regulations to provide to the National Indian Gaming Commission any information, document or notice relating to the licensing of any key employee or primary management official of the Gaming Enterprise, a copy of such information, document or notice shall also be provided to the State Gaming Representative. The State Gaming Representative shall be entitled to the same right to request additional information concerning an applicant licensee, to comment on the proposed licensing of any applicant licensee, and to supply the Tribal Gaming Agency with additional information concerning any applicant licensee, as is enjoyed by the Commission.

2-6 PROVIDERS OF CLASS III GAMING EQUIPMENT OR DEVICES OR SUPPLIES.

2-6-1 Within thirty (30) days after the effective date of this Compact, if it has not already done so, the Tribal Gaming Agency will adopt standards for any and all Class III Gaming equipment, devices or supplies to be used in any Gaming Facility, which standards shall be at least as strict as the comparable standards applicable to Class III Gaming equipment, devices or supplies within the State of Nevada. Any and all Class III Gaming equipment, devices or supplies used by the Tribe shall meet or exceed the standards thereby adopted.

2-6-2 Prior to entering into any future lease or purchase agreement for Class III Gaming equipment, devices or supplies, the Tribe shall obtain sufficient information and identification from the proposed seller or lessor and all persons holding any direct or indirect financial interest in the lessor or the lease/purchase agreement to permit the Tribe to license those persons in accordance with applicable federal and tribal law.

2-6-3 The seller, lessor, manufacturer or distributor shall provide, assemble and install all Class III Gaming equipment, devices or supplies in a manner approved and licensed by the Tribe.

2-7 DISPUTE RESOLUTION.

2-7-1 In the event either party believes that the other party has failed to comply with or has otherwise breached any provision of this Compact, such party may invoke the following procedure:

A. The party asserting noncompliance shall serve written notice on the other party. The notice shall identify the specific Compact provision believed to have been violated and shall specify the factual and legal basis for the allegation of noncompliance. The notice shall specifically identify the date, time and nature of the alleged noncompliance.

B. In the event an allegation by the complaining party is not resolved to the satisfaction of such party within twenty (20) days after service of the notice set forth in Paragraph A(1) of this section, the complaining party may serve upon the other party a notice to cease conduct of the particular game(s) or activities alleged by the complaining party to be in noncompliance. Upon receipt of such notice, the responding party may elect to stop the game(s) or activities specified in

the notice or invoke arbitration and continue the game(s) or activities pending the results of arbitration. The responding party shall act upon one of the foregoing options within ten (10) days of receipt of notice from the complaining party, unless the parties agree to a longer period, but if the responding party takes neither action within such period the complaining party may invoke arbitration by written notice to the responding party within ten (10) days of the end of such period.

C. The arbitrators shall be attorneys who are licensed members in good standing of the State Bar of New Mexico or of the bar of another state. The State will select one arbitrator, the Tribe a second arbitrator, and the two so chosen shall select a third arbitrator. If the third arbitrator is not chosen in this manner within ten (10) days after the second arbitrator is selected, the third arbitrator will be chosen by the American Arbitration Association. The arbitrators thereby selected shall permit the parties to engage in reasonable discovery, and shall establish other procedures to ensure a full, fair and expeditious hearing on the matters at issue. The arbitrators shall determine, after hearing from each party, whether the arbitration proceeding or any portions thereof shall be closed to the public, but in the absence of such determination the proceedings shall be open to the public. The arbitrators shall make determinations as to each issue presented by the parties, but the arbitrators shall have no authority to determine any question as to the validity or effectiveness of this Compact or of any provision hereof.

D. All parties shall bear their own costs of arbitration and attorneys' fees.

E. The results of arbitration shall be final and binding, and shall be enforceable by an action for injunctive or mandatory injunctive relief against the State and the Tribe in any court of competent jurisdiction. For purposes of any such action, the State and the Tribe acknowledge that any action or failure to act on the part of any agent or employee of the State or the Tribe, contrary to a decision of the arbitrators in an arbitration proceeding conducted under the provisions of this section, occurring after such decision, shall be wholly unauthorized and ultra vires acts, not protected by the sovereign immunity of the State or the Tribe.

2-7-2 Nothing in Section 2-7-1 [Subsection 7(A)] shall be construed to waive, limit or restrict any remedy that is otherwise available to either party to enforce or resolve disputes concerning the provisions of this Compact. Nothing in this Section shall be deemed a waiver of the Tribe's sovereign immunity. Nothing in this Section shall be deemed a waiver of the State's sovereign immunity.

2-8 PROTECTION OF VISITORS.

2-8-1 Policy Concerning Protection of Visitors. The safety and protection of visitors to a Gaming Facility is a priority of the Tribe, and it is the purpose of this Section to assure that any such persons who suffer bodily injury or property damage proximately caused by the conduct of the Gaming Enterprise have an effective remedy for obtaining fair and just compensation. To that end, in this Section, and subject to its terms, the Tribe agrees to carry insurance that covers such injury or loss, agrees to a limited waiver of its immunity from suit, and agrees to proceed either in binding

arbitration proceedings or in a court of competent jurisdiction, at the visitor's election, with respect to claims for bodily injury or property damage proximately caused by the conduct of the Gaming Enterprise. For purposes of this Section, any such claim may be brought in state district court, including claims arising on tribal land, unless it is finally determined by a state or federal court that IGRA does not permit the shifting of jurisdiction over visitors' personal injury suits to state court.

2-8-2 Insurance Coverage for Claims Required. The Gaming Enterprise shall maintain in effect policies of liability insurance insuring the Tribe, its agents and employees against claims, demands or liability for bodily injury and property damages by a visitor arising from an occurrence described in Paragraph A of this Section. The policies shall provide bodily injury and property damage coverage in an amount of at least fifty million dollars (\$50,000,000) per occurrence and fifty million dollars (\$50,000,000) annual aggregate. The Tribe shall provide the State Gaming Representative annually a certificate of insurance showing that the Tribe, its agents and employees are insured to the required extent and in the circumstances described in this Section.

2-8-3 Limitation on Time to Bring Claim. Claims brought pursuant to the provisions of this section must be commenced by filing an action in court or a demand for arbitration within three years of the date the claim accrues.

2-8-4 Specific Waiver of Immunity and Choice of Law. The Tribe, by entering into this Compact and agreeing to the provisions of this section, waives its defense of sovereign immunity in connection with any claims for compensatory damages for bodily injury or property damage up to the amount of fifty million dollars (\$50,000,000) per occurrence asserted as provided in this section. This is a limited waiver and does not waive the Tribe's immunity from suit for any other purpose. The Tribe shall ensure that a policy of insurance that it acquires to fulfill the requirements of this section shall include a provision under which the insurer agrees not to assert the defense of sovereign immunity on behalf of the insured, up to the limits of liability set forth in this Paragraph. The Tribe agrees that in any claim brought under the provisions of this Section, New Mexico law shall govern the substantive rights of the claimant, and shall be applied, as applicable, by the forum in which the claim is heard, except that the tribal court may but shall not be required to apply New Mexico law to a claim brought by a member of the Tribe.

2-8-5 Election by Visitor. A visitor having a claim described in this section may pursue that claim in any court of competent jurisdiction, or in binding arbitration. The visitor shall make a written election that is final and binding upon the visitor.

2-8-6 Arbitration. Arbitration pursuant to an election by a visitor as provided in Subsection E of this section shall be conducted as follows:

A. The visitor shall submit a written demand for arbitration to the Gaming Enterprise, by certified mail, return receipt requested;

B. The visitor and the Gaming Enterprise shall each designate an arbitrator within thirty (30) days of receipt of the demand, and the two arbitrators shall select a third arbitrator, but in the event the two arbitrators cannot agree on the selection of the third arbitrator within thirty (30) days of their appointment, they shall apply to the American Arbitration Association to appoint the third arbitrator;

C. The arbitration panel shall permit the parties to engage in reasonable discovery, and shall establish other procedures to ensure a full, fair and expeditious hearing on the claim; and

D. The award of the arbitration panel shall be final and binding, and may be enforced in a court of competent jurisdiction.

2-8-7 Increase in Liability Limits. As of the fifth anniversary of this Compact, and at five-year intervals thereafter, the liability insurance coverage requirements set forth in Paragraph B of this Section, and the limit on the Tribe's waiver of sovereign immunity set forth in Paragraph D of this Section, shall be increased by a percentage equal to the percentage increase in the CPI-U published by the Bureau of Labor Statistics of the United States Department of Labor, for the same period, rounded to the nearest one hundred thousand dollars (\$100,000).

2-8-8 Public Health and Safety. The Tribe shall establish for its Gaming Facility health, safety and construction standards that are at least as stringent as the current editions of the National Electrical Code, the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code and the Uniform Plumbing Code, and any and all Gaming Facilities or additions thereto constructed by the Tribe hereafter shall be constructed and all facilities shall be maintained so as to comply with such standards. Inspections will be conducted with respect to these standards at least annually. If the State Gaming Representative requests sufficiently in advance of an annual inspection, the State Gaming Representative may be present during such inspection. The Tribe agrees to correct any deficiencies noted in such inspections within a time agreed upon between the State and Tribe. The Tribal Gaming Agency will provide copies of such inspection reports to the State Gaming Representative, if requested to do so in writing.

2-9 CONDITIONS FOR EXECUTION; EFFECTIVE DATE.

2-9-1 The parties acknowledge that they have been engaged in litigation, captioned *State of New Mexico v. Jicarilla Apache Tribe, et al.*, No. 00-0851 (D.N.M.) (the "Lawsuit"), that was initiated by the State in United States District Court on June 13, 2000, in which the State seeks an injunction against the Tribe's conduct of Class III gaming under the Predecessor Agreements unless the Tribe pays the State the full amount that the State claims it is owed under the revenue sharing provision of the Predecessor Agreements. The Tribe disputes the validity of such provision of the Predecessor Agreements, but the parties have agreed to settle the dispute addressed in the Lawsuit, and have agreed to enter into this new Compact.

2-9-2 This Compact may not be executed by the Governor of the State unless and until it has been executed by the appropriate representative of the Tribe, and until the State Attorney General has certified to the Governor in writing that the Tribe and the State have negotiated a complete settlement of the issues in dispute in the Lawsuit (except that such settlement shall be contingent upon this Compact going into effect under the provisions of IGRA), and that the Tribe has either paid in full the amount agreed to by the terms of the settlement, into the registry of the federal court, or has entered into a binding and fully enforceable agreement for the payment of such amount that is acceptable to the Attorney General. Upon receiving such certification, the Governor shall execute the Compact and forward it to the Secretary of the Interior for approval. Upon the Secretary's affirmative approval of this Compact, as set forth in Paragraph C of this Section, such sum, plus interest, shall be immediately paid into the State General Fund. In the event the Secretary fails to affirmatively approve this Compact, such sum, plus interest, shall be immediately repaid to the Tribe.

2-9-3 This Compact shall take effect upon publication of notice in the Federal Register of its approval by the Secretary of the Interior, or of the Secretary's failure to act on it within 45 days from the date on which it was submitted to him; provided, however, that notwithstanding its taking effect, the parties expressly agree that the provisions of this Compact shall remain suspended, and shall confer no rights or obligations on either party, and that the terms and provisions of the Predecessor Agreements shall remain fully in force and effect, subject to the Tribe's and the State's claims in the Lawsuit, unless and until the Secretary shall have affirmatively approved this Compact, pursuant to 25 U.S.C. § 2710(d)(8)(A).

2-9-4 Upon the publication of notice of the Secretary's affirmative approval of this Compact in the Federal Register, the Predecessor Agreements shall be and become null and void, and of no further effect, and any and all actions as between the Tribe and the State arising out of the Predecessor Agreements, including dispute resolution proceedings, shall thereafter be dismissed with prejudice with no relief to either party, and the terms and provisions of this Compact shall go into full force and effect, fully supplanting and replacing the Predecessor Agreements.

2-10 CRIMINAL JURISDICTION.

2-10-1 The Tribe and the State acknowledge that under the provisions of § 23 of the IGRA, especially that portion codified at 18 U.S.C. § 1166(d), jurisdiction to prosecute violations of State gambling laws made applicable by that section to Indian country is vested exclusively within the United States, unless the Tribe and the State agree in a compact entered into pursuant to the IGRA to transfer such jurisdiction to the State.

2-10-2 The Tribe and the State hereby agree that, in the event of any violation of any State gambling law on Indian Lands or any other crime against the Gaming Enterprise or any employee thereof or that occurs on the premises of the Tribal Gaming Facility, that is committed by any person who is not a member of the Tribe, the State shall have and may exercise jurisdiction, concurrent with that of the United States, to prosecute such person, under its laws and in its courts.

2-10-3 Immediately upon becoming aware of any such suspected crime by a nonmember of the Tribe the Gaming Enterprise or the Tribal Gaming Agency shall notify the state attorney general and the district attorney for the district in which the Gaming Facility is located, supplying all particulars available to the tribal entity at the time. The Tribe agrees that its law enforcement and gaming agencies shall perform such additional investigation or take such other steps in furtherance of the investigation and prosecution of the violation as the district attorney may reasonably request, and otherwise cooperate fully with the district attorney and any state law enforcement agencies with respect to the matter, but once notice of a suspected violation has been given to the district attorney, the matter shall be deemed to be under the jurisdiction of the State; provided, however, that in the event of emergency circumstances involving a possible violation, the Tribe and its constituent agencies shall have the discretion to act as they see fit, and to call upon such other agencies or entities as they deem reasonable or necessary, in order to protect against any immediate threat to lives or property. The State may, in its discretion, refer the matter to federal authorities, but it shall notify the Tribal Gaming Agency upon doing so.

2-10-4 The State agrees that no less frequently than annually it will provide the Tribal Gaming Agency with a written report of the status and disposition of each matter referred to it under the provisions of this section since the last report or that was still pending at the time of the last report. In the event the district attorney to whom a matter is referred under the provisions of this section decides not to prosecute such matter, the district attorney shall promptly notify the Tribal Gaming Agency of such decision in writing. The Tribal Gaming Agency may in that event ask the attorney general of the state to pursue the matter.

2-10-5 The district attorney for the district in which the Gaming Facility is situated may decline to accept referrals of cases under the provisions of this section unless and until the Tribe has entered into a Memorandum of Understanding with the office of the district attorney to which Memorandum of Understanding the United States Attorney for the District of New Mexico may also be a party addressing such matters as the specific procedures by which cases are to be referred, participation of the Tribal Gaming Agency and tribal law enforcement personnel in the investigation and prosecution of any such case, payments by the Tribe to the office of the district attorney to defray the costs of handling cases referred under the provisions of this section, and related matters.

2-11 REVENUE SHARING.

2-11-1 Consideration. The Tribe shall pay to the State a portion of its Class III Gaming revenues identified in and under procedures of this Section, in return for which the State agrees that the Tribe has the exclusive right within the State to conduct all types of Class III Gaming described in this Compact, with the sole exception of the use of Gaming Machines, which the State may permit on a limited basis for racetracks and for veterans' and fraternal organizations as such organizations are described in 1997 Laws ch. 190, §5(FF).

2-11-2 Revenue to State. The parties agree that, after the effective date hereof, the Tribe shall make the quarterly payments provided for in Paragraph C of this Section. Each payment shall be made to the State Treasurer for deposit into the General Fund of the State.

2-11-3 Calculation of Payment Amounts.

A. As used in this Compact, "Net Win" means the total amount wagered in Class III Gaming at a Gaming Facility, on all Gaming Machines less:

1. The amount paid out in prizes, including the cost to the Tribe of noncash prizes, won on Gaming Machines;

2. The amount paid to the State by the Tribe under the provisions of Section 4(E)(5) of this Compact; and

3. The sum of two hundred seventy-five thousand dollars (\$275,000) per year as an amount representing tribal regulatory costs, which amount shall increase by three percent (3%) each year beginning on the first day of January occurring after the Compact has been in effect for at least twelve months.

B. The amount payable by the Tribe to the State shall be an amount equal to eight percent (8%) of the Net Win, except that if the total Net Win in a calendar year is less than twelve million dollars (\$12,000,000), the amount payable by the Tribe shall be an amount equal to three percent (3%) of the first four million dollars (\$4,000,000) of Net Win, and eight percent (8%) of the rest of the Net Win for the year.

C. Payments due pursuant to these terms shall be paid quarterly, no later than twenty-five (25) days after the last day of each calendar quarter, and shall be based upon the Net Win during the preceding quarter. If the Tribe reasonably believes that the total Net Win for the calendar year will be less than twelve million dollars (\$12,000,000), it may base its payment on the first four million dollars (\$4,000,000) on the lower rate as set forth in paragraph (C)(2) of this Section, but if the Net Win exceeds twelve million dollars (\$12,000,000) during the calendar year, the Tribe shall pay the additional amount due on the first four million dollars (\$4,000,000), plus interest as provided in this paragraph, with its next quarterly payment. In the event the Tribe makes its quarterly payments based on the rate of eight percent (8%), and its Net Win for the calendar year totals less than twelve million dollars (\$12,000,000), the Tribe may deduct the overpayment from its payment for the final quarter of the year. Any payment or any portion thereof that is not made within ten (10) days of the due date shall accrue interest at the rate of ten percent (10%) per annum, from the original due date until paid. The Tribe shall accompany any payment to the State with a detailed breakdown of the particular obligation to which such payment applies, and the basis for the calculation of such payment.

2-11-4 Limitations.

A. The Tribe's obligation to make the payments provided for in Paragraphs B and C of this Section shall apply and continue only so long as this Compact remains in effect; and provided that obligation shall terminate altogether in the event the State:

1. Passes, amends, or repeals any law, or takes any other action, that would directly or indirectly attempt to restrict, or has the effect of restricting, the scope or extent of Indian gaming;

2. Licenses, permits or otherwise allows any person or entity other than licensed horse racetracks and veterans and fraternal organizations as described in 1997 Laws, ch. 190, §5(FF) to operate Gaming Machines;

3. Licenses, permits or otherwise allows any non-Indian person or entity to engage in any other form of Class III gaming other than a state-sponsored lottery, parimutuel betting on horse racing and bicycle racing, operation of Gaming Machines, and limited fundraising by non-profit organizations.

B. The parties agree that the State's allowance of the following forms of Class III Gaming, subject to the limitations expressly set forth herein, shall not be considered an expansion of nontribal Class III gaming for purposes of this agreement, and shall have no effect on the Tribe's obligation to make the payments provided for in Paragraphs B and C of this Section:

1. The operation of a State lottery;

2. The operation of Gaming Machines by any fraternal or veterans organization as described in 1997 Laws ch. 190, § 5(FF) but only for the benefit of such organization's members;

3. Limited fundraising activities conducted by nonprofit tax exempt organizations;

4. The conduct by licensed horse racetracks and bicycle tracks of parimutuel betting on races at such tracks, and on simulcast races at other tracks elsewhere in the country; and

5. The operation by a licensed horse racetrack of Gaming Machines on days on which live or simulcast horse racing occurs.

2-11-5 Third-Party Beneficiaries. The provisions of this Section are not intended to create any third-party beneficiaries and are entered into solely for the benefit of the Tribe and the State.

2-12 DURATION; TERMINATION FOR NON-PAYMENT.

2-12-1 This Compact shall have a term commencing on the date on which it goes into full force and effect as provided in Section 9, and ending at midnight on June 30, 2015.

2-12-2 Notwithstanding the provisions of Paragraph A of this Section, if the Tribe fails to comply with any of its payment obligations to the State under Sections 4(E)(5), 9(B) or 11 of this Compact, and persists in such failure for a period of thirty (30) days after receipt, by certified mail, of a Notice of Noncompliance sent by the State Gaming Representative, which Notice shall specify the amount due and the provision of the Compact under which such payment is required, this Compact, and the conduct of Class III Gaming by the Tribe hereunder, shall terminate automatically as of the end of the thirty (30)-day period, unless within such thirty (30)-day period the Tribe shall have invoked arbitration on a matter of fact as provided in Section 7(A)(2) of this Compact, and simultaneously shall have placed into escrow, in an institution that is unaffiliated with either the Tribe or the State, a sum of money equal to the amount claimed due by the State. In the event the Tribe invokes arbitration, this Compact and the Tribe's right to conduct Class III gaming shall terminate automatically at the end of the thirtieth (30th) day after the entry of a final, nonappealable decision by the arbitrators or by a court having jurisdiction of the dispute, unless the Tribe has paid the full amount determined by the arbitrators or by such court to be due the State, if any. The Tribe shall not be entitled to avoid any pre-existing contractual obligations accruing to third parties under this Compact solely by virtue of the termination of the Compact.

2-13 NOTICE TO PARTIES.

2-13-1 Unless otherwise indicated, all notices, payments, requests, reports, information or demand that any party hereto may desire or may be required to give to the other party hereto, shall be in writing and shall be personally delivered or sent by first-class mail sent to the other party at the address provided in writing by the other party. Every notice, payment, request, report, information or demand so given shall be deemed effective upon receipt or, if mailed, upon receipt or the expiration of the third day following the day of mailing, whichever occurs first, except that any notice of change of address shall be effective only upon receipt by the party to whom said notice is addressed.

2-14 ENTIRE AGREEMENT.

2-14-1 This Compact is the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter hereof. Neither this Compact nor any provision herein may be changed, waived, discharged or terminated orally, but only by an instrument, in writing, signed by the Tribe and the State and approved by the Secretary of the Interior. This Compact shall not be amended without the express approval of the Tribe, the Governor of the State and the State Legislature, as provided in the Compact Negotiation Act.

2-15 FILING OF COMPACT WITH STATE RECORDS CENTER.

2-15-1 Upon the effective date of this Compact, a copy shall be filed by the Governor with the New Mexico Records Center. Any subsequent amendment or modification of this Compact shall be filed with the New Mexico Records Center.

2-16 COUNTERPARTS.

2-16-1 This Compact may be executed by the parties in any number of separate counterparts with the same effect as if the signatures were upon the same instrument. All such counterparts shall together constitute one and the same document.

2-17 SEVERABILITY.

2-17-1 Should any provision of this Compact be found to be invalid or unenforceable by any court, such determination shall have no effect upon the validity or enforceability of any other portion of this Compact, and all such other portions shall continue in full force and effect, except that this provision shall not apply to Sections 2-4,2-5,2-6 ,2-9 and 2-11 hereof, or to any portions thereof, which the parties agree are nonseverable.