



July 1, 2021

VIA EMAIL

Matthew Wesaw,
Tribal Council Chairman
58620 Sink Road
P.O. Box 180
Dowagiac, MI 49047

Re: Pokagon Band of Potawatomi Gaming Ordinance Amendments

Dear Chairman Wesaw:

This letter responds to your May 10, 2021 request on behalf of the Pokagon Band of Potawatomi for the National Indian Gaming Commission Chairman to review and approve the Band's amendments to its gaming ordinance.

The amendments, adopted by Tribal Council Resolution No. 21-05-06-02, reflect revisions to the Band's gaming ordinance to allow Class III gaming at the Band's South Bend, Indiana facility, in accordance with the recently signed Tribal-State Compact with the State of Indiana.

Thank you for bringing these amendments to our attention and for providing us with a thorough submission of the Band's gaming laws and regulations. I congratulate you on your recent Class III gaming Compact with the State of Indiana. The amended ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC's regulations. If you have any questions or require anything further, please contact Josh Proper at (202) 632-0294.

Sincerely,

A handwritten signature in blue ink that reads "E. Sequoyah Simermeyer".

E. Sequoyah Simermeyer
Chairman

cc: J. Edward Williams, General Counsel

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

WWW.NIGC.GOV

Pokagon Band
Tribal Council Resolution No. 21-06-05-02
“Approving Resolution”
(with attachment)



Pokégnek Bodéwadmik
POKAGON BAND OF POTAWATOMI
TRIBAL COUNCIL

[AMENDMENTS TO THE GAMING REGULATORY ACT]

TRIBAL COUNCIL

RESOLUTION No. 21-05-06-02

- WHEREAS:** The Pokagon Band of Potawatomi Indians of Michigan and Indiana (“Pokagon Band”) is a sovereign, federally-recognized Indian tribe, as reaffirmed under P.L. 103-323, enacted September 21, 1994; and
- WHEREAS:** The Pokagon Band is organized under a constitution, which was adopted on November 1, 2005 and became effective on December 16, 2005 (“Constitution”); and
- WHEREAS:** In accordance with P.L. 103-323 and pursuant to Article IX of the Constitution, the Tribal Council is the governing body of the Pokagon Band; and
- WHEREAS:** The Tribal Council is vested with the sovereign powers of the Pokagon Band not inconsistent with any provisions of the Constitution, including, the enumerated powers set forth in Article IX, Section 2, of the Constitution; and
- WHEREAS:** By Tribal Council Resolution No. 07-02-07-01, the Tribal Council enacted the Pokagon Band of Potawatomi Indians Gaming Regulatory Act (“Act”) for the purpose of establishing a regulatory program governing all Class I, Class II, and Class III gaming within the Pokagon Band’s jurisdiction, as those terms are defined in the Indian Gaming Regulatory Act (“IGRA”, 25 U.S.C. § 2701 *et seq.*); and
- WHEREAS:** By adoption of Resolution No. 07-05-12-04, the Tribal Council enacted certain technical amendments to the Act; and
- WHEREAS:** By letter dated June 1, 2007, the National Indian Gaming Commission (“NIGC”) notified the Pokagon Band that pursuant to 25 U.S.C. § 2710 (b)(1)(B) the NIGC had approved the Act, as amended; and
- WHEREAS:** By adoption of Resolution No. 18-12-17-02, the Tribal Council enacted technical amendments to Section 10.12 of the Act to clarify the rights of ownership of unclaimed winnings; and
- WHEREAS:** By adoption of Resolution No. 19-02-19-06, the Tribal Council enacted technical amendments to Section 3.20 (Commission Record-Keeping) and Chapter VII (Licensing of Gaming Employees) of the Act to conform to the requirements of Title 25 of the Code of Federal Regulations, Section 556 (effective June 22, 2015) and 558 (effective April 29, 2013); and
- WHEREAS:** By letter dated June 3, 2019, the NIGC notified the Pokagon Band that pursuant to 25 U.S.C. § 2710 (b)(1)(B) the NIGC considers the Act, as amended, approved to the extent consistent with IGRA; and

- WHEREAS:** By Resolution No. 19-08-15-09, the Tribal Council enacted certain technical amendments to Chapter IV (Organization of the Commission; Executive Director) of the Act and by Resolution No. 20-02-04-08, the Tribal Council enacted amendments to Subsection 7.11(b) of the Act (to conform to the requirements of 25 CFR § 558.4 (effective February 25, 2013)); and
- WHEREAS:** By letter dated May 11, 2020, the NIGC notified the Pokagon Band that pursuant to 25 U.S.C. § 2710 (b)(1)(B) and 25 U.S.C. § 2710(e) the NIGC considers the Act, as amended, approved to the extent consistent with IRGA; and
- WHEREAS:** The Pokagon Band recently entered into a compact, dated January 21, 2021, with the State of Indiana pursuant to IGRA ("Indiana Compact") to Govern Class III gaming at the "South Bend Site" as that term is defined in the Indiana Compact; and
- WHEREAS:** Amendments to the Act are required in order to implement the Indiana Compact and engage in Class III gaming at the South Bend Site; and
- WHEREAS:** The Pokagon Band also desires to enact other necessary or desired amendments to the Act, including certain technical amendments; and
- WHEREAS:** A copy of all of the proposed amendments to the Act are attached hereto, which show all language to be struck from the Act shown with a strikethrough and all language to be added to the Act with a double-underline; and
- WHEREAS:** The Tribal Council has reviewed the proposed amendments.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby enacts the amendments to the Act set forth in the attached version of the Act, with all language to be struck from the Act shown with a strikethrough and all language to be added to the Act shown with a double-underline; and

BE IT FURTHER RESOLVED that the Tribal Council directs the Tribal Council Chairman to promptly arrange for the submission of the amendments approved herein to the NIGC for review and approval in accordance with the requirements of Section 11 of the IGRA; and

BE IT FURTHER RESOLVED that the amendments approved herein shall only become effective as Pokagon Band law upon their approval by the NIGC.

CERTIFICATION

We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly convened Special meeting of the Tribal Council held on the 6th day of May, 2021 by a vote of 10 in favor, 0 opposed, 1 absent, and 0 abstaining.


Matthew Wesaw
Tribal Council Chairman


Kelly Curran
Tribal Council Secretary

**“Clean” version of the
Pokagon Band
Gaming Regulatory Act
(That incorporates but does not highlight
the Amendments)**

**POKAGON BAND OF POTAWATOMI INDIANS
GAMING REGULATORY ACT**

Enacted February 7, 2007

POKAGON BAND OF POTAWATOMI INDIANS GAMING REGULATORY ACT

Table of Contents

CHAPTER I	PURPOSE; PUBLIC POLICY; AUTHORIZED GAMING.....	1
SECTION 1.01	SHORT TITLE	1
SECTION 1.02	PURPOSE AND AUTHORITY.....	1
SECTION 1.03	PUBLIC POLICY.....	1
SECTION 1.04	ADOPTION; REPEALER.....	2
SECTION 1.05	SEVERABILITY	2
SECTION 1.06	UNAUTHORIZED GAMING.....	2
SECTION 1.07	CONDUCT OF GAMES.....	2
SECTION 1.08	PERMITTED GAMING.....	2
	Class I Gaming.....	2
	Class II Gaming Authorized.....	2
	Class III Gaming Authorized	2
SECTION 1.09	LOCATION OF GAMING	3
SECTION 1.10	OWNERSHIP OF GAMING.....	3
SECTION 1.11	USE OF GAMING REVENUE.....	3
SECTION 1.12	PRIMACY OF COMPACT.....	3
CHAPTER II	DEFINITIONS	3
CHAPTER III	ESTABLISHMENT, ADMINISTRATION & POWERS OF COMMISSION	12
SECTION 3.01	ESTABLISHMENT OF GAMING COMMISSION	12
SECTION 3.02	GOVERNMENTAL ATTRIBUTES OF THE COMMISSION.....	12
SECTION 3.03	DELEGATION OF REGULATORY AUTHORITY	12
SECTION 3.04	INDEPENDENCE OF COMMISSION.....	12
SECTION 3.05	COMMISSION FUNDING	12
SECTION 3.06	COMPOSITION OF COMMISSION.....	13
SECTION 3.07	QUALIFICATIONS; APPOINTMENT OF COMMISSIONERS	13
	Qualifications.....	13
	Additional Qualifications	13
	Eligibility Determinations; Gaming Commissioner Appointment	14
	Consent to Investigation.....	14
	Background Investigation	14
	Investigator's Report	14
	Investigator's File.....	14
	Preliminary Determination	14
	Final Determination; Confirmation of Appointment.....	14
	Notice to Rejected Appointees; Right to Hearing.....	15
SECTION 3.08	INITIAL TERMS OF OFFICE.....	ERROR! BOOKMARK NOT DEFINED.
SECTION 3.09	HOLD-OVER POLICY.....	ERROR! BOOKMARK NOT DEFINED.
SECTION 3.10	RESIGNATION	ERROR! BOOKMARK NOT DEFINED.
SECTION 3.11	REMOVAL	ERROR! BOOKMARK NOT DEFINED.
SECTION 3.12	VACANCIES; APPOINTMENT TO FILL VACANCY	ERROR! BOOKMARK NOT DEFINED.
SECTION 3.13	ETHICS REQUIREMENTS FOR COMMISSIONERS	16
SECTION 3.14	COMPENSATION OF COMMISSIONERS	17
SECTION 3.15	POWERS AND DUTIES OF THE COMMISSION	17
	General.....	17
	Licensing.....	17
	Regulatory Authority	17
	Rulemaking Process	18
	Other Powers of Commission	18

Monitoring and Investigation	20
Access to Records and Information	20
Enforcement Authority.....	20
Conduct of Audit.....	21
Establishment of Budget	21
SECTION 3.16 COMMISSION MEETINGS	21
Regular Meetings	21
Special Meetings.....	21
Emergency Meetings.....	21
Waiver of Notice.....	22
Meetings Open to the Public	22
Alternative Meeting Arrangements	22
Meeting Procedures.....	22
SECTION 3.17 QUORUM	22
SECTION 3.18 OFFICERS	22
SECTION 3.19 COMMISSION OFFICES	22
SECTION 3.20 COMMISSION RECORD-KEEPING.....	23
Records Required to be Maintained	23
Requirements Regarding Files	23
SECTION 3.21 REPORTS	23
CHAPTER IV ORGANIZATION OF THE COMMISSION; EXECUTIVE DIRECTOR	24
SECTION 4.01 COMMISSION DIVISIONS.....	24
Licensing and Investigation Division.....	24
Compliance and Enforcement Division	24
SECTION 4.02 EXECUTIVE DIRECTOR: APPOINTMENT; QUALIFICATIONS; REMOVAL AND SUSPENSION	25
Appointment of the Executive Director	25
Qualifications.....	25
<i>Prior experience.....</i>	25
<i>Commission standards</i>	25
<i>Ineligibility of Commissioners</i>	25
<i>Commitment</i>	25
Compensation.....	25
Removal, suspension.....	25
Vacancy.....	26
SECTION 4.03 POWERS AND DUTIES OF THE EXECUTIVE DIRECTOR	26
Commission Administration	26
Commission Staff.....	26
Contracting.....	26
Oversight of Commission Operations	26
<i>All investigations.....</i>	26
<i>Commission challenges.....</i>	26
<i>Monitoring and compliance</i>	27
<i>Disputes</i>	27
<i>Enforce Exclusion List</i>	27
<i>General assistance</i>	27
Licensing.....	27
Records Management.....	27
Evaluate the Gaming Regulatory System.....	27
Other Duties	27
SECTION 4.04 BACKGROUND INVESTIGATIONS OF THE EXECUTIVE DIRECTOR AND COMMISSION STAFF ..	27
Applicable Standards	27
Nature of Background Investigation	28
Investigator's Report.....	28
Investigator's File	28
Final Determination Regarding Executive Director	28

CHAPTER V	LICENSING; GENERAL PROVISIONS.....	28
SECTION 5.01	LICENSES REQUIRED.....	28
SECTION 5.02	AUTHORITY TO REQUIRE LICENSING OF OTHER PERSONS.....	28
SECTION 5.03	GAMING ESTABLISHMENT LICENSE.....	29
SECTION 5.04	GAMING EMPLOYEES.....	ERROR! BOOKMARK NOT DEFINED.
SECTION 5.05	GAMING SUPPLIER.....	ERROR! BOOKMARK NOT DEFINED.
SECTION 5.06	GENERAL RIGHTS AND DUTIES OF APPLICANTS.....	29
	No Property Interest or Promise of Employment or Contract.....	29
	Duties of Applicants and Licensees.....	29
	<i>Responsibility to establish qualifications.....</i>	29
	<i>Duty to disclose and cooperate.....</i>	29
	<i>Licensee's continuing duty to promptly furnish information.....</i>	29
	<i>Authority to seize, revoke and suspend License.....</i>	30
	<i>Waiver of liability for disclosure of information.....</i>	30
	<i>Consent to examination of accounts and records.....</i>	30
	<i>Consent to Jurisdiction.....</i>	30
	<i>Non-transferability of License.....</i>	30
SECTION 5.07	WITHDRAWAL OF LICENSE APPLICATION.....	30
SECTION 5.08	BURDEN OF PROOF.....	30
SECTION 5.09	RIGHT TO CONDITION AND LIMIT LICENSE.....	30
SECTION 5.10	TERMS OF LICENSES.....	31
	Level 1.....	31
	Level 2.....	31
	Level 3.....	31
	Level 4.....	31
	Level A.....	31
	Level B.....	31
SECTION 5.11	LICENSE FEES.....	31
SECTION 5.12	TIME PERIODS.....	31
CHAPTER VI	LICENSING OF GAMING ESTABLISHMENTS.....	31
SECTION 6.01	LICENSE REQUIRED.....	31
SECTION 6.02	LICENSE APPLICATION FEES.....	32
SECTION 6.03	GAMING ESTABLISHMENT APPLICATION PROCEDURES.....	32
	Proposed Gaming.....	32
	Layout.....	32
	Location.....	32
	Security.....	32
	Internal Controls and Procedures.....	32
	Emergency Operation Plan.....	32
	Schedule.....	32
SECTION 6.04	THRESHOLD CRITERIA THAT MUST BE MET BY GAMING ESTABLISHMENTS.....	32
	Location.....	33
	Authorized.....	33
	Sole Proprietary Interest.....	33
	Infrastructure.....	33
	Compliance.....	33
	Security.....	33
	TMICS.....	33
	Emergency Operation Plan.....	33
	Meets Legal Requirements.....	33
	Fees and Costs.....	33
SECTION 6.05	GAMING ESTABLISHMENT LICENSE APPLICATION PROCEDURES.....	33
	<i>Review application.....</i>	33
	<i>Review procedures.....</i>	34
	<i>Review layout.....</i>	34

<i>Review Emergency Operation Plan</i>	34
<i>Review permit schedule</i>	34
<i>Review Gaming Establishment</i>	34
<i>Additional</i>	34
SECTION 6.06 CONDITIONS APPLICABLE TO A GAMING ESTABLISHMENT LICENSE	34
SECTION 6.07 TERMS OF LICENSE	35
SECTION 6.08 POSTING OF LICENSES	35
SECTION 6.09 GAMING ESTABLISHMENT LICENSE RENEWALS	35
Renewal.....	35
Renewal Submission	35
Commission Approval	36
Temporary Gaming Establishment License	36
Notice and Right of Appeal.....	36
CHAPTER VII LICENSING OF GAMING EMPLOYEES	36
SECTION 7.01 APPLICATION FOR A GAMING EMPLOYEE LICENSE	36
Application Form	36
Application Form Notices	37
<i>Privacy Act Notice</i>	37
<i>False Statements Notice</i>	37
Application Form Authorizations and Acknowledgements	38
Personal History Disclosure	38
<i>Relationship with other tribes</i>	38
<i>Gaming history</i>	38
<i>Prior Gaming applications</i>	38
<i>Felony charges</i>	38
<i>Misdemeanor charges</i>	38
<i>Convictions</i>	38
<i>Prior business applications</i>	38
Current Photographs	39
Personal Financial Questionnaire	39
Fingerprints	39
Other Information	39
Application Fees and Costs	39
SECTION 7.02 PROVISIONAL LICENSE	39
Issuance of a Provisional License	39
Submission of Fingerprints to NIGC	40
Period a Provisional License May Remain Valid	40
Conditions Applicable to All Provisional Licenses.....	40
SECTION 7.03 BACKGROUND INVESTIGATION	40
Verify Identity	41
References.....	41
Financial Information.....	41
Civil History.....	41
Criminal History	41
<i>Applicant for a Level 1 or a Level 2</i>	41
<i>All Applicants for a Gaming Employee License</i>	41
Prior Business Relationships.....	41
Investigative Report	41
Agency History	41
SECTION 7.04 STANDARDS FOR ISSUANCE OF A GAMING EMPLOYEE LICENSE	42
Standards Applicable to All Gaming Employees	42
Additional Standards Applicable Only to Level 1	42
Additional Standards Applicable Only to Level 2	43
Standards Applicable to Level 3	43
SECTION 7.05 ELIGIBILITY DETERMINATIONS	43
Commission Review and Determination.....	43

Level 1 or Level 2 License; Preliminary Determination	43
Level 3 License; Final Determination	43
SECTION 7.06 APPROVAL OF A LEVEL 1 OR A LEVEL 2 GAMING EMPLOYEE LICENSE	43
Preliminary Eligibility Determination.....	44
Requirements for Final Determination.....	44
The NIGC has No Objections or Thirty Days Has Elapsed	44
NIGC Objections Are Resolved.....	44
Final Determination of Eligibility	44
SECTION 7.07 DENIAL OF A GAMING EMPLOYEE LICENSE.....	45
SECTION 7.08 FORM OF LICENSE	45
SECTION 7.09 RENEWALS	45
SECTION 7.10 DISCLOSURE OF APPLICANT AND LICENSEE INFORMATION AND DOCUMENTS	45
<i>National Indian Gaming Commission</i>	46
<i>Michigan Gaming Control Board</i>	46
<i>Indiana Gaming Commission</i>	46
SECTION 7.11 SUSPENSION OR REVOCATION OF A LICENSE	46
Standard for Suspension of License Following a Hearing	46
Standard for Summary Suspension of License Pending a Hearing	47
Length of License Suspension	47
Standard for Revocation of a License	47
Investigation of Grounds for Suspending or Revoking a License	47
Notice of Intent to Suspend License	47
Notice of Summary Suspension of License Pending a Hearing	48
Notice and Hearing Requirements	48
Time Requirement for Requesting a Hearing.....	48
Conversion of Suspension Hearing to Revocation Hearing	48
Decision Following Hearing	48
Time Limit For Issuing a Decision	49
SECTION 7.12 SHOW CAUSE HEARING FOR PRIMARY MANAGEMENT OFFICIALS	49
CHAPTER VIII LICENSING OF GAMING SUPPLIERS	49
SECTION 8.01 LICENSING OF GAMING SUPPLIERS	49
SECTION 8.02 REQUIREMENTS FOR GAMING SUPPLIERS LICENSE	49
SECTION 8.03 APPLICATION FOR GAMING SUPPLIER’S LICENSE	50
Businesses	50
Proposed Sale of Gaming Goods or Services.....	50
All Available Gaming Goods or Services	50
Business Affiliates	50
Business Documents	50
Ownership Documents.....	50
Authorization	50
Bylaws.....	50
Business History	51
Gaming Business History.....	51
Prior Gaming Applications	51
Felonies	51
Misdemeanors	51
Financial Statements	51
Civil Lawsuits	51
Additional Information.....	51
Notice Requirements.....	51
SECTION 8.04 BACKGROUND INVESTIGATION.....	51
Verify Identity.....	52
References.....	52
Financial History.....	52
Civil History.....	52

Criminal History	52
Prior Business Relationships.....	52
Agency History	52
Business Practices Review	52
SECTION 8.05 LICENSING STANDARDS.....	52
SECTION 8.06 ACTION ON APPLICATIONS FOR GAMING SUPPLIER’S LICENSE; PRELIMINARY	
DETERMINATIONS	53
SECTION 8.07 DENIAL OF LICENSE	54
SECTION 8.08 RENEWALS.....	54
SECTION 8.09 SUSPENSION; SUMMARY SUSPENSION; REVOCATION OF GAMING SUPPLIER’S LICENSES.....	54
SECTION 8.10 TEMPORARY LICENSES	54
SECTION 8.11 RECIPROCITY	54
CHAPTER IX REGULATION OF MANAGEMENT CONTRACTORS	55
SECTION 9.01 DISCLOSURE REQUIREMENTS.....	55
SECTION 9.02 NOTICE REQUIREMENTS	55
SECTION 9.03 ENFORCEMENT	56
SECTION 9.04 INVESTIGATION OF MANAGEMENT CONTRACTOR	57
CHAPTER X REGULATION OF GAMING-RELATED ACTIVITIES.....	57
SECTION 10.01 TRIBAL MINIMUM INTERNAL CONTROL STANDARDS	57
SECTION 10.02 SYSTEM OF INTERNAL CONTROL STANDARDS FOR GAMING OPERATIONS.....	57
SECTION 10.03 MINIMUM PROCEDURES FOR CONTROL OF INTERNAL FISCAL AFFAIRS.....	58
SECTION 10.04 OVERSIGHT OF INTERNAL FISCAL AFFAIRS.....	59
SECTION 10.05 COMPLIMENTARY ITEMS	59
SECTION 10.06 CERTIFICATION OF GAMING DEVICES	60
SECTION 10.07 PROHIBITION AGAINST THE USE OF UNAUTHORIZED ELECTRONIC AIDS.....	60
SECTION 10.08 PROHIBITION AGAINST EMBEZZLEMENT.....	60
SECTION 10.09 SECURITY AND SURVEILLANCE.....	60
SECTION 10.10 WEAPONS IN GAMING ESTABLISHMENTS.....	61
SECTION 10.11 COMPLIANCE WITH LAWS TO PROTECT THE ENVIRONMENT, PUBLIC HEALTH, & SAFETY ..	61
SECTION 10.12 UNCLAIMED WINNINGS.....	62
Known Patron	62
Unknown Patron	62
SECTION 10.13 RESOLUTION OF DISPUTES BETWEEN THE GAMING PUBLIC AND THE GAMING OPERATION	62
Procedures.....	62
Opportunity to be Heard.....	62
Written Complaint.....	62
Review	63
Final Decision	63
SECTION 10.14 EXCLUSION FOR CAUSE	63
Exclusion List; Creation; Effect.....	63
Information to be Included on the Exclusion List.....	63
Criteria for Exclusion or Ejection and Placement on an Exclusion List	63
Procedure for Entry of Names.....	64
<i>Meets Criteria</i>	64
<i>Investigation</i>	64
<i>Determination</i>	64
Removal from the Exclusion List.....	65
Duty to Exclude	65
Distribution and Availability of Exclusion Lists.....	65
SECTION 10.15 VOLUNTARY EXCLUSION	65
SECTION 10.16 ISSUANCE OF CREDIT	65
CHAPTER XI RULES OF PROCEDURE FOR HEARINGS	65
SECTION 11.01 SCOPE OF RULES OF PROCEDURE.....	65

SECTION 11.02	HEARINGS	65
SECTION 11.03	TRIBAL MEMBER REHABILITATION HEARING	66
	Right To A Rehabilitation Hearing	66
	Notice Requirements	66
	Time to Request a Hearing	66
	Hearing Procedures	66
	Burden of Proof	67
	Hearing Standards	67
	Unfavorable Finding	67
	Favorable Finding	67
SECTION 11.04	SUBPOENAS	67
SECTION 11.05	HEARING REQUIREMENTS	67
SECTION 11.06	COMMISSION DECISIONS	68
CHAPTER XII	APPEALS	68
SECTION 12.01	LIMITED WAIVER OF SOVEREIGN IMMUNITY OF THE COMMISSION	68
SECTION 12.02	RIGHT TO APPEAL ADVERSE COMMISSION DECISIONS TO THE TRIBAL COURT	68
CHAPTER XIII	PROHIBITED ACTS; SCHEDULE OF OFFENSES; PENALTIES	69
SECTION 13.01	PROHIBITION AGAINST CERTAIN INDIVIDUALS	69
SECTION 13.02	PROHIBITED ACTS	69
SECTION 13.03	ENFORCEMENT	71
	Criminal Violations	71
	Civil Violations	71

CHAPTER I

PURPOSE; PUBLIC POLICY; AUTHORIZED GAMING

Section 1.01 Short Title. This Act shall be known and may be cited as the “Pokagon Band Gaming Regulatory Act”

Section 1.02 Purpose and Authority. The Tribal Council of the Pokagon Band of Potawatomi Indians enacts this Act in order to regulate all forms of Gaming within the Tribe’s Reservation. Under the authority granted by the Pokagon Band Constitution, the Tribal Council is the governing body of the Tribe and is vested with the sovereign powers of the Tribe not inconsistent with any provisions of the Constitution. Pursuant to the express grant of authority enumerated in Article IX, subsections 1 (a), (c), (d), (e) and (h) and subsections 2 (a), (e), (j), (k) and (l) of the Constitution and the inherent authority of the Tribe as a sovereign tribal nation to provide for the health, safety, and welfare of the Pokagon Band of Potawatomi Indians, the Tribal Council enacts this Pokagon Band Gaming Regulatory Act.

Section 1.03 Public Policy.

- (a) The Tribal Council hereby finds, and declares it to be the public policy of the Tribe, that:
 - (1) Proper regulation of Gaming is essential in order to ensure that Gaming is conducted honestly and free from unlawful conduct and corruptive elements.
 - (2) Strict regulation of all Persons, locations, practices, associations, and activities related to the conduct of Gaming is required in order to maintain public confidence and trust in the honesty and integrity of Gaming.
 - (3) The Licensing of Gaming Suppliers, Gaming Employees, Gaming Establishments, and other Persons within the Tribe’s jurisdiction is necessary to preserve the integrity of Gaming, to protect the public, and preserve the general welfare of the Tribe.
 - (4) The conduct of properly licensed and regulated Gaming by the Tribe fulfills important policy objectives of the Tribe and the federal government by promoting Tribal self-government and economic self-sufficiency.
 - (5) The substantial and relatively stable source of revenue offered by Gaming enables the Tribe to fulfill its governmental responsibilities to the Tribal membership.
- (b) All Gaming conducted within the Tribe’s Reservation and that is otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this Act.
- (c) Participation in Class II and Class III gaming as a licensee under this Act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee and upon the discharge of the affirmative responsibility of each licensee to provide the Commission with any assistance and

information necessary to assure that the policies declared by this Act are achieved.

Section 1.04 Adoption; Repealer. This Act is enacted by adoption of Tribal Council by Resolution No. 07-02-07-01, which also repeals the Pokagon Band Gaming Regulatory Act enacted by adoption of Tribal Council Resolution No. 03-05-10-1, as amended by Tribal Council Resolution No. 03-10-11-12 and approved by the NIGC on December 5, 2003 (hereinafter the “Gaming Regulatory Act of 2003”) pursuant to the IGRA (25 U.S.C. § 2710.), provided that the repeal of the Gaming Regulatory Act of 2003 shall not have the effect of reviving any other Tribal law repealed by adoption of the Gaming Regulatory Act of 2003 or any amendments thereto. This Act and the repeal of the Gaming Regulatory Act of 2003 shall become effective upon the approval of this Act by the NIGC.

Section 1.05 Severability. If any provision of this Act or its application to any Person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without invalid provision or application. To this end, the provisions of this Act are severable.

Section 1.06 Unauthorized Gaming. All Gaming within the Reservation, whether Class I, Class II, or Class III, is prohibited and unlawful, except as expressly authorized by this Act. Any Indian person who commits any act of unauthorized Gaming on the Reservation shall be guilty of a criminal offense and may be prosecuted in accordance with subsection 13.03 (a). Any Person who commits an act of unauthorized Gaming on the Reservation or any other Tribal land shall also be subject to a civil fine and enforcement action, as provided in subsection 13.03 (b).

Section 1.07 Conduct of Games. All Gaming shall be conducted by Persons duly licensed by the Commission except for Class I Gaming to the extent the Commission determines such Persons do not require licensing. No Person licensed by the Commission shall engage in, conduct or condone any Gaming that is not conducted in accordance with such Regulations governing the conduct of games as may be promulgated by the Commission under this Act.

Section 1.08 Permitted Gaming.

- (a) Class I Gaming. Class I traditional games are permitted to the extent consistent with Tribal custom and practice. The Gaming Commission may, at its discretion, consult with the Elders Council to determine which games and practices are consistent with the Tribe’s customs and practices. The Gaming Commission may prohibit or regulate the conduct of Class I traditional games if it determines such regulation is necessary to promote the public policies behind this Act.
- (b) Class II Gaming Authorized. Class II Gaming is hereby authorized to be conducted on lands within the Tribe’s Reservation; provided, however, that such Class II Gaming shall be conducted only in accordance with the provisions of this Act, the Regulations, and the IGRA.
- (c) Class III Gaming Authorized. Class III Gaming is hereby authorized on lands

within the Tribe's Reservation; provided, however, that Class III Gaming shall be conducted only in accordance with the provisions of this Act, the Regulations, the IGRA, and the Compacts.

Section 1.09 Location of Gaming. The Commission shall ensure that all Gaming that the Commission authorizes and licenses pursuant to this Act is conducted on lands within the Tribe's Reservation and that such Gaming is not otherwise specifically prohibited by federal law.

Section 1.10 Ownership of Gaming. The Tribe shall have the sole proprietary interest in and responsibility for any Gaming Operation authorized by this Act provided, however, that nothing herein shall interfere with the exercise by any secured party of its rights under any collateral lease or other financing agreement with the Tribe or Tribal entities for the purpose of securing repayment of the debt obligations in accordance with the provisions of such agreements.

Section 1.11 Use of Gaming Revenue. Net Revenues from any form of Gaming authorized under this Act shall be used only for the following public purposes of the Tribe:

- (a) To fund Tribal government operations and programs;
- (b) To provide for the general welfare of the Tribe and its members;
- (c) To promote Tribal economic development;
- (d) To make donations to charitable organizations; and
- (e) To help fund operations of local government agencies;

The Tribe may only make per capita payments to Tribal members from Net Revenues in accordance with a revenue allocation plan that has been approved by the Tribal Council and the Secretary of the Interior.

Section 1.12 Primacy of Compacts. Solely with regard to Class III Gaming on lands within the Tribe's Reservation located within the respective states of Michigan and Indiana and the applicable compact provisions within each state, the regulatory requirements set forth in this Act are intended to be supplemented by, rather than conflict with the requirements of Section 4 of the Michigan Compact or the Indiana Compact, as applicable. To the extent that any regulatory requirement in this Act is less stringent or less restrictive than a parallel provision in Section 4 of the Compacts, the Compacts shall control.

CHAPTER II DEFINITIONS

Definitions. Unless a different meaning is set forth below, the terms used in this Act shall have the same meaning as defined in the Indian Gaming Regulatory Act ("IGRA") and any regulations promulgated thereunder.

“Act” means this Gaming Regulatory Act, as amended from time to time.

“Any Offense”, shall mean any criminal offense other than a gambling-related offense, Fraud or Misrepresentation, whether committed in Michigan or any other jurisdiction, that is, or would be, a crime under the provisions of the Michigan Penal Code, Act No. 328 of the Public Acts of 1931, as amended, being MCL 750.1 to 750.568, or the controlled substance provisions of the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being MCL 333.7101 to 333.7545, or any other criminal offense (other than a gambling-related offense, Fraud or Misrepresentation) that involves theft, dishonesty, fraud or misrepresentation arising under the law of Michigan or another state or jurisdiction, that was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from the employee’s criminal record by executive pardon, state court order, or operation of law.

“Any Offense” shall also mean any criminal offense whether committed in Indiana or any other jurisdiction, that is, or would be, a crime under the provisions of the Title 35 of the Indiana Code, Criminal Law and Procedure, as amended, or any other criminal offense involving gambling, theft, dishonesty, or Fraud or Misrepresentation arising under Indiana law or the law of another state or jurisdiction, that was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from such person’s criminal record by executive pardon, state or federal court order, or operation of law.

“Applicant” means any Person, partnership, corporation, joint venture, or other entity applying for, or requesting renewal of, any License required by this Act.

“Application” or **“License Application”** means a request for the issuance or renewal of a License required by this Act.

“Class I Gaming” shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (6).

“Class II Gaming” means Class II Gaming as defined in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703(7), and any regulations promulgated thereunder.

“Class III Gaming” means Class III Gaming as defined in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703(8), and any regulations promulgated thereunder, but excluding any Class III Gaming that is not authorized by the relevant Compacts.

“Commissioner” means an individual member of the Pokagon Band Gaming Commission.

“Compacts” means those compacts with the State of Michigan and the State of Indiana, defined respectively as “Michigan Compact” and the “Indiana Compact”.

“Complimentary” shall have the meaning as set forth in 25 C.F.R. §542.2.

“Control Person” means any person who has the power to direct or cause direction of the

management and policies of the business operations of a Gaming Supplier or Non-Gaming Supplier as verified by the Gaming Supplier's or Non-Gaming Supplier's ownership and organization structure described in the documents establishing the existence of the Gaming Supplier or Non-Gaming Supplier and the designation of persons authorized to act on behalf of the Gaming Supplier or Non-Gaming Supplier. A person shall be presumed to have control when such person owns shares of any corporation that is not a publicly traded corporation and such person owns, controls or holds the power to vote ten percent (10%) or more of the voting securities of the corporation. Control Persons include members of the board of directors, chief executive officer, chief operating officer, and any person with the responsibility and authority to manage the contract on behalf of the Gaming Supplier or Non-Gaming Supplier with respect to the goods or services being provided to a Gaming Operation.

“Elders Council” means the Elders Council of the Pokagon Band of Potawatomi Indians established under Article XI for the Pokagon Band Constitution to provide guidance and advise to the Tribal community.

“Emergency Operation Plan” means the plan required by Section 2.05, of the Health and Safety Act, which shall be included with an Application for a Gaming Establishment License under Section 6.03 of this Act.

“Excluded Person” means any Patron or other person whose name has been added to an Exclusion List in accordance with the requirements set forth in Section 10.14 of this Act.

“Exclusion List” means the list of Excluded Persons created and maintained under the requirements set forth in Section 10.14 of this Act.

“Fiscal Year” for the Tribe means the period ending on September thirtieth (30th) of each year and for the Pokagon Gaming Authority and the Four Winds Casino Resort means the period ending on the last Sunday of each calendar year.

“Fraud or Misrepresentation” shall mean a criminal offense committed in Michigan, Indiana or any other jurisdiction, involving, theft, fraud or misrepresentation, which is a felony or would be a felony if committed in Indiana or Michigan, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from such person's criminal record by executive pardon, state court order, or operation of law.

“Game” means any game of chance, however conducted, operated, or played, that comes within the definition of Gaming provided in this Section.

“Gaming” means any Class II Gaming or Class III Gaming activity, either individually or collectively and whether authorized or unauthorized.

“Gaming Commission” or **“Commission”** means the Pokagon Band Gaming Commission established pursuant to this Act to regulate Gaming within the jurisdiction of the Tribe.

“Gaming Device” means any mechanical, electromechanical or electronic equipment,

contrivance, component, or machine, whether used remotely or directly in connection with any Gaming that affects the result of a wager by determining or predicting the outcome of a Game or the odds of winning or losing a Game. This term shall be broadly construed to promote the purposes of this Act and shall also include any devices, machines, components, or contrivances which do affect, or are capable of affecting, in any way, the playing of any Game, provided that this term shall not be construed to expand the meaning of “electronic games of chance” set forth in paragraph (5), subsection 3(A) of the Michigan Compact for the purpose of affecting the calculation of net win under Sections 17 and 18 of the Michigan Compact. This term shall also not be construed to expand the meaning of “Electronic Game of Chance” set forth in subsection 2(H) of the Indiana Compact.

“Gaming Employee” means any Primary Management Official, Key Employee, any other person employed by a Gaming Operation whose employment requires access to restricted areas of the Gaming Operation, and any other employee of a Gaming Operation deemed by the Gaming Commission to be engaged in gaming related activities in the course of his or her employment.

“Gaming Equipment or Supplies” means:

- (a) Any machine, mechanism, device, or implement that may affect the result of a Game by determining win or loss, including without limitation, any of the following:
 - (1) Any Gaming Device;
 - (2) Software used with any Gaming Device;
 - (3) Cards; and
 - (4) Dice.
- (b) Layouts for live table games and representatives of values, including without limitation, chips, tokens, or electronic debit cards and related hardware or software that affect the result of the game; and
- (c) Services to maintain, repair, or renovate any equipment or supplies described in subsections (a) or (b) and any other services that directly relate to the conduct of Gaming, security, or surveillance at a Gaming Establishment, including without limitation casino credit reporting services.

“Gaming Establishment” means any facility or premises where Class II or Class III Gaming is conducted and includes all buildings structures and other appurtenances required for the operation or maintenance of such facility or used in connection with such Gaming.

“Gaming Operation” means any business owned by the Tribe or a Tribal entity, the revenues of which are primarily derived from Gaming or from any Gaming Establishment

“Gaming Official or Employee” means regarding Class III gaming activities at each Gaming Operation:

- (a) Primary Management Officials;
- (b) Key Employees;
- (c) All other employees whose regular job duties require access to restricted areas or involvement in Class III gaming activities at a Gaming Operation; and
- (d) Consultants providing gaming-related services directly to a Class III Gaming Operation (except legal counsel).

“Gaming Supplier” means any Person who sells, leases, or otherwise supplies any Gaming Equipment or Supplies to a Gaming Operation.

“Gross Revenue” means the total of all of the following, less the total of all cash paid out as winnings to Patrons and any amounts made deductible from Gross Revenues as Patron winnings or otherwise:

- (a) Cash received as wagers;
- (b) Cash received in payment for credit extended by a Licensee to a Patron for the purposes of Gaming; and
- (c) Compensation received for conducting any Game in which the Licensee is not a party to a wager.

For the purposes of this definition, cash or the value of non-cash prizes awarded to Patrons in a contest or tournament are not winnings.

The term “winnings”, as used in this definition, does not include:

- (a) Counterfeit money, chips, tokens, wagering instruments, or wagering credits,
- (b) Coins of other countries that are received in Gaming Equipment or Supplies;
- (c) Cash taken in fraudulent acts perpetrated against a Licensee for which the Licensee is not reimbursed; or
- (d) Cash received as entry fees for contests or tournaments in which the Patrons compete for prizes.

Calculation of Gross Revenues. Certain expenses not deductible.

- (a) In calculating gross revenue, any prizes, premiums, drawings, benefits, or tickets which are redeemable for money or merchandise or other promotional allowance, except money or tokens paid at face value directly to a Patron as the result of a specific wager and the amount of cash paid to purchase an annuity to fund winnings, must not be deducted as Patron winnings.
- (b) In calculating gross revenue from Gaming Devices, the actual cost to the Licensee

of any personal property distributed to a Patron as the result of a legitimate wager may be deducted as a Patron winning, but not travel expenses, food, refreshments, lodging or services. For the purposes of this Section, “as the result of a legitimate wager” means that the Patron must make a wager prior to receiving the personal property, regardless of whether the receipt of the personal property is dependent on the outcome of the wager.

“Health and Safety Act” means the Tribe’s Health and Safety Act (formerly known as the Health, Environmental Protection, and Building Codes Ordinance and the Health, Environmental Protection and Building Codes Act), as may be amended from time-to-time.

“Indian Gaming Regulatory Act” or **“IGRA”** means P.L. 100-497, 102 Stat. 2467, enacted on Oct. 17, 1988 and codified at 25 U.S.C. § 2701 *et seq.*

“Indian lands” shall have the definition that term is given in the Indian Gaming Regulatory Act at 25 U.S.C. § 2703 (4) and any regulations promulgated thereunder but, as to Class III Gaming only, such definition shall:

- (a) with regard to lands within the Tribe’s Reservation located within the State of Michigan, exclude any Indian lands that are not also included within the definition of “Eligible Indian Lands” set forth in the Michigan Compact; and
- (b) with regard to lands within the Tribe’s Reservation located within the State of Indiana, exclude any Indian lands that are also not included within the definition of “South Bend Site” set forth in the Indiana Compact.

“Indiana Compact” means the Compact dated January 21, 2021 between the Pokagon Band of Potawatomi and the State of Indiana negotiated and entered into pursuant to IGRA § 2710(d)(3) to govern Class III gaming and shall include any renewals and amendments.

“Key Employee” means:

- (a) A person employed by a Gaming Operation who performs one or more of the following functions:
 - (1) bingo caller,
 - (2) counting room supervisor,
 - (3) chief of security,
 - (4) custodian of Gaming Equipment or Supplies, or cash,
 - (5) floor manager,
 - (6) pit boss,
 - (7) dealer,
 - (8) croupier,
 - (9) approver of credit, or
 - (10) custodian of gambling terminals or other devices operated by the management of any Gaming Operation, including Persons with access to cash and accounting records for such devices;

- (b) If not otherwise included, any other person whose total cash compensation from employment in any Gaming Operation exceeds \$50,000 per year;
- (c) If not otherwise included, the four most highly compensated persons employed in any Gaming Operation; or
- (d) Any other employee of any Gaming Operation that the Commission designates by Commission Regulations as a Key Employee.

“License” means a limited grant of authority by the Commission, pursuant to this Act, to a specific Person to perform certain acts or engage in certain activities that are regulated under this Act and cannot be performed or engaged in without a License. Neither the filing of an Application nor the Commission’s decision to grant or not grant a License to an Applicant shall create a property interest or due process rights in favor of the Applicant except as may be explicitly provided by this Act or other Tribal laws. Licenses shall be structured according to the type of Applicant, as provided in the table below:

License Type	Category	Description	License Term
Gaming Establishment	NA	NA	two (2) years
Employee	Level 1	Primary Management Officials	one (1) year
	Level 2	Key Employees	two (2) years
	Level 3	Non-Key Employees	three (3) years
	Level 4	Non-Gaming Employees	three (3) years
Supplier	Level A	Gaming Supplier	two (2) years
	Level B	Non-Gaming Supplier	three (3) years

“Licensee” means any Person who has been issued a valid and current License pursuant to the provisions of this Act.

“Management Contract” means any contract, agreement or other document, including all collateral agreements, that delegates managerial responsibilities to any Person in or for any Gaming Operation and that requires approval by the NIGC pursuant to the Indian Gaming Regulatory Act.

“Management Contractor” means any Person to whom managerial responsibilities in or for any Gaming Operation have been assigned by a Gaming Operation under a Management Contract.

“Management Fee” means any monies paid by a Gaming Operation from Gaming revenue to any Person pursuant to a Management Contract, but excluding monies permitted under the Management Contract to be paid to the Management Contractor as reimbursement for Operating Expenses, capitol replacement costs, or in fulfillment of other obligations of such Gaming Operation.

“Manager” means the person with management responsibility for a Management Contract, as designated by the Management Contract or the Management Contractor, or the person designated by the Gaming Operation as having management responsibility for a Gaming Operation.

“Michigan Compact” means the Compact dated December 3, 1998, including all renewals, amendments, appendices, exhibits and other attachments thereto, between the Pokagon Band of Potawatomi Indians and the State of Michigan providing for the Conduct of Tribal Class III Gaming by the Pokagon Band of Potawatomi Indians, which was deemed approved by the Secretary of the Interior by operation of law under the IGRA (25 U.S.C. § 2710(d)(8)(C)) and became effective on upon publication in the Federal Register (64 Fed. Reg. 8111, February 18, 1999).

“Net Revenue” means Gross Revenue of any Gaming Operation minus amounts paid for, or paid out as prizes, winnings, and related Operating Expenses, excluding Management Fees.

“NIGC” means the National Indian Gaming Commission.

“Non-Gaming Employee” means any employee of a Gaming Operation who is not a Gaming Employee. For purposes of licensing, Level 4 shall be comprised of all Non-Gaming Employees.

“Non-Gaming Supplier” means any Person who is not a Gaming Supplier and who provides goods or services to a Gaming Operation, the aggregate annual value of which exceeds an amount established by Commission Regulation as determined from all written and oral contracts between the Non-Gaming Supplier and the Gaming Operation to supply such goods or services within any twelve-month period of time. For purposes of licensing, Level B shall be comprised of all Non-Gaming Suppliers.

“Non-Key Employee” means any Gaming Employee who is not a Key Employee or a Primary Management Official.

“Operating Expense” means any expense incurred in the operation of Gaming that is specifically designated as an Operating Expense in any Management Contract or which otherwise is so treated by application of Generally Accepted Accounting Principles.

“Patron” means any person who participates in Gaming as a customer or who is physically present on the premises where Gaming is conducted as a customer of the Gaming Establishment.

“Person” means any business, proprietorship, association, partnership, syndicate, corporation, firm, joint venture, trust or other form of business association or entity, labor organization, state, local government, government instrumentality or entity, as well as a natural person. The term **“person”**, without an initial capital “P”, refers exclusively to a natural person.

Person Having a Direct or Indirect Financial Interest in a Management Contract” means:

- (a) When a Person is a party to a management contract, any Person having a direct financial interest in such management contract;
- (b) When a trust is a party to a management contract, any beneficiary or trustee;

- (c) When a partnership is a party to a management contract, any partner;
- (d) When a corporation is a party to a management contract, any Person who is a director or who holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling; or
- (e) When an entity, other than a natural person, has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity are deemed to be persons having a direct financial interest in a management contract.

“Primary Management Official” means:

- (a) The person having management responsibility for a Management Contract;
- (b) Any person who has authority:
 - (1) to hire and fire employees of a Gaming Operation; or
 - (2) to establish working policy for a Gaming Operation;
- (c) The chief financial officer or other person who has financial management responsibility for any Gaming Operation;
- (d) The Manager or any person having management responsibility over all or any part of any Gaming Operation;
- (e) Any person the Commission designates by Commission Regulations as a Primary Management Official.

“Reservation” means, pursuant to 25 U.S.C. § 1300j-5 or other applicable federal law, (i) all lands, the title to which is held in trust by the United States for the benefit of the Pokagon Band of Potawatomi Indians; and (ii) all lands proclaimed by the Secretary of the Interior to be part of the Tribe’s reservation. The term Reservation includes any rights-of-way running through the Reservation.

“Regulations” means any regulations promulgated by the Commission pursuant to this Act.

“Rehabilitation Hearing” means a hearing conducted by and before the Commission under the requirements of Chapter XI and the Regulations concerning any Applicant for a Level 2 or Level 3 Gaming Employee License who is a Tribal member and who was convicted of or entered a plea of guilty or no contest to Any Offense within the preceding five (5) years in order to determine whether the Applicant is not eligible for a Level 2 or Level 3 Gaming Employee License under the standards set forth in Section 11.03.

“Secretary” means the Secretary of the United States Department of the Interior.

“Tribal Chairperson” means the duly elected Chairperson of the Band.

“Tribal Council” means the Tribal Council of the Pokagon Band of Potawatomi Indians, established under Article X of the Pokagon Band Constitution as the governing body of the Tribe.

“Tribal Court” means the Pokagon Band Tribal Court and the Pokagon Band Court of Appeals.

“Tribe” means, and **“Tribal”** shall refer to, the Pokagon Band of Potawatomi Indians.

CHAPTER III ESTABLISHMENT, ADMINISTRATION & POWERS OF COMMISSION

Section 3.01 Establishment of Gaming Commission. The Tribal Council hereby establishes the Pokagon Band Gaming Commission as an independent governmental subdivision of the Tribe.

Section 3.02 Governmental Attributes of the Commission. As a political subdivision of the Tribe, the Commission possesses all the rights, privileges, and immunities of the Tribe, including but not limited to the sovereign immunity of the Tribe from suit absent express consent from Tribal Council. The individual members of the Commission are officers of the Tribal government and shall be immune from suit when acting in their official capacity to the fullest extent permitted by law.

Section 3.03 Delegation of Regulatory Authority. The Tribal Council delegates to the Gaming Commission sole authority and responsibility to regulate all Gaming conducted within the Tribe’s Reservation, as expressly provided by this Act, which authority includes without limitation the authority to regulate Gaming Operations, Gaming Establishments, and Management Contractors, and to license Gaming Establishments, Gaming Suppliers, Gaming Employees, and all other Persons subject to the Commission’s licensing authority pursuant to this Act. The Commission shall ensure that all Gaming conducted within the Tribe’s Reservation is conducted in conformance with this Act, the Regulations, the Compacts, the IGRA, regulations promulgated by the NIGC, and other applicable Tribal and federal laws.

Section 3.04 Independence of Commission. In all matters subject to its regulatory authority, the Commission shall be and shall act independently and autonomously from the Tribal Council. No prior or subsequent review by the Tribal Council of any actions of the Commission shall be required or permitted, except as may be otherwise explicitly provided in this Act. Notwithstanding the foregoing, the Commission shall be subject to all Tribal law, including generally-applicable Tribal administrative policies and procedures that are not in conflict with this Act, except to the extent that an exception for the Commission is expressly provided. The Commission fiscal year shall be the fiscal year of the Tribe.

Section 3.05 Commission Funding. Commission funding shall be in an amount adequate for the Commission to properly fulfill all of its regulatory responsibilities under this Act. The

amount of the Commission funding shall be established annually for the subsequent Fiscal Year through a detailed annual budget to be prepared by the Commission for Tribal Council approval, as provided in subsection 3.15(j) of this Act. The Commission budget shall take into account any unexpended funds retained by the Commission at the end of the prior Fiscal Year, excluding funds that are obligated for costs or expenses incurred during the prior Fiscal Year. The Tribal Council shall not reduce the Commission's annual budget during any Fiscal Year, but may approve requests by the Commission to supplement the budget when necessary. Funding for all costs and expenses of the Commission shall be the sole obligation of the Pokagon Gaming Authority, pursuant to subsection X.F of the Pokagon Gaming Authority Ordinance.

Section 3.06 Composition of Commission. The Commission shall be composed of three (3) persons appointed by the Tribal Council, at least one (1) of whom shall be an enrolled member of the Tribe.

Section 3.07 Qualifications; Appointment of Commissioners.

- (a) Qualifications. No person shall serve on the Commission if that person is:
 - (1) Under the age of twenty-one (21);
 - (2) A member or officer of the Tribal Council;
 - (3) A Judge or employee of the Tribal Court;
 - (4) Employed by any Gaming Operation;
 - (5) Resides in the same household with, a person employed as a Primary Management Official or Key Employee of any Gaming Operation;
 - (6) Has a direct or indirect financial interest in the Gaming Operation, including any Management Contractor, or a direct financial interest in any Gaming Supplier. For purposes of this Section, (i) direct financial interest shall not include the right to per capita distributions of Gaming revenues pursuant to the IGRA but shall include direct ownership of stock in a publicly traded company and (ii) indirect financial interest shall not include ownership of any mutual funds that hold such stock.
 - (7) Employed or otherwise serves in a position with responsibilities that create a conflict of interest or the appearance of a conflict of interest with the duties and responsibilities of the Commission, as determined by the Tribal Council; or
 - (8) Unable to establish and maintain eligibility to serve as a Gaming Commissioner under the requirements set forth in this Section.
- (b) Additional Qualifications. In addition to the qualifications prescribed in subsection (a), the experience and training of a Commissioner must be of sufficient scope, depth and relevancy to enable him/her to fulfill his/her duties as shown through at least five (5) years experience in gaming or other regulatory affairs, public accounting or business finance, public or business administration, judicial or dispute resolution services, criminal justice, civil or criminal investigation, or law. A bachelor's degree in a relevant area of study is required.

(c) Eligibility Determinations; Gaming Commissioner Appointment. Before any person may take office as a member of the Commission, the Tribal Council shall cause a comprehensive background investigation to be conducted by the Tribal Police on each such person. The Tribal Council shall only appoint a person to the Commission after it determines that all of the qualifications set forth in this Section and the applicable licensing standards have been met.

- (1) *Consent to Investigation.* All persons, before being appointed to serve on the Commission, shall consent to, and fully cooperate with, a comprehensive background investigation.
- (2) *Background Investigation.* Persons selected for appointment to the Commission shall complete a License Application and, in addition to the qualifications set forth in subsection (a), shall be subject to the same background investigation process and licensing standards that apply to Level 1 Licenses under Chapter VII of this Act, provided that the submission of documents and other records or information to the NIGC is not required.
- (3) *Investigator's Report.* The investigator shall create an investigative report for the Tribal Council that describes the investigative process and the qualifications and applicable licensing standards. The report shall include factual findings regarding each qualification and licensing standard to the extent that there is clear and convincing evidence to support a finding and a statement of all relevant facts and information regarding any qualification or standard for which a finding cannot be made. The Tribal Police shall keep the identity of each person interviewed in the course of the investigation confidential, except to the extent disclosure is permitted under applicable Tribal law.
- (4) *Investigator's File.* The Tribal Police shall create a separate file for each person that was subjected to a background investigation, which shall include all forms, documents, reports and other information related to the investigation that is in the possession of the Tribal Police. The Tribal Police shall retain such files for no less than three (3) years from the date each such person ceased to hold the position of Commissioner.
- (5) *Preliminary Determination.* Upon completion of the background investigation, the Tribal Council shall review the report and findings of the investigation in closed session. The Tribal Council shall make a preliminary determination in open session, as provided in subsection (d), to either approve or deny the appointment; provided that, the background investigation report and all information contained therein shall remain confidential and shall not be included in the public record of the Tribal Council session unless the appointee requests that a hearing to contest the preliminary determination be conducted before the Tribal Council in open session pursuant to subsection (e).

(d) Final Determination; Confirmation of Appointment. Following review of the investigative report and findings, and any hearing that may be conducted pursuant to subsection (e), the Tribal Council shall make a final determination as to

whether the appointee meets the qualifications and applicable licensing standards for appointment to the Commission. Based on such decision the Council shall either appoint such person to the Commission or decline to make the appointment.

- (e) Notice to Rejected Appointees; Right to Hearing. The Tribal Council shall provide written notice to any person that has been preliminarily determined does not meet the qualifications or applicable licensing standards for appointment to the Commission. The notice shall fully describe the basis upon which the preliminary determination was made and shall inform such person of his/her right to request a hearing before the Tribal Council to contest with new evidence and testimony the Tribal Council's preliminary determination. The hearing under this subsection shall be conducted as provided in Chapter XI of this Act and the person contesting the preliminary determination shall have all of the rights given to a Licensee or Applicant therein, except that such hearing shall be conducted by and before the Tribal Council in closed session, unless the nominee elects, in writing, to have the hearing open to the public.

Section 3.08 Initial Terms of Office. Commissioners shall serve staggered three (3) year terms. To achieve such staggered terms, the initial appointee designated by the Tribal Council to serve as Chairperson shall serve an initial term of approximately three (3) years. The initial appointee designated by the Tribal Council to serve as Vice Chairperson shall serve an initial term of approximately two (2) years. The remaining appointee shall serve an initial term of approximately one (1) year. All subsequent appointments shall be for three (3) year terms. Commissioners may serve successive terms of office without limitation.

Section 3.09 Hold-Over Policy. A Commissioner may, at the discretion of the Tribal Council, continue to serve in his or her position as Commissioner, with full authority, after the completion of his or her term until such time as a replacement is appointed and sworn into office.

Section 3.10 Resignation. Commission members may resign from the Commission by submitting, in writing, a signed and dated letter of resignation to the Commission Secretary or Chairperson and the Tribal Council Secretary or Chairperson. The resignation shall be effective as of the date tendered unless stated in the resignation letter. A copy of the resignation letter will be forwarded to the Tribal Council Secretary.

Section 3.11 Removal. The Commission may, by majority vote, request that the Tribal Council initiate a procedure for the removal of a Commission member and the Tribal Council may, on its own initiative, initiate a removal procedure for any member of the Commission by an affirmative vote of at least eight (8) members of the Tribal Council for any of the following reasons:

- (a) Nonfeasance, including the persistent failure to perform the duties of the office, including failure to attend a significant number of meetings;
- (b) Misfeasance, including any substantial or repeated failure to exercise authority or discharge responsibilities in conformity with this Act, Regulations, the IGRA, or

the Compacts;

- (c) Malfeasance, including (i) a conviction or a plea of guilty or no contest regarding any felony criminal offense or any other criminal offense involving dishonesty or moral turpitude, (ii) a substantial violation of the Pokagon Band Code of Ethics, (iii) a knowing violation of this Act, the Regulations, the Pokagon Band Liquor Control Code, or other applicable Tribal law that assigns duties or responsibilities specifically to the Commission; and (iv) misconduct in office that threatens the integrity or public image of the Commission;
- (d) Failure to maintain the necessary qualifications for office prescribed in Section 3.07; or
- (e) Physical or mental disability that prevents the performance of duties.

If the Tribal Council has reason to believe that cause for removal of a Commissioner exists, the Tribal Council shall direct that an investigation be conducted by the Tribal Prosecutor. If, in the Tribal Council's determination, the investigation substantiates the existence of cause for removal, the Tribal Council shall notify the Commissioner of the time and place for a hearing before the Tribal Council, which notice shall also fully describe the purpose for the hearing and all claims and allegations to be addressed at the hearing. Any investigation and hearing under this Section shall be conducted in accordance with the procedures prescribed in Chapter XI, except that the hearing shall be conducted by and before the Tribal Council.

Section 3.12 Vacancies; Appointment to Fill Vacancy.

- (a) Appointment. Vacancies on the Commission shall be filled by Tribal Council appointment for the balance of the unexpired term.
- (b) Notice. The Tribal Council shall provide notice of the vacancy to the Band membership and an opportunity to respond prior to filling the vacancy.
- (c) Eligibility. The Tribal Council will make a final determination regarding the eligibility of each prospective nominee to the Commission in accordance with the qualifications and procedures described in Section 3.07.
- (d) Time Frame. The Tribal Council will endeavor to fill any vacancy on the Commission within sixty (60) days of the vacancy, or as soon thereafter as possible, in a manner consistent with applicable law, including any written rules of Tribal Council procedure.

Section 3.13 Ethics Requirements for Commissioners. Gaming Commissioners shall comply with all requirements of the Pokagon Band Code of Ethics and shall be subject to the authority of the Ethics Board established by such Code.

Section 3.14 Compensation of Commissioners. Commissioners shall be compensated at rates that fall within a grid to be established by the Tribal Council. The Council may, in its discretion, require the Salary Commission to evaluate the Commission positions and recommend a compensation grid to the Council. The Tribal Council shall review the rates of compensation for Commissioners on an annual basis and shall make adjustments to such rates as the Tribal Council determines to be appropriate to address increases in the cost of living or wage deflation. The Tribal Council shall not reduce the rate of compensation for any Commissioner during a Commissioner's term of office. Commissioners shall be entitled to reimbursement for actual expenses incurred on Commission business, including necessary travel expenses, subject to any written guidelines the Tribal Council may establish.

Section 3.15 Powers and Duties of the Commission.

- (a) General. The Commission shall be responsible for ensuring that all Gaming within the Tribe's Reservation is conducted in compliance with this Act, the Regulations, the IGRA, and the Compacts. In exercising its regulatory authority, the Commission shall avoid unnecessary interference with the authority and discretion of any Gaming Operations or Management Contractor to manage a Gaming Establishment.
- (b) Licensing. The Commission shall have the power to conduct investigations and determine the eligibility of Applicants for all Licenses required to operate, manage, conduct business with, or be employed at any Gaming Operation in accordance with the standards and procedures set forth in Chapters VI – VIII of this Act and the Regulations. The Commission shall also have the power to limit, revoke, terminate, condition, suspend, or restrict any License and to reprimand, warn, or fine a Licensee when the same will further the purposes and requirements of this Act.
- (c) Regulatory Authority. The Commission shall have the power and duty to develop, propose, and promulgate Regulations regarding:
 - (1) the licensing of Gaming Establishments;
 - (2) background investigations and licensing of Gaming Employees and Non-Gaming Employees;
 - (3) background investigations and licensing of Gaming Suppliers and Non-Gaming Suppliers;
 - (4) conducting or causing to be conducted annual independent audits of all Gaming Operations;
 - (5) the distribution of complimentary items;
 - (6) permitted games and the conduct thereof;
 - (7) compliance with applicable standards and procedures for testing Gaming Equipment or Supplies;
 - (8) audio and video surveillance standards and procedures;
 - (9) standards and procedures for minimum internal cash, playing cards, and chip and token control;
 - (10) compliance with the Bank Secrecy Act, 31 U.S.C. § 1051 *et seq.* and

- applicable provisions of the Internal Revenue Code;
 - (11) resolution of Gaming-related disputes involving Patrons after all remedies available at the Gaming Establishment are exhausted;
 - (12) the development and maintenance of a list of excluded persons;
 - (13) Commission reporting, record-keeping, auditing, investigation, and enforcement procedures;
 - (14) fines and other penalties for violations of this Act, the Regulations, and other applicable law in order to fulfill the regulatory purposes and to offset administrative costs; and
 - (15) other activities as required by law or as deemed prudent by the Commission.
- (d) Rulemaking Process. The Commission shall give notice of its intent to adopt a Regulation by posting a copy of the notice in locations on Tribal government property where public notices are usually posted and by delivering a copy of the notice by U.S. mail or other appropriate means to the Tribal Council Secretary, the General Counsel, and the Manager of any Gaming Establishment. The notice shall include a copy of the proposed regulation and a description of the nature and effect of the proposed regulation. In addition, the notice shall include the following:
 - (1) Comment Submission. Comments on the proposed regulation may be submitted no later than sixty (60) days from the date of the notice; and
 - (2) Comment Review. The Commission shall review all comments received during the comment period and, based on such comments, shall make such changes to the proposed regulation as the Commission deems necessary or appropriate.

The Commission shall fully consider and address all comments recommending changes to the proposed regulation that are based on sound analysis or are supported by reliable data and information. The Commission shall approve the regulation by resolution and shall, by official action, set the effective date of the regulation and publish and post copies of a notice of adoption of the regulation in the same manner as for the notice of intent to adopt the regulation. The notice of adoption shall summarize the final regulation and the changes to the proposed regulation. To the extent practicable, the notice of adoption shall include written responses to all substantive comments, provided that the Commission may offer a single response to substantially similar comments. The notice of adoption shall state the effective date of the regulation and shall announce that copies of the regulation are available from the Commission. Copies of the notice and the final regulation shall be delivered to all Persons who were sent a copy of the notice of intent.

- (e) Other Powers of Commission. In addition to and in conjunction with the enumerated regulatory powers set forth above in this Act, the Commission shall also have the power to:
 - (1) Suspend, restrict, or revoke a License for –

- (i) any direct and immediate threat to the health, welfare, or safety of the public; (ii) the failure to make prompt and satisfactory progress to correct a problem that was the basis for a License suspension or other disciplinary measure; (iii) repeated or substantial violations of this Act, the Regulations, the IGRA, or the Compacts; (iv) the failure to maintain eligibility for the License; and (v) the failure to remain eligible for a Gaming License in any other jurisdiction.
- (2) Initiate administrative proceedings before the Commission or civil actions in court, at the Commission's discretion, to enforce provision of this Act, the Regulations or the IGRA;
 - (3) Compromise, negotiate or settle any dispute to which the Commission is a party relating to the Commission's authorized activities;
 - (4) Enter through its investigators, agents, and the Tribal Police at any time a Gaming Establishment or other places of business of any Licensee in order to gain access to, inspect, examine, copy, and audit all records, equipment, supplies or other items concerning any Gaming conducted within the Reservation;
 - (5) Investigate, review, decide, adjudicate, enforce, and to undertake such other regulatory activities regarding any matters subject to the Commission's jurisdiction as necessary for the Commission to carry out its express duties and responsibilities under this Act;
 - (6) Conduct such hearings as the Commission may deem appropriate in carrying out its duties, including administering oaths or affirmations to witnesses and issuing subpoenas to compel the production of records and the appearance of witnesses at such hearings;
 - (7) Provide information obtained through audits or other investigations that indicates a violation of Tribal, federal or applicable state laws or regulations to the appropriate law enforcement officials and to cooperate with such agencies in the investigation and prosecution of charges brought as a result of violations of law;
 - (8) Utilize the services of public and private entities, including the Tribal Court and other courts, the Tribal Police and other law enforcement agencies, and the Tribal Prosecutor in exercising its powers and carrying out its responsibilities;
 - (9) Utilize the services of the General Counsel's Office to assist the Commission with its legal affairs, provided that if the General Counsel's Office is unable to assist, the General Counsel shall make other legal counsel engaged by the Tribe available to the Commission.
 - (10) Coordinate with the Indiana Gaming Commission or Michigan Gaming Control Board, as applicable, regarding matters of compliance with the express requirements of the Compacts, provided that in exercising such power the Commission shall respect the role and responsibility of the Tribal Council to represent the Tribe's interests as a party to the Compacts and to engage in government-to-government consultation with the State of Indiana or State of Michigan and their agencies;
 - (11) Coordinate with the NIGC regarding matters of compliance with the

express requirements of the IGRA and the NIGC regulations, provided that in exercising such power the Commission shall respect the role and responsibility of the Tribal Council to engage in government-to-government consultation with the United States and its agencies, including the NIGC.

- (f) Monitoring and Investigation. The Commission shall have the power and duty to monitor all Gaming Operations for compliance with this Act and the Regulations, the Pokagon Band Liquor Control Code, any other Tribal law that expressly delegates responsibilities to the Commission, the IGRA, and the Compacts, subject to any limits on the Commission's power set forth in such laws. The Commission shall have the power to require the Executive Director to undertake such investigations and inspections as the Commission deems appropriate, review the results of such related investigations, and initiate enforcement actions as it deems necessary in accordance with Section 4.03.
- (g) Access to Records and Information. The Commission, through its Executive Director and other authorized Commission personnel shall have access to all areas of any Gaming Operation and to all records, files, information, and data of any Gaming Operation, wherever located, and may interview any employee, agent or representative of any Gaming Operation with respect to matters relating to the operation of any Gaming Operation. Advance notice to the Gaming Operation or any employee, agent, or representative of the Gaming Operation shall not be required for the Commission to exercise the authority described in this subsection.
- (h) Enforcement Authority. When information received by the Commission through inspections, audits or investigations indicates a violation of this Act, the Regulations, the terms or conditions of any License, or any other applicable Tribal or federal laws, the Commission may, as warranted under the circumstances:
 - (1) Refer the matter to appropriate law enforcement officials or other appropriate governmental agencies;
 - (2) Pursue further investigation of the matter;
 - (3) Initiate administrative enforcement proceedings or a civil action in the Tribal Court to fine the Persons responsible for the violation, or to suspend, restrict, or revoke such Person's License, or issue a letter of reprimand or a warning in accordance with the procedures in this Act and the Regulation; or
 - (4) Consult with representatives of the Gaming Operation to correct the violation, or resolve the matter, without formal proceedings.

Any enforcement action taken by the Commission shall be fair and reasonable under the circumstances, shall be proportionate to the violation, and shall be designed to promote the goals of correction and improvement, unless the nature or severity of the violation is such that the goals of correction and improvement would be unrealistic. Any enforcement action taken by the Commission must be within its powers, related to its gaming regulatory responsibilities, and shall be conducted in accordance with the Hearing Procedures described in Chapter XI

and is subject to appeal pursuant to Chapter XII of this Act.

- (i) Conduct of Audit. The Commission shall ensure that each Gaming Operation annually conducts an independent audit of the Gaming Operation and submits the resulting audit report to the NIGC in a timely manner. All Gaming related contracts for the purchase of supplies, services, or concessions in an amount in excess of \$25,000.00 annually, except contracts for professional legal or accounting services, and any other matter the Commission deems necessary or appropriate shall be specifically included within the scope of such audit.
- (j) Establishment of Budget. The Commission shall establish an annual budget for its operations, which shall reflect the reasonable costs of gaming regulation pursuant to this Act, other applicable law and the Compacts. The Commission shall present its annual budget to the Tribal Council on or before a date established by the Tribal Council each year for the Tribal Council's review and approval. The Commission shall have the authority to expend funds within the approved budget without further authorization from the Tribal Council, subject to generally applicable Tribal accounting and procurement policies.

Section 3.16 Commission Meetings.

- (a) Regular Meetings. The Commission shall conduct a Regular meeting once a month at the Commission's main office or at any other designated meeting place. The Commission shall provide by resolution the time and place for Regular meetings. A meeting agenda shall be distributed to all Commission members at least 48 hours in advance of the Regular meeting, which shall be subject to change by a majority vote of the Commission at such meeting.
- (b) Special Meetings. Special meetings shall be called by the Commission Chairperson as necessary to carry out the official duties of the Commission. Notice of each Special meeting may be given to each Commission member by hand delivery, telephone, mail, or such other method as the Commission may establish. Notice of the Special meeting and a proposed agenda shall be delivered to Commission members at least forty-eight (48) hours in advance of such meeting and shall include the date, time and place of the meeting. The agenda for the Special meeting shall be limited to the matters stated in the notice of the meeting unless all members are present at the meeting and a majority agrees to the change to the agenda.
- (c) Emergency Meetings. An emergency meeting may be called by the Chairperson of the Commission with less than 24 hours notice; provided, that the business proposed to be taken up at the Emergency Meeting cannot reasonably wait for a Special or Regular meeting. The Chairperson of the Commission shall make every reasonable effort to provide all Commissioners with as much prior notice of the meeting as possible under the circumstances. The agenda for the Emergency meeting shall be limited to the business proposed in the meeting notice.

- (d) Waiver of Notice. The notice requirements regarding any Special or Regular meeting may be waived if all members are present at such meeting and consent to the calling of the meeting.
- (e) Meetings Open to the Public. All meetings of the Commission shall be open to the public; provided, however, that the Commission may, in its discretion, close any portion of any meeting to the public when discussing any information that the Commission deems confidential pursuant to the provisions of this Act, such as hearings to determine the suitability of an Applicant for a License.
- (f) Alternative Meeting Arrangements. Special and Emergency meetings may be conducted by a telephone conference, video conference, web conference or similar means as the Commission Chairperson deems necessary, subject to such requirements as the Commission may establish. Commission members may participate in any meeting by means of speakerphone or telephone conference, video conference, or similar means provided that all members participating in the meeting can hear and be heard by each other. A member's participation in a meeting described in this subsection without objection at the commencement of the meeting shall be deemed consent to the manner in which such meeting is conducted.
- (g) Meeting Procedures. The Commission shall prescribe rules of procedure regarding the conduct of its meetings, provided that such rules may not conflict with this Act or other applicable Tribal law. Any question regarding meeting procedure that is not addressed by this Act, other applicable Tribal law, or by rules of procedure established by the Commission, may be resolved by consulting Roberts Rules of Order.

Section 3.17 Quorum. A quorum of the Commission shall consist of two (2) Commissioners. All decisions shall be made by a majority vote of a quorum of the Commission, unless indicated otherwise in this Act.

Section 3.18 Officers.

- (a) Upon the conclusion of the first year of the initial terms of office described in Section 3.08, the Commission shall select from among its members, a Chairperson and a Vice-Chairperson. The term of office for officer positions shall be one (1) year and members may serve more than one term in that capacity.
- (b) The Vice-Chairperson shall assume the duties of the Chairperson in the Chairperson's absence.

Section 3.19 Commission Offices. The Commission shall maintain a permanent administrative office. Such office shall serve as the Commission's main business office and shall be the site at which Commission records and documents are maintained and stored on a permanent basis. No person except a Commissioner or other authorized employee or agent of

the Commission may possess a key to or may enter any Commission office without the permission of the Commission. No person may access such records except a Commissioner, a person duly authorized by the Commission or an attorney for the Commission.

Section 3.20 Commission Record-Keeping.

- (a) Records Required to be Maintained. The Commission shall maintain complete records regarding the following:
 - (1) Applications, financial statements, fingerprints, contracts, Licenses, suspension and cancellation notices and correspondences of all Applicants;
 - (2) Commission Licenses;
 - (3) Meeting minutes from all Commission meetings;
 - (4) Transcripts or minutes from all hearings conducted by the Commission;
 - (5) Compact compliance;
 - (6) Reports relating to customer disputes, complaints or other issues that affect the integrity of the Gaming Operation;
 - (7) Commission budget and expenditures;
 - (8) Communications and correspondence with the Tribal Council, Tribal agencies and officials, and state and federal agencies and officials;
 - (9) Gaming Device list pursuant to Section 10.06 of this Act; and
 - (10) Any other records or documents the Commission deems necessary or appropriate.
- (b) Requirements Regarding Files. The Commission shall create a separate file, which may be in electronic form, for each Applicant that includes all forms, documents, and information submitted by the Applicant and all background information compiled by the Commission, including without limitation the Application required by Section 7.01, the investigative report required by Section 7.03, and the eligibility determination required by Section 7.06. All reports obtained from the fingerprint processing shall be incorporated into the Applicant's file. The Commission shall retain such files for no less than three (3) years from the date each such Applicant ceased employment with the Gaming Operation, the date any contract between the Applicant and the Gaming Operation ceased to be valid and in effect, or the date the Applicant ceased to hold a valid License, whichever event occurs last. To the extent required by federal law, the Commission shall make such files available for inspection by the NIGC upon request.

Section 3.21 Reports. The Commission shall make quarterly reports to the Tribal Council within thirty (30) days after the end of each quarter. Such Reports shall contain the following information:

- (a) Number and types of Licenses issued during the previous quarter;
- (b) Number and types of License denied, suspended, restricted, or revoked during the

previous quarter and commentary helpful to explain such actions where appropriate;

- (c) Report of any events of non-compliance or violations of this Act, the Regulations, the Compacts, IGRA, the Pokagon Band Liquor Control Code, and Licenses (other than Gaming Employee Licenses); provided, however, that such reports shall not include confidential information concerning any pending regulatory or criminal investigation;
- (d) A report of Commission expenditures for the prior quarter;
- (e) A summary of any Commission travel and training;
- (f) All other information that the Commission deems relevant in order to keep the Tribal Council adequately informed on all current Gaming regulatory matters.

Nothing in this Section shall be construed to authorize the Commission or Commission staff to provide the Tribal Council with any confidential information pertaining to a pending regulatory or criminal investigation.

CHAPTER IV ORGANIZATION OF THE COMMISSION; EXECUTIVE DIRECTOR

Section 4.01 Commission Divisions. The Commission shall be organized under the Executive Director into the following divisions, which subject to Commission supervision, shall be under the management and supervision of the Executive Director:

- (a) Licensing and Investigation Division. The Licensing and Investigation Division shall perform all of the following Commission duties and responsibilities:
 - (1) receiving and processing all License Applications;
 - (2) conducting background investigation regarding an Applicant for a License and all other investigations on behalf of the Commission that are required or permitted under this Act
 - (3) such other matters as the Commission may assign to the Division.
- (b) Compliance and Enforcement Division. The Compliance and Enforcement Division shall perform the following Commission duties and responsibilities:
 - (1) ensuring compliance with all audit and financial oversight requirements regarding Gaming revenues;
 - (2) monitoring compliance with the Act, the Regulations, Tribal Minimum Internal Controls, the Pokagon Band Liquor Control Code, the IGRA, and the Compacts;
 - (3) pursuing enforcement activities for the failure of any Licensee or other Person subject to the jurisdiction of the Commission for any failure to comply with the Act, the Regulations, including the Tribal Minimum Internal Controls, the Pokagon Band Liquor Control Code, the IGRA, and

- the Compacts; and
- (4) such other matters as the Commission may assign to the Division.

The Commission may, at its discretion, create and fill a Deputy Director position for each of the Divisions described in this Section and may further organize itself into any functional division, department, section, or office that it deems necessary for the effective and efficient operation of the Commission.

Section 4.02 Executive Director: Appointment; Qualifications; Removal and Suspension.

- (a) Appointment of the Executive Director. The first Executive Director appointed under this Act shall be appointed by the Tribal Council. Appointments to fill any vacancy in the position of Executive Director shall be made by nomination of the Commission, subject to the consent of the Tribal Council. The Executive Director shall be under the exclusive supervision and authority of the Commission.
- (b) Qualifications. The Executive Director shall possess the following qualifications:
- (1) *Prior experience.* The Executive Director's experience and training must be of sufficient scope, depth, and relevancy to enable him/her to direct the work of the Commission, as shown through at least five (5) years experience at a management level in Gaming regulation or compliance, particularly Class III Gaming, and a BA in a relevant area of study. Additional experience is preferred in the areas as public accounting or business finance, public or business administration, judicial or dispute resolution services, criminal justice, civil or criminal investigation, and law;
 - (2) *Commission standards.* Must establish and maintain eligibility to serve as Executive Director under the qualifications that apply to Commission members in Section 3.07;
 - (3) *Ineligibility of Commissioners.* Must not have served as a Commissioner for two years prior to the date of appointment as Executive Director; and
 - (4) *Commitment.* Must devote his or her entire time and attention to the duties of the Executive Director and the business of the Commission.
- (c) Compensation. The Executive Director shall be entitled to an annual salary and adjustments in amounts determined by the Commission and included in the Commission's annual budget submitted for Tribal Council approval.
- (d) Removal, suspension. The Commission may, by majority vote, request that the Tribal Council initiate a procedure for the removal of the Executive Director for any of the reasons stated in Section 3.11 regarding removal of a Commission member provided that if the reason for seeking the removal involves the failure to maintain or remain eligible for a License or for any other reason that threatens the integrity or public image of the Commission, the Commission may suspend the Executive Director, with pay, pending the outcome of the removal proceeding.

- (e) Vacancy. If there is a vacancy for any reason in the position of Executive Director, the Tribal Council shall promptly appoint another qualified person to fill the vacancy. The Commission may assign the duties of the Executive Director to a Commission employee on an interim basis until the Tribal Council fills the vacancy in the position of Executive Director.

Section 4.03 Powers and Duties of the Executive Director. The Executive Director shall have the power and the duty, subject to Commission supervision, to carry out on behalf of the Commission the administrative and executive requirements of the Commission under this Act, the Regulations, and the Pokagon Band Liquor Control Code, including without limitation:

- (a) Commission Administration. The Executive Director shall provide administrative support to the Commission, including managing and supervising all Commission staff, consultants, and contractors, records management, and the development and oversight of the Commission budget.
- (b) Commission Staff. The Executive Director shall work in conjunction with the Tribal Government Human Resources Department regarding human resource and personnel matters, including the recruitment, hiring, supervision, and discipline of Commission staff, whose positions shall be established by written position descriptions subject to the approval of the Commission and all applicable hiring and employment laws and policies of the Tribe. All employee suspensions and terminations may be appealed to the Commission, subject to such standards and procedures as the Commission may establish.
- (c) Contracting. The Executive Director may negotiate and enter into contracts for the acquisition of goods and services required by the Commission and may otherwise expend Commission funds as needed for the operation of the Commission, subject to such requirements as the Commission may establish.
- (d) Oversight of Commission Operations. The Executive Director shall be responsible for the day-to-day operations of the Commission, including maintaining oversight of the Licensing and Investigation Division, the Enforcement and Compliance Division, and such other divisions, departments, sections, or offices of the Commission as the Commission shall establish. In overseeing Commission operations, the Executive Director shall ensure that the following activities are performed effectively and in accordance with applicable law:
 - (1) *All investigations.* Investigations of any matter within the scope of authority of the Commission, including without limitation background investigations necessary to determine the suitability of any Applicant for License are conducted efficiently and professionally;
 - (2) *Commission challenges.* Assist the Commission as needed, prepare evidence, and cooperate with the Commission's legal counsel in presenting the Commission's case in all challenges to Commission decisions asserted in accordance with the standards and procedures

- provided in this Act and the Regulations;
- (3) *Monitoring and compliance.* Monitor all Gaming Operations and Gaming Establishments to determine compliance with this Act, the Regulations, the Pokagon Band Liquor Control Code, the IGRA, the Compacts, and other applicable law and that, upon receiving any credible report of a violation thereof or at random or periodic intervals, with or without prior notification to the Gaming Operation a timely investigation is conducted with regard to such report;
 - (4) *Disputes.* Address and, as needed, investigate all disputes between Gaming Patrons and Gaming Operations pursuant to the standards and procedures set forth in this Act and the Regulations;
 - (5) *Enforce Exclusion List.* Maintain and enforce compliance with an Exclusion List of the names of persons to be excluded from Gaming Establishments; and
 - (6) *General assistance.* Assist the Commission as needed in enforcing Commission orders and decisions and in pursuing other enforcement actions.
- (e) Licensing. The Executive Director may grant Provisional Licenses, Temporary Licenses, and other licenses on behalf of the Commission as expressly provided by the Regulations.
- (f) Records Management. The Executive Director shall assist the Commission in developing and maintaining a suitable records management and retention system and shall ensure that all confidential and sensitive records and information are maintained and protected from unauthorized release.
- (g) Evaluate the Gaming Regulatory System. Evaluate the effectiveness of the Tribe's Gaming regulatory system and recommend any changes that may be necessary or desirable.
- (h) Other Duties. Perform such other duties as the Commission deems necessary.

Section 4.04 Background Investigations of the Executive Director and Commission Staff.

Before any person may take office as an Executive Director of the Commission or commence work as an employee of the Commission, the Commission shall cause a background investigation to be conducted by the Tribal Police on each such person. All such persons shall consent to, and fully cooperate with the background investigation as provided hereunder and as required by the Commission. The Commission may, in its discretion and subject to such requirements as the Commission may deem warranted, permit a prospective Commission employee to commence work prior to the completion of a background investigation.

- (a) Applicable Standards. Persons selected for appointment as Executive Director shall be subject to the same background investigation process and licensing standards that apply to Level 1 Licenses under Chapter VII of this Act. Commission staff shall be subject to such standards as the Commission may

determine. The submission of documents and other records or information to the NIGC is not required for the Executive Director position or for Commission staff positions.

- (b) Nature of Background Investigation. Background investigations conducted under this Section are intended to serve the purpose of assisting the Commission in maintaining a high level of integrity among the Commission staff. Such investigations are not intended to fulfill a regulatory purpose and, consequently, persons selected to serve in the position of Executive Director or Commission staff positions shall not be entitled to any of the rights afforded to License Applicants under this Act.
- (c) Investigator's Report. The investigator shall create an investigative report for the Commission that describes the investigative process and applicable standards and includes factual findings regarding each standard to the extent that there is clear and convincing evidence to support a finding.
- (d) Investigator's File. The Tribal Police shall create a separate file for each person that was subjected to a background investigation, which shall include all forms, documents, reports and other information related to the investigation that is in the possession of the Tribal Police. The Tribal Police shall retain such files for no less than three (3) years from the date each such person ceases to be employed by the Commission.
- (e) Final Determination Regarding Executive Director. Following review of the investigative report and findings, the Commission shall, in closed session, make a final determination as to whether or not the person selected for appointment as Executive Director meets the applicable standards. Regarding the first appointment to the position of Executive Director, the Commission shall report its final determination to the Tribal Council and, based on the Commission's determination, the Council shall either appoint such person as Executive Director or decline to make the appointment.

CHAPTER V

LICENSING; GENERAL PROVISIONS

Section 5.01 Licenses Required. The Commission, consistent with the IGRA, the Compacts, and this Act, shall insure that all Persons required under this Act, the Regulations, the IGRA, or the Compacts to obtain and maintain valid Licenses are at all times in compliance with such requirement.

Section 5.02 Authority to Require Licensing of Other Persons. The Commission may develop Regulations establishing licensing and background investigation standards and requirements for other groups of Persons not expressly required to be licensed under this Act, the IGRA or the Compacts, either by classifying additional employees of Gaming Operations as

“Key Employees”, by requiring licensing for Non-Gaming Employees, or requiring licensing of Non-Gaming Suppliers.

Section 5.03 Gaming Establishment License. No Person shall conduct Class II Gaming or Class III Gaming at any location within the Reservation unless such Person conducts Gaming at a Gaming Establishment licensed by the Commission as set forth in Chapter VI.

Section 5.04 Gaming Employees. No Person shall be employed as a Gaming Employee at any Gaming Operation within the Reservation unless such Person is licensed by the Commission as set forth in Chapter VII.

Section 5.05 Gaming Supplier. No Person shall supply any Gaming Goods or Services to any Gaming Operation within the Reservation unless such Person is licensed by the Commission as set forth in Chapter VIII.

Section 5.06 General Rights and Duties of Applicants.

- (a) No Property Interest or Promise of Employment or Contract. Neither the filing of an Application nor the Commission’s decision to grant or not grant a License to an Applicant shall create a property interest or due process rights in favor of the Applicant except as may be explicitly provided by this Act or other Tribal laws. The granting of a License by the Commission does not constitute a commitment on behalf of the Commission or any other party to contract with, hire or continue to employ or contract with the Licensee.
- (b) Duties of Applicants and Licensees. Applicants are required to provide or perform the following:
 - (1) *Responsibility to establish qualifications.* An Applicant for any License or License renewal required by this Act has the burden of proving by clear and convincing evidence that all standards and other requirements applicable to such License are met. No License shall be granted to any Applicant who fails to meet the evidentiary standards and all applicable licensing standards and requirements.
 - (2) *Duty to disclose and cooperate.* It shall be the responsibility and continuing duty of each Applicant/Licensee to promptly furnish all information, documentation, assurances, consents, waivers, fingerprint impressions, photographs, or other materials required or requested by the Commission and to cooperate with the Commission in the performance of its duties. Failure to furnish same after receipt of request shall constitute grounds for delaying consideration or denial of the Application.
 - (3) *Licensee’s continuing duty to promptly furnish information.* Licensees shall promptly notify the Commission of any occurrence or event in their life which constitutes a material change (e.g., arrest, filing of criminal charges, address change, etc.) in any information provided in the Licensee’s Application. The failure to promptly report such information or refusal to comply with a request by the Commission for information,

evidence, or testimony may be considered grounds for the suspension, restriction, or revocation of a License.

- (4) *Authority to seize, revoke and suspend License.* The Commission may seize, revoke, restrict, condition, or suspend any License issued under this Act in accordance with the procedures prescribed in this Act and any applicable Regulations.
- (5) *Waiver of liability for disclosure of information.* Applicants/Licensees accept and assume all risks of harm from any public disclosure of information related to the licensing process. Applicants/Licensees expressly waive any claims against the Commission and the Tribe as well as any Person that furnishes information in good faith to the Commission in any matter relating to the licensing process.
- (6) *Consent to examination of accounts and records.* Each Applicant/Licensee shall, in writing, consent to the examination of all bank accounts, other accounts, and other records, whether held in the possession or under the control of the Applicant/Licensee or a third party. Furthermore, the Applicant/Licensee shall authorize and direct all third parties in possession or with control of such accounts or records to allow such examination thereof by the Commission as the Commission deems necessary.
- (7) *Consent to Jurisdiction.* Any Person who applies for a License under this Act shall be deemed to have given consent to the personal jurisdiction of the Tribe, the Commission and the Tribal Court and to have waived all available defenses against such jurisdiction. Nothing in this Act shall limit the jurisdiction of the Tribe, the Commission or the Tribal Court under any circumstances, except as explicitly stated herein.
- (8) *Non-transferability of License.* All Licenses shall be non-transferable and shall prohibit the Licensee from transferring any rights or duties related to the License, either directly or indirectly, without the express approval of the Commission.

Section 5.07 Withdrawal of License Application. Once filed, an Application for any License may not be withdrawn by an Applicant without the express permission of the Commission. An Applicant may request permission to withdraw an Application by submitting a written request to the Commission. The Commission may grant or deny such a request in its sole discretion.

Section 5.08 Burden of Proof. The burden of proof to establish eligibility to obtain or maintain a License shall be by clear and convincing evidence, which burden shall be upon the Applicant or Licensee, as the case may be.

Section 5.09 Right to Condition and Limit License. Every License issued by the Commission shall be conditioned upon the Licensee continuing to remain eligible to hold such License under the terms and conditions set forth in this Act and any special conditions prescribed by the Commission. The Commission reserves the right to impose additional conditions or limitations on any License, which may require the Applicant to comply with certain conditions or limitations associated with the holding of such License. Such conditions or limitations shall

be related to the type of License sought and shall be narrowly tailored to address any specific regulatory concerns associated with the Applicant, as revealed by the background investigation, including the particular job responsibilities or contractual obligations to be performed by the Applicant.

Section 5.10 Terms of Licenses. Except for Provisional Licenses, Temporary Licenses, or Licenses with specific terms imposed by the Commission as limits or restrictions, the terms of the Licenses issued by the Commission shall be as follows:

- | | | |
|-----|--|----------------|
| (a) | <u>Level 1.</u> (Gaming Employee; Primary Management Official) | one (1) year. |
| (b) | <u>Level 2.</u> (Gaming Employee; Key Employee) | two (2) years. |
| (c) | <u>Level 3.</u> (Gaming Employee; Non-Key Employee)
years. | three (3) |
| (d) | <u>Level 4.</u> (Non-Gaming Employee)
years. | three (3) |
| (e) | <u>Level A.</u> (Gaming Supplier) | two (2) years. |
| (f) | <u>Level B.</u> (Non-Gaming Supplier)
years. | three (3) |

The term of all Licenses shall commence on the date such License becomes effective, inclusive of the effective date of any Provisional License or Temporary License, and shall expire at the conclusion of the specified License term on the anniversary of the effective date of the License.

Section 5.11 License Fees. The Commission shall establish a schedule of fees for each type of License issued under this Act. The amount of such fees shall be reasonably related to the recovery of the costs of administering the licensing responsibilities under this Act and shall not be used as a means of generating revenue.

Section 5.12 Time Periods. Except where required to comply with the requirements of applicable federal law, the time periods stated in this Act for the licensing process shall not be construed as establishing rigid requirements on the Gaming Commission. The Commission shall endeavor to faithfully and consistently comply with all required time periods but may avoid compliance with such time periods when required to fulfill the regulatory purposes to be served by the licensing process under this Act.

CHAPTER VI LICENSING OF GAMING ESTABLISHMENTS

Section 6.01 License Required. No Person shall conduct Class II or Class III Gaming within the Reservation unless such Person conducts Gaming at a Gaming Establishment licensed by the Commission. If any Gaming Operation proposes to conduct Class II Gaming or Class III

Gaming in more than one Gaming Establishment, a separate Gaming Establishment License shall be required for each such Gaming Establishment.

Section 6.02 License Application Fees. The License Application and renewal fee shall be as set forth by Regulation.

Section 6.03 Gaming Establishment Application Procedures. In order to obtain a Gaming Establishment License, the Gaming Operation requesting such License shall submit an Application on the form provided by the Commission. The Applicant shall include all of the following information regarding the period for which the License is sought:

- (a) Proposed Gaming. A description of the proposed Gaming, including, but not limited to:
 - (1) The type of proposed Gaming, along with all instructions, policies, procedures, and other documents related to the proposed Gaming;
 - (2) The number and types of Gaming Equipment and Gaming Devices proposed to be in use within the Gaming Establishment; and
 - (3) the proposed days and hours of operation.
- (b) Layout. A description of the Gaming Establishment, including the layout of the Gaming Equipment and Gaming Devices and the surveillance systems the Gaming Establishment.
- (c) Location. Documentation accurately describing the proposed or current location of the Gaming Establishment which verifies that such location is on Indian Lands and, if Class III Gaming is proposed, that the location constitutes Eligible Indian Lands or the South Bend Site, as applicable.
- (d) Security. A description of the security, police, fire protection and other public safety services that will be available in the Gaming Establishment.
- (e) Internal Controls and Procedures. Copies of the proposed system of internal controls and accounting procedures for the Gaming Operation.
- (f) Emergency Operation Plan. The Emergency Operation Plan for the Gaming Establishment required by Section 2.05 of the Health and Safety Act; and
- (g) Schedule. Schedule of all permits and approvals required under the Health and Safety Act, including documents verifying the current status of such permits and approvals.

Section 6.04 Threshold Criteria That Must be Met by Gaming Establishments. In order to be eligible for a Gaming Establishment License, the Applicant must submit documentation sufficient to permit the Commission to determine that the following criteria are met:

- (a) Location. The Gaming Establishment is or will be located on Indian Lands and, if applicable, Eligible Indian Lands or the South Bend Site;
- (b) Authorized. The proposed Gaming Establishment is duly authorized by Tribal law and by the Gaming Operation;
- (c) Sole Proprietary Interest. The Tribe or a Tribal entity will have the sole proprietary interest in the Gaming Establishment, notwithstanding the grant to other Persons of any security interests in tangible personal property of the Gaming Establishment;
- (d) Infrastructure. The Gaming Establishment's buildings and facilities have adequate, safe, and operational plumbing, electrical, heating, cooling and ventilation systems in place;
- (e) Compliance. The Gaming Establishment's buildings and facilities have been inspected and approved for compliance with all applicable law by a qualified and duly authorized building and fire inspector;
- (f) Security. The Gaming Establishment is equipped with security and surveillance equipment meeting or exceeding the Tribal Minimum Internal Control Standards established by the Regulations;
- (g) TMICS. The system of internal controls and accounting procedures for the Gaming Operation will meet or exceed the requirements of the Tribal Minimum Internal Controls, including requirements to ensure that financial statements and charts of account for Gaming revenues will be preserved and subject to audit;
- (h) Emergency Operation Plan. The Emergency Operation Plan meets the requirements of Section 2.05 of the Health and Safety Act, and if the Emergency Operation Plan is for the Gaming Establishment located on the South Bend Site, the requirements of Subsection 6(D) of the Indiana Compact ;
- (i) Meets Legal Requirements. The Gaming Establishment's buildings and facilities meet all other requirements of applicable federal, Tribal and state law; and
- (j) Fees and Costs. The Gaming Operation has paid all applicable License fees and costs.

Section 6.05 Gaming Establishment License Application Procedures.

- (a) Upon receipt of a complete Application for a Gaming Establishment License, the Commission shall:
 - (1) *Review application.* Review the proposed Gaming Establishment License Application to ensure that all threshold standards required by this Act are met;

- (2) *Review procedures.* Review the system of internal controls and accounting procedures to be used by the Gaming Operation;
 - (3) *Review layout.* Review the layout of the games and surveillance systems for the Gaming Establishment, including any instructions, policies, procedures, internal controls or other documents related to the layout of games and surveillance systems;
 - (4) *Review Emergency Operation Plan.* Review the Emergency Operation Plan for compliance with the requirements of Section 2.05, of the Health and Safety Act;
 - (5) *Review permit schedule.* Review the schedule of permits and approvals required under Section 2.01 of the Health and Safety Act and consult as needed with the Code Enforcement Officer responsible for review and approval of such permits and approvals;
 - (6) *Review Gaming Establishment.* Review all aspects of the Gaming Establishment to ensure that it will be in compliance with the provisions of federal and Tribal laws and regulations and the Compacts; and
 - (7) *Additional.* Take any additional steps necessary to ensure the integrity of Gaming at the Gaming Establishment and by the Gaming Operation.
- (b) The Commission shall make its best effort to approve the Gaming Establishment License Application within thirty (30) days following the receipt of a complete Application. The Commission shall approve the Gaming Establishment License Application unless the Commission determines that the Gaming Establishment fails to meet the applicable licensing standards under federal or Tribal law or the Compacts or that, based on reasonable grounds, the Gaming Establishment will be operated in violation of federal or Tribal law or the Compacts. The Commission may, in its discretion, hold a public hearing to consider the Application in accordance with the procedures described in Chapter X; provided that the Commission may close the hearing or portions thereof to the extent permitted by applicable Tribal law.
- (c) If the Commission denies an Application for a Gaming Establishment License, the Commission shall promptly notify the Applicant of the specific reasons for such denial, provide a description of any corrective actions that the Commission determines will cure the deficiencies in the Application, and inform the Applicant of its right to appeal the determination in accordance with Chapter XI.
- (d) The Commission shall ensure compliance with NIGC regulations regarding notification to the NIGC that a Gaming Establishment License is under consideration for a new place, facility, or location within the Reservation and the submission to the NIGC of a copy of each Gaming Establishment License it issues.

Section 6.06 Conditions Applicable to a Gaming Establishment License. Any Gaming Operation that holds a Gaming Establishment License shall comply with such reasonable conditions as may be prescribed by the Commission, including the following:

- (a) The Gaming Operation shall operate and maintain the Gaming Establishment in a manner that meets the requirements set forth under Section 10.11 of this Act;
- (b) Prior to initiating any public use of the building or facilities at the Gaming Establishment, the Gaming Operation shall have received all required permits, approvals, and certificate(s) of occupancy under Section 2.01 and Chapter 3 of the Health and Safety Act and other applicable Tribal law and shall comply with all conditions imposed through such permits, approvals, and certificates;
- (c) The Gaming Operation shall comply with all Internal Revenue Service reporting and filing requirements;
- (d) Prior to initiating of any Gaming at the Gaming Establishment, all Gaming Employees and other employees required under this Act or the Regulations to be licensed shall obtain the appropriate Licenses required in Chapter VII;
- (e) The Gaming Establishment shall be subject to patrol by the Gaming Operation's security personnel and shall be accessible to the Tribal Police, and, to the extent expressly authorized by the Tribe, local and state law enforcement agencies to investigate crime and to enforce the law, but not for patrol without the express invitation of the Gaming Operation. The Licensee shall cooperate at all times with all Tribal, state, and federal law enforcement officers;
- (f) The Gaming Establishment shall be open to inspection by the Commissioners and other duly authorized Tribal authorities at all times; and
- (g) The Gaming Operation may not discriminate by reason of race, color, national origin, sex, age, physical or mental disability, sexual orientation or creed; provided, that nothing herein shall prohibit the Licensee from complying with contracting and employment preference requirements regarding Tribal members and other Native Americans pursuant to applicable Tribal and federal law.

Section 6.07 Terms of License. A Gaming Establishment License shall be valid for a period of two (2) years from the date of issuance.

Section 6.08 Posting of Licenses. The Gaming Establishment License must be posted in a conspicuous location at all times on the premises of each Gaming Establishment.

Section 6.09 Gaming Establishment License Renewals.

- (a) Renewal. Each Gaming Establishment License must be renewed every two (2) years.
- (b) Renewal Submission. In order to obtain a renewal of a License, the Gaming Operation shall submit a written renewal Application to the Commission on the

form provided by the Commission at least forty-five (45) days prior to the date the current License will expire.

- (c) Commission Approval. The Commission shall approve Applications to renew a License within thirty (30) days following the Commission's receipt of a complete Application unless the Commission determines that the Gaming Establishment fails to meet the applicable licensing standards under federal or Tribal law or the Compacts or that, based on reasonable grounds, the Gaming Establishment will be operated in violation of federal or Tribal law or the Compacts. The Commission may, in its discretion, hold a public hearing to consider the Application in accordance with the procedures described in Chapter X; provided that the Commission may close the hearing or portions thereof to the extent permitted by applicable Tribal law.
- (d) Temporary Gaming Establishment License. A Temporary License may be granted where the holder of a Gaming Establishment License has timely sought a License renewal and has paid all required fees and costs but the License renewal has not been approved by the Commission, provided a Temporary License shall not issue if the Commission determines that the Gaming Establishment is not in full compliance with Section 10.11 of this Act.
- (e) Notice and Right of Appeal. If the Commission denies an Application to renew a License, the Commission shall, within seven (7) calendar days, notify the Applicant of the specific reasons for such denial, provide a description of any corrective actions that the Commission determines will cure the deficiencies in the Application, and inform the Applicant of its right to appeal the determination in accordance with Chapter XI.

CHAPTER VII LICENSING OF GAMING EMPLOYEES

Section 7.01 Application for a Gaming Employee License. The Commission shall require each prospective Gaming Employee to submit a sworn Application to the Commission on the forms and in the manner required by the Commission. The Application for Level 1 Licenses shall include, at a minimum, the forms, information, other requirements described hereunder.

- (a) Application Form. The Application form shall require, at a minimum, the following information:
 - (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);
 - (2) Currently and for the previous ten (10) years:
 - (i) business and employment positions held,
 - (ii) ownership interests in those businesses,

- (iii) business and residence addresses; and
 - (iv) drivers license numbers, including issuing state;
 - (3) The names and current addresses of at least three personal references, including one personal reference that was acquainted with the Applicant during each period of residence listed under subsection (a)(2) of this Section;
 - (4) Current business and residence telephone numbers; and
 - (5) Whether the Applicant is a Tribal member applying for a Level 2 or a Level 3 Gaming Employee License and, if so, the Applicant's Tribal membership number.
- (b) Application Form Notices. The notices set forth below shall be placed on the front of every Application so that the Applicant will read the notices prior to filing out the Application form.

Privacy Act Notice.

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. 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 Tribal gaming regulatory authorities and by the 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 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 a tribe's being unable to license you for 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.

False Statements Notice.

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 (U.S. Code, title 18, section 1001).

- (c) Application Form Authorizations and Acknowledgements. Every Application form shall require the Applicant to sign an authorization and an acknowledgement that are substantially similar in substance to the following:
- (1) Authorization permitting the Commission to investigate the Applicant's background, including his criminal and civil records, credit and financial history, business relationships and activities, records of all previous license Applications, and tax records; and
 - (2) A signed acknowledgement that the Applicant consents to the personal jurisdiction of the Tribe, the Commission, and the Tribal Court and that the Applicant waives all available defenses against such jurisdiction.
- (d) Personal History Disclosure. The Personal History Disclosure shall require, at a minimum, the following information:
- (1) *Relationship with other tribes.* A description of any existing and previous Gaming-related or other business relationships with any Indian tribe, including ownership interests in those businesses;
 - (2) *Gaming history.* A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 - (3) *Prior Gaming applications.* 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, the current status of the application, and whether or not such license or permit was granted.
 - (4) *Felony charges.* A list of all felony charges and dispositions against the Applicant, if any, and for each felony for which there is ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any, including identification of any conviction, or plea of guilty or no contest, to a gambling related offense, Fraud or Misrepresentation at any time;
 - (5) *Misdemeanor charges.* A list of all misdemeanor charges and dispositions against the Applicant, if any, (excluding traffic charges for which incarceration was not a possible punishment, referred to hereunder as "minor" traffic charges), and for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic charges), within ten (10) years of the date of the Application, the name and address of the court involved and the date and disposition, including identification of any conviction, or plea of guilty or no contest, to a gambling related offense, Fraud or Misrepresentation at any time;
 - (6) *Convictions.* For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge was within ten (10) years of the date of the Application and is not otherwise listed pursuant to subsections (d)(4) or (d)(5) of this Section, the criminal charge, the name and address of the court involved, and the date and disposition; and
 - (7) *Prior business applications.* The name and address of any licensing or

regulatory agency with which the person has filed an application for a business or occupational license or permit, whether or not such license or permit was granted.

- (e) Current Photographs. The Applicant shall provide a current photograph in such form as the Commission may require.
- (f) Personal Financial Questionnaire. The Personal Financial Questionnaire shall include a statement of assets and liabilities and shall include, at a minimum, the following information:
 - (1) Complete financial statement, along with income tax returns for the previous three (3) years, showing all sources of income for the previous three (3) years, and assets, liabilities, and net worth as of the date of the Application; and
 - (2) A list of all professional or business licenses the Applicant has applied for, whether or not those licenses were granted and the name, address and phone number of the regulatory agency involved.

The Personal Financial Questionnaire shall also include a sworn statement to be signed by the Applicant stating that neither the Applicant nor any member of the Applicant's immediate family has a past or current financial interest, other than a salary interest, in any gaming-related activity or business anywhere. If the Applicant has any relative who has such a relationship, the Applicant shall fully disclose his name and the nature of the relationship.

- (g) Fingerprints. All Applicants for a Gaming Employee License shall submit one or more complete sets of original fingerprints to be taken by the Commission in such manner and form as the Commission may require, which shall be processed in accordance with this Act and the Regulations. The Gaming Commission is the Tribal agency that is authorized to take all fingerprints required to be taken under this Act and the IGRA. The Commission may also require the submission of one or more additional sets of fingerprints, which the Commission may submit to be processed by any governmental agency's criminal history check system as the Commission deems necessary.
- (h) Other Information. The Applicant shall complete any other forms and disclose and submit any and all other information required by Regulation or reasonably requested by the Commission.
- (i) Application Fees and Costs. The Applicant shall pay all fees and costs required by the Commission to process the Application.

Section 7.02 Provisional License.

- (a) Issuance of a Provisional License. Provisional Licenses may only be issued to Applicants for a License and not to Licensees seeking a License renewal. If the

Commission verifies that the Applicant has completed all Application requirements set forth in Section 7.01, the Commission shall promptly issue a Provisional License pending the satisfactory completion of a background investigation and eligibility determination, provided that the Commission verifies that based on the Commission's review of information provided in the Application and any other information concerning the Applicant in the Commission's possession that the Applicant:

- (1) would meet the licensing standards set forth in Section 7.04 and as otherwise provided under applicable law and the Compacts; and
- (2) that granting the Provisional License would not pose a threat to the public interest or to the effective regulation of Gaming and would not create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Gaming.

The Commission may, in its discretion, apply to any Provisional License such conditions as it determines are warranted.

- (b) Submission of Fingerprints to NIGC. Upon the issuance of a Provisional License to an Applicant for a Level 1 or a Level 2 License, the Commission shall promptly submit to the NIGC the Applicant's fingerprints and any other materials required by the NIGC under applicable federal law.
- (c) Period a Provisional License May Remain Valid. The Provisional License may be valid for such period of time as the Commission may determine in its sole discretion, but in no event shall it be valid for more than ninety (90) days from the date of issuance.
- (d) Conditions Applicable to All Provisional Licenses. An Applicant may commence employment under a Provisional License, however, upon the occurrence of any of the following such employment shall terminate immediately and the Provisional License shall be summarily revoked pending any hearing requested by the Applicant as provided under this Act:
 - (1) denial of a License by the Commission upon receipt of any information, including when applicable objections and supporting information from the NIGC regarding the issuance of a Level 1 or a Level 2 License, that indicates the Applicant does not meet the standards for a License set forth in Section 7.04; or
 - (2) a violation of any other conditions the Commission placed on all or certain Provisional Licenses pursuant to this Act or a violation of any condition the Commission placed on a particular Provisional License.

Section 7.03 Background Investigation. The Commission shall conduct, or cause to be conducted, an investigation sufficient to make the determinations required under Sections 7.06 and 7.08. In conducting background investigations, the Commission shall seek to ensure that Gaming Operations shall not employ persons whose prior activities, reputation, habits and associations pose a threat to the public interest or to the effective regulation of Gaming, or create

or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of such Gaming. Such investigations shall be conducted according to requirements at least as stringent as those set forth at 25 C.F.R. Parts 556 and 558, the Compacts, and this Chapter. The Commission shall establish procedures to protect confidential information generated by the investigation or submitted by the Applicants from any unauthorized disclosure. The background investigation shall, at a minimum, consist of at least the following:

- (a) Verify Identity. Verify the Applicant's identity through primary sources, such as government-issued identification and other documents, including without limitation social security cards, drivers licenses, birth certificates, or passports;
- (b) References. Contact each reference provided in the License Application and, when warranted, contact other references and sources identified in the Application in order to verify and supplement the information submitted by the Applicant/Licensee and to resolve any discrepancies encountered through the background investigation;
- (c) Financial Information. Review the Applicant's credit history and, when the Application is for a Level 1 License or when required by the Regulations or otherwise warranted, verify the financial information provided by the Applicant by contacting financial institutions and other sources and investigate the Applicant's financial background based on the Applicant's Personal Financial Questionnaire;
- (d) Civil History. Conduct a civil history check;
- (e) Criminal History. Conduct a criminal history check.
 - (1) *Applicant for a Level 1 or a Level 2.* Submit the fingerprints to the NIGC, which will forward the fingerprints to the Federal Bureau of Investigation and the NCIC to search and report on the Applicant's criminal history, if any, and
 - (2) *All Applicants for a Gaming Employee License.* Obtain information from law enforcement agencies and courts in the jurisdictions where the Applicant has resided regarding all felony convictions during the Applicant's lifetime and misdemeanor convictions and criminal charges within the last ten years;
- (f) Prior Business Relationships. Inquire into the Applicant's previous or existing business relationships;
- (g) Agency History. Verify and evaluate the Applicant's history and status with licensing agencies in other jurisdictions; and
- (h) Investigative Report. The investigator shall create an investigative report that includes, at a minimum, the following:
 - (1) Steps taken in conducting a background investigation;

- (2) Results obtained;
- (3) Conclusions reached; and
- (4) The basis for those conclusions

In the absence of disqualifying information, the investigator shall prepare for Commission purposes in a separate report factual findings regarding each licensing standard to the extent that there is clear and convincing evidence to support a finding. The Gaming Commission shall keep confidential the identity of each person interviewed in the course of the investigation, except to the extent that disclosure is permitted under applicable federal or Tribal law or the Compacts.

Section 7.04 Standards for Issuance of a Gaming Employee License. The Commission shall not grant a Gaming Employee License to any person who does not meet the applicable standards set forth below:

- (a) Standards Applicable to All Gaming Employees. The Commission shall not grant a Gaming Employee License to any person who:
 - (1) Is a member of the Tribal Council, a Tribal Judge, or a Tribal Law Enforcement Officer;
 - (2) Is under the age of 18;
 - (3) Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, Fraud or Misrepresentation;
 - (4) Is determined by the Commission (i) to have participated in organized crime or unlawful gambling or (ii) whose prior activities, criminal records, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of Gaming, or (iii) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of Gaming or to the carrying on of the business and financial arrangements incidental to the conduct of Gaming;
 - (5) Lacks good character, honesty, integrity, financial stability, or the ability and experience required for the position being sought;
 - (6) Has knowingly and willfully provided materially false and misleading statements or information to the Commission or refused to respond to questions material to the suitability determination that have been asked by the Commission; or
 - (7) Fails to meet the requirements of the applicable Compact.
- (b) Additional Standards Applicable Only to Level 1. In addition to the standards set forth in subsection (a), the Commission shall not grant a Gaming Employee License to any person in Level 1 that:
 - (1) Has been convicted of or entered a plea of guilty or no contest to any felony;
 - (2) Has been convicted of or entered a plea of guilty or no contest to Any Offense not specified in subsection (3)(a) within the immediately preceding ten (10) years; or
 - (3) Has shown a lack of financial integrity or stability in personal finances or in business affairs.

- (c) Additional Standards Applicable Only to Level 2. In addition to the standards set forth in subsection (a), the Commission shall not grant a Gaming Employee License to any person in Level 2 that has been convicted of or entered a plea of guilty or no contest to Any Offense not specified in subsection (3)(a) within the immediately preceding five (5) years; provided that this provision shall not apply if the applicable Compact states otherwise or, if the Applicant is a Tribal member, the Commission has determined through a Rehabilitation Hearing that such conduct does not require that the Applicant be denied a Gaming Employee License.
- (d) Standards Applicable to Level 3. In addition to the standards set forth in subsection (a), the Commission shall not grant a Gaming Employee License to any person in Level 3 that has been convicted of or entered a plea of guilty or no contest to Any Offense not specified in subsection (3)(a) within the immediately preceding five (5) years; provided that this provision shall not apply if the applicable Compact states otherwise or, if the Applicant is a Tribal member, the Commission has determined through a Rehabilitation Hearing that such conduct does not require that the Applicant be denied a Gaming Employee License.

Section 7.05 Eligibility Determinations.

- (a) Commission Review and Determination. Within fifteen (15) days following the completion of the background investigation described in Section 7.03 but not more than fifty (50) days from the date it issues a Provisional License, the Commission shall review the Application, the investigative reports, and any objections to the issuance of a License and shall make a determination of eligibility under the standards set forth in Section 7.04.
- (b) Level 1 or Level 2 License; Preliminary Determination. If the Application is for a Level 1 or a Level 2 License, the Commission shall also consider any information provided by the NIGC before making a determination of eligibility and shall comply with the additional requirements of Section 7.06. Pending the outcome of the process set forth in Section 7.06, the Commission's eligibility determination regarding Applicant's for a Level 1 or a Level 2 License shall be a preliminary determination.
- (c) Level 3 License; Final Determination. If the Application is for a Level 3 License, the Applicant may challenge a determination that the Applicant is ineligible for a Level 3 License, or is only eligible with conditions, in accordance with the procedures and requirements of Chapter XI. If the Commission determines that the Applicant is eligible for a Level 3 License, the Commission shall promptly notify the Applicant and shall issue the License.

Section 7.06 Approval of a Level 1 or a Level 2 Gaming Employee License.

- (a) Preliminary Eligibility Determination. If the Commission makes a preliminary eligibility determination that the Applicant for a Level 1 or a Level 2 Gaming Employee License qualifies for the issuance of a License, the Commission shall, within seven (7) business days of the date such determination is made, but not longer than sixty (60) days from the date the Commission issues a Provisional License, prepare and forward to the NIGC, in such form and to the extent the NIGC may require, a notice of results of the Applicant's background investigation, which notice shall, at a minimum, include the following:
- (1) Applicant's name, date of birth, and social security number;
 - (2) Date on which Applicant began or will begin work as Key Employee or Primary Management Official;
 - (3) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:
 - (i) Licenses that have previously been denied;
 - (ii) Licenses that have been revoked, even if subsequently reinstated;
 - (iii) every known criminal charge brought against the Applicant within the last ten (10) years of the date of the Application; and
 - (iv) every felony of which the Applicant has been convicted or any ongoing prosecution.
 - (4) A copy of the eligibility determination made under Section 7.03.

The Commission shall request that the NIGC issue within thirty (30) days any objections it determines are warranted to the issuance of a License.

- (b) Requirements for Final Determination. A final determination regarding the eligibility of an Applicant for a Level 1 or a Level 2 Gaming Employee License may only be made after the Commission provides the NIGC with the Applicant's fingerprints and any other materials required under this Act and by the NIGC under applicable federal law and after one of the following has occurred:
- (1) *The NIGC Has No Objections or Thirty Days Have Elapsed.* Notice has been received from the NIGC that it has no objection to the issuance of the License or thirty (30) days have elapsed since the Commission provided the NIGC the required materials and the NIGC has not responded; or
 - (2) *NIGC Objections Are Resolved.* If, within the thirty (30) day period the NIGC provides the Commission with a statement itemizing objections to the issuance of a License to the Applicant, the Commission shall reconsider the Applicant's eligibility, taking into account the objections itemized by the NIGC. If, within that thirty (30) day period the NIGC requests additional information concerning the Applicant, the Commission shall promptly respond to such request. The receipt of the NIGC's request shall suspend the thirty (30) day period referred to in this Section until the NIGC receives the additional information requested.
- (c) Final Determination of Eligibility. Upon compliance with the requirements of subsection (b), the Commission may proceed with a final determination regarding the Applicant's eligibility. An Applicant may challenge a determination that the

Applicant is ineligible for a Level 1 or a Level 2 License, or is only eligible with conditions, in accordance with the procedures and requirements of Chapter XI. If the Commission determines that the Applicant is eligible for a Level 1 or a Level 2 License, the Commission shall promptly notify the Applicant and shall issue the License.

- (d) Ninety Day Limit for Final Determination of Eligibility. A Gaming Operation shall not employ a Key Employee or Primary Management Official who does not have a License after ninety (90) days from the date the Commission issues a Provisional License.
- (e) Notice to NIGC of Final Determination of Eligibility. The Commission shall notify the NIGC of its issuance of a License within thirty (30) days from the date it is issued.

Section 7.07 Denial of a Gaming Employee License. If the Commission issues a final decision denying any Application for a License under this Chapter, the Commission shall, within seven (7) calendar days, notify the Applicant that the Application was denied and shall specify all specific reasons upon which the denial is based. The notice shall also inform the Applicant of the right to appeal the denial, as provided in Chapter XI. If the Commission denies an Application for a Level 1 or a Level 2 License, the Commission shall also notify the NIGC and shall provide the NIGC with copies of its eligibility determination in accordance with Section 7.06 and investigative report (if any) for inclusion in the Indian Gaming Individuals Records System.

Section 7.08 Form of License. The License shall display on its face the Licensee's photograph, the Licensee's name, the Gaming Establishment at which the employee is licensed to work, the level of License, the date that the License became effective, and the date that it expires.

Section 7.09 Renewals. A holder of a Gaming Employee License shall apply to the Commission for a renewal not later than sixty (60) days before the License expires by completing all forms required by the Commission. Each Applicant for a License renewal shall revise and supplement the information provided to the Commission with the Applicant's initial Gaming Employee License Application on such forms and subject to such requirements as may be prescribed by the Commission. A Temporary License may be granted where the holder of a Gaming Employee License has timely sought a License renewal and has paid all required fees and costs but the License renewal has not been approved by the Commission.

Section 7.10 Disclosure of Applicant and Licensee Information and Documents.

- (a) The Commission may, consistent with its duties and responsibilities under the law and in an effort to preserve and enhance the integrity of Gaming conducted within the Reservation, disclose Applicant and Licensee information, documents, photographs, records, and other material under the following circumstances:
 - (1) Pursuant to written authorization from the Applicant or Licensee to whom

- the information and documents pertain;
 - (2) Pursuant to a written request from a duly authorized agent of any agency of the United States, a State, or the Tribe, including law enforcement agencies, and regulatory bodies when authorized by law, and in accordance with, the terms and conditions described in any Regulations; and
 - (3) If ordered to do so by a court of competent jurisdiction.
- (b) Disclosure of Applicant or Licensee information and documents by the Gaming Commission is specifically authorized under the following circumstances:
 - (1) *National Indian Gaming Commission.* The Commission is required to forward to the NIGC, an investigative report on each background investigation. An investigative report shall include: (1) steps taken in conducting a background investigation; (2) results obtained; (3) conclusions reached; and (4) basis for the conclusion. Within thirty (30) days of its decision, the Commission shall disclose to the NIGC the revocation and any subsequent reinstatement of a Gaming License.
 - (2) *Michigan Gaming Control Board.* Under Section 4(L) of the Michigan Compact, the Commission is required, upon request, to provide representatives of the Michigan Gaming Control Board with access to background investigation information compiled by the Commission on all Michigan Key Employees and Primary Management Officials.
 - (3) *Indiana Gaming Commission.* Under Subsection 4(O) of the Indiana Compact, the Commission is required, upon request, to provide the State of Indiana copies of its eligibility determination and investigative reports on any and all Indiana Gaming Officials and Employees.

Section 7.11 Suspension or Revocation of a License.

- (a) Standard for Suspension of License Following a Hearing. Any License issued under this Chapter may, after notice and hearing, be suspended by the Commission for such period the Commission determines in accordance with the requirements of subsection (c) if the Commission determines that any of the following have occurred:
 - (1) The Licensee has been formally charged with any offense that may disqualify the Licensee from holding a License under this Act.
 - (2) The Licensee has engaged in conduct that poses a threat to the integrity of Gaming or to the health, safety or welfare of the general public at any Gaming Establishment, whether within or outside the jurisdiction of the Tribe.
 - (3) The Licensee has knowingly made a material false or misleading statement in his License Application.
 - (4) The Licensee has participated in unauthorized Gaming, whether or not regulated by this Act.
 - (5) The Licensee has failed or refused to comply with the conditions of his License, with any duty imposed on Applicant/Licensee under this Act, or

with any lawful order of the Commission, the Tribal Court, or the NIGC.

- (b) Standard for Summary Suspension of License Pending a Hearing. Any License issued under this Chapter shall be immediately suspended by the Commission for not more than thirty (30) days pending a hearing if, in addition to the standards set forth in subsection (a):
 - (1) the NIGC notifies the Commission that it has information that a Licensee employed as a Primary Management Official or Key Employee is no longer eligible to be licensed; or
 - (2) the Commission receives reliable information that the Licensee has engaged in conduct that poses an immediate threat to the integrity of Gaming or to the health, safety or welfare of the general public at any Gaming Establishment, whether within or outside the jurisdiction of the Tribe.
- (c) Length of License Suspension. Following a suspension hearing, if the Commission determines that neither lifting the suspension nor initiating a revocation proceeding would serve the purposes and requirements of this Act, the Commission may suspend the License for any additional period of time it determines is needed under the circumstances to allow for further investigation or other appropriate purpose under this Act, provided that no suspension shall exceed a period of ninety (90) days without affording the Licensee the right to a hearing to reconsider the suspension.
- (d) Standard for Revocation of a License. Any License issued under this Chapter may, after notice and hearing, be revoked if the Commission determines that the Licensee fails to meet the standards for a Gaming Employee License under Section 7.04 of this Act or under other applicable law or that the Licensee has failed or refused to comply with the conditions of his or her License, with any duty imposed on the Licensee under this Act, or with any lawful order of the Commission, the Tribal Court, or the NIGC.
- (e) Investigation of Grounds for Suspending or Revoking a License. Upon receipt by the Commission of information that a License may be suspended or revoked based on the grounds described in subsections (a), (b), or (d) the Commission shall promptly conduct an investigation to substantiate the allegations and to obtain any other relevant information that may prove or disprove grounds for suspension or revocation.
- (f) Notice of Intent to Suspend License. If upon completion of the investigation, the Commission determines that grounds exist to suspend the License under the standards set forth in subsection (a), but such grounds do not meet the standards of subsection (b), the Commission shall issue a Notice of Intent to Suspend License, which shall be served on the Licensee and the Manager of the Gaming Establishment.

- (g) Notice of Summary Suspension of License Pending a Hearing. If upon completion of the investigation the Commission determines that grounds exist to suspend the License under the standards set forth in subsection (b), the Commission shall issue a Notice of Summary Suspension of License Pending Hearing, which shall be served upon the Licensee and upon the Manager of the Gaming Establishment.
- (h) Notice and Hearing Requirements. Any Notice under this Section shall:
- (1) inform the Licensee of the right to a hearing upon request;
 - (2) state in detail the grounds upon which it is issued;
 - (3) identify any witnesses the Commission intends to call, except witnesses whose identity the Commission determines should not be disclosed in advance of the hearing in order to protect such witnesses and ensure their full cooperation;
 - (4) summarize the facts and evidence that the Commission intends to present to demonstrate that adequate cause exists to support the action against the employee's License; and
 - (5) inform the employee that he or she has the right to present evidence to rebut the grounds specified in the notice, including testimony from fact witnesses, or to present evidence of mitigating circumstances demonstrating that the action against his or her License is not warranted.
- (i) Time Requirement for Requesting a Hearing. The Commission shall make every reasonable effort to set the date for a hearing before the Commission within fourteen (14) days, but in no event later than thirty (30) days, after the date the Licensee files a written request for a hearing. The Licensee shall file a request for a hearing within three (3) business days from the date the Licensee receives a Notice. The Commission may, on its own, schedule a hearing, notwithstanding the lack of written request for a hearing from the Licensee. The hearing shall be conducted in accordance with the procedures described in Chapter XI.
- (j) Conversion of Suspension Hearing to Revocation Hearing. If the results of the investigation described in subsection (e) indicate that there are sufficient grounds to revoke the Licensee's License under the standard set forth in subsection (d), the Commission may, in its discretion, convert the hearing on the suspension of the License to a hearing to show cause why the License should not be revoked. If the Commission converts a suspension hearing to a revocation hearing and has already issued a notice under subsections (f) or (g), it shall provide the Licensee with a new Notice and a new opportunity to request a hearing under subsection (h), which would also commence a new time period for scheduling the hearing.
- (k) Decision Following Hearing. The Commission shall decide at the conclusion of a hearing under this Section whether or not to continue the suspension or to revoke the License, as the case may be, and shall issue findings of fact and conclusions of law to support any such decision. If the hearing involved the revocation of a Level 1 or a Level 2 License, the Commission shall notify the NIGC of its

decision.

- (l) Time Limit for Issuing a Decision. Notwithstanding the ninety (90) day time limit for suspension of a License pursuant to subsection (c), following a revocation hearing under this Section that is based on notification the Commission receives from the NIGC regarding a Licensee's eligibility pursuant to the standards set forth in Section 7.03, the Commission shall issue a decision and shall notify the NIGC of its decision, which notice shall be provided within forty-five (45) days of the date that the Commission received notification from the NIGC.

Section 7.12 Show Cause Hearing for Primary Management Officials. Notwithstanding the provisions in the foregoing Section 7.11, in the event that the Commission determines that there are grounds to issue a Notice of Suspension or Revocation regarding a Level 1 License and such grounds do not involve criminal conduct, the following procedures shall apply in addition to the requirements of this Chapter that are not inconsistent with this Section:

- (a) Prior to issuing a Notice of Suspension or a Notice of Revocation, the Commission shall issue a Notice for Show Cause to the Licensee.
- (b) In addition to the notice and hearing requirements set forth in subsection 7.11 (g), the Notice for Show Cause shall suggest satisfactory measures the Licensee may pursue to address the grounds stated in the Notice of Suspension or Revocation.
- (c) The Commission shall provide the Licensee with an opportunity for a conference with Commission staff prior to the show cause hearing to address any questions related to the hearing. Such meeting shall, except for good cause or as otherwise agreed to by the Licensee and the Commission, occur within two (2) business days from the date the Licensee receives the Notice for Show Cause.
- (d) If the licensing problem is not resolved to the Commission's satisfaction prior to the Show Cause Hearing, the Commission may proceed with the Show Cause Hearing to suspend or revoke the License.

CHAPTER VIII LICENSING OF GAMING SUPPLIERS

Section 8.01 Licensing of Gaming Suppliers. A Person shall obtain from the Commission a Gaming Supplier's License before supplying Gaming Goods or Services to a Gaming Operation.

Section 8.02 Requirements for Gaming Suppliers License. Each Person applying for a Gaming Supplier's License must complete the following forms:

- (a) Application for Gaming Supplier's License;
- (b) Disclosure Form for Business Entity for each Control Person that is a Business

Entity;

- (c) Personal History Disclosure Form for each Control Person who is a natural person;
- (d) Authorization to Release Information for each Control Person – Business Entity or Natural Person.
- (e) The Commission may require additional forms or information from an Applicant as it deems necessary.

Section 8.03 Application for Gaming Supplier’s License. Any Applicant for a Gaming Supplier’s License shall submit to the Commission an Application on a form issued by the Commission, which shall, at a minimum, include the following information:

- (a) Businesses. Name of business, any other names the Applicant has done business under, business address (including main office address if different), telephone number, and federal tax ID number (or SSN if a sole proprietorship or single member LLC);
- (b) Proposed Sale of Gaming Goods or Services. Identification of the specific Gaming Goods or Services the Applicant is proposing to supply to the Gaming Operation;
- (c) All Available Gaming Goods or Services. Identification of all Gaming Goods or Services and any other goods or services available from the Applicant;
- (d) Business Affiliates. Trade name(s) used in connection with Gaming Goods or Services, names of any wholly-owned subsidiaries or other businesses owned by the Applicant;
- (e) Business Documents. Copies of documents establishing the existence of the Applicant as a business entity, such as a partnership agreement, trust agreement, or articles of incorporation;
- (f) Ownership Documents. Copies of documents establishing the ownership and control of the Applicant business affairs sufficient to permit identification of any and all Control Persons of the Applicant;
- (g) Authorization. Copies of documents designating the person(s) authorized to act on the Applicant’s behalf;
- (h) Bylaws. Copies of bylaws or other documents that provide the day-to-day operating rules for the Applicant;

- (i) Business History. A description of any existing and previous business relationships involving Indian tribes, particularly those including ownership interests in those businesses;
- (j) Gaming Business History. A description of any existing and previous business relationships involving the gaming industry in general, particularly including ownership interests in those businesses;
- (k) Prior Gaming Applications. The name and address of any licensing or regulatory agency with which the Applicant or Control Persons have filed an Application for a License or permit relating to gaming, whether or not such License or permit was granted, and whether such License or permit has ever been subject to suspension, revocation or other sanction;
- (l) Felonies. For each gaming offense and for each felony for which there is an ongoing prosecution or a conviction involving the Applicant or a Control Person, the name and address of the court involved, the charge, and the dates of the charge and disposition;
- (m) Misdemeanors. For each misdemeanor conviction or ongoing misdemeanor prosecution involving the Applicant or a Control Person within ten (10) years of the date of the Application, the name and address of the court involved, and the dates of the prosecution and disposition;
- (n) Financial Statements. Complete financial statements or tax returns, with all relevant schedules, for the Applicant for the previous three (3) fiscal years; and
- (o) Civil Lawsuits. List of civil lawsuits to which the Applicant or a Control Person has been a defendant within the previous 10 years, including the name and address of the court involved, the date and disposition.
- (p) Additional Information. Any additional information the Commission deems relevant.
- (q) Notice Requirements. The following notice shall be placed on the Application form for the Applicant and all Control Persons:

The inclusion of false or misleading information in this Application may be grounds for denial or revocation of any License.

Section 8.04 Background Investigation. The Commission shall conduct or cause to be conducted a background investigation of the Applicant and each Control Person. Control Persons who are natural persons shall be subject to the same background investigation as is required for a Level 1 License, except that a criminal history check involving the submission of the fingerprints of Control Persons who are natural persons to the NIGC shall not be required. The background investigation shall consist of at least the following:

- (a) Verify Identity. Verify the Applicant's legal identity and standing (if applicable) and Verify the identity of all Control Persons who are natural persons through primary sources, such as government-issued identification and other documents, including without limitation social security cards, drivers licenses, birth certificates, or passports;
- (b) References. Contact each reference provided in the License Application and, when warranted, contact other references and sources identified in the Application in order to verify and supplement the information submitted by the Applicant and to resolve any discrepancies encountered through the background investigation;
- (c) Financial History. Obtain a credit history report, Dunn & Bradstreet report, if warranted, and, regarding Control Persons who are natural persons, an individual credit history report and verify the accuracy of financial information provided by the Applicant and Control Persons by contacting financial institutions and other sources;
- (d) Civil History. Conduct a civil history check;
- (e) Criminal History. Conduct a criminal history check regarding all Control Persons who are natural persons by obtaining information from law enforcement agencies and courts in the jurisdictions where such persons resided regarding all arrests, charges, and convictions;
- (f) Prior Business Relationships. Inquire into any previous or existing business relationships by contacting the entities or tribes;
- (g) Agency History. Verify the Applicant's history and status with any licensing agency; and
- (h) Business Practices Review. Review information concerning the Applicant's business practices and identify any history of unethical, unscrupulous, or other business misconduct.

The investigator shall create an investigative report that describes the investigative process, information gained, potential problem areas, and any disqualifying information. The Commission shall keep confidential the identity of each person interviewed in the course of the investigation, except as permitted under applicable federal or Tribal law or the Compacts.

Section 8.05 Licensing Standards. A Person is ineligible to receive a Gaming Supplier's License if any of the following exist:

- (a) The Applicant, or any Control Person who is a natural person, has been convicted of or entered a plea of guilty or no contest to a felony preceding the date of the License Application within the time frame stated in the applicable Compacts;

- (b) The Applicant, or any Control Person who is a natural person, has been convicted of or entered a plea of guilty or no contest to any gambling-related offense, or to Fraud or Misrepresentation within the time frame stated in the applicable Compacts;
- (c) The Applicant, or any Control Person, employs a person who is directly involved with the management or operations of any Gaming Operation;
- (d) The Applicant, or any Control Person, submitted an Application that contains materially false or misleading information;
- (e) The Applicant, or any Control Person, is associated with, or has participated in or have involvement with organized crime;
- (f) The Applicant, or any Control Person, is determined by the Commission to be an entity or person whose prior activities, reputation, habits and associations, including any conflicts of interest, pose a threat to the public interest or to the effective regulation and control of Gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of Gaming or the business and financial affairs related thereto; or
- (g) The Applicant, if a supplier of Gaming Devices, has failed to demonstrate that it will provide devices that meet the technical requirements for such devices as prescribed in subsection 6(A) of the Compacts, Section 10.06 of this Act, and as may be prescribed in the Regulations.

Section 8.06 Action on Applications for Gaming Supplier's License; Preliminary Determinations.

- (a) Within fifteen (15) days following the completion of the background investigation(s) described in this Chapter, the Commission shall meet to review the Application and the investigative report to determine if the Applicant qualifies for a Gaming Supplier's License.
- (b) If the Commission determines, pursuant to Section 8.05, that the Applicant qualifies for the issuance of a License without any conditions, the Commission may approve the Application and issue a License.
- (c) If the Commission determines, pursuant to Sections 8.05, that an Applicant does not, or may not, qualify for the issuance of a License, or may qualify for a License only with certain conditions, because:
 - (1) The Applicant's criminal history or past associations and/or habits indicate that the Applicant's involvement in supplying Gaming Equipment or Gaming goods or services may create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the

- conduct of Gaming or to the carrying on of the business and financial arrangements incidental to the conduct of Gaming; or
- (2) The Applicant may have knowingly and willfully provided materially false and misleading statements or information to the Commission or refused to respond to questions material to the suitability determination that have been asked by the Commission; the Commission shall notify the Applicant that its Application may be denied and, upon the Applicant's request, shall schedule a hearing in accordance with the procedures described in Chapter XI. If following such hearing, the Commission determines that the Applicant qualifies for the issuance of a License, with or without conditions, the Commission shall approve the Application.

Section 8.07 Denial of License. If, following the hearing conducted under the procedures described in Chapter X, the Commission denies any Application for a Gaming Supplier's License under this Chapter or issues a License with conditions or restrictions, the Commission shall, within seven (7) calendar days, notify the Applicant that the Application was denied, specify the reasons for the denial under the standards described in Section 8.05, and inform the Applicant of the Applicant's right to appeal as provided in Chapter XI.

Section 8.08 Renewals. A holder of a Gaming Supplier's License shall apply to the Commission for a renewal no later than sixty (60) days before its current License expires by completing all forms required by the Commission. Each Applicant for a License renewal shall revise and supplement the information provided to the Commission with the Licensee's initial Gaming Supplier's License Application on such forms and subject to such requirements as may be prescribed by the Commission. A Temporary Gaming Supplier's License may be granted where the holder of the License has timely sought a License renewal and paid all required fees and costs but the License renewal has not been approved by the Commission.

Section 8.09 Suspension; Summary Suspension; Revocation of Gaming Supplier's Licenses. The Commission may suspend, summarily suspend, or revoke a Gaming Supplier's License in accordance with the procedures described in Section 7.12; provided that any determination to suspend or revoke a Gaming Supplier's License shall be made under the standards set forth in Section 8.05.

Section 8.10 Temporary Licenses. The Commission is authorized to promulgate Regulations establishing the standards and procedures for issuance of Temporary Licenses to Applicants for Gaming Supplier's Licenses.

Section 8.11 Reciprocity. For purposes of fulfilling the licensing requirements of this Chapter, the Commission may recognize and accept the licensing determinations of gaming regulatory agencies in other jurisdictions regarding any Applicant under this Chapter, provided that the Commission determines that such other jurisdiction applies licensing standards that are as stringent and a background investigation process that is as rigorous as this Act requires. If the Commission determines that it will accept the licensing determinations of another jurisdiction, the Commission shall gather such information from the Gaming Supplier, all Control Persons, and the other jurisdiction as the Commission deems necessary to confirm facts and develop a

record regarding the Gaming Supplier and all Control Persons and to support its determination. The Commission may waive the background investigation process and such other requirements of this Chapter as it determines are unnecessary when granting reciprocity to the licensing determinations of another jurisdiction.

CHAPTER IX REGULATION OF MANAGEMENT CONTRACTORS

Section 9.01 Disclosure Requirements. Every Management Contractor shall, not less than thirty (30) days prior to the date the Management Contractor commences management of any Gaming Operation, submit the following to the Commission:

- (a) A copy of a valid Management Contract for the Gaming Operation and proof that such contract was approved by the NIGC;
- (b) Copies of documents establishing the existence of the Management Contractor as a legal entity, such as articles of incorporation or articles of organization;
- (c) Identify the Manager with management responsibility for the Management Contract; and
- (d) Copies of all licenses or permits related to gaming that were issued to the Management Contractor by any other jurisdiction and the name and address of any other licensing or regulatory agency the Management Contractor has applied to for a license or permit relating to gaming that did not, for any reason, issue a license or permit.

Section 9.02 Notice Requirements. Every Management Contractor shall promptly provide written notice to the Commission upon the occurrence of any of the following events:

- (a) There is any change in the identity of the Manager;
- (b) A proceeding to revoke or suspend the Management Contractor's gaming license or permit, or to take any other regulatory compliance action, in any other jurisdiction is commenced or the Management Contractor's gaming license or permit is suspended or revoked (the notice shall include the name and address of the licensing or regulatory agency taking such action, the date the action was commenced, and the current status or disposition of the action);
- (c) A Person Having a Direct or Indirect Financial Interest in a Management Contract is charged with a crime or is the subject of an ongoing prosecution, excluding minor traffic offenses, whether or not the charge results in a conviction (the notice shall include the name and address of the court involved, the charge, the dates of the charge, and the status or disposition);

- (d) Any change to the governing documents of the Management Contractor, such as an amendment to articles of incorporation or the articles of organization (the notice shall include copies of all documents that are changed);
- (e) If company is publicly traded, any event of substantial non-compliance with the Securities Act of 1933, the Securities Exchange Act of 1934, the Sarbanes-Oxley Act of 2002, or applicable Securities and Exchange Commission regulations;
- (f) The Management Contractor files any report, notice, or other communication with the NIGC, the Indiana Gaming Commission, the Indiana Alcohol and Tobacco Commission, the Michigan Gaming Control Board, or the Michigan Liquor Control Commission in connection with any Gaming Operation (the notice shall include copies of all such communications and related documents);
- (g) The Management Contractor receives a notice or other communication from a Gaming Operation that the Management Contractor is in breach of the Management Contract or is not in compliance with legal requirements applicable to the Gaming Operation or the Management Contractor;
- (h) There is a change of control of the Management Contractor; and
- (i) There is an adverse material change in the Management Contractor's financial condition that may materially and substantially impair the Management Contractor's ability to perform its obligations under the Management Contract, which may include without limitation the refinancing of existing debt, the acquisition of new debt, or other events that may impact the Management Contractor's financial stability.

Section 9.03 Enforcement. The Gaming Commission may initiate any enforcement action against the Management Contractor under this Act that it deems warranted for violations of this Act, including without limitation a failure to fulfill the requirements stated in Sections 9.01 or 9.02 or to comply with any of the following requirements:

- (a) Maintain for any Gaming Operation a valid Management Contract approved by the NIGC;
- (b) Maintain full and accurate accounting records in accordance with the requirements of this Act and provide accurate financial reports to any Gaming Operation on regular basis, but no less frequently than monthly;
- (c) An officer or director of the Management Contractor has been convicted of any felony offense or a misdemeanor offense involving gaming, fraud or moral turpitude and the Management Contractor fails to terminate such person's employment within ten (10) days after receiving notice of the conviction;

- (d) The Management Contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of any Gaming Operation relating to gaming without lawful purpose;
- (e) The Management Contractor fails to make any minimum guaranteed payment to any Gaming Operation in accordance with the requirements of any Management Contract and IGRA;
- (f) The Management Contractor knowingly and intentionally acts outside of the authority of any Management Contract in connection with any Gaming Operation;
- (g) A representation or warranty made by the Management Contractor in the Management Contract or any related agreement proves to have been untrue in any material respect as of the time it was made; and
- (h) The Management Contractor knowingly and willfully provides materially important false statements or information to the Commission, the NIGC, Indiana Gaming Commission, or the Michigan Gaming Control Board.

Section 9.04 Investigation of Management Contractor. The Commission may at any time require the Management Contractor and any Person Having a Direct or Indirect Financial Interest in a Management Contract to submit to an investigation, which may include without limitation criminal history, civil lawsuits, financial history, business conduct, and any other area of information the Commission considers to be necessary or helpful in fulfilling the purposes of this Act.

CHAPTER X REGULATION OF GAMING-RELATED ACTIVITIES

Section 10.01 Tribal Minimum Internal Control Standards. The Commission shall, within one hundred and twenty (120) days of the date this Act is enacted and in accordance with the procedure described in Section 3.15, develop and adopt Tribal Minimum Internal Control Standards (TMICS) applicable to Gaming Operations. The TMICS shall meet or exceed the Minimum Internal Control Standards (MICS) promulgated by the NIGC, provided that the TMICS may differ from the MICS with respect to standards that the Commission determines impose an excessive burden on the Gaming Operation without fulfilling a valid regulatory purpose. In adopting any standard under the TMICS that differs from a standard under the MICS, the Commission shall in each such instance establish and maintain full, effective, and reasonable regulatory controls over Gaming. Until such time as the Commission promulgates TMICS through the process prescribed under Section 3.15, the MICS promulgated by the NIGC as of the effective date of this Act, shall be the applicable TMICS.

Section 10.02 System of Internal Control Standards for Gaming Operations. Each Gaming Operation shall be required to develop a System of Internal Control Standards (SICS) designed to assure compliance with the TMICS. Such SICS shall be presented for approval by the

Commission. Any changes in the SICS shall be presented to the Commission for approval prior to implementing such amended SICS.

Section 10.03 Minimum Procedures for Control of Internal Fiscal Affairs. The Commission shall promulgate Regulations governing the control of internal fiscal affairs of all Gaming Operations. At a minimum, such Regulations shall require the consistent application of Generally Accepted Accounting Principles, and shall:

- (a) Prescribe minimum procedures for the safeguarding of a Gaming Operation's assets and revenues, including the recording of cash receipts and evidence of indebtedness, and mandatory count procedures. Such Regulations shall establish a controlled environment, accounting system, and control procedures that safeguard the assets of the Gaming Operation, assure that operating transactions are properly recorded, promote operational efficiency, and encourage adherence to prescribed policies;
- (b) Prescribe minimum reporting requirements to the Commission;
- (c) Provide for the adoption and use of internal audits conducted in accordance with generally accepted accounting principles by internal auditors licensed or certified to practice public accounting in the State of Indiana or the State of Michigan, as applicable;
- (d) Formulate a uniform code of accounts and accounting classifications to assure the consistency, comparability and effective disclosure of financial information. Such a code shall require that records be retained that reflect statistical drop (amount of cash wagered by Patrons), statistical win (amount of cash won by the Gaming Operation), and the percentage of statistical win to statistical drop, or provide similar information for each type of Game in each Gaming Establishment;
- (e) Require Gaming Operations to maintain accounting records which meet the requirements prescribed in subsection 4(H) of the Michigan Compact or subsection 4(K) of the Indiana Compact, as applicable;
- (f) Prescribe the intervals and circumstances for the Gaming Operation to furnish financial and accounting information to the Commission, the NIGC, or other entity entitled to such information under applicable law;
- (g) Provide for the maintenance of documentation, (e.g., checklists, programs, reports, etc.), to record all efforts by the Gaming Operation as it relates to the requirements of this Section; and
- (h) Provide that all financial statements and documentation referred to in this Section be maintained for a minimum of five (5) years, which may be in electronic form

except as otherwise required by law.

Section 10.04 Oversight of Internal Fiscal Affairs. The Commission shall require independent financial audits of all Gaming Operations on an annual basis. Such independent audits must apply and require the consistent application of Generally Accepted Accounting Principles, and shall:

- (a) Be conducted by independent accountants, knowledgeable in casino audits and operations and licensed or certified to practice public accounting in the State of Indiana or the State of Michigan, as applicable;
- (b) Include an opinion, qualified, or unqualified, or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by the rules and regulations of the Indiana Board of Accountancy or Michigan Board of Accountancy, as applicable, and the American Institute of Certified Public Accountants;
- (c) Disclose whether the accounts, records and control procedures maintained by the Gaming Operation conform with this Act, the Regulations, and the Compacts;
- (d) Provide a review of the internal financial controls of the audited Gaming Operation to disclose any deviation from the requirements of this Act and the Regulations and report such findings to the Commission and the management of the audited Gaming Operations; and
- (e) Provide such other information as the Commission deems necessary or appropriate.

Section 10.05 Complimentary Items.

- (a) Each Gaming Operation shall establish and submit to the Commission for approval procedures for the authorization, issuance, and tracking of complimentary services and items, including cash and non-cash gifts. The procedures shall comport with the general principle that the value of the complimentary items provided should be commensurate with a reasonable expectation of benefit to the Gaming Operation.
- (b) No Tribal Council member, Commissioner, or any person who shares a residence with or is an Immediate Family Member of such person, shall be given or accept complimentary items from any Gaming Operation, with the following exceptions:
 - (1) food and beverages with a retail cost of not more than \$200.00; or
 - (2) the free food and beverages offered to the general public at any public event held at a Gaming Establishment.
- (c) A line item or category for complimentary items shall be included in the annual budget for the Gaming Operation, with total limits specified.

Section 10.06 Certification of Gaming Devices. All Gaming Devices purchased, leased or otherwise acquired by the Gaming Operation must meet the technical equipment standards set forth in subsection 6(A) of the Compacts and as may be prescribed in the Regulations and other applicable law. The compliance of a Gaming Device with the technical equipment standards applicable to such Gaming Device may be established by a certificate of compliance issued by Gaming Laboratories International or any state or state-authorized testing laboratory. The Commission shall maintain a complete list of all Gaming Devices (whether or not such devices are in use) located at any Gaming Establishment or otherwise in the possession of the Gaming Operation.

Section 10.07 Prohibition Against the Use of Unauthorized Electronic Aids. Except as expressly permitted by the Commission, no person shall possess, with the intent to use in connection with Gaming, either individually, or in concert with others, any calculator, computer, or other electronic or mechanical device to assist in projecting the outcome or odds of any Game, to keep track of or analyze cards, or to change probabilities of any Game or any playing strategies that may be employed with regard to a Game.

Section 10.08 Prohibition Against Embezzlement. Any Licensee who shall, in the opinion of the Commission, having lawful custody of Gaming Operation property, appropriate the same to his or her own use, with intent to deprive the Gaming Operation thereof is effectuated by any Licensee to unlawfully or improperly divert Gaming or other revenue properly belonging to a Gaming Operation, shall constitute grounds for taking disciplinary action against that Licensee. If the Commission finds that an embezzlement was attempted or occurred, it may pursue disciplinary action against the Licensee, report the matter to appropriate law enforcement authorities and other gaming regulatory agencies for further action and take such other action as it deems necessary or appropriate. Disciplinary action against the Licensee may include the imposition of fines, and the revocation, suspension, or limitation of, or refusal to renew, a License issued by the Commission.

Section 10.09 Security and Surveillance. Each Gaming Establishment must provide for full security and surveillance throughout the Gaming Establishment at all times which meet or exceed the requirements for such systems established in the TMICS. All security and surveillance personnel in a Gaming Establishment must be Licensed by the Commission. The security and surveillance sectors of any Gaming Operation shall coordinate their activities and cooperate with each other as necessary to carry out their official duties and to provide ample protection for all Persons and property involved with each Gaming Operation. The TMICS applicable to security and surveillance activities in any Gaming Operation shall prescribe reporting requirements with regard to the types of conduct and activities that may be observed in a Gaming Establishment, including, at a minimum, requirements that conduct or activities by any Person, including any failure to act when required to do so, that violates or is not in compliance with:

- (a) Applicable criminal law shall be promptly reported to the Tribal Police; and
- (b) This Act, the Regulations, other applicable law, or the Compacts shall be

promptly reported to the Commission.

Section 10.10 Weapons in Gaming Establishments. A person may not carry a firearm or other weapon in a Gaming Establishment, except for the following persons with valid authorization under law:

- (a) “law enforcement officers”, as that term is defined in Section 1.L of the Pokagon Band Code of Offenses, which shall be limited to:
 - (i) Pokagon Band police officers;
 - (ii) Federal “law enforcement officers,” as that term is defined at 5 U.S.C. §8331(20); and
 - (iii) State “law enforcement officers” as that term is defined under Michigan law at MCL § 28.602(f) or under Indiana law at I.C. § 5-2-1-2(1), but only to the extent expressly authorized by an intergovernmental agreement or otherwise authorized by the Tribal Council and only while such law enforcement officers are on duty and acting within the scope of their employment as law enforcement officers;
- (b) Armored car personnel picking up or delivering currency at secured areas; and
- (c) Security personnel employed by a Gaming Operation may carry handcuffs or similarly restrictive restraint devices and pepper spray, to the extent expressly authorized by the Gaming Operation.

All law enforcement officers shall, to extent practicable, advise the Manager and the Commission, or their agents, prior to conducting any official law enforcement activities within a Gaming Establishment.

Section 10.11 Compliance with Laws to Protect the Environment, Public Health, and Safety. Every Gaming Establishment shall be constructed, maintained, and operated in a manner that adequately protects the environment, public health and safety, and complies with all applicable Tribal laws, including the Health and Safety Act, and applicable federal laws relating to environmental protection and public health and safety. Evidence that a Gaming Establishment is in compliance with this Section shall address the following requirements under applicable law:

- (a) Emergency preparedness, including without limitation the availability of medical, fire, and emergency services and evacuation plans for each Gaming Establishment;
- (b) Food and water safety;
- (c) Building construction and maintenance;
- (d) The handling and storing of hazardous and toxic materials; and

- (e) Sanitation and waste disposal.

Section 10.12 Unclaimed Winnings.

- (a) Known Patron. Any winnings, whether property or cash, which are due and payable to a Patron, and which remain unclaimed, shall be held in safekeeping for the benefit of such Patron if the Patron's identity is known. The Commission shall use, or require the Gaming Operation to use, its best efforts to deliver such winnings to the Patron determined with reasonable certainty by the Commission or the Gaming Operation as entitled to the winnings. Such winnings shall be held for twelve (12) months or such longer period as the Commission deems reasonable in consideration of all relevant facts and circumstances. At the end of the safekeeping period, such winnings shall revert to the Tribe and shall be transferred to the account or place designated by the Tribe.
- (b) Unknown Patron. In the event the identity of a Patron entitled to unclaimed winnings in excess of \$100.00 is unknown, the Commission shall use, or require the Gaming Operation to use, its best efforts to learn the identity of the Patron. If the identity of the Patron entitled to the winnings can be determined with reasonable certainty, the Commission shall use, or require the Gaming Operation to use, its best efforts to deliver such winnings to the Patron. However, if after three (3) months from the time the winnings were payable, the Commission has been unable to identify the Patron, such winnings shall revert to the Tribe and shall be transferred to the account or place designated by the Tribe.

Section 10.13 Resolution of Disputes Between the Gaming Public and the Gaming Operation. Disputes between a Patron and a Gaming Operation shall be resolved as follows:

- (a) Procedures. The Gaming Operation shall develop written procedures and shall designate Key Employees and Primary Management Officials with authority to address and resolve complaints by, or disputes with, Patrons. The Gaming Operation shall provide a copy of the approved procedures to the Commission and shall promptly thereafter provide the Commission with any amendments thereto.
- (b) Opportunity to be Heard. At a minimum, such procedures shall provide Patrons with the opportunity to present complaints, in writing, to the person(s) designated by the Gaming Operation to resolve complaints by Patrons.
- (c) Written Complaint. If the complaint involves a dispute regarding at least five hundred dollars (\$500) or an equivalent value in goods or services and the dispute could not be resolved under the internal procedures described in subsection (a) to the satisfaction of the Patron, the Patron may file a written complaint with the Commission. The Commission shall provide the Patron with a complaint form to furnish the Commission with sufficient information to conduct an investigation.

- (d) Review. The Commission shall have a process in place, through Regulations, to review and, if necessary, hold hearings under the procedures described in Chapter X, to resolve Patron complaints.
- (e) Final Decision. The Commission's resolution of a Patron complaint shall be final and shall not be subject to further appeal.

Section 10.14 Exclusion For Cause.

- (a) Exclusion List; Creation; Effect. Subject to the requirements of this Section, the Commission shall establish and maintain an Exclusion List. The Exclusion List shall include the names of all persons that the Commission has determined will not under any circumstances be allowed to enter any Gaming Establishment or participate in any Class II or Class III Gaming.
- (b) Information to be Included on the Exclusion List. The following information, to the extent known, shall be provided for each Excluded Person:
 - (1) full name, date of birth, and all aliases;
 - (2) a physical description;
 - (3) the effective date the Excluded Person's name was placed on the list;
 - (4) a photograph, if available;
 - (5) the Excluded Person's occupation and his current home and business address;
 - (6) the specific reason for exclusion;
 - (7) the date, if any, the exclusion will expire; and
 - (8) such other information as may be deemed necessary by the Commission.
- (c) Criteria for Exclusion or Ejection and Placement on an Exclusion List. The Commission may, based upon the recommendation of the Manager or on its own initiative, subject to the hearing procedures described in Chapter X, place a person on the Exclusion List if:
 - (1) such person has been convicted of, or pled guilty or no contest to, any felony, any gaming-related crime, or any other crime involving dishonesty, including without limitation, theft, robbery, burglary, embezzlement, or a conspiracy to commit or be an accessory to any such crime;
 - (2) such person has violated or conspired to violate any provisions of this Act, the IGRA, the Compacts, or other applicable law;
 - (3) such person has a notorious or unsavory reputation that would likely undermine public confidence and trust in the integrity of Gaming. Descriptions or examples of the types of conduct, habits, and associations that would produce such a reputation shall be included in the Regulations;
 - (4) such person has been recognized by the observation one or more reliable witnesses as a person who counts cards or engages in other forms of cheating or manipulation of Games; or

- (5) the person's name appears on any valid and current Exclusion List from another jurisdiction and the reason for such person's exclusion in the other jurisdiction would also be likely to result in exclusion from Gaming Establishments located within the Commission's jurisdiction.
- (d) Procedure for Entry of Names.
- (1) *Meets Criteria.* It shall be the duty of the Manager of each Gaming Establishment to inform the Commission in writing of the name of each person that the Manager reasonably believes meets the criteria for placement on the Exclusion List, as established by (c) above. The Commission shall notify the Manager in writing, following the investigation and hearing described in this subsection whether or not the Commission concurs with the Manager's recommendation to place a person's name on the Exclusion List.
- (2) *Investigation.* Upon receipt of a recommendation from the Manager of the Gaming Establishment, the Executive Director of the Commission shall conduct or cause to be conducted an investigation regarding every person whose name is recommended to be placed on the Exclusion List. Upon a determination by the Executive Director that there are adequate grounds to add a person's name to the Exclusion List under the criteria listed in subsection (c) above, the Executive Director shall prepare and submit to the Commission an investigative report and recommendation regarding whether or not the person's name should be added to the Exclusion List. The investigative report shall include all identifying information concerning the person and shall fully describe the grounds upon which the recommendation is based. Pursuant to Chapter X, written notice of the recommendation shall be given to the person who is the subject of the recommendation and that person must be informed of the opportunity to present evidence and testimony to the Commission concerning the recommendation.
- (3) *Determination.* If the Commission determines that the person's name should not be added to the Exclusion List, the person's name shall not be added to the List and such person shall not be denied access to the Gaming Establishment. If the Commission determines that the person's name should be added to the Exclusion List, or such person fails to appear at the hearing or fails to present any relevant evidence or testimony to rebut the investigative report and recommendation from the Executive Director, such person's name shall be promptly added to the Exclusion List. The Commission shall promptly notify the person in writing of the Commission's determination to add or not to add the person's name to the Exclusion List. The Commission may place a person's name on the Exclusion List either permanently or temporarily. If a person's name is placed on the Exclusion List by the Commission temporarily, the Commission shall inform the person in the notice of the Commission's decision and the period of time that person's name will be on the Exclusion List.

- (e) Removal from the Exclusion List. Any Excluded Person may petition the Commission in writing at any time, but not more frequently than annually, to have their name removed from the List.
- (f) Duty to Exclude. It shall be the duty of the Commission and the Manager of each Gaming Establishment to exclude or eject from a Gaming Establishment any Excluded Person. Any Primary Management Official or Key Employee of a Gaming Operation who knows or has reason to know that an Excluded Person has entered or is attempting to enter a Gaming Establishment shall be responsible for notifying appropriate security and surveillance staff and taking other action within the scope of the employee's authority and responsibility.
- (g) Distribution and Availability of Exclusion Lists. The Exclusion list shall be regularly updated and shall be distributed to each Gaming Establishment. The list shall be made available to law enforcement agencies by subpoena or upon request to the extent the law enforcement agency can establish a legitimate need for the list.

Section 10.15 Voluntary Exclusion. A compulsive gambler or any other person, upon providing the Commission or a Gaming Operation with a written and signed request to be designated an Excluded Person that includes sufficient information to allow positive identification of such person, shall be excluded from all Gaming Establishments and from participation in any Class II or Class III Gaming. Such person's name shall be added to the Exclusion List and the requirements of subsections 10.14(e) and (f) shall apply.

Section 10.16 Issuance of Credit. Gaming Operations may issue credit to patrons, subject to such requirements as the Commission may establish by Regulation.

CHAPTER XI RULES OF PROCEDURE FOR HEARINGS

Section 11.01 Scope of Rules of Procedure. Except as expressly stated otherwise in this Act, hearings conducted by the Commission pursuant to this Act shall be governed by this Chapter and the Regulations. The Commission shall promulgate Regulations establishing standards and procedures for conducting hearings consistent with this Act. The Commission may, in its discretion, initiate enforcement actions in the Tribal Court, which shall not be subject to the procedural requirements of this Act.

Section 11.02 Hearings.

- (a) Except as provided otherwise in this Act, the Commission shall afford an Applicant an opportunity for a hearing prior to any final action by the Commission on an Application, other than an unconditional grant of a License. For purposes of this requirement, Provisional Licenses and Temporary Licenses shall not be considered to be conditional.

- (b) Except as provided otherwise in this Act, the Commission shall afford a Licensee the opportunity for a hearing prior to taking formal action to suspend or revoke a License, not renew a License, to place conditions or restrictions on a License, or the imposition of any penalties that the Commission is authorized to impose pursuant to this Act. Nothing in this Section shall limit the Commission's authority to summarily suspend or revoke a License without a hearing pursuant to Sections 7.12 or 8.10 of this Act.
- (c) Except as provided otherwise in this Act, the Commission shall provide an Excluded Person the opportunity for a hearing prior to rendering a decision to add such person's name to an Exclusion List.
- (d) Except as provided otherwise in this Act, the Commission shall afford other Persons subject to the Commission's regulatory authority under this Act the opportunity for a hearing prior to issuing a decision, including enforcement actions, as described in Section 11.11 or as otherwise expressly authorized under this Act.

Section 11.03 Tribal Member Rehabilitation Hearing.

- (a) Right To A Rehabilitation Hearing. Any Tribal member who is an Applicant for a Level 2 or Level 3 Gaming Employee License and who was convicted of or entered a plea of guilty or no contest to Any Offense within the preceding five (5) years shall be entitled to a Rehabilitation Hearing.
- (b) Notice Requirements. The Commission shall notify the Applicant of the Applicant's right to request a Rehabilitation Hearing promptly, but not more than five (5) business days from the date the Commission becomes aware of information concerning an Applicant who is a Tribal member that would prevent the Commission from issuing a Level 2 or Level 3 License to the Applicant under the standards set forth in subsection 11.03(f).
- (c) Time to Request a Hearing. The Applicant must request a Rehabilitation Hearing within thirty (30) days of the date of the Commission notice, except for good cause shown, or, if no notice is issued by the Commission, thirty (30) days from the date the Applicant becomes aware of his or her right to a Rehabilitation Hearing. Upon the Applicant's timely request, the Commission shall conduct a Rehabilitation Hearing.
- (d) Hearing Procedures. The Commission shall conduct the Rehabilitation Hearing in accordance with the requirements of this Section, this Chapter, and the Regulations. The requirements of this Section are intended to supplement the requirements of this Chapter. If the requirements of this Section conflict with the requirements of this Chapter or the Regulations, the requirements of this Section shall govern.

- (e) Burden of Proof. The Applicant shall have the burden to prove all facts by clear and convincing evidence.
- (f) Hearing Standards. The Commission shall make the following determinations:
 - (1) whether or not the Applicant is likely again to engage in any offensive or criminal course of conduct;
 - (2) whether the public good requires that the Applicant be denied a Gaming Employee License;
 - (3) whether the Applicant (i) participated in organized crime or unlawful gambling or (ii) is a person whose prior activities, criminal records, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of Gaming or (iii) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of Gaming or to the carrying on of the business and financial arrangements incidental to the conduct of Gaming.
- (g) Unfavorable Finding. The Commission's decision in the Rehabilitation Hearing shall be a final decision subject to appeal. If the Commission does not find in favor of the Applicant on all standards, the Applicant shall be denied a Gaming Employee License and shall have the right to only one appeal for the denial of a License.
- (h) Favorable Finding. If the Commission finds in favor of the Applicant on all standards, the Commission shall proceed with the Gaming Employee License process set forth in Chapter VII.

Section 11.04 Subpoenas.

- (a) The Commission has the power and discretion to issue subpoenas to compel the production of documents or other tangible things and to compel the appearance of witnesses to give testimony with regard to any Commission investigation or proceeding. The Commission may impose reasonable penalties and take such other appropriate actions as the Commission deems warranted under the circumstances to address noncompliance with a subpoena.
- (b) The Commission may seek the assistance of the Tribal Police, the Tribal Prosecutor, and the General Counsel in exercising its authority under this Section.

Section 11.05 Hearing Requirements.

- (a) The Chairperson of the Commission shall preside over all hearings conducted before the full Commission, and shall call the proceedings to order, control the presentation of evidence, the appearance of witnesses, and the order of the proceedings. The Commission may designate one or more of the Commission members or may contract with other qualified persons to serve as hearing officers

with regard to hearings the Commission determines can be properly handled by a single hearing officer. Hearing officers shall have authority to render decisions and issue findings of fact and conclusions of law, subject to the requirement that their decisions may only become final upon adoption by the Commission and such other requirements the Commission may establish by Regulation.

- (b) The Commission may require any Person, including, but not limited to, any Applicant, Licensee, Excluded Person or any agent, employee or representative of such Person, to appear and testify before it with regard to any matter within its jurisdiction at such time and place as it may designate. Such testimony shall be under oath and may include any matters that the Commission deems relevant to the discharge of the Commission's official duties. Testimony shall be recorded by a duly certified court reporter and may be used by the Commission as evidence in any proceeding or matter before the Commission.
- (c) Except as otherwise provided in this Act or other Tribal law, all hearings held under this Act shall be open to the public.

Section 11.06 Commission Decisions.

All decisions to be made by the Commission under this Act or the Regulations shall, when necessary to support the decision, include findings of fact and determinations of law. The Commission may, at its discretion, include with its decision a statement that the Commission's decision is a "final decision subject to appeal". All such decisions, findings, and determinations shall be made on the record in an open meeting, except as may be otherwise authorized by Tribal law. All Commission decisions shall be made by majority vote, except when this Act expressly authorizes the Commission to delegate authority for specific decisions or actions to a single Commissioner, the Executive Director or other Commission personnel.

CHAPTER XII APPEALS

Section 12.01 Limited Waiver of Sovereign Immunity of the Commission. The Tribe, by enactment of this Act, expressly waives the Commission's sovereign immunity from suit for any action brought against the Commission in the Tribal Court that is explicitly authorized by this Act.

Section 12.02 Right to Appeal Adverse Commission Decisions to the Tribal Court.

- (a) Any Person who has received a final adverse decision from the Commission shall have the right to appeal such adverse decision to the Tribal Court. For purposes of this Section, a decision shall not be considered "final" unless the Commission certifies the decision in writing as final and subject to appeal.
- (b) An appeal authorized by this Section must be filed within thirty (30) calendar days from the date that the Person entitled to bring the appeal receives notice of

the final decision from the Commission.

- (c) If the Court concludes that the necessary facts for the Commission's decision were not supported by reasonable evidence, or that the Commission applied the applicable law incorrectly, it shall so declare and return the matter to the Commission for further consideration consistent with such Tribal Court decision. The Tribal Court shall limit its review to the administrative record provided that the Court may consider extra-record evidence to assist the Court in determining the adequacy of the Commission's analysis and decision concerning technical or complex issues. The Tribal Court shall give deference to the reasonable interpretation and application of this Act, the Regulations, the IGRA, and the Compacts by the Commission.
- (d) Except as may be permitted under other enacted laws of the Tribe, the relief against the Commission in any such action shall be limited to injunctive or declaratory relief and shall not include any money damages. The Tribal Court may order the Commission to pay court costs and/or attorney's fees to the party bringing an action authorized under this Act only if the Court determines that the Commission acted with willful disregard of a party's rights under the Pokagon Band Constitution, this Act, or other enacted Tribal law.

CHAPTER XIII

PROHIBITED ACTS; SCHEDULE OF OFFENSES; PENALTIES

Section 13.01 Prohibition Against Certain Individuals. It shall be a violation of this Act for any Licensee to knowingly fail to exclude or eject from the Gaming area of a Gaming Establishment any person who is:

- (a) Obviously intoxicated or under the influence of a drug or other intoxicating substance;
- (b) Under the age of twenty-one (21) years;
- (c) Disorderly;
- (d) a person known to have committed a gaming related felony;
- (e) A person with a reputation for card counting or engaging in other forms of cheating or manipulation of games; or
- (f) An Excluded Person, or is a member of any group or type of persons which has been excluded, for cause from Gaming Establishments by Commission order.

Section 13.02 Prohibited Acts. In addition to other civil violations and criminal acts that may be regulated or prohibited by this Act, the Regulations, or other Tribal law or applicable federal

law, the prohibited acts described in this Section shall constitute unauthorized Gaming under this Act. Any Person that engages in one of the following prohibited acts shall be subject to Commission enforcement actions, including without limitation the suspension or revocation of a License granted under this Act, other civil penalties, and criminal prosecution:

- (a) Altering or misrepresenting the outcome of a Game after the outcome of such Game has been determined but before the outcome is revealed to the players;
- (b) Placing or increasing a bet or wager after acquiring knowledge of the outcome of the Game, including past-posting and pressing bets;
- (c) Aiding anyone in acquiring such knowledge referred to in subsection (b) of this Section for the purposes of increasing or decreasing any wager, or for the purpose of altering or determining the course of play;
- (d) Claiming, collecting, or taking, or attempting to claim, collect, or take, money or anything of value in or from a Game with the intent to defraud or claiming, collecting, or taking an amount greater than the amount actually won in such game;
- (e) Knowingly enticing or inducing another to go to any place where Gaming is conducted or operated in violation of this Act with the intent that the other person participate in such Gaming;
- (f) Reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the Game, including pinching bets;
- (g) Manipulating, for the purpose of cheating or defrauding, any component or part of a Game in a manner contrary to the established or intended normal operational purpose for such component or part, with the knowledge or expectation that such manipulation will likely affect the outcome of the game, or with knowledge of any event that would likely affect the outcome of the game;
- (h) Defrauding any Licensee, Patron, or other Person involved in any Gaming;
- (i) Participating in any Gaming not authorized under this Act and, when applicable, the Compacts;
- (j) Knowingly providing false information or making any false or misleading statement with respect to an Application for employment or for any License, certification, approval, or determination provided for in this Act;
- (k) Knowingly providing false or misleading information or making any false or misleading statement to a Gaming Operation or the Commission in connection with any contract for Goods or Services to Gaming;

- (l) Knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents;
- (m) Offering or attempting to offer any thing of value to a Licensee with the intent to induce the Licensee to disregard the legal duties of the Licensee under this Act, the Regulations, other Tribal law, the IGRA or other federal law;
- (n) Acceptance by a Licensee of any thing of value with the understanding that the Licensee's receipt of such thing of value is intended to induce the Licensee to disregard the legal duties of the Licensee under this Act, the Regulations, Tribal law, the IGRA or other federal law;
- (o) Falsifying, destroying, erasing or altering any books, computer data, documents, records, or other material containing information relating to a Gaming Operation in ways other than is provided in approved internal control procedures;
- (p) Taking any action which interferes with or prevents the Commission or the Tribal Council from fulfilling its duties and responsibilities under this Act, the Regulations, or the IGRA; and
- (q) Entering into any contract, or making payment on any contract for the delivery of Gaming Goods or Services to a Gaming Operation, when such contract fails to provide for or result in the delivery of Gaming Goods or Services of fair market value for the payment made or contemplated.

Section 13.03 Enforcement.

- (a) Criminal Violations. Any Indian person employed by the Tribe, excluding by a Gaming Operation or a Gaming Establishment, who willfully violates this Act, willfully fails to comply with this Act, or willfully prevents another Person from complying with any provision of this Act shall be guilty of a crime and shall be subject to a maximum fine of \$5,000 or one (1) year imprisonment, or both.
- (b) Civil Violations. Any Person employed by the Tribe, excluding by a Gaming Operation or a Gaming Establishment, who willfully violates this Act, willfully fails to comply with this Act, or willfully fails to comply with any provision of this Code, or willfully prevents another Person from complying with any provision of this Code shall be liable for a civil fine not to exceed \$5,000. The amount of any such civil fine may be recovered in a civil action brought in the Tribal Court. All civil fines accruing under this Act shall be cumulative and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.

LEGISLATIVE HISTORY

The “Gaming Regulatory Act” was enacted on May 10, 2003 by adoption of Tribal Council Resolution No. 03-05-10-01; On October 11, 2003 by adoption of Tribal Council Resolution No. 03-10-11-12 subsections II.D, II.E, II.G and Section IX were amended; pursuant to 25 U.S.C. § 2710 (b)(1)(B), the National Indian Gaming Commission (“NIGC”) approved the amended Gaming Regulatory Act by letter from NIGC Chairman Philip N. Hogen dated December 5, 2003; on February 7, 2007 by adoption of Tribal Council Resolution No. 07-02-07-01 the Gaming Regulatory Act was repealed in its entirety and a completely rewritten Gaming Regulatory Act was enacted, which actions would become effective upon the approval of the Gaming Regulatory Act by the NIGC; on May 12, 2007 by adoption of Tribal Council Resolution No. 07-05-12-04 technical amendments were enacted to Chapter II and Sections 3.07, 3.15, 3.20, 4.02, 5.04, 5.06, 6.03, 7.01, 7.02, 7.03, 7.05, 7.06, 8.06, 10.05, 10.12, and 10.15 and a new Section 4.04 was enacted; pursuant to 25 U.S.C. § 2710 (b)(1)(B), the NIGC approved the Gaming Regulatory Act by letter from NIGC Chairman Philip N. Hogen dated June 1, 2007; on December 17, 2018 by adoption of Tribal Council Resolution No. 18-12-17-02 amendments to Section 10.12, Unclaimed Winnings, were enacted; on February 19, 2019 by adoption of Tribal Council Resolution No. 19-02-19-06 technical amendments were enacted to Chapter VII, Licensing of Gaming Employees, to comply with 25 C.F.R. Parts 556 and 558; and pursuant to 25 U.S.C. § 2710 (b)(1)(B) and 25 U.S.C. § 2710(e), by letter from NIGC General Counsel Michael Hoenig dated June 3, 2019 the NIGC confirmed that the amendments to Section 10.12 and Chapter VII are considered approved to the extent consistent with IGRA; on August 15, 2019, by adoption of Tribal Council Resolution No. 19-08-15-09 amendments were enacted to Sections 4.01, 4.02(b)(1), 4.03(b), and 4.03(c) and on February 4, 2020, by adoption of Tribal Council Resolution No. 20-02-04-08, amendments were enacted to Subsection 7.11(b) and pursuant to 25 U.S.C. § 2710 (b)(1)(B) and 25 U.S.C. § 2710(e), by letter from NIGC Chairman E. Sequoyah Simermeyer dated May 11, 2020, the NIGC confirmed that the amendments to Sections 4.01, 4.02(b)(1), 4.03(b), 4.03(c), and 7.11(b) are considered approved to the extent consistent with IGRA; and on May 6, 2021 by adoption of Tribal Council resolution No. 21-05-06-__, amendments throughout the Act were enacted, including those necessary to implement the requirements of the Indiana Compact between the Pokagon Band and the State of Indiana.

The Cross-Reference Table

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

25 C.F.R. Part 522		Pokagon Band Gaming Regulatory Act
§ 522.2 Submission Requirements		
(a)	One copy on 8 1/2" × 11" paper of an ordinance or resolution certified as authentic by an authorized tribal official and that meets the approval requirements in § 522.4(b) or 522.6 of this part	Approving resolution certified by Chairman and Secretary
(b)	A description of procedures to conduct or cause to be conducted background investigations on key employees and primary management officials and to ensure that key employees and primary management officials are notified of their rights under the Privacy Act as specified in § 556.2 of this chapter	Chap VII See Sec. 7.01 re. Privacy Act requirements
(c)	A description of procedures to issue tribal licenses to primary management officials and key employees	Sec. 7.06
(d)	Copies of all tribal gaming regulations	The Pokagon Band's gaming regulations were previously submitted to the NIGC under cover letter dated June 11, 2018 as part of the Band's Petition to the NIGC for a Certificate of Self-Regulation. Proposed amendments to the Pokagon Band's gaming regulations are pending approval by the Pokagon Band's Gaming Commission. Once approved by the Pokagon Band's Gaming Commission, the amended gaming regulations will be promptly provided to the NIGC.

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

(e)	When an ordinance or resolution concerns class III gaming, a copy of the tribal-state compact or procedures as prescribed by the Secretary	The Pokagon Band's 1998 Class III Gaming Compact with the State of Michigan and a 2008 amendment to the Compact are available on the NIGC website. The Pokagon Band's 2021 Class III Gaming Compact with the State of Indiana ("Indiana Compact") has been submitted to the Office of Indian Gaming for review and approval by letter dated May 3, 2021. A copy of the Indiana Compact is enclosed.
(f)	A description of procedures for resolving disputes between the gaming public and the tribe or the management contractor	Sec. 10.13
(g)	Designation of an agent for service under § 519.1 of this chapter	Tribal Council Resolution No. 03-05-10-01 (as reaffirmed by Tribal Council Resolution No. 07-02-07-01) designates the Tribal Chairman as the Pokagon Band's agent for service for any official NIGC determination, order, or notice of violation. Copies of both resolutions are enclosed.

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

(h)	Identification of a law enforcement agency that will take fingerprints and a description of procedures for conducting a criminal history check by a law enforcement agency. Such a criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation	Sec. 7.01(g)
-----	---	--------------

25 C.F.R. Part 556	Pokagon Band Gaming Regulatory Act
§ 556.1 Scope of this part.	
Unless a tribal-state compact assigns sole jurisdiction to an entity other than a tribe with respect to background investigations, the requirements of this part apply to all class II and class III gaming. The procedures and standards of this part apply only to primary management officials and key employees. This part does not apply to any license that is intended to expire within 90 days of issuance.	
§ 556.2 Privacy notice.	7.01 Application for a Gaming Employee License
(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant: <i>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. 2701et 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 Tribal gaming regulatory authorities 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 a tribe's being unable to license you for a primary management official or key employee position.</i> <i>The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.</i>	§ 7.01 (b)

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either: (1) Complete a new application form that contains a Privacy Act notice; or (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.	See the third from last resolution in Tribal Council Resolution No. 19-02-19-06. (Copy enclosed.)
§ 556.3 Notice regarding false statements.	7.01 Application for a Gaming Employee License
(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant: <i>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 (U.S. Code, title 18, section 1001).</i>	§ 7.01 (b)
(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either: (1) Complete a new application form that contains a notice regarding false statements; or (2) Sign a statement that contains the notice regarding false statements.	Technical amendments to § 7.01(b) (regarding the Privacy Act Notice) to comply with § 556.3 were approved by the NIGC by letter dated June 3, 2019. Additionally, please see the third from last resolution in Tribal Council Resolution No. 19-02-19-06.
(c) All license application forms used 180 days after February 25, 2013 shall comply with this section.	Technical amendments to § 7.01(b) (regarding the Privacy Act Notice) to comply with § 556.3 were approved by the NIGC by letter dated June 3, 2019. Additionally, please see

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

	the third from last resolution in Tribal Council Resolution No. 19-02-19-06.
§ 556.4 Background investigations.	7.01 Application for a Gaming Employee License
A tribe shall perform a background investigation for each primary management official and for each key employee of a gaming operation.	
(a) A tribe shall request from each primary management official and from each key employee all of the following information:	
(1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);	§ 7.01 (a)(1)
(2) Currently and for the previous five years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;	§ 7.01 (a)(2)
(3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)(2) of this section;	§ 7.01 (a)(3)
(4) Current business and residence telephone numbers;	§ 7.01 (a)(4)
(5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;	§ 7.01 (d)(1)
(6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;	§ 7.01 (d)(2)
(7) 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;	§ 7.01 (d)(3)
(8) 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;	§ 7.01 (d)(4)
(9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;	§ 7.01 (d)(5)

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

(10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (a)(8) or (a)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;	§ 7.01 (d)(6)
(11) 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;	§ 7.01 (d)(7)
(12) A photograph;	§ 7.01 (e)
(13) Any other information a tribe deems relevant; and	§ 7.01 (f) and (h)
(14) Fingerprints consistent with procedures adopted by a tribe according to § 522.2(h) of this chapter.	§ 7.01 (g)
(b) If, in the course of a background investigation, a tribe discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the tribe has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the tribe may rely on those materials and update the investigation and investigative report under § 556.6(b)(1).	
(c) In conducting a background investigation, a tribe or its agents shall keep confidential the identity of each person interviewed in the course of the investigation.	§ 7.03 [see <i>last sentence</i>]
§ 556.5 Tribal eligibility determination.	7.03 Background Investigation
A tribe shall conduct an investigation sufficient to make an eligibility determination.	
(a) To make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license, an authorized tribal official shall review a person's:	§ 7.03 [see <i>second sentence</i>] See also § 7.04(a)(4) and § 11.03(f)(3)
(1) Prior activities;	
(2) Criminal record, if any; and	
(3) Reputation, habits, and associations.	
(b) If the authorized tribal official, in applying the standards adopted in a tribal ordinance, determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, an authorizing tribal official shall not license that person in a key employee or primary management official position.	§ 7.03 [see <i>second sentence</i>] See also § 7.02(a)(2), § 7.04(a)(4), and § 11.03(f)(3)
§ 556.6 Report to the Commission.	
(a) When a tribe employs a primary management official or a key employee, the tribe shall maintain a complete application file containing the information listed under § 556.4(a)(1) through (14).	§ 3.20 Commission Record-Keeping
(b) Before issuing a license to a primary management official or to a key employee, a tribe shall:	

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

(1) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following: (i) Steps taken in conducting a background investigation; (ii) Results obtained; (iii) Conclusions reached; and (iv) The basis for those conclusions	§ 7.03(h) See also § 7.10(b)(1)
(2) Submit a notice of results of the applicant's background investigation to the Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain: (i) Applicant's name, date of birth, and social security number; (ii) Date on which applicant began or will begin work as key employee or primary management official; (iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of: (A) Licenses that have previously been denied; (B) Gaming licenses that have been revoked, even if subsequently reinstated; (C) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and (D) Every felony of which the applicant has been convicted or any ongoing prosecution. (iv) A copy of the eligibility determination made under § 556.5.	§ 7.06(a)
25 C.F.R. Part 558	Pokagon Band Gaming Regulatory Act
§ 558.2 Review of notice of results for a key employee or primary management official.	7.06 Approval of a Level 1 or a Level 2 Gaming Employee License
(a) Upon receipt of a complete notice of results for a key employee or primary management official as required by § 556.6(b)(2) of this chapter, the Chair has 30 days to request additional information from a tribe concerning the applicant or licensee and to object.	
(b) If the Commission has no objection to issuance of a license, it shall notify the tribe within thirty (30) days of receiving notice of results pursuant to § 556.6(b)(2) of this chapter.	
(c) If, within the 30-day period described in paragraph (a) of this section, the Commission provides the tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official applicant for whom the tribe has provided a notice of results, the tribe shall reconsider the application, taking into account the objections itemized by the Commission. The tribe shall make the final decision whether to issue a license to such applicant.	§ 7.06(b) and (c) See also § 7.10(a) and (b).

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

(d) If the tribe has issued the license before receiving the Commission's statement of objections, notice and hearing shall be provided to the licensee as provided by § 558.4.	§ 7.06(c)
§ 558.3 Notification to NIGC of license decisions and retention obligations.	
(a) After a tribe has provided a notice of results of the background check to the Commission, a tribe may license a primary management official or key employee.	§ 7.06(b)
(b) Within 30 days after the issuance of the license, a tribe shall notify the Commission of its issuance.	§ 7.06(e)
(c) A gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.	§ 7.06(d) <i>See also</i> § 7.02(c)
(d) If a tribe does not license an applicant - (1) The tribe shall notify the Commission; and (2) Shall forward copies of its eligibility determination and notice of results, under § 556.6(b)(2) of this chapter, to the Commission for inclusion in the Indian Gaming Individuals Record System	§ 7.07 Denial of a Gaming Employee License <i>See also</i> § 7.10(b) and § 7.11(k)
(e) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment: (1) Applications for licensing; (2) Investigative reports; and (3) Eligibility determinations.	§ 3.20(b)
§ 558.4 Notice of information impacting eligibility and licensee's right to a hearing.	
(a) If, after the issuance of a gaming license, the Commission receives reliable information indicating that a key employee or a primary management official is not eligible for employment under § 556.5 of this chapter, the Commission shall notify the issuing tribe of the information.	
(b) Upon receipt of such notification under paragraph (a) of this section, a tribe shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.	§ 7.11(a), (b)(1), and (d) <i>See also</i> § 7.10(b)(1) and § 7.11(d)
(c) A tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.	§ 7.11(a), (d), (g) and (h)

POKAGON BAND OF POTAWATOMI INDIANS

CROSS-REFERENCE TABLE REGARDING COMPLIANCE WITH 25 C.F.R. PARTS 552, 556 and 558

(d) A right to a hearing under this part shall vest only upon receipt of a license granted under an ordinance approved by the Chair.	
(e) After a revocation hearing, a tribe shall decide to revoke or to reinstate a gaming license. A tribe shall notify the Commission of its decision within 45 days of receiving notification from the Commission pursuant to paragraph (a) of this section	§ 7.11(l)

The Indiana Compact

**A COMPACT BETWEEN
THE POKAGON BAND OF POTAWATOMI INDIANS
AND
THE STATE OF INDIANA
PROVIDING FOR THE CONDUCT OF TRIBAL
CLASS III GAMING BY THE
POKAGON BAND OF POTAWATOMI INDIANS**

TABLE OF CONTENTS

SECTION 1.	Purpose and Objectives	2
SECTION 2.	Definitions	3
SECTION 3.	Authorized Class III Games.....	7
SECTION 4.	Administration and Regulation of Class III Gaming	9
SECTION 5.	Employee Benefits.....	16
SECTION 6.	Providers of Class III Gaming Equipment or Supplies....	17
SECTION 7.	Dispute Resolution.....	18
SECTION 8.	Notice to Patrons	19
SECTION 9.	Infrastructure and Site Improvements.....	20
SECTION 10.	Sales Tax Parity	20
SECTION 11.	Effective Date	23
SECTION 12.	Binding Effect, Duration, and Severability.....	23
SECTION 13.	Notice to Parties.....	24
SECTION 14.	Entire Agreement	25
SECTION 15.	Filing of Compact with the Indiana Secretary of State ...	25
SECTION 16.	Amendments	25
SECTION 17.	Payments to the State in Exchange for Market Exclusivity	26
SECTION 18.	Pokagon Indiana Education Fund	28
SECTION 19.	Band Payments to Local Units of Government	29

THIS COMPACT is made and entered into this 21st day of January, 2021, by and between the POKAGON BAND OF POTAWATOMI INDIANS (hereinafter referred to as “Band”) and the STATE OF INDIANA (hereinafter referred to as “State”).

RECITALS

WHEREAS, the State of Indiana is a sovereign State of the United States of America, having been admitted to the Union pursuant to the Enabling Act of April 19, 1816, 14 Ch. 57, April 19, 1816, 3 Stat. 289, and is authorized by its constitution to enter into contracts and agreements, including this agreement with the Band; and

WHEREAS, the Band is a federally recognized Indian tribe (reaffirmed pursuant to An Act to Restore Federal Services to the Pokagon Band of Potawatomi Indians, P.L. 103-323, Sept. 21, 1994, 108 Stat. 2154 (hereinafter referred to as the “Pokagon Restoration Act”), and its governing body, the Tribal Council, is authorized by the Band’s constitution to enter into contracts and agreements of every description, including this agreement with the State; and

WHEREAS, the United States Supreme Court in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987), held that absent Congressional consent, and unless the state interests are sufficient to overcome federal preemption, state gaming regulations do not apply to Indian tribes within Indian country in the conduct of gaming activities under their sovereign authority; and

WHEREAS, the Indian Gaming Regulatory Act of 1988 (25 U.S.C. § 2701 *et seq.*) (hereinafter “IGRA”) establishes a federal framework for tribal gaming that permits Indian tribes to operate Class III gaming activities on Indian lands pursuant to a tribal-state Compact entered into for that purpose; and

WHEREAS, on June 30, 1993 the State through the enactment of Sec. 124 of P.L. 277-1993, IC 4-33, Riverboat Gambling, authorized slot machines, roulette, baccarat, twenty-one, craps, and various other forms of casino gaming to be conducted within the State by riverboats located in certain specified counties and subject to state licensing and regulation; and

WHEREAS, said casino games are permitted “for any purpose by any person, organization or entity,” within the meaning of IGRA § 2710(d)(1)(B) and would be considered “Class III gaming” if conducted by the Band on “Indian lands”, as those terms are defined in IGRA; and

WHEREAS, on May 12, 2015, the State enacted Sec. 1 of P.L. 255-2015, Tribal Gaming, which establishes the process by which the State may negotiate and enter into a tribal-state Compact with an Indian tribe with land located within Indiana and

already taken into trust by the United States government in order to authorize Class III gaming on those Indian lands located within Indiana; and

WHEREAS, pursuant to a final agency determination made on November 17, 2016, by the Assistant Secretary – Indian Affairs for the U.S. Department of the Interior, on November 28, 2016, the United States accepted the conveyance of approximately 166 acres of land located in the City of South Bend, Indiana, in trust for the Band, which site the United States federal government determined is eligible for gaming under IGRA; and

WHEREAS, on January 16, 2018, the Band commenced “Class II gaming”, as that term is defined in IGRA, on the South Bend Site under the business name Four Winds South Bend; and

WHEREAS, by letter to the Governor of Indiana dated August 13, 2019, the Band requested in accordance with IGRA § 2710(d)(3)(A) that the Band and the State engage in negotiations for the purpose of entering into a gaming compact governing the conduct of “Class III gaming”, as that term is defined in IGRA, on the South Bend Site; and

WHEREAS, a Compact between the Band and the State for the conduct of Class III gaming satisfies the requirements of IGRA in order for the Band to operate Class III gaming on the South Bend Site; and

WHEREAS, the State and the Band, in recognition of the sovereign rights of each party and in a spirit of cooperation in the interests of the citizens of the State and the citizens of the Band, have engaged in good faith negotiations recognizing and respecting the interests of each party and have agreed to this Compact.

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

SECTION 1. Purpose and Objectives.

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

(A) To allow the Band, pursuant to IGRA, to lawfully conduct certain Class III gaming on the South Bend Site;

(B) To fulfill the purpose and intent of 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;

(C) To provide tribal revenues to fund tribal government operations and programs, in order to provide for the general welfare of the Band and its citizens and,

generally, to promote tribal economic development, tribal self-sufficiency, and a strong tribal government consistent with the intent and purpose of IGRA;

(D) To provide for the operation of certain Class III gaming in which the Band shall have the sole proprietary interest and be the primary beneficiary of the Band's gaming enterprise;

(E) To recognize the State's interests in the establishment by the Band of rules for the regulation of Class III gaming operated by the Band on the South Bend Site;

(F) To recognize the State's interests in confirming that the Band maintains adequate regulatory controls over Class III gaming to ensure that it is conducted fairly and honestly; and

(G) To establish requirements for notifying patrons of the Band's Class III gaming operations on the South Bend Site that the Gaming Facility is not regulated by the State and that patrons must look to the Band or to the federal government to resolve any issues or disputes with respect to the Band's Class III gaming operation under this Compact.

SECTION 2. Definitions.

For purposes of this Compact, the following definitions pertain:

(A) "Any Offense" means, as referenced in subsection 4(I)(3), any criminal offense whether committed in Indiana or any other jurisdiction, that is, or would be, a crime under the provisions of the Title 35 of the Indiana Code, Criminal Law and Procedure, as amended, or any other criminal offense not specified in subsection 4(I)(3) involving gambling, theft, dishonesty, or Fraud or Misrepresentation arising under Indiana law or the law of another state or jurisdiction, that was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from such person's criminal record by executive pardon, state or federal court order, or operation of law.

(B) "Certificate of Self-Regulation" means the Certificate of Self-Regulation issued to the Band by the NIGC pursuant to IGRA and NIGC regulations (25 C.F.R. Part 518), which Certificate of Self-Regulation was first effective on January 1, 2019.

(C) "City" means the City of South Bend, located in St. Joseph County, Indiana, an Indiana municipal corporation.

(D) "Class III gaming" means all forms of gaming authorized by this Compact, which are neither Class I nor Class II gaming, as such terms are defined in IGRA §§ 2703(6) and (7). Only those forms of Class III gaming authorized by this

Compact may be offered by the Band pursuant to this Compact.

(E) “Compact” means this Compact between the Band and the State negotiated and entered into pursuant to IGRA § 2710(d)(3) to govern Class III gaming on the South Bend Site.

(F) “Compliance Oversight” means activities reasonably required to ensure that Class III gaming at the South Bend Site is being conducted in compliance with the express requirements of this Compact. Consistent with Section 4, Compliance Oversight shall not involve the exercise of any enforcement or other regulatory authority. Except where expressly stated otherwise in this Compact, Compliance Oversight activities shall be undertaken in compliance with subsection 4(P).

(G) “Confidential Information” means financial information, proprietary information, trade secrets, plans, methods, data, capital development, inventions or other information regarding the Band’s Class III gaming operations and the games conducted by the Band, and any other gaming and non-gaming business activities conducted at the Gaming Facility and ancillary to such Class III gaming operations. The term does not include information that: (1) is publicly available or becomes publicly available through no action or fault of the receiving party; (2) was in the receiving party’s possession or already known to the receiving party prior to disclosure by the disclosing party, provided that the source of such information was not bound by any contractual, legal, or other obligation of confidentiality to the disclosing party with respect to such information; or (3) is independently developed by the receiving party without the use of Confidential Information,

(H) “Electronic Game of Chance” means a “slot machine” and “electronic or electromechanical facsimiles of any game of chance” as those terms are defined in 25 C.F.R. § 502.4(b) and 25 C.F.R. § 502.8. The term Electronic Game of Chance does not include a toy crane machine, as defined in IC 35-45-5-1(k), or any other device played for amusement that rewards a player exclusively with a toy, a novelty, candy, other noncash merchandise, or a ticket or coupon redeemable for a toy, a novelty, or other noncash merchandise that has a wholesale value of not more than the lesser of ten (10) times the amount charged to play the amusement device one (1) time or twenty-five dollars (\$25). The term also does not include any electronic gaming devices that are Class II games under IGRA.

(I) “Endorsement Date” means the date that the Compact was endorsed on behalf of the Band in accordance with subsection 11(A).

(J) “Fraud or Misrepresentation” means a criminal offense committed in Indiana or any other jurisdiction, involving, theft, fraud, or misrepresentation, which is a felony or would be a felony if committed in Indiana, and which was committed as an adult or prosecuted as an adult offense, and which has not been effectively removed from such person’s criminal record by executive pardon, state or federal

court order, or operation of law. This term does not include arrests which have been sealed, convictions which have been expunged by a court, or traffic infractions.

(K) “Gambling Game” means:

- (1) gambling game as defined under IC 4-33-2-9 and IC 4-35-2-5; and
- (2) any game authorized under IC 4-30, IC 4-31, IC 4-32.3, or IC 4-36 if such game is played in an electronic or electromechanical format, including without limitation any video gaming terminal that simulates the play of any game through the use of a video display, that replicates such game by incorporating all of the essential characteristics of the game.

(L) “Gambling Operation” means:

- (1) a gambling operation as that term is defined in IC 4-33-2-10 and any permit holder under IC 4-35-2-9 if the permit holder is licensed to conduct Gambling Games pursuant to IC 4-35-5; and
- (2) any other single location that is permitted to conduct more than fifteen (15) Gambling Games as that term is defined in subsection 2(K)(2).

(M) “Gaming Facility” means any building located on the South Bend Site where Class III gaming is conducted by the Band in accordance with this Compact. The term Gaming Facility is limited to the footprint of the Gaming Facility on the South Bend Site and does not include any gaming-related commercial amenities located within or adjoining such Facility, including without limitation restaurants, bars, hotels, spas, and retail shops, provided that Class III gaming is not conducted within such amenities.

(N) “Gaming Official or Employee” (collectively, “Gaming Officials and Employees”) means regarding Class III gaming activities at each Gaming Facility: (i) primary management officials and key employees as those terms are defined by IGRA, NIGC regulations, and Pokagon Band Gaming Regulations, (ii) all other employees whose regular job duties require access to restricted areas or involvement in Class III gaming activities at a Gaming Facility, and (iii) consultants providing gaming-related services directly to a Class III gaming operation (except legal counsel).

(O) “NIGC” means the National Indian Gaming Commission established by IGRA.

(P) “Net Win” means the total amount wagered on each Electronic Game of Chance, minus the total amount paid to players for winning wagers at such Electronic

Games of Chance. For purposes of calculating Net Win, the total amount wagered shall not include the value of Promotional Wagers. The total amount of prizes paid to players for winning wagers at each Electronic Game of Chance shall include all prizes, consisting of electronic credits on each Electronic Game of Chance, cash, check, or merchandise from all wagers, including Promotional Wagers. The formula prescribed here for calculating Net Win applies only to the calculation of the payments due under this Compact and is not intended to preclude the Band from otherwise following accepted GAAP and AICPA Guidelines in its general accounting practices in compliance with IGRA and this Compact.

(Q) “Payment Period” means a twelve-month fiscal period beginning on August 1 and ending on July 31 of each year.

(R) “Person” means a business, individual, proprietorship, firm, partnership, joint venture, syndicate, trust, labor organization, company, corporation, association, committee, state, local government, government instrumentality or entity, or any other organization or group of persons acting jointly.

(S) “Pokagon Band Gaming Regulations” means: (i) the Pokagon Band Gaming Regulatory Act enacted into law by the Band and approved by the NIGC in accordance with IGRA, (ii) all gaming regulations duly promulgated by the Pokagon Band Gaming Commission in implementation of the Pokagon Band Gaming Regulatory Act, (iii) IGRA, and (iv) this Compact to authorize and govern Class III gaming on the South Bend Site. The Band shall provide to the State copies of: (i) any amendment to the Pokagon Band Gaming Regulatory Act within thirty (30) days of the date of approval of such amendment by the NIGC and (ii) any amendment to gaming regulations promulgated by the Pokagon Band Gaming Commission within thirty (30) days of the date such regulations are final and in effect. The Band hereby agrees that at least thirty (30) days prior to the commencement of any Class III gaming on the South Bend Site it shall enact amendments to the Pokagon Band Gaming Regulatory Act and shall promulgate regulations to incorporate the regulatory requirements of this Compact and, to the extent expressly required by this Compact, Indiana law.

(T) “Promotional Wagers” shall include wagers made by patrons using non-cashable vouchers, coupons, electronic credits, or electronic promotions provided by the Band without monetary consideration and which have no cash redemption value.

(U) “South Bend Site” means the trust and reservation lands acquired under § 6 of the Pokagon Restoration Act located in the City that consist of approximately 166 acres that were taken into trust for the Band by the United States on November 28, 2016, 81 Fed. Reg. 89499-89504, which lands the United States federal government determined are eligible for gaming under IGRA § 2719. Class III gaming may only be conducted on the South Bend Site by the Band under this Compact.

(V) “Table Game” means any “house banking card game” as that term is defined in 25 C.F.R. § 502.4(a). The term does not include any games or gaming devices that are Class II games under IGRA.

(W) “Tribal Chairperson” means the duly elected Chairperson of the Tribal Council of the Band.

References in this Section 2 and elsewhere in this Compact to State, Band, or federal laws and regulations includes all amendments thereto and any successor laws and regulations that may be enacted or promulgated

SECTION 3. Authorized Class III Games.

(A) The Band may lawfully conduct on the South Bend Site only the following forms of Class III gaming that may be lawfully conducted by any other person under Indiana law:

- (1) Electronic Games of Chance;
- (2) Baccarat and mini-baccarat; chemin-de-fer; twenty-one (21) or blackjack; poker, including but not limited to Caribbean Stud poker, Let-It-Ride, and pai gow poker (to the extent not played as a house banking game); and all other banking card games that are not treated as Class II gaming pursuant to 25 U.S.C. § 2703(7)(C);
- (3) Roulette, craps, pai gow, Klondike, Big Six wheels, Sic bo, dice, and all other table games;
- (4) Sports wagering as permitted and defined under IC 4-38 and paid fantasy sports games as permitted and defined under IC 4-33-24; and
- (5) Keno, raffles, pull tabs, and similar games permitted under IC 4-32.3.

(B) Additional Class III games may be lawfully offered by the Band only by mutual agreement of the Band and the State as follows:

- (1) The Band shall request additional Class III games by letter from the Tribal Chairperson on behalf of the Band to the Governor on behalf of the State. The request shall identify the additional proposed Class III gaming activities with specificity and any proposed amendments to the Pokagon Band Gaming Regulatory Act.
- (2) The State, acting through the Governor, shall approve the Band’s request within ninety (90) days after receipt if the Governor

determines the following criteria have been satisfied:

- (a) The proposed gaming activities are permitted in the State for any purpose by any person, organization, or entity; and
- (b) The provisions of this Compact are adequate to fulfill the policies and purposes set forth in IGRA with respect to such additional games.

The Governor's determination shall be a final decision of the State, subject to the dispute resolution procedures under Section 7 of this Compact.

(C) Sports wagering and paid fantasy sports games authorized to be conducted by the Band under this Compact may be conducted and offered by the Band on internet and mobile platforms only so long as the wagers on such platforms are initiated by patrons who are physically present on the South Bend Site at the time the wager is initiated, and the wager is placed, received, or otherwise made at a Gaming Facility.

(D) The number of games that may be operated or played on the South Bend Site cannot exceed the greatest number of games offered by a State licensed owner or operating agent as of the effective date of this Compact, which is 3,403 games. Except as otherwise specifically provided in this Compact, the Band may determine, by Band law or regulation, the hours or period of operation and limits on wagers or pot size for Class III gaming on the South Bend Site. For purposes of this subsection 3(D), the term "games" means any gambling game expressly permitted under this Section 3 and as that term is defined by IC § 4-33-2-9 and IC § 4-35-2-5.

(E) Except as expressly authorized by this Compact for sports wagering and paid fantasy sports games under subsection 3(C) of this Compact, the Band shall not conduct or allow any other person to conduct any form of internet gaming or mobile wagering under this Compact; provided, however, that to the extent that the State authorizes a State licensed owner or operating agent to conduct other forms of Class III gaming on internet or mobile platforms, then the Band also may conduct those same forms of Class III gaming on internet and mobile platforms to the same extent authorized for the State licensed owner or operating agent, but only so long as the wagers on such platforms are initiated by patrons who are physically present on the South Bend Site at the time the wager is initiated, and the wager is placed, received, or otherwise made at a Gaming Facility.

(F) Notwithstanding anything to the contrary in this Section, this Compact does not authorize the operation of any of the following forms of Class III gaming:

- (1) Any form of wagering on live or simulcast horse racing or dog racing; and

- (2) Lottery games as defined in 65 IAC 1-1-1, except to the extent such games are authorized as approved gambling activities under IC 4-32.3.

SECTION 4. Administration and Regulation of Class III Gaming.

(A) The Band shall maintain at all times while this Compact remains in effect Pokagon Band Gaming Regulations in compliance with IGRA and governing all aspects of the Band's Class III gaming operations on the South Bend Site.

(B) With respect to sports wagering authorized under Section 3 of this Compact, the Band shall adopt as part of the Pokagon Band Gaming Regulations those regulatory standards embodied in Indiana laws, rules, directives, and regulations related to who may place such wagers, geofence testing and standards, network diagrams, wager types and approved events, internal control procedures, change management for event wagering, and field testing requirements.

(C) With respect to paid fantasy sports games authorized under Section 3 of this Compact, the Band shall adopt as part of the Pokagon Band Gaming Regulations those regulatory standards embodied in Indiana laws, rules, directives, and regulations related to who may participate in a paid fantasy sports game, game operator requirements and rules, prizes, and financial reserves.

(D) With respect to other forms of Class III gaming on internet or mobile platforms authorized under subsection 3(E) of this Compact, the Band shall adopt as part of the Pokagon Band Gaming Regulations internal control requirements and technical standards that are at least as stringent as the State internal control requirements and technical standards for those other forms of Class III gaming on internet or mobile platforms.

(E) The regulatory requirements of this Section 4 shall apply to the conduct of all Class III gaming authorized by the Compact. At all times during which the Band conducts any Class III gaming under this Compact, the Band shall maintain, as part of the Pokagon Band Gaming Regulations requirements at least as restrictive as those set forth herein.

(F) The Band shall license, operate, and regulate all Class III gaming activities pursuant to this Compact, Band law, IGRA, and all other applicable federal law. This shall include but not be limited to the licensing of Gaming Officials and Employees. In its operation and regulation of Class III gaming on the South Bend Site, the Band shall promptly address and resolve any material violation of this Compact and Band and federal laws, including IGRA, that are applicable to Class III gaming.

(G) If the Band's Certificate of Self-Regulation is revoked by the NIGC, then

the State may, in its discretion and in coordination with the Pokagon Band Gaming Commission, engage in Compliance Oversight activities regarding the licensing of all Gaming Officials and Employees pursuant to this Compact and the applicable standards in the Pokagon Band Gaming Regulations. The Band shall cooperate with the State in its Compliance Oversight efforts regarding the applicable licensing standards. The State's right to engage in Compliance Oversight regarding the licensing of Gaming Officials and Employees will become effective immediately on the date the Band's Certificate of Self-Regulation is revoked, notwithstanding any appeal of such revocation the Band may pursue pursuant to 25 U.S.C. § 2714. The State's right to engage in Compliance Oversight of the licensing of Gaming Officials and Employees shall cease to be effective immediately on the date that the NIGC re-issues a Certificate of Self-Regulation to the Band.

(H) Regarding the management of the Band's gaming operations, the Band shall have the sole proprietary interest and shall be the primary beneficiary of the Band's gaming operations. A Gaming Facility at which Class III gaming operations are authorized under this Compact shall be owned solely by the Band.

(I) The Band may not license, hire, or employ as a Gaming Official or Employee any person who:

- (1) Is under the age of 18; or
- (2) Has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, or Fraud or Misrepresentation; or
- (3) Has been convicted of or entered a plea of guilty or no contest to Any Offense within the immediately preceding five years; this provision shall not apply if that person is a Band citizen and has been determined by the Band to be a person who is not likely again to engage in any offensive or criminal course of conduct and the public good does not require that the applicant be denied a license as a Gaming Official or Employee; or
- (4) Is determined by the Band to have participated in organized crime or unlawful gambling or whose prior activities, criminal records, reputation, habits, and/or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or to the carrying on of the business and financial arrangements incidental to the conduct of gaming; or
- (5) Was denied a license by the Indiana Gaming Commission or had his or her license revoked by the Indiana Gaming Commission, as verified by the Indiana Gaming Commission to the Band, and such

person remains ineligible for a license from the Indiana Gaming Commission.

The Band shall provide notice to the State if the Band denies a license to any person applying for a license as a Gaming Official or Employee or if the Band revokes a license from a Gaming Official or Employee. The notice to the State shall include the person's name and the reasons for denial or revocation of a license.

(J) All management contracts entered into by the Band regarding its Class III gaming facilities operated pursuant to this Compact shall conform to all the requirements of IGRA, including § 2711, and Band law. If the Band submits to the NIGC for review a draft management contract for the operation of any Gaming Facility, the Band shall within seven (7) days of such submission provide a copy of the draft management contract to the State. Upon NIGC approval of such management contract, the Band shall within seven (7) days of the execution of such management contract provide the State with a copy of the executed management contract.

(K) All accounting and financial activities for Class III gaming under this Compact shall conform to industry standards and generally accepted accounting principles (GAAP). Accounting records shall be kept on a double entry system of accounting, maintaining detailed, supporting, subsidiary records. The Band shall maintain the following records for not less than three (3) years:

- (1) Revenues, expenses, assets, liabilities, and equity for the location at which Class III gaming is conducted;
- (2) Daily cash transactions for each Class III gaming activity at each Class III gaming operation, including but not limited to transactions relating to each gaming table bank, game drop box, and gaming room bank;
- (3) All markers, IOUs, returned checks, hold checks, or other similar credit instruments;
- (4) 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;
- (5) Contracts, correspondence, and other transaction documents relating to all vendors and contractors;
- (6) Records of all gaming enforcement activities;

- (7) Audits prepared by or on behalf of the Band; and
- (8) Personnel information on all Gaming Officials and Employees, including rotation sheets, hours worked, employee profiles, and background checks.

(L) No person under the age of 21 may participate in any Class III game.

(M) The Band shall not conduct any Class III gaming within the State outside of the South Bend Site under this Compact. This prohibition includes accepting any wagers initiated on any internet or mobile platforms from patrons who are not physically present on the South Bend Site at the time the wager is initiated.

(N) The rules of each Class III card and table game shall be posted in a prominent place in proximity to the locations where such games are played and must designate:

- (1) The maximum rake-off percentage, time buy-in, or other fee charged;
- (2) The number of raises allowed;
- (3) The monetary limit of each raise;
- (4) The amount of ante; and
- (5) Other rules as may be necessary.

(O) Upon the request of the State, the Band shall within thirty (30) days of such request provide to the State copies of its eligibility determination and investigative reports on any and all Gaming Officials and Employees required to be licensed under 25 C.F.R. Part 556, the Band's Gaming Regulatory Act, or this Compact to allow the State to make an independent determination as to the suitability of these individuals, consistent with the standards set forth in subsection 4(I) herein. The Band shall not license any person as a Gaming Official or Employee if that person has been denied a license or had a license revoked by the Indiana Gaming Commission and such person remains ineligible for a license from the Indiana Gaming Commission.

(P) The regulatory requirements set forth in this Section of this Compact shall be administered and enforced as follows:

- (1) The Band shall have sole responsibility to administer and enforce the regulatory requirements set forth in this Compact.
- (2) A representative authorized in writing by the Governor of the State or his or her designee shall have the following right to inspect all

Gaming Facilities and all records related to Class III gaming under this Compact, including those records set forth in subsection 4(K) herein, subject to the following conditions:

- (a) With respect to public areas, at any time without prior notice;
- (b) With respect to private areas not accessible to the public, at any time during normal business hours, with twelve (12) hours prior written notice; and
- (c) With respect to inspection and copying of all records relating to Class III gaming, with forty-eight (48) hours prior written notice, not including weekends.

If the Band's Certificate of Self-Regulation is revoked, then the State may inspect the Band's Class III gaming operations at any time without prior notice. The State's right to inspect the Band's Class III gaming operations under this subsection in such manner will become effective immediately on the date the Certificate of Self-Regulation is revoked notwithstanding any appeal of such revocation the Band may pursue pursuant to 25 U.S.C. § 2714. The State's right under this subsection to conduct inspections of the Band's Class III gaming operations without advance notice shall cease to be effective immediately on the date that the NIGC re-issues a Certificate of Self-Regulation to the Band.

(Q) Confidentiality.

- (1) Except as expressly allowed by the exceptions defined below, and subject to Indiana law, the State agrees to maintain in confidence and to never disclose to any third party any Confidential Information provided to the State by the Band or prepared by the State through its access to such Confidential Information under the terms of this Compact. The State, including without limitation any State official, employee, agency, or entity that has received any such Confidential Information from the Band shall: (i) maintain all such Confidential Information in a secure place accessible only to authorized State officials and employees, and (ii) adopt procedures and regulations to protect the Confidential Information from unauthorized disclosure without the prior approval of a duly authorized representative of the Band. Nothing contained in this subsection 4(Q) shall be construed to prohibit:
 - (a) The furnishing of any information to a law enforcement or regulatory agency of the Federal or State government or to the State government pursuant to a lawful request of such agency

or government;

- (b) The State from making known the names of persons engaged in the conduct of Class III gaming activities pursuant to the terms of this Compact, the locations at which Class III gaming activities are conducted, or the dates on which such activities are conducted pursuant to the terms of this Compact;
- (c) Publishing the terms of this Compact;
- (d) Disclosing information as necessary to audit, investigate, prosecute, or arbitrate suspected violations of this Compact, subject to all limitations in this Compact;
- (e) Complying with any law, subpoena, or court order, provided that the State first notifies the Band of any request or demand for the release of Confidential Information under this subsection 4(Q) in order to provide the Band an opportunity to challenge such request or demand or to initiate proceedings under Section 7 of this Compact or other applicable law to resolve any dispute regarding the State's anticipated disclosure of such Confidential Information.

- (2) Notwithstanding the foregoing, the Band agrees that the State may disclose the following documents and information to the public: the Pokagon Band Gaming Regulatory Act and the Pokagon Band Gaming Regulations; final rulings of the Pokagon Band Gaming Commission except to the extent that such rulings are subject to a confidentiality order; other information and documents of the Pokagon Band Gaming Commission and the Band's Class III gaming operations that have been made available to the public; the amount of annual revenue sharing payments to the State pursuant to Section 17; and correspondence between the Band or a Band entity and the State or a State entity, unless such correspondence is specifically marked or labeled "Confidential".

(R) Semi-Annual Reimbursement Payments to the State for Compact Oversight Costs.

- (1) The Band shall make semi-annual reimbursement payments ("Reimbursement Payments") for the Class III gaming operations at the South Bend Site in the amount of \$50,000 or 0.05% of the semi-annual Net Win, whichever amount is greater, to the Indiana Gaming Commission, or to its successor as determined by law, to be applied by the State toward the costs it incurs in carrying out functions authorized by the terms of this Compact.

- (2) If the Band's Certificate of Self-Regulation is revoked, then the Band shall cease to be responsible for the Reimbursement Payments required under subsection 4(R)(1) and shall thereafter be responsible for reimbursing the State for the actual costs incurred by the Indiana Gaming Commission, or its successor as determined by law, in carrying out Compliance Oversight functions authorized by the terms of this Compact, provided that the total amount of each such Reimbursement Payment under this subsection 4(R)(2) shall be capped at 0.3% of the semi-annual Net Win. The Band's obligation to reimburse the State for the Indiana Gaming Commission's actual oversight costs shall be effective immediately on the date the Certificate of Self-Regulation is revoked notwithstanding any appeal of such revocation the Band may pursue pursuant to 25 U.S.C. § 2714. The Band's obligation to reimburse the State for the actual oversight costs incurred by the Indiana Gaming Commission shall cease to be effective immediately on the date that the NIGC re-issues a Certificate of Self-Regulation to the Band and thereafter the Band shall be responsible for the Reimbursement Payment due under subsection 4(R)(1).
- (3) The Reimbursement Payments owed under subsection 4(R)(1) or subsection 4(R)(2) shall be based on a six-month payment period that commences on August 1 and February 1, respectively, of each year (each six-month payment period is referred to as a "Reimbursement Period"). Any payment due and owing for that Reimbursement Period shall be made within sixty (60) days after the end of that Reimbursement Period. A payment required under subsection 4(R)(1) that ceases to be owed under the terms of subsection 4(R)(2) shall be prorated for a partial Reimbursement Period and the payment obligations under subsection 4(R)(2) shall thereafter apply to the remaining portion of the Reimbursement Period.

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

(T) The Band shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. § 5311 *et seq.*, as amended.

(U) The Band shall conduct its Class III gaming authorized under this Compact pursuant to an internal control system that implements minimum internal control standards for Class III gaming that are no less stringent than the applicable Minimum Internal Control Standards set forth in this Compact and NIGC regulations. If the Band's Certificate of Self-Regulation is revoked, thereafter the

Band shall be required to provide a copy of any amendment to its internal control standards to the Indiana Gaming Commission within thirty (30) days of the effective date of such amendment under Band law. If the Indiana Gaming Commission determines that such standards fail to meet the Minimum Internal Control Standards of this Compact or applicable NIGC regulations, the Indiana Gaming Commission shall within thirty (30) days of receiving such amendments, provide the Band with a written notice that specifically identifies the Band internal control standard at issue and the applicable standard under this Compact or NIGC regulations, and, as warranted, an explanation of the reasons underlying the State's determination. Within thirty (30) days of receiving such notice from the State, the Band shall provide a written response to the State that either (i) refutes the State's determination or (ii) identifies proposed amendments to the Band's internal control standards to correct the inconsistency, the timeframe for adopting such amendments, and any proposed interim compliance measures to ensure compliance with this compact and NIGC regulations. The State's right to such Compliance Oversight of the Band's internal control systems shall become effective immediately on the date the Certificate of Self-Regulation is revoked notwithstanding any appeal of such revocation the Band may pursue pursuant to 25 U.S.C. § 2714. The State's right to such Compliance Oversight of the Band's internal control system shall cease to be effective immediately on the date that the NIGC re-issues a Certificate of Self-Regulation to the Band. The State retains the right, however, to ensure compliance with this subsection in accordance with subsection 4(P) regardless of the status of the Band's Certificate of Self-Regulation.

(V) In furtherance of this Section, the Band shall notify the State immediately in writing if the Band's Certificate of Self-Regulation is revoked. The Band shall also notify the State (i) within three (3) business days of any material changes in circumstances that create a duty to advise the NIGC under 25 C.F.R. § 518.11, and (ii) within one (1) business day upon receipt of a notice from the NIGC advising the Band of the NIGC's intent to revoke the Band's Certificate of Self-Regulation.

SECTION 5. Employee Benefits.

The Band shall provide to any employee whose job duties involve the conduct of Class III gaming at any Gaming Facility pursuant to this Compact, benefits that are substantially equivalent to the benefits to which the employee would be entitled by virtue of the Indiana Employment Security Act, (Indiana P.L. 21-1995, Sec. 61, as amended, IC 22-4-1 et seq.), and the Indiana Worker's Compensation Act, (Indiana P.L. 144-1986, Sec. 21, as amended, IC 22-3-1-1 et seq.) if his or her employment services were provided to an employer engaged in a business enterprise which is subject to, and covered by, the respective Public Acts. The Band shall, or shall require that its insurance carrier provide written notice to the Worker's Compensation Board of Indiana in accordance with the requirements of IC 22-3-4-13 regarding any

employee described in this Section 5, which notice shall include information that is substantially equivalent to the information requested on State Form 34401, First Report of Employee Injury, Illness. Nothing in this Section 5 shall be construed as subjecting the Band to the procedural and administrative processes of Indiana law or to the authority or jurisdiction of Indiana administrative bodies, tribunals, or judicial forums.

SECTION 6. Providers of Class III Gaming Equipment or Supplies.

(A) No Class III games of chance, gaming equipment, or gaming supplies may be purchased, leased, or otherwise acquired by the Band unless the Class III games, equipment, or supplies meet the technical equipment standards of the State of Indiana, State of Nevada, or the State of New Jersey.

(B) Prior to entering into any lease or purchase agreement for Class III games of chance, gaming equipment, or gaming supplies, the Band 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 Pokagon Band Gaming Commission to conduct a background check on those persons. The Band shall not enter into any lease or purchase agreement for Class III games of chance, gaming equipment, or gaming supplies with any person or entity if the lessor or seller, or any manager or person holding direct or indirect financial interest in the lessor or seller or the proposed lease/purchase agreement, is determined to have participated in or have involvement with organized crime or has been convicted of or entered a plea of guilty or no contest to a gambling-related offense, or Fraud or Misrepresentation, or has been convicted of or entered a plea of guilty or no contest to any other felony offense within the immediately preceding five years, unless that person has been pardoned. The Band shall also not enter into any lease or purchase agreement for Class III games of chance, gaming equipment, or gaming supplies unless the seller or lessor is licensed by the Pokagon Band Gaming Commission.

(C) The seller, lessor, manufacturer, or distributor shall provide, assemble, and install all Class III games of chance, gaming equipment, and gaming supplies in a manner approved and licensed by the Pokagon Band Gaming Commission. The Band shall not enter into any lease or purchase agreement for Class III games of chance, gaming equipment, supplies unless the seller, lessor, manufacturer, or distributor is licensed by the Pokagon Band Gaming Commission.

(D) Any testing of Class III games of chance, gaming equipment, and gaming supplies shall be conducted by an independent testing laboratory that has been certified for compliance with applicable International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) standards for technical competence by an (ISO/IEC) accreditation body that is a signatory to the

International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), or the substantially equivalent successor arrangement. The approval of such Class III games of chance, gaming equipment, and gaming supplies in accordance with applicable standards shall be subject to the exclusive regulatory authority of the Pokagon Band Gaming Commission.

SECTION 7. Dispute Resolution.

(A) In the event that either party to this Compact believes that the other party has failed to comply with the requirements of this Compact or has otherwise breached any provision of this Compact, or in the event of any dispute hereunder, including but not limited to a dispute over the proper interpretation of the terms and conditions of this Compact, such party may invoke the dispute resolution procedures set forth in this Section 7.

(B) Informal Dispute Resolution. The party asserting noncompliance or seeking an interpretation of any provision of this Compact shall serve written notice on the other party. The notice shall identify the specific Compact provision alleged to have been violated or in dispute and shall specify in detail the asserting party's contention and any factual and legal basis for the claim or dispute. Representatives of the State and the Band shall meet within thirty (30) calendar days of receipt of the notice in an effort to resolve the claim or dispute, unless the parties mutually agree to extend this period.

(C) Federal Court Jurisdiction. In the event that the Band and the State are unable to resolve a claim or dispute through the process specified in subsection 7(B) within ninety (90) days after service of the required notice in subsection 7(B), the party asserting noncompliance or seeking an interpretation of any provision of this Compact may pursue resolution through an action brought in a United States District Court ("federal court"). In order to effectuate this subsection 7(C), and in the exercise of its sovereignty, the Band expressly and irrevocably waives its sovereign immunity in connection with any action brought in a federal court to resolve any claim or dispute under this Compact. In order to effectuate this subsection 7(C), and in the exercise of its sovereignty, the State expressly and irrevocably waives its sovereign immunity in connection with any action brought in a federal court to resolve any claim or dispute under this Compact, provided that the State's waiver of its sovereign immunity under this subsection 7(C) shall not extend to any claim or dispute related to the State's consideration of a renewal term or negotiation of a successor compact under Section 12 or to its consideration of a proposed amendment to this Compact under Section 16.

(D) Binding Arbitration. In the event that the Band and the State are unable to resolve a claim or dispute through the process specified in subsection 7(B) within ninety (90) days after service of the required notice in subsection 7(B), the

Band and the State may by mutual written consent as to such claim or dispute, agree to pursue resolution of the claim or dispute through binding arbitration. The party asserting noncompliance or seeking an interpretation of any provision of this Compact may, upon first obtaining such mutual written consent, pursue resolution through binding arbitration. Any arbitration under this authority shall be conducted under the Commercial Arbitration Rules of the American Arbitration Association (“Rules”) except that the arbitrators shall be attorneys who are licensed members of the Indiana State Bar, the State Bar of Michigan, or the bar of another state, in good standing, and shall be selected by the State appointing one arbitrator, the Band appointing a second arbitrator, and the two so appointed shall select a third arbitrator who shall serve as the chair. If the third arbitrator is not chosen in this manner within ten (10) days after the second arbitrator is appointed, the third arbitrator shall be selected in accordance with the Rules. The Band and the State shall each bear their own costs of arbitration and attorney fees and shall equally share the administrative cost and fees for the arbitration services. In order to effectuate this subsection 7(D), and in the exercise of its sovereignty, the Band expressly and irrevocably waives its sovereign immunity in connection with the arbitrator’s jurisdiction and in any action brought in a federal court to: (1) enforce the Band’s obligation to arbitrate, (2) enforce or confirm any arbitral award rendered in the arbitration, or (3) enforce or execute a judgment based upon the award. In order to effectuate this subsection 7(D), and in the exercise of its sovereignty, the State expressly and irrevocably waives its sovereign immunity in connection with the arbitrator’s jurisdiction and in any action brought in a federal court to: (1) enforce the State’s obligation to arbitrate, (2) enforce or confirm any arbitral award rendered in the arbitration, or (3) enforce or execute a judgment based upon the award.

(E) Nothing in Section 7 shall be construed to waive, limit, or restrict any remedy which is otherwise available to either party to enforce or resolve disputes concerning the provisions of this Compact. The Band and the State agree that neither party shall be entitled to assert as part of a defense or response to any dispute resolution procedure under this Section 7 that there was a failure to first exhaust all administrative remedies or to first exhaust all Band remedies. Except as expressly stated otherwise, nothing in this Compact shall be deemed a waiver of the Band’s sovereign immunity. Except as expressly stated otherwise, nothing in this Compact shall be deemed a waiver of the State’s sovereign immunity.

SECTION 8. Notice to Patrons.

In each of its Class III gaming facilities on the South Bend Site, the Band shall post in a prominent location a notice to patrons at least two (2) feet by three (3) feet in dimension with the following language:

NOTICE

**THIS FACILITY IS REGULATED BY ONE OR MORE OF THE
FOLLOWING: THE NATIONAL INDIAN GAMING COMMISSION,
BUREAU OF INDIAN AFFAIRS OF THE U.S. DEPARTMENT
OF THE INTERIOR, AND THE GOVERNMENT OF THE POKAGON
BAND OF POTAWATOMI INDIANS**

THIS FACILITY IS NOT REGULATED BY THE STATE OF INDIANA

SECTION 9. Infrastructure and Site Improvements.

(A) Infrastructure Serving Class III Gaming on the South Bend Site. To the extent that the Band determines that it is not feasible and desirable to extend existing Band infrastructure or develop new Band infrastructure to provide water, sewer, or other essential utility services to the South Bend Site in order to provide for the safe and sanitary operation of a Gaming Facility on such site, the Band shall arrange for such services to the site through public or private providers on such terms and at such costs as would apply to other similar customers under applicable law.

(B) Site Improvements. In the development and operation of any Gaming Facility, the Band shall maintain compliance with IGRA § 2710(b)(2)(E) to ensure that the construction and maintenance of such Gaming Facility and its operation is conducted in a manner that adequately protects public health and safety and the environment. With respect to all improvements on the South Bend Site, the Band shall maintain legal standards that are at least as rigorous as corresponding Indiana laws pertaining to such site improvements, including but not limited to construction and safety standards for Class 1 structures in applicable model codes of the International Code Council or the National Fire Protection Association, as adopted and amended by the State. With respect to infrastructure and improvements to the South Bend Site, in addition to the Band's obligation to comply with the Band's Health And Safety Act and other Band law, the Band shall comply with the following laws: (i) applicable federal environmental laws and their implementing regulations, including without limitation the Endangered Species Act, the Clean Water Act, the Clean Air Act, and the National Indian Forest Resources Management Act; and (ii) with regard to any State regulated wetlands, the compensatory mitigation standards and requirements under IC 13-18-22. Prior to undertaking improvements to the South Bend Site that may implicate the foregoing federal and Indiana environmental laws, the Band agrees to coordinate with the Indiana Department of Environmental Management to ensure Band compliance with such laws.

SECTION 10. Parity.

(A) Tax Parity. Nothing in this Compact shall be deemed to authorize the

State to impose any tax, fee, charge, or assessment upon the Band or any Band gaming operation or Gaming Facility except for the reimbursement of expenses expressly authorized pursuant to this Compact. To the extent that the Band is required under federal law, however, to withhold federal income tax from the gaming winnings of non-tribal patrons, the Band agrees to withhold State individual income tax from gaming winnings of non-tribal patrons in the amounts set forth in applicable Indiana law. The Band shall maintain as enacted Band law Band taxes on retail sales, food and beverage service, and hotel occupancy, which taxes shall be in an amount that is equal to or greater than any corresponding State and local taxes which would be applicable to the Band's Class III gaming operation if it were not located on the South Bend Site. The Band shall remit amounts withheld for State individual income tax together with Indiana Department of Revenue Form WH-1 to the Indiana Department of Revenue. The Band shall also annually submit in accordance with due date under Indiana law Indiana Department of Revenue Form WH-3 to the Indiana Department of Revenue in order to reconcile the total amounts remitted and submitted on Form WH-1 and the details of the amounts withheld per individual.

(B) Minority and Women-Owned Businesses. The Band agrees that it shall make a good faith effort to utilize certified minority and women-owned businesses in an amount that is consistent with the most recent disparity study conducted by the Indiana Gaming Commission under IC 4-33-14-5(b) and IC 4-35-11-6(b).

(C) Child Support Withholdings. If the Band is required to file Form W-2G or a substantially equivalent form with the United States Internal Revenue Service for a person who is a resident of the State and has been identified through information supplied to the Band by the Child Support Bureau of the Department of Child Services established by IC 31-25-3-1 (the "Bureau") as delinquent in child support, before payment of cash winnings to the person, the Band:

- (1) May deduct and retain an administrative fee in the amount of the lesser of: (a) three percent (3%) of the amount of delinquent child support withheld under subsection 10(C)(2)(a); or (b) one hundred dollars (\$100); and
- (2) Shall (a) withhold the amount of delinquent child support owed from the cash winnings; (b) transmit to the Bureau: (i) the amount withheld for delinquent child support; and (ii) identifying information, including the full name, address, and Social Security Number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the Band and the South Bend Site; and (c) issue the obligor a receipt in a form prescribed by the Bureau with the total amount withheld for delinquent child support and the administrative fee.

The Bureau shall as soon as practicable provide information to the Band concerning persons who are delinquent in child support.

(D) **Emergency Plan.** The Band shall within thirty (30) days of the Effective Date submit to the State an emergency operation plan as defined in Section 2.05 of the Pokagon Band Health and Safety Act (an emergency response plan as defined in 68 IAC 8-2). The Band shall within sixty (60) days of the end of each Payment Period notify the State whether there have been any amendments to its emergency operation plan and, if so, provide a copy of the amended plan to the State. This requirement is intended to facilitate cooperation between the State and the Band regarding their mutual interest and responsibility to ensure public safety and coordinate their efforts in the event of a public emergency response at a Gaming Facility. The Band's emergency operation plan shall comply with the minimum standards and requirements set forth in 68 IAC 8-2. This provision shall not be construed as requiring compliance with the procedural requirements of 68 IAC 8-2 and shall not be construed as subjecting the Band to State jurisdiction.

(E) **Political donations.** Any Band elected official, any entity controlled or owned by the Band that operates a Gaming Facility, or any officer of such entity may not make a contribution (as defined in IC 3-5-2-15) to a candidate or a committee during the following periods: (1) the duration of this Compact; and (2) the three (3) years following the final expiration or termination of this Compact. The following definitions apply for purposes of this subsection. A "candidate" means a candidate for a state office, a candidate for a legislative office, or a candidate for a local office. A "committee" means a candidate's committee, a regular party committee, a committee organized by a legislative caucus of the house of the general assembly, or a committee organized by a legislative caucus of the senate of the general assembly.

(F) **Voluntary Exclusion Program.** The Band shall make all reasonable attempts to cease all direct marketing efforts to a person participating in the voluntary exclusion program established under IC 4-33-4-3 and to eject such person found within the Gaming Facility. The Band also shall make all reasonable efforts to avoid cashing the check or extending credit of any person at the Gaming Facility who is participating in the voluntary exclusion program. The Indiana Gaming Commission shall provide the Band with information necessary to ensure compliance with this subsection. The Band agrees to strictly maintain the confidentiality of participants in the program consistent with the standards under applicable Indiana law.

(G) **IGC Exclusion List.** The Band shall eject or exclude a person from its Gaming Facility authorized under this Compact if that person is placed on the Indiana Gaming Commission's Exclusion List pursuant to IC 4-33-4-7. The Indiana Gaming Commission shall as soon as practicable provide the Band with information necessary to ensure compliance with this subsection. The Band shall as soon as practicable provide to the State a list of any persons ejected or excluded from any

Band facility where Class III gaming is authorized pursuant to Band law.

(H) Notwithstanding IC 7.1-5-5-7, the Band, upon approval by the Indiana Alcohol and Tobacco Commission, may provide alcohol to its guests at less than cost or without charge at an event at its Gaming Facility in conformity with IC 7.1-3-17.5-6.

SECTION 11. Effective Date.

This Compact shall be effective immediately upon:

(A) Endorsement by the Tribal Chairperson and Tribal Secretary and concurrence in that endorsement by resolution of the Tribal Council;

(B) Endorsement by the Governor of the State and ratification by the State General Assembly as required by Indiana law;

(C) Approval by the Secretary of the Interior of the United States; and

(D) Publication in the Federal Register.

SECTION 12. Binding Effect, Duration, and Severability.

(A) This Compact shall be binding upon the State and the Band for an initial term of twenty (20) years (the “Initial Term”) from the Effective Date unless amended in accordance with Section 16 of this Compact or terminated by written agreement of both parties.

(B) Upon completion of the Initial Term, this Compact shall renew for an additional ten (10) year term (a “Renewal Term”) if, at least 365 days prior to the expiration of the Initial Term, the Band serves written notice on the State requesting that the Compact be renewed for a Renewal Term, *unless* at least 365 days prior to the expiration of the Initial Term, the General Assembly of the State, by concurrent resolution, rejects the renewal of this Compact for the Renewal Term.

(C) Upon completion of a Renewal Term, as applicable, this Compact shall renew for an additional Renewal Term if, at least 365 days prior to the expiration of the Renewal Term then in effect, the Band serves written notice on the State requesting that the Compact be renewed for an additional Renewal Term, *unless* at least 365 days prior to the expiration of the Renewal Term then in effect, the General Assembly of the State, by concurrent resolution, rejects the renewal of this Compact for the additional Renewal Term.

(D) If the General Assembly of the State rejects the renewal of this Compact for a Renewal Term under subsection 12(B) or subsection 12(C), the Band may

request to negotiate a successor compact by serving written notice on the State prior to the expiration of the Initial Term or the Renewal Term then in effect. In the event that the Band serves written notice on the State under this subsection and the parties are unable to conclude a successor compact prior to the expiration of the Initial Term or Renewal Term then in effect, then this Compact shall remain in effect pending exhaustion of the administrative and judicial remedies set forth in IGRA, provided that in the event that the State raises the defense of sovereign immunity in the administrative or judicial proceedings, this Compact shall remain in effect pending the negotiation and approval of any successor compact.

(E) The Band may operate Class III gaming only while this Compact is in effect during the Initial Term, a Renewal Term, while any successor or amended Compact is in effect, and for the duration of any period that this Compact remains in effect pursuant to subsections 12(D).

(F) Notwithstanding anything to the contrary in this Section, following the expiration of the Initial Term or the last Renewal Term, any successor or amended Compact, or any extension of the Compact pursuant to subsection 12(D), this Compact shall remain in effect for a period of two years (the "Limited Dispute Period") only for the specific and limited purposes of resolving any claims or disputes pursuant to Section 7 of this Compact, including any obligations arising under Section 17.

(G) In the event that any Section or provision of this Compact is disapproved by the Secretary of the Interior of the United States or is held invalid by any court of competent jurisdiction, it is the intent of the parties that the remaining Sections or provisions of this Compact, and any amendments thereto, shall continue in full force and effect. This severability provision does not apply to Section 17 of this Compact.

SECTION 13. Notice to Parties.

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

Notice to the Band shall be sent to:

Tribal Chairperson
Pokagon Band of Potawatomi Indians
58620 Sink Road
Dowagiac, MI 49047

Notice to the State shall be sent to:

Office of the Governor
Indiana Statehouse
200 W. Washington Street
Indianapolis, Indiana 46204-2797

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.

SECTION 14. Entire Agreement.

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 amendment that meets the requirements of Section 16.

SECTION 15. Filing of Compact with the Indiana Secretary of State.

Following publication of this Compact in the Federal Register, the Governor shall file a certified copy of the Compact with the Indiana Secretary of State and shall transmit a copy to the State General Assembly and the Indiana Attorney General.

SECTION 16. Amendments.

This Compact may be amended by mutual agreement between the Band and the State as follows:

(A) The Band or the State may propose amendments to the Compact by providing the other party with notice of the proposed amendment as follows:

- (1) The Band shall propose amendments pursuant to the notice provisions of this Compact by submitting the proposed amendments to the Governor who shall act for the State pursuant to the authority delegated under IC 4-29.
- (2) The State, acting through the Governor, shall propose amendments by submitting the proposed amendments to the Band pursuant to

the notice provisions of this Compact.

(B) The party receiving the proposed amendment shall advise the requesting party within forty-five (45) days as follows:

- (1) That the receiving party agrees to the proposed amendment; or
- (2) That the receiving party rejects the proposed amendment as submitted and agrees to meet concerning the subject of the proposed amendment.

(C) The Governor shall submit any amendment agreed to between the parties to the State General Assembly for ratification as required by Indiana law.

(D) Upon ratification by the State General Assembly, the Band shall submit the amendment to the Secretary of the Interior for approval pursuant to the provisions of IGRA.

(E) Upon the effective date of the amendment, the Governor shall file a certified copy with the Indiana Secretary of State and transmit a copy to the State General Assembly and the Indiana Attorney General.

SECTION 17. Payments to the State in Exchange for Market Exclusivity.

(A) Notwithstanding IGRA's express prohibition against state taxation of tribal gaming activities, revenue-sharing payments from tribal gaming to a state may be considered lawful under IGRA when such payments are bargained for in exchange for meaningful concessions from the state, i.e., quantifiable economic benefits over which the state is not required to negotiate under IGRA, such as substantial exclusive rights to engage in Class III gaming activities. Accordingly, and as consideration for the revenue sharing payments required under subsection 17(B), the State agrees that the Band's right to conduct Class III gaming on the South Bend Site under Section 3 shall be exclusive of any "Expanded Gaming" within the "Exclusivity Area", which is comprised of the Indiana counties of Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Miami, Noble, Porter, Pulaski, St. Joseph, Starke, Wabash, and Whitley. For purposes of this paragraph, Expanded Gaming means, within the Exclusivity Area and as of the Endorsement Date, (i) the licensure of any Gambling Operation as defined in subsection 2(L)(1) if that licensure would result in a greater number of Gambling Operations within the Exclusivity Area, would permit a Gambling Operation that holds a license as of the Endorsement Date to relocate to a new licensed location within the Exclusivity Area (other than the relocation from a dock site to property adjacent to the dock site, as permitted by Indiana Code 4-33-6-24), or would permit a Gambling Operation that does not hold a license for a location within the Exclusivity Area as of the Endorsement Date to locate to a new licensed location within the Exclusivity Area;

or (ii) the licensure of any Gambling Operation as defined in subsection 2(L)(2) for a location within the Exclusivity Area. Subject to the foregoing limitations regarding Gambling Operations within the Exclusivity Area, the term Expanded Gaming shall not include (i) any new gaming facility or any expansion of an existing gaming facility in which the Band has the “sole proprietary interest”, as that term is defined at IGRA § 2710(b)(2)(A) and 25 C.F.R. § 522.4(b)(1); (ii) any new game operated by the Band at such facilities under this Compact or under any successor compact; (iii) any new game operated at a Gambling Operation that holds a license as of the Endorsement Date; (iv) any new game operated by the Indiana State Lottery pursuant to IC 4-30; or (v) any new game operated by a “qualified organization” as defined in IC 4-32.3-2-31, (vi) any new game operated by a satellite facility licensed under IC 4-31-5, or (vii) any new game operated by a retailer endorsement or license under IC 4-36-4.

(B) As consideration for the meaningful concessions from the State described in subsection 17(A) and provided that the State is not in breach of its obligations regarding Expanded Gaming in the Exclusivity Area, the Band shall make annual payments to the State of eight percent (8%) of the Net Win at its South Bend Site Class III Gaming Facility. In the event that the State breaches its obligations regarding Expanded Gaming in the Exclusivity Area, the Band’s obligation to make the annual payment to the State described in this subsection 17(B) shall immediately cease as of the date of the breach.

(C) In the event that the Band continues to conduct Class II gaming at its South Bend Site Gaming Facility after the Effective Date of this Compact, beginning with the second full Payment Period the total amount of the Band’s payment of Net Win to the State due under subsection 17(B) shall be in an amount that is not less than:

- (1) the total Net Win from all Class III Electronic Games of Chance;
- (2) divided by the total number of such Class III Electronic Games of Chance
- (3) multiplied by eighty-five percent (85%) of the total number of all electronic Class II gaming devices and all Class III Electronic Games of Chance in operation on the last day of the Payment Period; and
- (4) multiplied by the applicable percentage of Net Win due under subsection 17(B).

(D) All annual payments made by the Band to the State under subsection 17(B) shall be based on a full Payment Period, provided that the first payment under this provision may be for a period of less than a full Payment Period beginning on the day that Class III gaming commences on the South Bend Site and through July 31 immediately subsequent thereto. Payments for each Payment Period shall be made within sixty (60) days of the end of that Payment Period.

(E) Funds received by the State under this Section 17 shall be expended at the direction of the Indiana State Budget Director, subject to appropriation by the Indiana General Assembly. It is the intent of the State and the Band that the funds be used in the following program areas: (i) education, (ii) economic and workforce development, (iii) tourism promotion, and (iv) public health.

(F) In addition, from the total amount of each annual payment due to the State under subsection 17(B), the Band shall reduce such amount by up to \$1,000,000 as provided in Section 18.

(G) The Band shall file an annual report with the State, coinciding with the remittance of the payment due under subsection 17(B), that includes the following information:

- (1) calculations and supporting data for the Band's determination of the Net Win payment under subsection 17(B), and specifically denoting the revenues from all Electronic Games of Chance;
- (2) calculations and supporting data for the Band's determination of the amount of any additional payment that may be owed under subsection 17(C); and
- (3) the amount and use of the scholarship funds set aside under subsection 17(E).

SECTION 18. Pokagon Indiana Education Fund

(A) For so long as the Band makes payments in accordance with Section 17, the Band shall allocate a portion of the annual payment to provide funding for public postsecondary and vocational education for Band citizens (the "Pokagon Indiana Education Fund").

(B) The Pokagon Indiana Education Fund shall be used solely to make payments directly to Indiana public institutions of higher learning or workforce development and training programs approved by the Indiana Department of Workforce Development for eligible Band citizens for direct costs and expenses, such as tuition, on-campus room and board, and other direct education expenses. To be eligible, a Band citizen must (i) be enrolled in the Band prior to benefiting from any payment, and (ii) meet the education or workforce provider admission requirements. Priority shall be given to Band citizens who are legal residents of the State of Indiana as of the date of their application for benefits.

(C) The Pokagon Indiana Education Fund shall be administered as follows:

- (1) The Pokagon Indiana Education Fund shall be established by the Band solely for the purposes set forth in this Section 18 and shall be maintained separate from all other Band (sovereign) funds. The Pokagon Indiana Education Fund shall be held in an interest-bearing account at a financial institution that is subject to Indiana law and located within the State of Indiana.
- (2) The Band shall arrange for an annual independent audit of the Pokagon Indiana Education Fund that includes a schedule of all payments and payees for the audit period with an attestation that the funds were used in compliance with this Section 18. The audit shall be delivered to the Indiana Department of Workforce Development, with courtesy copies to the Indiana Gaming Commission and the Indiana Native American Affairs Commission. The cost of the audit may be paid from the fund.

(D) Payments to the Pokagon Indiana Education Fund shall be made as follows:

- (1) An initial allocation of \$1,000,000 shall be made by the Band to the Pokagon Indiana Education Fund for the first full Payment Period from the Band's annual payment due under subsection 17(B).
- (2) In all subsequent years, the Band shall make an allocation to the Pokagon Indiana Education Fund from the Band's annual payment due under subsection 17(B) in an amount equal to \$1,000,000 less the balance of the Pokagon Indiana Education Fund as of the conclusion of the Payment Period just ended and adjusted by the amount of any payments that were determined to not be in compliance with this Section 18 according to the most recent annual audit.

SECTION 19. Band Payments to Local Units of Government.

The State and the Band recognize that IGRA § 2710(b)(2)(B) strictly limits the use of net revenues from tribal gaming, but expressly permits payments to, among other things, help fund operations of local government agencies. The State and the Band agree that the Band may, at its discretion and without any involvement by the State, make arrangements directly with the City to help fund operations of such local government agencies as the Band and the City may determine to be appropriate.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Chairperson and the Secretary acting for the Pokagon Band of Potawatomi Indians, Michigan and Indiana, and the Governor acting for the State of Indiana have hereunto set their hands and seals.

Date: 1/21/21
Pokagon Band of Potawatomi

By: Matthew Wesaw
Matthew Wesaw, Chairperson

By: Kelly Curran
Kelly Curran, Secretary

Date: 1-21-21
State of Indiana

By: Eric J. Holcomb
Eric J. Holcomb, Governor

Pokagon Band

Tribal Council Resolution No. 03-05-10-01

**(Designates position of Pokagon Band
Tribal Chairman as the Pokagon Band's
agent for service of any official NIGC
determination, order, or notice of
violation)**

05/13/2003 13:03 2697829625

TRIBAL COUNCIL

PAGE 05/06

POKAGON BAND OF POTAWATOMI INDIANS

TRIBAL COUNCIL

P.O. Box 180, 53237 Townhall Rd., Dowagiac, MI 49047

Telephone 616-782-6323 / FAX 616-782-9625

POKAGON BAND OF POTAWATOMI INDIANS

03-05-10-01

WHEREAS: The Pokagon Band of Potawatomi Indians of Indiana and Michigan is a Federally recognized Tribe, as reaffirmed under P.L. 103-323, enacted September 21, 1994; and

WHEREAS: The Band's By-Laws were the governing documents of the Band at the time P.L. 103-323 was approved, and continue as the Band's interim governing documents until a new constitution and bylaws are duly adopted by the Band; and

WHEREAS: In accordance with P.L. 103-323 and the By-Laws of the Pokagon Band, the Tribal Council is the governing body of the Band; and

WHEREAS: The Band has the inherent sovereign right to engage in gaming activities provided that those activities are not inconsistent with applicable law; and

WHEREAS: Article IV, Section 1 of the Pokagon Band By-Laws authorizes the Tribal Council to manage the "property, business, and affairs of the Pokagon Band" exercise "all such powers of the Pokagon Band as by law directed or required by the Pokagon Band to be exercised"; and

WHEREAS: The Band desires to engage in all Class I, Class II and Class III gaming as those terms are defined in the Indian Gaming Regulatory Act; and

WHEREAS: The Indian Gaming Regulatory Act requires that all Class II and Class III gaming activities be conducted pursuant to a tribal ordinance, which must be approved by the Chairman of the National Indian Gaming Commission; and

NOW, THEREFORE BE IT RESOLVED: that the Pokagon Band Tribal Council enacts the Pokagon Band of Potawatomi Indians Gaming Regulatory Act, a copy of which is attached hereto; and

BE IT FURTHER RESOLVED: that the Tribal Council directs the Chairman to submit the duly-enacted Gaming Regulatory Act to the Chairman of the National Indian Gaming Commission for approval; and

06/13/2003 13:03 2697829625

TRIBAL COUNCIL

PAGE 06/06

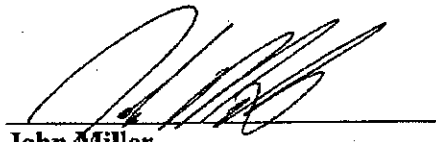
Page 2:

Pokagon Band of Potawatomi Indians

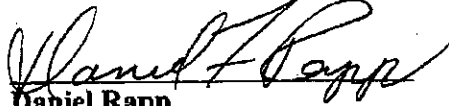
Resolution No. 03-05-10-01

BE IT FURTHER RESOLVED: that the Tribal Council designates the Chairman of the Pokagon Band Tribal Council as agent for the Band for purposes of receiving service of official notices and such other communications from the National Indian gaming Commission as from time to time may be necessary.

CERTIFICATION: We do hereby certify that the foregoing Resolution was presented and voted upon with a vote of 5 in favor, 3 opposed, 0 absent, and 2 abstaining at the Council meeting held on the 10th day of May, 2003.


John Miller

Tribal Council Chairman


Daniel Rapp

Tribal Council Secretary

Pokagon Band

Tribal Council Resolution No. 07-02-07-01

**(Reaffirms the prior designation of Tribal
Chairman as the Pokagon Band's agent)**

POKAGON BAND OF POTAWATOMI INDIANS

TRIBAL COUNCIL

P.O. Box 180, 58620 Sink Road, Dowagiac, MI 49047

Telephone 269-782-6323 / FAX 269-782-9625

POKAGON BAND OF POTAWATOMI INDIANS RES. NO. 07-02-07-01

WHEREAS: The Pokagon Band of Potawatomi Indians of Michigan and Indiana is a sovereign, federally-recognized Indian tribe, as reaffirmed under P.L. 103-323, enacted September 21, 1994; and

WHEREAS: The Pokagon Band is organized under a constitution, which was adopted on November 1, 2005 and became effective on December 16, 2005 ("Constitution"); and

WHEREAS: In accordance with P.L. 103-323 and pursuant to Article IX of the Constitution, the Tribal Council is the governing body of the Pokagon Band; and

WHEREAS: The Tribal Council is vested with the sovereign powers of the Band not inconsistent with any provision of the Constitution, including without limitation the enumerated powers to enact laws and to regulate gaming activities conducted within the Pokagon Band's jurisdiction as set forth in Article IX, subsections 1 (a), (c), (d), (e) and (h) and subsections 2 (a), (e), (j), (k) and (l) of the Constitution; and

WHEREAS: The Pokagon Band, acting through the Tribal Council, has inherent authority as a sovereign tribal nation to provide for the health, safety, and welfare of the Pokagon Band of Potawatomi Indians, which includes the authority to regulate all gaming activities conducted within the Pokagon Band's jurisdiction; and

WHEREAS: By Tribal Council Resolution No. 03-05-10-01, the Tribal Council enacted the Pokagon Band of Potawatomi Indians Gaming Regulatory Act ("Gaming Regulatory Act of 2003," as amended), which established a regulatory program governing all Class I, Class II, and Class III gaming within the Pokagon Band's jurisdiction, as those terms are defined in the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*); and

WHEREAS: By Tribal Council Resolution No. 03-10-11-12, the Tribal Council amended Section II and Section IX of the Gaming Regulatory Act of 2003; and

WHEREAS: By letter dated December 5, 2003, the National Indian Gaming Commission ("NIGC") notified the Pokagon Band that the NIGC had approved the Gaming Regulatory Act of 2003; and

WHEREAS: The Tribal Council has determined that substantial further development of several aspects of the Pokagon Band's gaming regulatory program is needed and, therefore, a comprehensive rewrite of the Gaming Regulatory Act of 2003 is warranted.

NOW, THEREFORE, BE IT RESOLVED: that the Tribal Council hereby enacts the Pokagon Band of Potawatomi Indians Gaming Regulatory Act attached hereto and made a part of the record of this Council session (hereafter the "Gaming Regulatory act of 2007").

AND BE IT FURTHER RESOLVED: that the Tribal Council directs the Tribal Chairman to submit the Gaming Regulatory Act of 2007 to the Chairman of the National Indian Gaming Commission for approval in accordance with the requirements of Section 11 of the Indian Gaming Regulatory Act (25 U.S.C. § 2710).

AND BE IT FURTHER RESOLVED: that the enactment of this Act and the repeal of the Gaming Regulatory Act of 2003 shall become effective upon the approval of the Gaming Regulatory Act of 2007 by the National Indian Gaming Commission.

AND BE IT FURTHER RESOLVED: that the Tribal Council directs the General Counsel and other Pokagon Band employees, agents and representatives involved in developing the Pokagon Band's gaming regulatory program to proceed immediately to establish the Pokagon Band Gaming Commission and to implement the Gaming Regulatory Act of 2007.

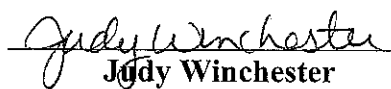
AND BE IT FURTHER RESOLVED: that the designation made in Tribal Council Resolution No. 03-05-10-01 of the Tribal Chairman as agent for the Pokagon Band in accordance with 25 C.F.R. § 519.1 and for the purposes stated therein is hereby reaffirmed.

CERTIFICATION

We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly convened Special meeting of the Tribal Council held on the 7th day of February, 2007 by a vote of 8 in favor, 0 opposed, 3 absent and 0 abstaining.



John Miller
Tribal Council Chairman



Judy Winchester
Tribal Council Secretary

Pokagon Band

Tribal Council Resolution No. 19-02-19-06

(which provides in the third from last resolution that the Pokagon Band Gaming Commission shall maintain and ensure compliance with 25 C.F.R. §§556.2(b) and 556.3(b))



**Pokégnek Bodéwadmik · Pokagon Band of Potawatomi
Tribal Council**

P.O. Box 180 • 58620 Sink Road • Dowagiac, MI 49047 • www.PokagonBand-nsn.gov
(269) 782-6323 • (888) 376-9988 toll free • (269) 782-9625 fax

**AMENDMENTS TO THE GAMING REGULATORY ACT TO THE CHAIRMAN OF THE NATIONAL
INDIAN GAMING COMMISSION (“NIGC”)**

TRIBAL COUNCIL

RESOLUTION No. 19-02-19-06

WHEREAS: The Pokagon Band of Potawatomi Indians of Michigan and Indiana is a sovereign, federally-recognized Indian tribe, as reaffirmed under P.L. 103-323, enacted September 21, 1994; and

WHEREAS: The Pokagon Band is organized under a constitution, which was adopted on November 1, 2005 and became effective on December 16, 2005 (“Constitution”); and

WHEREAS: In accordance with P.L. 103-323 and pursuant to Article IX of the Constitution, the Tribal Council is the governing body of the Pokagon Band; and

WHEREAS: The Tribal Council is vested with the sovereign powers of the Band not inconsistent with any provisions of the Constitution, including without limitation those enumerated powers set forth in Article IX, Section 2, of the Constitution; and

WHEREAS: By adoption of Tribal Council Resolution No. 07-02-07-01, the Tribal Council enacted the Pokagon Band of Potawatomi Indians Gaming Regulatory Act for the purpose of establishing a regulatory program governing all Class I, Class II, and Class III gaming within the Pokagon Band’s jurisdiction, as those terms are defined in the Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.); and

WHEREAS: By Tribal Council Resolution No. 07-05-12-04, the Tribal Council enacted certain technical amendments to the Gaming Regulatory Act; and

WHEREAS: By letter dated June 1, 2007, the National Indian Gaming Commission (“NIGC”) notified the Pokagon Band that pursuant to 25 U.S.C. § 2710 (b)(1)(B) the NIGC had approved the Gaming Regulatory Act, as amended; and

WHEREAS: By adoption of Tribal Council Resolution No. 18-12-17-02, the Tribal Council enacted technical amendments to Section 10.12 of the Gaming Regulatory Act to clarify the rights of ownership of unclaimed winnings upon satisfaction of best efforts requirements and expiration of the specified waiting period; and

WHEREAS: Amendments promulgated by the NIGC to Title 25 of the Code of Federal Regulations, Section 556 (effective June 22, 2015) and 558 (effective April 29, 2013) require compliance with those sections for all tribal gaming ordinances and ordinance amendments submitted to the NIGC Chair for approval on or after February 25, 2013.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council enacts the amendments to the Gaming Regulatory Act set forth in the attached version of the Gaming Regulatory Act with all language to be struck from the Act shown with a strikethrough and all language to be added to the Act shown with a double underline.

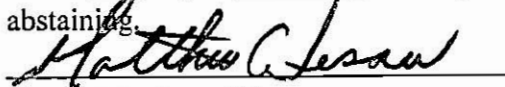
AND BE IT FURTHER RESOLVED that the Pokagon Band Gaming Commission shall maintain and ensure compliance with 25 C.F.R. §§ 556.2(b) and 556.3(b).

AND BE IT FURTHER RESOLVED that the Tribal Council directs the Tribal Chairman or Tribal Vice Chairman to arrange for the prompt submission of the amendments to the Gaming Regulatory Act to the Chairman of the National Indian Gaming Commission ("NIGC") for review and approval in accordance with the requirements of Section 11 of the Indian Gaming Regulatory Act (25 U.S.C. § 2710 et seq.).

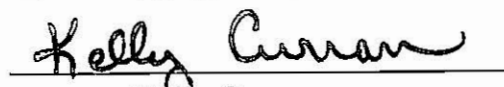
AND BE IT FURTHER RESOLVED that the Gaming Regulatory Act as approved by the NIGC by letter dated June 1, 2007 pursuant to 25 U.S.C. § 2710 (b)(1)(B) shall remain in full force and effect and the foregoing amendments shall only become effective as Pokagon Band law upon their approval by the NIGC.

CERTIFICATION

We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly convened Special meeting of the Tribal Council held on the 19th day of February 2019 by a vote of 7 in favor, 0 opposed, 7 absent, and 0 abstaining.



Matthew Wesaw
Tribal Council Chairman



Kelly Curran
Tribal Council Secretary