NATIONAL INDIAN GAMING COMMISSION

IN THE MATTER OF:

NOTICES OF VIOLATION TO THE SEMINOLE NATION OF OKLAHOMA, NOS. NOV-00-06 AND NOV-00-10;

TEMPORARY CLOSURE ORDERS TO THE SEMINOLE NATION OF OKLAHOMA, NOS. CO-06-01 AND CO-00-10;

NATIONAL INDIAN GAMING COMMISSION'S FINAL DECISION AND ORDER OF MAY 7, 2002;

CIVIL FINE ASSESSMENTS NOS. CFA-00-06 AND CFA-00-10; AND

PRE-OPENING AGREEMENT BETWEEN THE SEMINOLE NATION OF OKLAHOMA AND THE NATIONAL INDIAN GAMING COMMISSION, DATED DECEMBER 12, 2003.

AGREEMENT TO MODIFY THE CIVIL FINE ASSESSMENT PAYMENT SCHEDULE PENDING THE COMMISSION'S CONSIDERATION OF THE NATION'S PETITION FOR REDUCTION AND/OR MODIFICATION OF CIVIL FINE ASSESSMENT

This Agreement is entered into between the Seminole Nation of Oklahoma ("Nation"), through its duly authorized representatives, and the National Indian Gaming Commission ("NIGC" or "Commission"), in response to the Nation's Petition for Modification. The Parties agree that the Commission will reconsider the Nation's petition again after a period of eighteen (18) months in accordance with the terms and conditions set forth in this Agreement. The parties by their signatures below represent and agree that they have authority to execute this Agreement according to the terms and provisions set out herein.

Article I. Recitals

1. The Seminole Nation of Oklahoma (Nation) is a federally recognized tribe with its headquarters located in Seminole County, Oklahoma. The Seminole Nation Division of Commerce (SNDOC) is a duly created agency of the Nation that has been granted authority and responsibility by the General Council of the Nation to manage and operate the Nation's gaming activities under the provisions of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 et seq. The Nation agrees that SNDOC is the successor of interest to the Seminole Nation Development Authority (SNDA) and has assumed all responsibilities previously administered by the SNDA. The Seminole Nation Gaming Commission (SNGC) is a duly created agency of the Nation that has been granted authority and responsibility by the General Council of the Nation to regulate the gaming activities conducted by the SNDOC. For purposes of this Agreement, whenever the term "Nation" is used, it shall refer to the Seminole Nation of Oklahoma, and/or to the SNDOC and the SNGC, as appropriate. Agreement by the Nation to any provisions in this Agreement shall also be binding on the SNDOC, and its successors, if any, and/or the SNGC. The Nation, through the SNDOC, currently operates facilities at three locations where gaming activities occur: the Seminole Nation I-40 Travel Plaza/Mystic Wind, River Mist, and the gaming center at the Seminole Nation Trading Post in Wewoka.

2. The procedural history of this matter is set forth in detail in the Pre-opening Agreement entered into by and between the Seminole Nation of Oklahoma and

the NIGC, dated December 12, 2003 (hereinafter "Pre-opening Agreement"). *See* Pre-opening Agreement ¶ 2-13 (Dec. 12, 2003).

3. On June 3, 2003, the Commission issued a Decision and Order in which the Commission found that the Civil Fine Assessments Nos. CFA-00-06 and CFA-00-10 were appropriately issued. The Nation was ordered to pay a civil fine assessment of $11,376,000 to the U.S. Treasury. *See* Pre-opening Agreement ¶ 11 (Dec. 12, 2003).

4. On December 12, 2003, the Commission authorized the Nation to resume gaming activity pursuant to the Pre-opening Agreement, *See* Pre-opening Agreement ¶ 29 (Dec. 12, 2003). Under the terms of the Pre-opening Agreement, the Nation agreed to make civil fine payments to the U.S. Treasury on a quarterly basis, in the amount of twenty percent (20%) of its net gaming revenues until such time as the Civil Fine Assessment was satisfied, pending any future modification to the Civil Fine Assessment. *Id.*

5. On September 28, 2004, the Nation and the NIGC agreed to the First Modification to the Pre-Opening Agreement (First Modification) which permitted the Nation to offer additional Class II gaming machines. *See* First Modification to Pre-opening Agreement (Sep. 28, 2004).

6. On June 29, 2005, the Nation submitted a Petition for Civil Fine Reassessment or Waiver.

7. On October 12, 2005, the Commission reconsidered the civil fine assessment ordered in its June 3, 2003, Final Decision and Order to the Nation and agreed to in the Pre-opening Agreement. After reconsideration, the Commission upheld the

civil fine assessment and denied the Nation's request for a reduction and/or waiver.

8. On February 12, 2007, the Nation submitted a second petition for modification. The Nation requested that the civil fine assessment be reduced to the amount the Nation paid as of January 1, 2007. The Nation cited its immediate need for increased governmental revenue to fund services in specific Nation programs as the basis for its petition.

9. To date, the Nation has made civil fine payments in accordance with the Pre-opening Agreement. *See* Pre-opening Agreement ¶ 29 (December 12, 2003).

Article II. Statement of Purpose

10. Based upon the Nation's second petition for modification; the Commission's recognition of the Nation's payment history; the positive steps it has taken to enhance the regulatory capacity of the Seminole Nation Gaming Commission (SNGC); the significant improvement the Nation has demonstrated in the conduct of its gaming operations; and the Nation's immediate need for additional funding for important governmental services, subject to the Nation's compliance with the conditions detailed in paragraphs 11-33, the Commission agrees to modify the terms for payment of the civil fine as follows:

    a. The Nation agrees that it will abide with the terms and conditions of this Agreement.

    b. The Commission will adjust the payment schedule for the Nation's civil fine assessment by reducing the amount of the quarterly

payment from twenty percent (20%) of the Nation's net gaming revenues to ten percent (10%) of the Nation's net gaming revenues. [1]

c. Eighteen (18) months from the Effective Date, the Commission will reconsider the Nation's second petition for reduction and/or modification of the Nation's civil fine assessment taking into account the Nation's compliance with the terms and conditions herein. Thereafter, if the Nation's second petition for reduction and/or modification is denied, the Nation shall continue to make payments toward civil fine assessments CFA-00-06 and CFA-00-10, pursuant to paragraph 41 of this agreement.

Prerequisite Conditions

11. The Nation agrees to achieve the following conditions prior to receiving authorization from the NIGC that it may submit civil fine payments under the revised payment schedule described in paragraph 10(b) of this Agreement. The Nation further agrees to maintain these conditions for the duration of this Agreement.

12. The Nation will achieve and maintain compliance with NIGC regulations and the tribal gaming ordinance regarding background investigations and licensing of key employees and primary management officials.

[1] As set forth in the Pre-opening Agreement, for purposes of this agreement, the term "Net Revenues" is defined in 25 C.F.R. § 502.16. Accounting for Net Revenues will be performed in accordance with generally accepted accounting principles. Net revenues from the sale of food and beverages or from the sale of souvenir items is not intended to be included in the Net Revenues from gaming operation as used herein. Expenses will include only direct gaming related expenses and will not include depreciation. *See* Pre-opening Agreement ¶ 29 (December 12, 2003).

13. Once the Nation has achieved compliance with the paragraph 12, the Nation will provide written notification to the NIGC stating such. Upon receipt of the written notification, the NIGC will have thirty (30) days to complete a review and assessment of the Nation's compliance with NIGC's regulations regarding licensing of key employees and primary management officials. The NIGC will provide written notification to the Nation regarding its determination. In that regard, if the NIGC is able to confirm compliance with NIGC regulations regarding licensing of key employees and primary management officials, the NIGC will provide written notification to the Nation that it may begin making payments pursuant to Article II, ¶10(b) of this Agreement.

Article III. USE OF AMOUNTS OTHERWISE PAYABLE

14. Pursuant to this Agreement, the NIGC agrees to reduce the quarterly payment in accordance with paragraph 10(b) of this Agreement, provided that the amount that would otherwise be payable to the U.S. Treasury under the terms of the Pre-opening Agreement is used <u>only</u> for the following purposes:

a. To fund the regulation of the Nation's gaming activities, including but not limited to: staff training, and the purchases of equipment and supplies for officials and employees of the SNGC; special contractual services related to investigations or other regulatory functions; the development and maintenance of record keeping systems; subscriptions to private databases and data services; and other regulatory costs incurred by the SNGC;

b. To fund law enforcement, including, but not limited to: direct services, programs, training, equipment, supplies, and other direct and indirect costs;

c. To fund social service programs, including domestic violence, family services, juvenile delinquency prevention, substance abuse treatment, and interdiction programs;

d. To fund educational programs and scholarships for higher education, including adult, vocational, and continuing education programs for tribal members, officials, and employees, including employees of tribal enterprises;

e. To fund educational institutions or programs with the understanding that the Nation will provide a quarterly donation of no less than five thousand dollars ($5,000.00) to a state accredited university or college of its choice within the State of Oklahoma, for the establishment or continued funding of a basic accounting under generally accepted accounting principles course and/or other curricula pertinent to the management, operation, or regulation of tribal gaming, which will be available to Seminole students; and

f. To fund the establishment and subsequent operation of the Nation's judiciary and court sponsored programs.

15. The Nation acknowledges and agrees that:

a. The redirected funds will be used to establish new programs within the listed categories in paragraph 14 and/or to supplement current

funding for the listed programs and services described in paragraph 14 now in existence and is not to replace current funding sources; and

b. Only those funds paid to the U.S. Treasury will reduce the balance of the civil fine.

16. The Nation agrees to 1) not commingle the redirected portion of the civil fine with funds from other sources; and 2) provide an accounting of the redirected portion of the civil fine to the Commission in twelve (12) month intervals, commencing from the Effective Date of the Agreement. Such accountings will include the amount transferred to each of the approved programs and/or services, the percent of net gaming revenues this amount represents, and supporting documentation substantiating that the funds from the redirected portion of the civil fine were used to supplement funding to the above programs and/or services.

17. The Commission will provide the Nation with written notice as to whether the documentation it provided the Commission under paragraph 16 of this Agreement has adequately demonstrated, to the satisfaction of the Commission, that Nation has used the redirected portion of the civil fine as contemplated within this Agreement. If the Commission is not satisfied that the funds were used as contemplated within this Agreement, the Nation further agrees to permit the Commission to audit these programs, including funding and budgets from prior years to confirm the use of the redirected portion of the civil fine. To this end, the Nation agrees to provide the Commission with access to, and the right to

photocopy, any and all documents involving gaming revenue and the programs and services receiving redirected funds.

18. At any time the Commission has reason to believe that the Nation is presently or has violated this Agreement as to the specific uses of the redirected revenue as set forth herein in Article II, ¶ 14, the Commission will provide written notice to the Nation stating such, and provide the Nation an opportunity to provide additional written evidence demonstrating compliance with this Agreement and proper usage of such funds. The Nation shall have thirty (30) days to respond to the Commission's notice under this provision. Within sixty (60) days following receipt of the Nation's reply, the Commission will determine whether the Nation has provided sufficient information to eliminate the Commission's concern and will inform the Nation of its determination. Should the Commission determine that the Nation has violated this Agreement by using the redirected revenues for purposes other than those set forth in this Agreement, the Commission will inform the Nation in writing of such determination and the Nation will resume making payments towards the civil fine assessment as set forth in Paragraph 29 of the Pre-Opening Agreement.

19. As set forth in paragraph 29 of the Pre-opening Agreement, the Nation will continue to:

a. Account for its net gaming revenue each quarter of each year, as of the first day of January, April, July, and October;

b. Provide an accounting of these quarterly net gaming revenues and the appropriate quarterly civil fine payment to the NIGC by the first day of

February, May, August, and November, of each and every year, until the Civil Fine Assessment is paid in full, unless the Civil Fine Assessment amount is reduced by subsequent agreement; and

c. Pay the quarterly civil fine payment by check payable to the Treasurer of the United States and sent to: Administrative Officer, National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC, 20005.

Article IV. OBLIGATIONS OF THE NATION

20. The Nation will comply with the terms of this Agreement. The SNGC shall be responsible for monitoring the Nation's compliance with the terms and conditions of this Agreement and all applicable tribal, State, and Federal gaming laws and regulations.

21. The Nation shall safeguard the independence of the SNGC's regulatory authority by shielding it from improper influence with its legitimate exercise of authority or its ability to lawfully discharge its powers, duties, and responsibilities in accordance with the Nation's gaming ordinance and regulations, provided that nothing in this Agreement shall be construed to prevent the Nation from removing any member of the SNGC for just cause in accordance with the Nation's gaming ordinance nor shall this Agreement be construed to prohibit the Nation from amending its gaming ordinance to increase the Nation's overall regulatory framework pursuant to 25 U.S.C. § 2710.

22. The SNGC shall have sole discretion to utilize and spend for its day-to-day operations such amounts as are authorized in its annual budget, which shall not

during the term of this Agreement be reduced below the amount authorized on the date of the execution of this Agreement without written explanation to the NIGC.

23. The SNGC must be satisfied that all of the Nation's key employees and primary management officials have been satisfactorily trained on SNGC approved Internal Control Standards and related operations procedures for the handling of cash, electronic gaming devices, manual accounting, and compliance with the Bank Secrecy Act prior to opening any gaming operation. The SNGC will submit a written report to the Regional Director of NIGC Region V, Tulsa, Oklahoma, prior to the opening or re-opening of any gaming facility or operation by the Nation which confirms that the above outlined training has occurred and been acceptable.

24. The SNGC will maintain an inventory of all gaming machines in each gaming facility to include the identity of the manufacturer, the serial number, a brief description of the game, and any other information as may be required by the SNGC.

25. The SNGC will establish and maintain a records retention policy regarding applications for licensing and reports of background investigations of Key Employees and Primary Management Officials in compliance with 25 C.F.R. § 558.1(c) and 556.5(a). The SNGC further agrees to retain all vendor license applications and reports of background investigations and determinations for inspection by the Chairman or his or her designee for no less than three (3) years from the date of termination of the vendor relationship between the Nation and any vendor.

26. Unless already licensed, the Nation will require all SNDOC Board members and the SNDOC's principal management officials, including the Chief Executive Officer and Chief Financial Officer, to apply for and be fully licensed in accordance with 25 C.F.R. Parts 556 and 558, within ninety (90) days from the Effective Date of this Agreement. All new members of the SNDOC Board and future SNDOC's principal management officials, including the Chief Executive Officer and Chief Financial Officer, shall be licensed accordingly.

27. The Nation agrees that it will not employ, license or associate in any way with Ivy Ong, or any entity owned in whole or in part by Ivy Ong, or any entity in any way associated with Ivy Ong. The Nation further agrees that its shall not hire or license any former management associates of Ivy Ong, including individuals who have been determined by the SNGC to be a former management employee of Ivy Ong, to work in any capacity in any of the Nation's gaming facilities. The NIGC will provide the SNGC with such information as it may possess to aid the SNGC in identifying known persons or entities associated with Ivy Ong.

28. The Nation will maintain a sound system of internal controls that provide a level of control that equals or exceeds the requirements of 25 C.F.R. Part 542, Minimum Internal Control Standards (MICS). The NIGC or an independent Certified Public Accountant (CPA) shall be engaged to perform "Agreed Upon Procedures" to verify that the gaming operation is in compliance with the MICS set forth in 25 C.F.R. Part 542.3(f) within ninety (90) days of the opening or re-opening of each gaming facility. The CPA shall provide a copy of the Report of Findings to the Nation, SNDOC, SNGC and the Regional Director of NIGC

Region V, Tulsa, Oklahoma, upon receipt. Should the Nation desire the NIGC to perform the AUP, the Nation will provide a written request to the Regional Director of NIGC Region V, Tulsa, Oklahoma, at least thirty (30) days prior to the desired commencement date. The AUP will be scheduled to commence at a mutually convenient date. Furthermore, the Nation's internal auditor or a CPA, if the function is outsourced, shall provide internal audit reports prepared in accordance with 25 C.F.R. §§ 542.22, 542.32, 542.42, as applicable, to the Nation, SNDOC, SNGC and the Regional Director of NIGC Region V, Tulsa, Oklahoma, upon receipt. The Nation and casino management will diligently strive to correct any such deficiencies as it is made aware of them and will provide written notification to the NIGC of such corrections at the time they are made. A determination by the NIGC Chairman that any gaming operation of the Nation is not in substantial compliance with the MICS may be the basis for recommending to the full Commission the closure of one or all of the Nation's gaming facilities as outlined in Article V, paragraph 36.

29. The Nation agrees to permit the NIGC to perform a comprehensive audit of the Nation gaming facilities in accordance to the standards set out in 25 C.F.R. Part 542 and the Tribal Internal Control Systems and Standards (TICS) at any time. After such audit, the NIGC will provide the Nation with prompt written notice of any violation(s) and a reasonable time period to correct the violation(s), as set forth in Article V, paragraph 35.

30. The Nation agrees that it will provide the NIGC with a complete set of its MICS procedures at least thirty (30) days prior to the opening or re-opening of any

gaming facility. The NIGC shall complete a review of the Nation's MICS procedures and issue a determination regarding the adequacy of the procedures within fourteen (14) days of the Nation's submission of such. The Nation will not open or re-open any gaming facility until the NIGC review is complete and the determination is made that the MICS procedures are adequate and acceptable. Should the NIGC not issue a determination within fourteen (14) days of the Nation's submission, the submission shall be deemed approved for the limited purpose of compliance with this agreement.

31. In accordance with 25 C.F.R. § 542.3(f), the Nation agrees to submit the required "Agreed Upon Procedures" report of findings for each of the Nation's gaming facilities within one hundred and twenty (120) days of the gaming operation's fiscal year end.

32. The Nation will notify the NIGC at least ninety (90) days in advance of the start of construction of any new gaming facility.

33. The Nation agrees that it will not open any future gaming facilities without first submitting its own written certification to the NIGC certifying that the land upon which the gaming facility resides is "Indian lands" under IGRA. Such certification will provide an explanation, supporting documentation and the Nation's analysis regarding why the land upon which the gaming facility resides or will reside constitutes "Indian lands" upon which the Nation may conduct gaming under IGRA. *See* 25 U.S.C. §§ 2703(4), 2710, and 2719. Such certification will be conveyed to the NIGC one hundred and twenty (120) days prior to the opening of any future gaming facility.

ARTICLE V. PROCEDURES GOVERNING RESCISSION

34. In the event the SNGC determines that a substantial violation has occurred, as that term is defined in 25 C.F.R. § 573.6, the SNGC shall report such substantial violation to the NIGC's Tulsa, Oklahoma Region V Director within seventy (72) hours of its discovery and take immediate action to correct the violation(s).

35. In the event the NIGC thereafter determines that any violation(s) have not been timely corrected or determines that there are other violations, then the NIGC shall provide the Nation with written notice of violation(s) and a reasonable time period to correct the violation(s), which for purposes of this Agreement will be a period of fourteen (14) days following the date of service of the written notice of violation(s), unless otherwise agreed to or unless the violation is a substantial violation, in which case the NIGC Chairman or his designee may establish a shorter period of time.

36. The parties agree that following the period to correct the noticed violation(s), if the NIGC Chairman determines that the violation(s) has (have) not been corrected, the Chairman may provide a written recommendation to the full Commission that it rescind its modification to the Closure Orders Nos. CO-06-01 and CO-00-01 and/or recommend the closure of the Nation's non-compliant gaming facility or facilities. The Chairman will serve a copy of the recommendation on the Nation's Principal Chief and on the SNGC. The Nation shall have fourteen (14) days to respond in writing to the Chairman's written recommendation. The parties agree that following its consideration of the Chairman's recommendation and the Nation's response, the Commission may

vote to rescind the Closure Order modification that allowed the reopening of the Nation's gaming facilities and thereby require re-closure of one or more of the non-compliant facilities and/or order closed any or all of the Nation's non-compliant gaming facilities. The Nation agrees to close its non-compliant gaming facility or facilities within seventy-two (72) hours following service of such an order from the Commission. The parties intend, and the Nation agrees, that the Commission will decide the matter based on written submission and that this expedited process will not afford consideration of the matter in a hearing before a presiding official under 25 C.F.R. Part 577 and/or a recommended decision by a presiding official.

37. The parties further agree that paragraph 36 is not intended to permit further judicial review of the Commission's Decision and Order of May 7, 2002. See 25 U.S.C. § 2714. However, the Nation may seek judicial review of a Commission Order rescinding a modification to the Commission's Final Decision and Order of May 7, 2002, under which the Nation operates its gaming facilities and/or the Commission's decision to order closure of any or all of the Nation's gaming facilities.

38. The Nation agrees that it will close its non-compliant gaming facility or facilities and will keep such facility or facilities closed during any such period involving judicial review following the Commission's order. Nothing in this provision prevents the NIGC Chairman from issuing a separate notice of violation, order of temporary closure, and/or proposed civil fine assessment to the Nation under 25 C.F.R Parts 573 and 575.

39. In addition, upon a determination that a violation of this Agreement or the applicable laws and regulations of the Nation or the Commission occurred, the Chairman may recommend in writing to the full Commission rescission of this Agreement. The Chairman will serve a copy of the recommendation on the Nation's Principal Chief and on the SNGC. The Nation shall have fourteen (14) days to respond in writing to the Chairman's written recommendation. The parties agree that following its consideration of the Chairman's recommendation and the Nation's response, the Commission may vote on whether or not to rescind this agreement.

ADDITIONAL COVENANTS

40. The parties expressly agree and acknowledge that time is of the essence in this Agreement. This Agreement shall be binding on the parties, their agents, heirs, representatives, successors and assigns.

41. This Agreement shall be effective on the date that it is signed by the last party to sign the Agreement ("Effective Date"). The terms and conditions outlined in paragraphs 11-39 of this Agreement shall terminate eighteen months after the Effective Date. Thereafter, the Nation agrees to make payments toward civil fine assessments CFA-00-06 and CFA-00-10 to the U.S. Treasury on a quarterly basis, in the amount of twenty percent (20%) of its net gaming revenues until such time as the Civil Fine Assessment is satisfied, pending the Commission's consideration of the Nation's second petition for reduction and/or modification of its civil fine assessments.[2] The Nation will:

[2] For purposes of this agreement, the term "Net Revenues" is defined in 25 C.F.R. § 502.16. Accounting for Net Revenues will be performed in accordance with generally accepted accounting principles. Net

a. Account for its net gaming revenue each quarter of each year, as of the first day of January, April, July, and October;

b. Provide an accounting of these quarterly net gaming revenues and the appropriate quarterly civil fine payment to the NIGC by the first day of February, May, August, and November, of each and every year, until the Civil Fine Assessment is paid in full, unless the Civil Fine Assessment amount is reduced by subsequent agreement; and

c. Pay the quarterly civil fine payment by check payable to the Treasurer of the United States and sent to: Administrative Officer, National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC, 20005.

42. The parties agree that after the Effective Date, this Agreement shall be a public document and may be published or disclosed by either party.

43. This Agreement may be executed in one or more counterparts and each shall constitute an original. A signature produced by facsimile shall be deemed to be an original signature and shall be effective and binding for the purposes of this Agreement.

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revenues from the sale of food and beverages or from the sale of souvenir items is not intended to be included in the Net Revenues from gaming operation as used herein. Expenses will include only direct gaming related expenses and will not include depreciation.

AGREEMENT TO MODIFY THE CIVIL FINE ASSESSMENT PAYMENT SCHEDULE PENDING THE COMMISSION'S CONSIDERATION OF THE NATION'S PETITION FOR REDUCTION AND/OR MODIFICATION OF CIVIL FINE ASSESSMENT

SIGNATURES

For the Seminole Nation of Oklahoma:

By: _____ Date: 3/28/08

E. Kelly Haney
Principal Chief, Seminole Nation of Oklahoma

For the National Indian Gaming Commission:

By: _____ Date: 4/2/08

Philip N. Hogen
Chairman, National Indian Gaming Commission

By: _____ Date: 4/2/08

Norm DesRosiers
Commissioner, National Indian Gaming Commission