



August 5, 2025

Lynn R. Valbuena, Chairwoman  
Yuhaaviatam of San Manuel Nation  
26569 Community Center Drive  
Highland, CA 92346

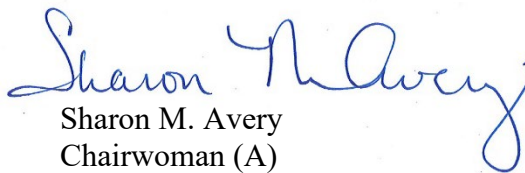
Re: Yuhaaviatam of San Manuel Nation Gaming Ordinance

Dear Chairwoman Valbuena:

I am writing with respect to the June 18, 2025 request of the Yuhaaviatam of San Manuel Nation (Nation) to the National Indian Gaming Commission to review and approve the Nation's amended gaming ordinance. The adoption of the amended gaming ordinance by the Tribal Authorities was certified by Certification No. 2025-004 on June 11, 2025.

Thank you for providing the amended gaming ordinance for our review. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions concerning this letter, please contact Senior Attorney Austin Badger at (202) 632-7003.

Sincerely,

  
Sharon M. Avery  
Chairwoman (A)

**MAILING ADDRESS:** NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

**REGIONAL OFFICES** Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD  
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# Yuhaaviatam of San Manuel Nation

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## Yuhaaviatam of San Manuel Nation Tribal Law Certification

**CERTIFICATION NO. 2025-004**

**Tribal Law: Ch.7 – San Manuel Gaming Act of 1989**

Pursuant to the authority granted by the Yuhaaviatam of San Manuel Nation Constitution Articles IV(A)(7) and IV(C)(4), adopted by the Yuhaaviatam of San Manuel Nation on December 14, 2021, we, the Kiika' (Chairperson) and Hunai Papeel (Secretary), hereby certify the adoption of the following Tribal law: Ch. 7 – San Manuel Gaming Act of 1989.

Approved by a vote of the Tribal Authorities of the Yuhaaviatam of San Manuel Nation at a duly noticed General Assembly meeting at which a quorum was present and held on May 13, 2025, on the San Manuel Reservation.

Date:

6/11/25

Signed:

Lynn R. Valbuena

Lynn R. Valbuena, Chairwoman

Date:

6/11/25

Signed:

Audrey Martinez

Audrey Martinez, Secretary



## **Gaming Act**

### **CHAPTER 7. SAN MANUEL GAMING ACT OF 1989<sup>1</sup>**

#### **YSMNC 7.1 Short Title**

This Chapter shall be known and cited as the “San Manuel Gaming Act of 1989” (hereinafter the “Gaming Act”).

#### **YSMNC 7.2 Findings and Policy**

7.2.1 This law is adopted by the Tribal Authorities of the Yuhaaviatam of San Manuel Nation (“Nation”), a federally recognized Indian tribe, pursuant to its authority under the Yuhaaviatam of San Manuel Nation Constitution, for the purpose of establishing the terms for gaming on the Nation’s Tribal Lands for Tribal governmental and charitable purposes, and to continue to develop and operate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*) (“IGRA”), regulations promulgated thereunder, and the Tribal-State Gaming Compact with the State of California, as amended (“Compact”). This Gaming Act and regulations promulgated hereunder shall constitute gaming regulations for the Nation. Based on its experience and observations in connection with such gaming and its studies of similar experiences by other Indian tribes, the Nation finds that Tribally-controlled gaming on its Reservation is a valuable means of promoting Tribal economic development, self-sufficiency, employment, job training and a strong Tribal government. The Nation further finds that when regulated by the Nation, such gaming can remain free from organized crime and other corrupting influences and can be conducted fairly and honestly by both the operators and the players.

7.2.2 The Tribal Authorities finds that:

- (a) Gaming on its Tribal Lands is a valuable means of generating revenues needed to promote Tribal economic development, self-sufficiency, employment, job training, and a strong Tribal government, and to fund and ensure essential social programs and services;
- (b) The Nation desires to conduct certain forms of gaming to provide needed revenues to the Nation and to regulate and control such gaming in a manner that will protect the environment; the Tribal Lands; the health, security and general welfare of the Nation; the patrons; and the community; and
- (c) The Nation desires to manage and regulate such gaming as authorized under this Act in a manner that will adequately address the interests and needs of the Nation.

#### **YSMNC 7.3 Definitions**

7.3.1 Unless specified otherwise, terms used herein shall have the same meaning as in IGRA, including but not limited to references to “Class I,” “Class II,” and “Class III” gaming. Terms shall have the following meanings:

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<sup>1</sup> Adopted by the General Council on August 31, 1989 as 89.02. Amended September 19, 1994; May 13, 1997; September 28, 1999; November 9, 1999; November 11, 2003; March 6, 2004; September 9, 2008; July 13, 2010; April 25, 2011; October 14, 2014; January 13, 2015; November 10, 2015; April 11, 2017; July 13, 2021. Amended by the Tribal Authorities on May 13, 2025.

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(a) **“Applicable Law”** means IGRA and regulations promulgated thereunder, the Compact, this Gaming Act, and all other applicable laws and regulations promulgated under state, federal, and Tribal law.

(b) **“Applicant”** means an individual or entity that applies for a Tribal gaming license.

(c) **“Association”** means the association of tribal and state gaming regulators as established under the Compact, the membership of which comprises up to two representatives from each tribal gaming agency of those tribes with whom the state has a compact under IGRA, and up to two delegates each from the State Department of Justice, Bureau of Gambling Control and the California Gambling Control Commission.

(d) **“Class III Gaming”** means the form of Class III Gaming defined as such in 2U.S.C. §2703(8) and by regulations of the National Indian Gaming Commission.

(e) **“Commissioner”** means a member of the San Manuel Tribal Gaming Commission duly appointed by the Nation’s Tribal Council.

(f) **“Compact”** means any Tribal-State Gaming Compact, including amendments thereto, entered into by the Nation pursuant to IGRA to govern the conduct of certain Class III Gaming Activities on Tribal Lands.

(g) **“Days”** means calendar days.

(h) **“Employee”** means an employee who has been hired by the Gaming Operation for an unspecified period of time.

(i) **“Gaming Act”** means the San Manuel Gaming Act of 1989, as amended.

(j) **“Gaming Activities”** means any Class I, Class II, or Class III gaming activity authorized under this Gaming Act or under the Nation’s jurisdiction.

(k) **“Gaming Commission”** means the San Manuel Tribal Gaming Commission, the Tribal gaming agency established by the Nation under this Gaming Act.

(l) **“Gaming Device”** means any slot machine within the meaning of Article IV, section 19, subdivision (f) of the California Constitution. For purposes of calculating the number of Gaming Devices, each player station or terminal on which a game is played constitutes a separate Gaming Device, irrespective of whether it is part of an interconnected system to such terminals or stations. “Gaming Device” includes, but is not limited to, video poker, but does not include electronic, computer, or other technological aids that qualify as Class II gaming (as defined under IGRA).

(m) **“Gaming Employee”** means any natural person who: (a) conducts, operates, maintains, repairs, accounts for, or assists in any Gaming Activities, or is in any way responsible for supervising such Gaming Activities or persons who conduct, operate, maintain, repair, account for, assist, or supervise any such Gaming Activities; (b) is in a category under federal or Tribal gaming law requiring licensing; (c) is an employee of the Gaming Commission; or (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility in which

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any activities related to Gaming Activities are conducted but that are not open to the public.

(n) **“Gaming Enterprise”** means the entities through which the Nation conducts, regulates and secures gaming on Tribal Lands, including any Gaming Operation, gaming business, gaming event, or Gaming Activity conducted by or under the Nation’s jurisdiction.

(o) **“Gaming Facility”** means any building in which Class III Gaming Activities or Gaming Operations occur, or in which the business records, receipts, or funds of the Class III Gaming Operation are maintained (excluding offsite facilities primarily dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including hotels, parking lots, and walkways, a principal purpose of which is to serve the activities of the Nation’s Gaming Operation and Gaming Facility rather than providing them with an incidental benefit. Nothing in this Gaming Act prevents the conduct of Class II gaming (as defined under IGRA) in the Gaming Facility.

(p) **“Gaming Operation”** means the business enterprise that offers and operates Gaming Activities, whether exclusively or otherwise, on Tribal Lands.

(q) **“Gaming Resources”** means any goods or services provided or used in connection with Gaming Activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, Gaming Devices and ancillary equipment, implements of Gaming Activities such as playing cards, furniture designed primarily for Gaming Activities, maintenance or security equipment and services, and Class III Gaming consulting services. The term shall not include professional accounting or legal services.

(r) **“Gaming Resource Supplier”** means any person or entity who, directly or indirectly, does, or is deemed likely to, manufacture, distribute, supply, vend, lease, purvey or otherwise provide to the Nation’s Gaming Operation, or Gaming Facility at least twenty- five thousand dollars (\$25,000) in Gaming Resources in any twelve (12) month period, or who, directly or indirectly, receives, or is deemed likely to receive, in connection with the Gaming Operation or Gaming Facility, at least twenty-five thousand dollars (\$25,000) in any consecutive twelve (12) month period, provided that the Gaming Commission may exclude a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with Gaming Activities, if, but for the purveyance, the purveyor is not otherwise a Gaming Resource Supplier under the Compact, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gaming Operation.

(s) **“Governing Council”** means the governing body of the Yuhaaviatam of San Manuel Nation pursuant to the Yuhaaviatam of San Manuel Nation Constitution.

(t) **“Hearing Officer”** means a natural person appointed by the Gaming Commission to conduct hearings pursuant to the terms of this Act.

(u) **“Key Employee”** means any person who performs one or more of the following functions for the Gaming Operation: bingo caller; counting room supervisor; chief of security; custodian of gaming systems as defined in 25 CFR § 547.2 and similar class III systems, gaming



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cash or gaming cash equivalents, gaming supplies, or gaming system records; floor manager; pit boss; dealer; croupier; approver of credit; or custodian of surveillance systems or surveillance system records. If not otherwise included, the definition of Key Employee shall also include (i) any Gaming Operation employee authorized by the Gaming Operation for unescorted access to areas designated as secured gaming areas by the Gaming Commission, (ii) the four most highly compensated persons by the Gaming Operation, and (iii) any other employee of the Gaming Enterprise as documented by the Tribal Council as a Key Employee.

(v) **“Management Contractor”** means any Gaming Resource Supplier with whom the Nation has contracted for the management of any Gaming Activity or Gaming Facility on Tribal Lands, including, but not limited to, any person who would be regarded as a management contractor under IGRA.

(w) **“Nation”** means the Yuhaaviatam of San Manuel Nation, a federally recognized Indian tribe.

(x) **“National Indian Gaming Commission”** or **“NIGC”** means the federal gaming commission established under IGRA.

(y) **“Non-Employee Worker”** means any person performing labor or services for or on behalf of the Gaming Operation, or in support of non-gaming activities at the Gaming Facility, who is not classified as a Temporary Employee, Gaming Employee or Key Employee. Examples of Non-Employee Workers include, but are not limited to, persons employed by labor or staffing firms whose services are provided to the Gaming Operation or at the Gaming Facility on the basis of a contract or other arrangement between the Gaming Operation and such labor or staffing firm.

(z) **“Person”** means any natural person or entity, including but not limited to corporations, partnerships and trusts.

(aa) **“Primary Management Official”** means any person with management responsibility for a management contract; any person who has authority to hire and fire employees or establish policy for the Gaming Operation; the chief financial officer or a position with duties similar to a chief financial officer; the general manager or a position with duties similar to a general manager; and any other employed management official of the Gaming Enterprise as documented by the Tribal Council as a Primary Management Official.

(bb) **“Reservation”** or **“Tribal Lands”** means all lands under the Nation’s jurisdiction and control, including those lands that satisfy the definition of “Indian lands” as set forth in IGRA.

(cc) **“State”** means the State of California or an authorized official or agency thereof designated by the Compact or by the Governor.

(dd) **“State Gaming Agency”** means the entities authorized to investigate, approve, regulate, and license Class III gaming pursuant to the Gambling Control Act (Chapter 5, commencing with section 19800) of Division 8 of the California Business and Professions Code, or any successor statutory scheme, and any entity or entities in which that authority may thereafter be vested. If the State fails, under a Compact provision, to designate an agency authorized to investigate, approve, and regulate gaming licenses, any function otherwise assigned

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to the State Gaming Agency shall be assumed by the Gaming Commission until such time as the State establishes and designates such an agency.

(ee) **“Temporary Employee”** means an individual who has been hired by the Gaming Operation for a limited period of employment.

(ff) **“Tribal,”** when capitalized, means of or relating to the Yuhaaviatam of San Manuel Nation.

(gg) **“Tribal Authorities”** means the Governing Council collectively with a General Assembly, pursuant to the Yuhaaviatam of San Manuel Nation Constitution.

(hh) **“Tribal Council”** means the Yuhaaviatam Tribal Council of San Manuel, the representative body duly elected from the Governing Council, as established pursuant to the Yuhaaviatam of San Manuel Nation Constitution.

(ii) **“Tribal Court”** means the San Manuel Tribal Court, established by the Yuhaaviatam of San Manuel Nation Constitution. The Tribal Court shall consist of a Supreme Court, an Appellate Court, a Trial Court, and such other inferior courts and dispute resolution forums as may be established by the Governing Council in the San Manuel Judicial Code, as amended.

### **YSMNC 7.4 Ownership of Gaming**

The Nation has the sole proprietary interest in and responsibility for any Gaming Operation authorized by this Gaming Act.

### **YSMNC 7.5 Gaming Commission**

**7.5.1 Establishment.** The Nation hereby establishes the San Manuel Tribal Gaming Commission (“Gaming Commission”), to be comprised of one or more Commissioner(s) appointed by the Tribal Council. The Gaming Commission is and shall be deemed an agency of the Tribal government and as such, is subject to the Nation’s personnel and other administrative policies, subject to oversight by the Tribal Council. The initial appointed term for a Commissioner shall not exceed two years, as mutually agreed by the Commissioner and the Tribal Council. A Commissioner may be reappointed for subsequent four-year terms, or any other term of any length, at the discretion of the Tribal Council. A Commissioner may not be an elected official of the Nation, or employed in any Gaming Operation or by the Nation in any other capacity, while serving as a Commissioner. Commissioners shall be deemed employees of the Nation upon their appointment. In the event more than one Commissioner is appointed, one shall be designated by the Tribal Council as the Chair of the Gaming Commission. The Commissioners shall report to the Tribal Council.

**7.5.2 Commissioner Credentials.** The Tribal Council shall give preference in hiring Commissioners to individuals with one or more of the following credentials: (1) a certified public accountant with auditing experience; (2) a licensed attorney who possesses regulatory experience; (3) an individual with a background in law enforcement and criminal investigation; (4) an individual with a background in gaming regulation with at least five (5) years of gaming regulation experience; or (5) an individual with a background in information technology with at least five (5) years of information technology experience.

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**7.5.3 Hearing Officers.** The Gaming Commission may appoint Hearing Officers to conduct any hearing authorized or required by this Act and issue a decision pursuant to the terms of this Act. Hearing Officers are employees of, and shall report to, the Gaming Commission.

**7.5.4 Hearing Officer Credentials.** Individuals selected and acting as Hearing Officers for the Gaming Commission must have demonstrable prior experience as a lawyer, judicial officer, arbitrator, or mediator, or demonstrate similar professional dispute resolution experience, including but not limited to experience resolving disputes in tribal peacemaking courts or programs. Hearing Officers must also demonstrate familiarity with and an understanding of the provisions of this Act and all Gaming Commission regulations, and shall maintain such familiarity and understanding as such legal authorities may be amended from time to time.

**7.5.5 Chief Gaming Regulator.** The Gaming Commission may employ a Chief Gaming Regulator and may delegate to that individual responsibility for managing, supervising and overseeing the Gaming Commission's daily activities, subject to the Gaming Commission's direction, oversight, and management. Tribal Council approval is required prior to the hiring of a Chief Gaming Regulator, and such approval may be revoked by the Tribal Council at any time.

**7.5.6 Standard of Professional Conduct.** Each Commissioner, Hearing Officer and Chief Gaming Regulator shall abide by the following standards of professional conduct: confidentiality, impartiality, fairness, and commitment to upholding the reputation of the Nation for conducting Gaming Activities of the highest integrity and honesty. All Commissioners, Hearing Officers and Chief Gaming Regulators shall strictly abide by Gaming Commission oaths of confidentiality and professionalism in the discharge of their duties.

**7.5.7 Suitability Standards.** Each Commissioner, Chief Gaming Regulator and Gaming Commission employee must meet or exceed the qualifications established under this Gaming Act and the Compact. For the purpose of conducting background investigations of and issuing licenses to the Commissioner(s), Chief Gaming Regulator and Gaming Commission employees, such persons shall be deemed to be Gaming Employees under this Gaming Act and shall be required to pass a background investigation and hold a valid gaming license consistent therewith, including a review of financial, criminal, and employment history, checking of references, and meeting and maintaining all other suitability requirements for certification or licensing by the State or the Nation's Gaming Commission.

**7.5.8 Background Investigations.** Background investigations of each Commissioner, Hearing Officer, Chief Gaming Regulator, and Gaming Commission employee, shall be conducted at the direction of the Tribal Council by an independent investigator, and if deemed necessary, the Nation's legal department ("Legal Department"). The investigator shall conduct an investigation sufficient to make a determination of eligibility as required under Applicable Law. This shall include verification of information submitted by the applicant. In conducting the background investigation, the investigator shall maintain as confidential the identity of each person interviewed in the course of the investigation, but shall fully disclose that information to the Legal Department upon the Legal Department's request. The investigator shall document all potential problem areas noted and any disqualifying information. The Legal Department and/or Gaming Commission shall keep the details of the investigation confidential, but the Legal Department may confer with the investigator or any other person experienced in conducting or evaluating background investigations provided such other person agrees to maintain the confidentiality of the information obtained about the applicant.



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(a) The Legal Department and/or Gaming Commission shall make a determination as to whether the suitability standards contained within this Gaming Act have been met, and if so, shall certify that finding in writing to the Tribal Council.

(b) Background investigations of all Gaming Commission employees that are not conducted by an independent or appointed investigator as provided for above shall be conducted by the appropriate Gaming Commission staff as directed by the Gaming Commission, unless otherwise provided for by the Gaming Commission.

**7.5.9 Compensation.** The salaries and expenses of Commissioners and the Chief Gaming Regulator shall be approved by the Tribal Council as part of the annual budget process.

**7.5.10 Removal for Good Cause.** Commissioners may only be removed from office before the expiration of their term by the Tribal Council for neglect of duty, malfeasance, failure to follow lawful direction of the Tribal Council, or other good cause shown (collectively referred to as "good cause"). Upon receipt of an allegation of an act or omission that constitutes good cause, the Tribal Council may suspend, with or without pay at its own discretion, a Commissioner from office for no more than 60 days pending a full investigation of misconduct. At the expiration of the suspension period, the suspension shall be lifted upon a determination that no cause exists for removal under this Gaming Act, or, upon a finding of misconduct, the Tribal Council shall discipline the Commissioner as appropriate, up to and including removal from office.

**7.5.11 Post-Commission Restriction.** Unless otherwise provided by the Tribal Council, Commissioners, Chief Gaming Regulators, vice presidents of internal Gaming Commission departments, and Hearing Officers shall be precluded from consulting or employment in any position with the Nation's Gaming Operation for a period of no less than two (2) years from their date of termination at the Gaming Commission. Other Commission employees shall be precluded from consulting or employment in any position with the Nation's Gaming Operation for a period of no less than two (2) years from their date of termination at the Gaming Commission unless otherwise provided by the Gaming Commission.

**7.5.12 Conflict of Interest.** If any Commissioner, Chief Gaming Regulator, Gaming Commission employee, or Hearing Officer has a conflict of interest in investigating, hearing, handling, or deciding a matter to come before the Gaming Commission, such person shall have a duty to disclose such conflict and shall recuse themselves from that matter.

**7.5.13 Personnel and Administrative Policies.** The Gaming Commission shall be deemed to be an agency of the Nation's government and as such shall be subject to the personnel and other governmental administrative policies of the Nation's government. The Tribal Council shall, in good faith, consider for approval any exceptions necessary to tailor such policies to the Gaming Commission.

**7.5.14 Gaming Commission Independence.** Notwithstanding the fact that the Gaming Commission is a Tribal governmental agency and is accountable to the Tribal Council on behalf of the Governing Council, for its administration, in order to maintain the requisite level of independence and ensure the highest level of integrity, the Tribal Council shall not interfere with Gaming Commission business or compromise the Gaming Commission's ability to perform its duties and responsibilities as provided for in this Act. Notwithstanding the foregoing, the Gaming Commission reports to and shall be subject to oversight by the Tribal Council. The Tribal Council

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may review any allegation that the Gaming Commission has exceeded its authority under Applicable Law and, if it deems the allegation to be true, may take remedial action which may include, but is not limited to, directing the Gaming Commission as to the proper interpretation of the Act or the extent of the Gaming Commission's authority and jurisdiction pursuant to Applicable Law, directing the Gaming Commission to take, or refrain from taking, action as required or provided under Applicable Law, or removing a Commissioner or Chief Gaming Regulator for cause as determined by the Tribal Council in its sole discretion per section 7.5.10 of this Act. Gaming Commission decisions to issue, deny, suspend, or revoke a gaming license may not be overturned by the Tribal Council other than for lack of jurisdiction to take such action; such licensing decisions are only subject to appeal pursuant to section 7.15.

**7.5.15 Gaming Commission Funding.** The Gaming Commission shall be funded through an annual appropriation by the Governing Council and such additional funding actions as the Nation may deem necessary. Prior to submission of the Gaming Commission's budget to the Governing Council, the budget shall be submitted to the Tribal Council for its approval. Undue pressure shall not be placed upon the Gaming Commission through the budgeting process.

(a) **Financial Reports.** The Gaming Commission shall maintain its accounts, books, and records, including records of all income and expenditures, in accordance with generally accepted accounting principles and consistent with Tribal governmental policies regarding management of funds and records.

(b) **Annual Reports.** On or before April 30th of each year, the Gaming Commission shall provide to the Tribal Council an Annual Report summarizing its activities during the prior twelve (12) month period ending on December 31<sup>st</sup>.

**7.5.16 Power of Delegation.** The Commissioner(s) and/or Chief Gaming Regulator may delegate their authority, as appropriate, to qualified and responsible Gaming Commission staff as deemed necessary.

### **YSMNC 7.6 Powers and Duties**

The Gaming Commission shall have the power, duty, and responsibility to carry out the Nation's gaming regulatory responsibilities under Applicable Law; to enforce applicable requirements; and to protect the integrity of the Gaming Activities and the reputation of the Nation and the Gaming Operation as follows:

**7.6.1** Conduct on-site gaming regulation and control; inspect, test, audit, examine, and monitor the Gaming Facility, including internal control systems; prepare reports and monitor compliance with Applicable Law, including the authority to demand access to and inspect, examine, photocopy and audit all papers, books and records related to the Gaming Facility or Gaming Activities.

**7.6.2** Investigate suspected violations of Applicable Law with respect to the Nation's operation of Gaming Activities on Tribal Lands, the Gaming Facility, the Gaming Operation, or the Gaming Commission including potential licensing or internal control violations, and, subject to Section 7.7, require correction of violations, including establishing and imposing fines or other sanctions against licensees or other persons who interfere with or violate the Nation's gaming regulatory requirements under Applicable Law, and by notification to applicable regulatory

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authorities as deemed necessary for violations not corrected in a timely manner.

7.6.3 To the extent necessary to carry out its investigative authority under this Act, the Gaming Commission may review any contracts, agreements, goods, services, events, or incidents related to the Nation's operation of Gaming Activities, the Gaming Facility, or Gaming Operation on Tribal Lands.

7.6.4 Conduct, or cause to be conducted, background investigations as required under this Act, the Compact, and 25 C.F.R. Parts 556 and 558, and issue licenses and identification badges to, at minimum, all Key Employees, Primary Management Officials, Gaming Employees, and Gaming Resource Suppliers according to requirements at least as stringent as those established under Applicable Law; provided no Commissioner shall provide any personal endorsement, recommendation or other support for an applicant, in accordance with this Gaming Act and the Compact.

7.6.5 Administer oaths or affirmations to witnesses appearing before the Gaming Commission, hold hearings, summon persons on Tribal Lands to attend and testify at such hearings, take testimony, and receive such evidence as the Gaming Commission deems relevant to fulfill its duties.

7.6.6 Execute agreements necessary to receive comprehensive criminal history and other background investigation information from other jurisdictions and sources.

7.6.7 Implement and administer a system for licensing (including license issuance, renewal, denial, suspension, and revocation) and monitoring for compliance with licensing requirements, any person, facility, place, or entity required to be licensed under Applicable Law.

7.6.8 Implement and administer a system for monitoring non-licensed contractors and other non-licensed persons and entities providing services to the Gaming Operation and/or who have access to areas of the Gaming Facility in which activities related to Gaming Activities are conducted but which are not open to the public, to determine whether such individuals may potentially affect the integrity of the Nation's gaming, and to make corresponding recommendations to the Tribal Council.

7.6.9 Ensure, monitor, and direct inspections of Gaming Facilities by qualified building and safety experts in order to comply with building and safety codes under Applicable Law; provide reports as requested to the State if applicable under the Compact; review reports; and issue a certificate of occupancy to the Gaming Facility.

7.6.10 Provide a copy of each Gaming Facility license and renewals thereof to the State Gaming Agency in accordance with the Compact, and to the NIGC, including, at minimum: the Nation's name; name and address of the Gaming Facility; type of gaming allowed; effective date of license; the signature of the Tribal official responsible for issuing the license; and the name and phone number of the Gaming Commission.

7.6.11 Investigate and resolve disputes filed by patrons against the Gaming Facility or Gaming Operation, including without limitation disputes regarding Class III Gaming, and disputes regarding other games, promotions or prizes, as permitted by, and in accordance with Applicable Law.

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7.6.12 Hire staff and support services as deemed necessary, subject to the Yuhaaviatam of San Manuel Nation Constitution or applicable law, and the Gaming Commission approved budget.

7.6.13 Hire a Chief Gaming Regulator as deemed necessary and approved by the Tribal Council, and direct and supervise the Chief Gaming Regulator's activities.

7.6.14 To the extent required, comply with any reporting requirements established under this Gaming Act, the Compact, IGRA and regulations promulgated thereunder, and other applicable law.

7.6.15 Develop necessary documentation and protocols, and establish joint cooperative working relationships with federal, state, and local jurisdictions, including law enforcement agencies, as necessary to assist in ensuring the effective regulation of the Nation's Gaming Activities.

7.6.16 Implement rules and regulations to ensure the effective enforcement of the provisions of Applicable Law, including but not limited to:

(a) Protecting the physical safety of gaming patrons, employees, and others in the Gaming Facility;

(b) Ensuring the physical safeguarding of assets transported to, within, and from the Gaming Facility;

(c) Preventing illegal activity in the Gaming Facility or Gaming Operation. The Gaming Commission's rules and regulations shall address:

(i) Maintenance of a surveillance system consistent with industry standards, which system shall be approved by, and may not be modified without approval of, the Gaming Commission. The Gaming Commission may share surveillance video with other Tribal departments under Tribal inter-departmental policies approved by the Tribal Council, with outside law enforcement agencies subject to internal Tribal policies and procedures, and with other Tribal departments and/or third parties as directed by Tribal Council. The Gaming Commission shall have current copies of the Gaming Facility floor plan and closed-circuit television system at all times;

(ii) Maintenance of detailed and permanent records of all occurrences and incidents in the Gaming Facility that deviate from normal operating policies and procedures; and

(iii) Establishment of employee procedures to detect theft, cheating and fraud, consistent with industry standards, in coordination with the Gaming Operation.

(d) Patron and employee exclusions, through regulations that:

(i) Create a process for excluding individuals from the Gaming Facility, including notice and a right to a hearing before the Gaming Commission;

(ii) Require maintenance of a list of persons excluded from the Gaming Facility;

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(iii) Provide that Gaming Commission exclusion decisions are final and not appealable in the Tribal Court or any other forum; and

(iv) Specify that individuals whose exclusion was based on the Bank Secrecy Act or an exclusion from any other properties owned by the Nation, the San Manuel Gaming and Hospitality Authority, and/or any subsidiaries, shall not be entitled to a hearing or appeal.

(e) Conduct of an annual CPA audit;

(f) Approval of all game rules and regulations;

(g) Establishment and imposition of license fees, sanctions, fines, and conditions as appropriate under Applicable Law;

(h) Investigating and ensuring compliance with any requirements for Tribal ownership, management, and control of the Gaming Facility and Gaming Operation, as set forth in Applicable Law;

(i) Investigating and ensuring compliance with age restrictions for patrons including provisions prohibiting minors in the Gaming Facility and age limits on service of alcoholic beverages as provided under Applicable Law;

(j) Carrying out any requirements under Applicable Law for the protection of the health and safety of Gaming Facility patrons, guests, and employees, including requirements that the Gaming Facility meets building and safety codes duly adopted by the Nation;

(k) Maintenance of a cashier's cage in accordance with industry standards;

(l) Specification of minimum staffing and supervisory requirements for each Gaming Activity to be conducted; and

(m) Technical standards for gaming device operations.

7.6.17 Ensure gaming devices are not transported to or from Tribal Lands except in accordance with procedures established by an agreement between the Gaming Commission and the State Gaming Agency. The agreement shall require at least ten (10) days' notice to the county sheriff, and transportation only to specific destinations for specific purposes as established in the agreement and the Compact.

7.6.18 Promulgate rules governing the conduct of each Class II or Class III game allowed under this Gaming Act.

7.6.19 Comply with any applicable Tribal conflict of interest policy to ensure that Commissioners, Hearing Officers and other Gaming Commission employees are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their business.

7.6.20 The Gaming Commission shall make the following documents available to its patrons or their representatives in hard copy or on the Gaming Facility's website:



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- (a) The Gaming Act;
- (b) The rules of each Class III game operated by the Nation, to the extent that such rules are not available for display on the Gaming Device or the table on which the game is played;
- (c) Tribal law, to the extent it impacts the public in relation to Gaming Activities;
- (d) The San Manuel Gaming Facility Tort Liability Act; and
- (e) The regulations promulgated by the Gaming Commission concerning patron disputes pursuant to section 10 of the Compact.

7.6.21 The Gaming Commission shall ensure compliance with 25 C.F.R. Parts 542 and 543 by formally adopting and making applicable to the Gaming Operation written internal control standards, set forth in the Gaming Commission regulations, that:

- (a) Provide a level of control that equals or exceeds those minimum internal control standards set forth in 25 C.F.R Part 542, as they existed on October 19, 2006, and as they may thereafter be amended ("Compact MICS");
- (b) Contain standards for currency transaction reporting that comply with 31 C.F.R. Chapter X;
- (c) Satisfy the requirements of section 9.1 of the Compact;
- (d) Are consistent with the Compact;
- (e) Require the Gaming Operation to comply with internal control standards;
- (f) Establish internal control standards for Class II and Class III games that are not addressed in Applicable Law, if any;
- (g) Verify the Gaming Operation is in compliance with the internal control standards adopted pursuant to this section 7.6.21 by engaging an independent certified public accountant to perform "Agreed-Upon Procedures" as set forth in 25 C.F.R. § 542.3(f);
- (h) Authorize the Gaming Commission and the NIGC to monitor and enforce compliance with the internal control standards adopted pursuant to this section 7.6.19 in the manner provided for in 25 C.F.R. § 542.3(g). In addition, the NIGC shall, for the purpose of enforcing compliance with the internal control standards, have the power to (i) monitor all Class II and Class III gaming on a continuing basis; (ii) inspect and examine all premises on which Class II and Class III gaming is conducted; and (iii) demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of all Class II and Class III gaming or any other matters necessary to ensure and enforce compliance with Applicable Law;
- (i) Provide that any failure to adopt internal control standards pursuant to this section 7.6.21, perform Agreed-Upon Procedures pursuant to 7.6.21.7, prevent or obstruct the

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exercise of any of the Gaming Commission's powers under Section 7.6.21(h), or comply with the internal control standards, once adopted, is a violation of this Gaming Act. The Chairperson of the National Indian Gaming Commission shall have the authority to remedy violations of this Gaming Act under 25 U.S.C. § 2713 and its implementing regulations, and the Nation shall have all rights and remedies available thereunder;

(j) Provide non-binding recommendations to the Tribal Council and Gaming Operation about matters that come to the Gaming Commission's attention in the course of executing its duties under this Act, and that affect the Gaming Operation, Gaming Facility, or Gaming Activities, but which are not within the Gaming Commission's authority, including, but not limited to, proposed operational changes that may assist the Nation in preventing theft, fraud, and/or misconduct by patrons and vendors; and

(k) Carry out such other duties, unrelated to the regulation of Gaming Activity, as may be assigned by the Tribal Council in writing, with a copy to the Legal Department, from time to time in extraordinary circumstances at the Tribal Council's discretion.

### **YSMNC 7.7 Enforcement**

In the event it is determined that a licensee, the Gaming Operation, a Gaming Facility, or the Gaming Enterprise has violated Applicable Law, including any applicable internal control procedures or policy of the Gaming Enterprise, a written report of such incident shall immediately be made to the Gaming Commission. The Gaming Commission shall then investigate and determine what action should be taken, if any. If action is required, the Gaming Commission shall issue a citation to the person or entity involved, notifying them of the specific violation(s) or issues, measures which must be taken for correction, and a reasonable time limit in view of the circumstances in which such action must be taken. Copies of any such citation shall simultaneously be served on the Tribal Council. The Gaming Commission may enforce such citations by: (a) suspending or revoking the licenses of any persons found to have violated Applicable Law; or (b) such lesser penalty as the Gaming Commission shall determine, including the imposition of fines or sanctions. Nothing herein shall prevent or prohibit the Gaming Commission from seeking compliance assistance from local, federal, or state gaming or law enforcement agencies, the Bureau of Indian Affairs, or the NIGC, particularly but not limited to any instance in which the Gaming Enterprise and the Tribal Authorities have failed to correct a violation of Applicable Law. The Gaming Commission shall report violations of the Compact that pose a substantial threat to gaming integrity, public health and safety, or the environment, or continued violations that, if isolated might not require reporting, but cumulatively pose a threat to gaming integrity, public health and safety, or the environment, and any failure to comply with the Gaming Commission's orders, to the California Gambling Control Commission and Bureau of Gambling Control in the California Department of Justice within ten (10) days of discovery.

### **YSMNC 7.8 Permitted Gaming Activities; Regulation of Gaming Activities**

**7.8.1 Unauthorized Gaming Prohibited.** All Gaming Activities on Tribal Lands are prohibited except as expressly permitted under this Gaming Act.

(a) **Class I Gaming.** Class I Gaming Activities are hereby permitted to the extent consistent with Tribal custom and practice and provided the Governing Council is given at least

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seven (7) days prior notice in writing of any intention to engage in such gaming. The Governing Council may prohibit any conduct that is claimed to be Class I gaming if the Council finds that such conduct is not in accordance with Tribal customs or practices or violates IGRA or any other law.

(b) **Class II and Class III Gaming.** Class II and Class III Gaming Activities on Tribal Lands are hereby authorized as permitted under Applicable Law, provided the Nation has the sole proprietary interest in and responsibility for the conduct of any Gaming Operation. Nothing herein shall prohibit the Nation from engaging the services of non-Tribal persons as employees or engaging any person or entity to assist the Nation in the management of a Gaming Activity pursuant to a management agreement entered into under the provisions of IGRA or any other Applicable Law. Class III gaming shall be conducted in accordance with a Compact, or any alternative thereto as provided by IGRA.

### **YSMNC 7.9 Use of Gaming Revenues**

7.9.1 Except as provided for under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all net revenues generated from any Class II or Class III Gaming Activity are the property of the Nation. Net revenues from Class II and Class III Gaming Activities shall only be used for the following purposes:

- (a) To fund Tribal government operations or programs;
- (b) To provide for the general welfare of the Nation and its members;
- (c) To promote economic development for the Nation;
- (d) To donate to charitable purposes; or
- (e) To help fund operations of local governmental agencies.

7.9.2 Except for rights to per capita payments upon disbursement, if any, or as set forth below, no Tribal Citizen shall have any interest or expectation in any funds generated by any Gaming Activity. All such funds are deemed Tribal funds only and are and shall remain the property of the Nation until disbursed, if at all, from the general treasury. The Governing Council shall retain the sole discretion as to how such funds are utilized, and once becoming part of the treasury such funds shall lose any identity as gaming revenues except to the extent necessary to identify them as such for accounting purposes or to comply with Applicable Law. Notwithstanding anything herein to the contrary, if the Nation elects at any time to make per capita payments to its Tribal Citizens, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3). Payments out of general treasury funds to Tribal Citizens under other Tribal programs, including those relating to health, welfare, education, elderly care, and housing, shall not be deemed to be "per capita" payments when such funds are paid from the Nation's general treasury.

### **YSMNC 7.10 Operation of Gaming Establishments**

7.10.1 **Gaming Facility License.** Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming Activities shall only be conducted in Tribally owned, operated and licensed Gaming Facilities pursuant to the provisions

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of this Gaming Act, the Compact and other Applicable Law. Such activities shall be conducted in accordance with the terms and conditions of the license issued to the Gaming Facility by the Gaming Commission prior to the conduct of any Gaming Activities therein.

(a) The Nation shall issue a separate license to each place, facility, or location on Tribal Lands where the Nation elects to allow any Gaming Activity. Before Gaming Activities can be conducted in any Gaming Facility, the Gaming Commission shall inspect and license each Gaming Facility in accordance with this Gaming Act, the Compact, and other Applicable Law. The Gaming Commission shall also determine and certify that the Gaming Facility and any new Gaming Facility construction meets the Nation's building and safety codes, and any applicable federal or Compact requirements, and issue a certificate of occupancy to the Gaming Facility as required under the Compact.

(b) The Gaming Facility license shall identify: the name and address of the Gaming Facility; type of gaming allowed; effective date of the license; name and telephone number of the Gaming Commission; and such other matters as the Gaming Commission may deem necessary to the conduct of Gaming Activities therein, or as may be required under a Compact or other Applicable Law.

(c) The Gaming Facility's license shall require renewal at intervals as determined by the Gaming Commission, provided that the valid term for a facility license shall not exceed two years. The renewal process shall include all inspections required to certify continued compliance with all applicable Tribal codes, the Compact, and NIGC regulations.

(d) The Gaming Commission shall provide the NIGC and the State a copy of the initial license and each renewal within thirty (30) days of issuance. The Gaming Commission's license and certificate of occupancy issued to the Gaming Facility shall be conspicuously posted at all times.

**7.10.2 Protection of Environment and Public.** The construction and maintenance of any Gaming Facility, and the operation of Gaming Activities therein, shall be conducted in a manner that adequately protects the environment and the public health and safety, in compliance with any standards required under Tribal and federal law, and the Compact.

**7.10.3 Patron Tort Claim and Patron Dispute Resolution.** Patrons who have personal injury or property damage complaints ("Patron Tort Claims") against the Gaming Facility or Gaming Operation shall have the right to remedies provided in the Nation's Gaming Facility Tort Liability Act. Patrons who have complaints regarding the play or operation of any game at a Gaming Facility ("Patron Disputes"), including any refusal to pay to a patron any alleged winnings from any Gaming Activities, shall have the right to remedies as provided in this Act and applicable Gaming Commission regulations. For avoidance of doubt, exclusions from a Gaming Facility and Gaming Commission decisions regarding such exclusions do not fall within the category of Patron Disputes or Patron Tort Claims.

### **YSMNC 7.11 Audits**

**7.11.1 Annual Audit.** The Gaming Commission shall ensure the engagement of a recognized independent accounting firm to conduct an annual audit of the Nation's Class II and Class III Gaming Operations.



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**7.11.2 Contract Review and Audit.** Each gaming related contract for supplies, services, or concessions that results in purchases of more than \$25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming on Tribal Lands shall be included in the independent audits.

**7.11.3 Reporting Audit Results.** The Nation shall make available the results of each annual audit to the Nation's Governing Council within thirty (30) days of completion of the audit. The Gaming Commission shall provide audit results to the NIGC and to the State to the extent required by Applicable Law.

### **YSMNC 7.12 Gaming Licenses**

**7.12.1 Licensing Procedure.** The Nation's Gaming Licensing procedure shall be administered through the Gaming Commission. The program shall be an investigative licensing process under which all applicants for gaming licenses are evaluated against the standards set forth in, and subject to, the following applicable laws:

- (a) The Gaming Act and any gaming regulations promulgated thereunder;
- (b) IGRA and NIGC regulations;
- (c) Compact requirements, to the extent applicable; and
- (d) Any other applicable Tribal, federal, or state laws.

**7.12.2 Licensing Policy and Requirements.** It is the policy of the Nation that all Gaming Activities be licensed and controlled so as to protect the morals, good order and welfare of Tribal Citizens and other persons on the Nation's lands, and to preserve the honesty, fairness and integrity of such Gaming Activities. Accordingly, no person shall engage in any Class II or Class III Gaming Activities on the Nation's Tribal Lands without a valid license issued by the Gaming Commission.

**7.12.3 Gaming License is a Privilege.** Any gaming license or finding of suitability issued by the Gaming Commission shall be deemed a privilege, not a right, and is subject to denial, suspension or revocation at any time. No license or license renewal shall be issued that would place the Nation in violation of Applicable Law. A gaming license for Key Employees, Primary Management Officials, or Gaming Employees is subject to renewal at least every two (2) years. A right to a hearing or appeal to dispute a suspension, revocation, or denial of a license shall vest only upon receipt of a license granted pursuant to this Act.

**7.12.4 Burden on Applicant.** The burden of proving an applicant's qualifications to receive a license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action that may result from the application process and expressly waive any claim for damages as a result thereof.

**7.12.5 Applicant Claim of Privilege.** An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension, or revocation.



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**7.12.6 Release of Information.** Persons applying for a license shall agree to release all information necessary in order for the Gaming Commission and any applicable federal or state entity to complete their suitability determination. Applicants must update all such information promptly on an on-going basis, and must furnish such information as may be required by the State Gaming Agency or other governmental agency as may be required by law.

### **7.12.7 Types of Licenses**

(a) **Class A License.** Before permitting any person to become associated with any Gaming Activity as an investor or other person owning or controlling 10% or more interest in any management entity, or as a Primary Management Official, Key Employee, a gaming related position required by the Tribal Council to be licensed and designated by the Gaming Commission as requiring a Class A license, a closely associated independent contractor, or a Gaming Employee, such person shall obtain a Class A license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine:

(i) Whether such person has any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of gaming;

(ii) Whether there is anything else in such person's background that might create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming or in the carrying on of business and financial arrangements incidental thereto; and

(iii) Whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Nation's Gaming Operation is free from criminal and dishonest elements and would be conducted honestly.

(iv) Those who at any time do not meet the above qualifications shall be denied a Class A license, or, in the case of an existing license, the license may be revoked.

(b) **Class B License.** Persons not identified as requiring a Class A License, but who are employees at a Gaming Facility on Tribal Lands in another capacity shall be required to obtain a Class B license from the Gaming Commission. Such persons must establish that they have not been convicted of certain crimes or engaged in any activity which the Gaming Commission in its sole discretion deems to render such person a danger to the safety or integrity of the Gaming Activities, or to the safety and security of the Nation, property of the Nation, any Tribal Citizen, any Gaming Employee or patron, or the public.

(c) **Gaming Resource Supplier.** Gaming Resource Suppliers must meet all Tribal and state licensing and suitability requirements. Any Gaming Resource Supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least twenty-five thousand dollars (\$25,000) in Gaming Resources in any 12-month period, or who has received at least twenty-five thousand dollars (\$25,000) in any consecutive 12-month period within the 24-month period immediately preceding application, shall be licensed by the Gaming Commission prior to the sale, lease, manufacture, vending, purveyance, supply, or distribution, or further sale, lease, manufacture, vending, purveyance, supply, or distribution, or otherwise providing of

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any such Gaming Resources to or in connection with the Nation's Gaming Operation or Gaming Facility. The Gaming Resource Supplier license must be renewed at least every two (2) years. The Nation shall not enter into any contract or agreement that would require licensing if the Gaming Resource Supplier has been denied a license or is deemed unsuitable, or the license or suitability determination has expired without renewal.

(d) **Union License.** Any labor union, including its management and representatives, seeking to represent any Gaming Employees, must first apply for and be deemed suitable to obtain a license under standards and licensing requirements established by the Gaming Commission.

(e) **Vendor License.** Vendors providing other goods or services, and those providing gaming related goods or services valued at less than twenty-five thousand dollars (\$25,000) in a 12-month period, may also be required to obtain a license from the Gaming Commission prior to doing business with the Nation's Gaming Operation. Vendors who are deemed not to be Gaming Resource Suppliers or who provide only non-gaming related goods or services to the Tribal Gaming Operation shall, at minimum, complete a short form application and qualify for a vendor license issued by the Gaming Commission. Such license must be renewed at least every two (2) years and the Gaming Commission may require additional information or licensing at any time.

(f) **Temporary or Provisional Licenses.** Pending completion of an investigation for a license, the Gaming Commission may issue a temporary or provisional license of no more than ninety (90) days' duration if, in its sole discretion, it deems such issuance appropriate, and may grant an extension of such a license if necessary to complete the investigation or to obtain the Criminal History Record Information results from fingerprint submissions. Such licenses shall permit the licensee to engage in such activities pursuant to such terms and conditions as the Gaming Commission may specify. Temporary or provisional licenses shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or until a specified expiration date.

(g) **Non-Licensed Temporary Employees and/or One-Day Non-Employee Workers.** Temporary Employees and/or Non-Employee Workers who will be working at a Gaming Facility in a role not involving Gaming Activities will not be required to obtain and maintain a Gaming license. However, the Gaming Commission may require such individuals to be escorted at all times if they have access to Back of House or other areas deemed sensitive by the Gaming Commission. At the Gaming Commission's discretion, the Gaming Commission may recommend to the Tribal Council that such individuals be required to obtain a license, and the Tribal Council shall determine whether such a license is required.

**7.12.8 State Gaming Agency.** Class III Gaming Employees, Gaming Resource Suppliers, gaming management, investors, and financial sources may further be subject to Compact licensing requirements, and State Gaming Agency investigation and suitability requirements, including issuance of a license or determination of suitability, under the Compact.

**7.12.9 Drug and/or Alcohol Testing.** The Gaming Commission may require drug and/or alcohol testing for any license applicant or licensee at any time.

**7.12.10 License Investigations.** The Gaming Commission may employ all reasonable means, including engaging outside services and investigators and holding hearings, to acquire the

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information necessary to determine whether a license should be issued. Applicants shall agree to release all information necessary for the Gaming Commission to achieve its goals under this Gaming Act and to furnish such information to the NIGC, the State Gaming Agency, or other agencies as may be required by Applicable Law.

**7.12.11 License Renewal.** All licenses for Key Employees, Primary Management Officials, or Gaming Employees shall be subject to renewal at least every two (2) years, and more frequently if required by the Gaming Commission or other applicable law. All Gaming licenses may be revoked or suspended upon the occurrence and/or discovery of any act that, if known during the application process, would have tended to disqualify such person or entity for such a license.

**7.12.12 License Fees.** Unless specifically waived by the Gaming Commission, all persons applying for a license shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs that may be incurred in connection with the license application. Estimates of licensing costs will be provided to applicants upon reasonable request. All fees and costs must be received by the Gaming Commission prior to issuance of the license, unless the Nation or the Gaming Operation has agreed to reimburse the Gaming Commission directly for all or part of such fees and costs

**7.12.13 Standards.** All persons engaged by or associated with any Gaming Activity on Tribal Lands shall conduct themselves with honesty, integrity, and with such decorum and manners as necessary to reflect positively on the Nation, its members and the Gaming Activities. Any failure to abide by such standards, or any violation of a rule, regulation, law, custom or tradition of the Nation, the Gaming Commission, or the Gaming Operation, or with the terms or conditions of the license, may be grounds for immediate suspension or revocation of any license issued hereunder.

**7.12.14 Background Investigations.** The Gaming Commission shall request from each Primary Management Official, Key Employee, and any other applicant for a Class A license, unless provided otherwise by the Gaming Commission consistent with Applicable Law, the information specified in subsections 7.12.14(a) through (n) below, as well as any other information required on the gaming license application. The Gaming Commission reserves the right, at any time, to request additional information during or subsequent to any background investigation.

- (a) Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);
- (b) Currently and for at least the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses and driver's license number(s);
- (c) Names and current addresses of at least three (3) personal references (who are not related to or living in the same household with applicant), including one personal reference who was acquainted with the applicant during each period of residence as listed under subsection 7.12.14.(b) above;
- (d) Current business, residence, and cellular telephone numbers;
- (e) A description of any existing and previous business relationships with the gaming

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industry generally, including ownership interests in those businesses;

- (f) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (g) Name and address of any licensing or regulatory agency with which the person has ever 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 on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;
- (i) For each misdemeanor conviction or on-going 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, if any, of the case;
- (j) For each criminal charge (excluding minor traffic charges) that you have ever received, whether or not there is or was a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to subsections 7.12.14(h) or 7.12.14(i) above: the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;
- (k) Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (l) Current photograph;
- (m) Any other information the Nation or Gaming Commission deems relevant; and
- (n) Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2(h) and, as applicable, fingerprints to be processed through the California Department of Justice. For the limited purpose of obtaining fingerprints in compliance with 25 C.F.R. § 522.2 (h) the Nation's Gaming Commission shall be the designated law enforcement agency.

**7.12.15 Investigation Process.** The Gaming Commission shall conduct or cause to be conducted, an investigation sufficient to make a determination of eligibility as required under this Gaming Act and other Applicable Law. This shall include verification of information submitted by the applicant. The Gaming Commission shall document all potential problem areas noted and any disqualifying information. In conducting the background investigation, the Gaming Commission and its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

**7.12.16 Fingerprints.** The Gaming Commission shall cause fingerprints to be taken and forwarded to the NIGC and to the California Department of Justice, as applicable, consistent with

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all applicable laws and the Compact. Fingerprints shall be processed through the Federal Bureau of Investigation and/or the California Department of Justice or other available state sources as applicable to determine the applicant's criminal history, if any.

**7.12.17 Eligibility Determination.** The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official to hold a gaming license. If the Gaming Commission, in applying the standards adopted herein, determines that licensing 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, the Gaming Commission shall not license that person in a Key Employee or Primary Management Official position or in any other position for which a Class A license is required.

### **7.12.18 Investigative Report and Notice of Results**

(a) When a Primary Management Official or Key Employee is licensed, the Gaming Commission shall maintain the information required by section 7.12.14 above.

(b) Before issuing a license to a Primary Management Official or Key Employee, the Gaming Commission shall:

(i) Create and maintain an investigative report on each background investigation. The investigative report shall include the following information:

- (1) Steps taken in conducting a background investigation;
- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The basis for those conclusions.

(ii) Submit a notice of results of the applicant's background investigation to the NIGC no later than sixty (60) days after the applicant begins work. The notice of results shall contain the following information:

- (1) Applicant's name, date of birth, and social security number;
- (2) Date on which the applicant began or will begin work as a Key Employee or Primary Management Official;
- (3) A summary of the information presented in the investigative report, which shall include a listing of:
  - (i) Licenses that have previously been denied;
  - (ii) Gaming licenses that have been revoked, even if subsequently reinstated;



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(iii) Every known criminal charge brought against the applicant within the last ten (10) years of the date of application;

(iv) Every felony of which the applicant has been convicted or any ongoing prosecution; and

(v) A copy of the eligibility determination.

### **7.12.19 Granting a Gaming License**

- (a) The Gaming Commission may issue a gaming license, subject to Compact licensing requirements.
- (b) After the Gaming Commission has provided a notice of results to the NIGC, it may issue a gaming license to any Key Employee or Primary Management Official.
- (c) After the Gaming Commission has issued a gaming license, it shall notify the NIGC of the issuance within thirty (30) days of issuing the license.

(i) If, within the thirty (30) day period after the NIGC receives a complete notice of results for a Key Employee or Primary Management Official, the NIGC provides the Gaming Commission with a statement itemizing objections to the issuance of a license to that Key Employee or Primary Management Official applicant, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Gaming Commission shall make the final decision whether to issue a license to such applicant. If the Gaming Commission issued a license before receiving the NIGC's statement of objections, notice and hearing shall be provided to the licensee as provided by 25 C.F.R. § 558.4.

- (d) A Key Employee or Primary Management Official who does not have a gaming license within (90) days of beginning work shall not be permitted to perform the duties, functions and/or responsibilities of a Key Employee or Primary Management Official until so licensed.

- (e) If the Gaming Commission does not license an applicant:

( i ) The Gaming Commission shall notify the NIGC; and

( ii ) The Gaming Commission shall forward copies of its eligibility determination and notice of results to the NIGC for inclusion in the Indian Gaming Individuals Record System.

- (f) If the Gaming Commission revokes a Key Employee's or Primary Management Official's license, the Gaming Commission shall:

(i) Notify the NIGC; and

(ii) Forward copies of its license revocation decision for inclusion in the Indian

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### **Gaming Individual Records System.**

- (g) The Gaming Commission shall retain the following for inspection by the NIGC for no less than three (3) years from the date of termination of employment:
  - (i) The information required in section 7.12.14;
  - (ii) Investigative reports;
  - (iii) Eligibility determinations;
  - (iv) The Privacy Act Notice identified in section 7.13.1.1; and;
  - (v) The False Statement Notice identified in section 17.13.1.2.

**7.12.20 Denial of Gaming License Applicants.** New hire applicants who are denied a license, and licensees whose licenses are revoked or denied by the Gaming Commission, must wait for at least two (2) years before they may reapply for a gaming license. Pursuant to Sections 7.14 and 7.15 of this Act, a licensee shall be entitled to a hearing and appeal to contest the revocation or denial of an existing license. A new hire applicant who has been denied issuance of a gaming license shall not be entitled to hearing or an appeal to contest the decision.

### **7.12.21 License Suspension.**

- (a) If, after issuing a gaming license, the Gaming Commission receives reliable information from the NIGC or other reliable source indicating that a Key Employee, Primary Management Official, or any other holder of a gaming license is not eligible to hold a gaming license under the eligibility criteria established herein, the Gaming Commission shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.
- (b) The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license in accordance with the procedures set forth in this Gaming Act.
- (c) After the revocation hearing, the Gaming Commission shall decide whether to revoke or to reinstate the gaming license. The Gaming Commission shall notify the NIGC of its decision within 45 days of receiving notification from the NIGC.

## **YSMNC 7.13 Application Forms**

**7.13.1 Notices.** Each application form for a Key Employee or a Primary Management Official, as well as for all other Class A license applicants, unless otherwise specifically exempted by the Gaming Commission consistent with Applicable Law, shall contain the notices set forth in subsections 7.13.1.1 and 7.13.1.2 below as required by 25 C.F.R. §§ 556.2 and 556.3:

- (a) **Privacy Act Notice.**

*“In compliance with the Privacy Act of 1974, the following information is provided: Solicitation*

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*of the information on this form [your application for a gaming license and any renewal thereof] is authorized by 25 U.S.C. 2701 et. seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Gaming Commission and by the National Indian Gaming Commission ("NIGC") members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions, or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, 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 Tribe's being unable to license you for a primary management official or key employee position, or other position as determined by the Tribe. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application."*

### **(b) Notice Regarding False Statements.**

*"A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (18 U.S.C § 1001)."*

**7.13.2 Existing Licensees.** Any existing Key Employee or Primary Management Official, or other Class A licensee, unless otherwise specifically exempted by Gaming Commission, shall be notified that they shall either:

(a) Complete a new application form that contains the Privacy Act Notice and the Notice Regarding False Statements; or

(b) Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that Notice and sign a statement that contains the Notice Regarding False Statements.

## **YSMNC 7.14 Hearings**

**7.14.1** The Gaming Commission may conduct hearings as needed to make regulatory compliance determinations within the scope of this Gaming Act, and shall conduct hearings for:

(a) Suspension, revocation, or denial of a licensee's gaming license, provided that a new hire applicant shall have no right to a hearing or appeal to contest a Gaming Commission decision to deny the issuance of a gaming license;

(b) Imposition of fines or sanctions; and

(c) excluded patrons.

**7.14.2** All Gaming Commission hearings shall:

(a) Be presided over by a Commissioner(s) and/or Hearing Officer;

(b) Be properly noticed in writing to the party that is the subject of the Gaming

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Commission's decision or order by notice that is reasonably calculated to apprise the party of the pendency of a final determination. Such notice shall be delivered at least ten (10) business days prior to the hearing;

(c) Allow the party that is the subject of the Gaming Commission's decision or order the opportunity to be heard through the presentation of written or oral statements or other evidence to support his or her position;

(d) Allow the party an opportunity to review the materials upon which the charge is based in such a manner that does not compromise the security or regulation of the Gaming Operation; and

(e) Be documented or recorded and maintained on file in accordance with the governing records retention policy.

7.14.3 Advocates may participate in the hearing on behalf of either party at the party's own expense, and the Gaming Commission may seek the advice of the Nation's legal counsel as needed.

7.14.4 The Commissioner(s) or Hearing Officer, shall weigh the evidence, testimony, and exhibits, and make its decision, based on the credibility of the evidence and witnesses, by a preponderance of the evidence. Gaming Commission decisions shall be issued in writing within thirty (30) days of the hearing. All decisions shall include a statement of facts and a statement of legal authority on which the decision is based. Decisions shall be delivered to the party and include information and instructions for appealing the decision to the extent such an appeal is permitted under this Act.

7.14.5 Nothing herein shall prohibit the Gaming Commission from taking immediate action in emergency situations to protect the health and safety of patrons and employees or assets of the Nation. Such actions shall immediately be followed by the hearing process.

### **YSMNC 7.15 Appeals**

7.15.1 Only the following Gaming Commission decisions may be appealed to the Tribal Court:

- (a) Suspension, revocation, or denial of a licensee's gaming license.
- (b) Imposition of fines or sanctions; and
- (c) Patron Disputes.

7.15.2 Notwithstanding section 7.15.1, the Tribal Council may appeal to the Tribal Court any decision or action of the Gaming Commission, other than those the Tribal Council is itself authorized to adjudicate under section 7.5.14, and may ask the Tribal Court to issue any judgment relating to the Gaming Commission's decisions and actions. The Tribal Court shall not set aside, modify, or remand any determination made by the Gaming Commission unless it finds that such determination is arbitrary and capricious, an abuse of the Gaming Commission's discretion, unsupported by substantial evidence, or contrary to Applicable Law.



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7.15.3 To appeal the Gaming Commission's decision under sections 7.15.1(a), 7.15.1(b), and 7.15.1(c), a *Notice of Appeal* shall be submitted with the Tribal Court and the Gaming Commission within twenty (20) days of the issuance date of the Gaming Commission's decision. To appeal the Gaming Commission's decision under section 7.15.2, a *Notice of Appeal* shall be submitted with the Tribal Court and the Gaming Commission within sixty (60) days of the Gaming Commission's action. Failure to file a *Notice of Appeal* within the time specified herein renders the Gaming Commission's decision unappealable.

7.15.4 All decisions of the Tribal Court shall be final.

7.15.5 **Effect of Compact.** Notwithstanding anything in this Gaming Act to the contrary, any licensing procedure required under the Compact shall be implemented as provided therein, and the Gaming Commission may adopt regulations integrating such procedures with the foregoing.

### **YSMNC 7.16 Class III Gaming; Compact**

In addition to the provisions set forth above, Class III gaming shall be engaged in on the Nation's Tribal Lands pursuant to a Compact or an alternative authorizing document as provided by IGRA. All negotiations for such Compacts and/or alternative authorizing documents, and amendments thereto, shall be conducted through the Nation's Chairperson, with the advice and suggestion of the Gaming Commission, and shall be finalized only upon majority vote of the Tribal Authorities after consideration of the terms. In the event the provisions of a Compact or alternative authorizing document, as approved under IGRA, may be inconsistent with provisions herein, the provisions of the approved Compact or alternative authorizing document shall govern, but only to the extent inconsistent with this Gaming Act.

### **YSMNC 7.17 Interest in Management Contracts by Tribal Officials**

No elected official of the Nation, any Commissioner, or any member of any other board, committee, instrumentality or agency of the Nation, shall have a financial interest in or management responsibility for any management agreement entered into in connection with management of the Nation's Gaming Operation pursuant to IGRA, nor shall such elected official serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or ten percent (10%) or more of the beneficial interest in any corporation, partnership, trust, or other entity, having a financial interest in, or management responsibility for, such contract.

### **YSMNC 7.18 Limitations on Gaming**

No elected or appointed official of the Nation's Gaming Commission, Entertainment Authority, or Tribal Council, or licensed employee shall engage in or be permitted to engage in either directly or indirectly through another person, any Class II or Class III Gaming Activities authorized hereunder. Such limitation shall not apply in instances where, as pre-approved by the Gaming Commission, the individual engages in such activities as a part of an event designed specifically for such individuals or for training purposes.

### **YSMNC 7.19 Service of Process**

The Nation designates the Chairperson of the Nation as its agent for the service of official determinations, orders, or notices of violation from any federal or state agency. The Gaming



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Commission shall also receive any notice related to gaming from any state, local or federal agency, including the NIGC and the State Gaming Agency.

### **YSMNC 7.20 Tribal Gaming Corporation**

Nothing in this Gaming Act shall prevent the Nation, through its Governing Council, from delegating the authority to conduct gaming to one or more Tribal corporations, so long as the Tribal corporations to which such authority is delegated agree to meet all criteria and requirements established under this Gaming Act.

### **YSMNC 7.21 Prior Gaming Act; Effective Date**

Any and all prior Gaming Ordinances and versions of this Gaming Act are hereby repealed on the effective date of this amended Gaming Act. After adoption by the Tribal Authorities, this Gaming Act and any subsequent amendments thereto shall become effective on the date of final approval by the NIGC, as applicable. The Gaming Commission shall provide notice to the State Gaming Agency of any change or amendment to this Act no later than thirty (30) days after the change or amendment becomes effective.

### **YSMNC 7.22 Severability**

If any provision or application of this Gaming Act is determined by a court of competent jurisdiction to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provision of this Gaming Act.

### **YSMNC 7.23 Amendments**

All provisions of this Gaming Act are subject to amendment by the Tribal Authorities. Regulations promulgated by the Gaming Commission under this Gaming Act are subject to amendment by the Gaming Commission.

### **YSMNC 7.24 Sovereign Immunity Preserved**

Nothing in this Gaming Act is intended or shall be construed as a waiver of the sovereign immunity of the Nation, and no Commissioner, Chief Gaming Regulator, manager, officer, or employee of the Gaming Commission or the Nation or the Gaming Operation shall be authorized, nor shall they attempt, to waive the Nation's sovereign immunity or that of the Gaming Commission.