United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

TAKE PRIDE IN AMERICA

DEC 03 1992

Honorable Wilbur D. Wilkinson
Chairman, Three Affiliated Tribes
Business Council
HC3 Box 2
New Town, North Dakota 58763-9402

Dear Chairman Wilkinson:

On October 19, 1992, we received the Gaming Compact Between the Three Affiliated Tribes (Tribe) and the State of North Dakota (State).

We have reviewed the Compact and conclude that it does not violate the Indian Gaming Regulatory Act (IGRA), Federal Law, or our trust responsibility. Therefore, pursuant to my delegated authority and Section 11 of the IGRA, we approve the Compact. The Compact shall take effect when notice of our approval, pursuant to Section 11(d)(3)(B) of the IGRA, is published in the FEDERAL REGISTER.

We note that Section X of the Compact allows the hiring of individuals who have been convicted of a felony or other gaming-related offense if that person has made a showing of sufficient rehabilitation. While the IGRA requires disapproval of Class II management contracts which allow the hiring of felons, it does not specifically apply this requirement to Class III management contracts. Therefore, the inclusion of Section X does not require us to disapprove this Compact.

However, on March 5, 1992, the Assistant Secretary - Indian Affairs issued Guidelines to Govern the Review and Approval of Gaming Contracts and Other Gaming Activities (Guidelines), a copy of which is enclosed for your reference. These Guidelines prohibit approval of any contracts that allow felons to be key employees or investors. Thus, any Class III management contracts submitted to the Department for approval which allow felons to be key employees or investors will be disapproved. Further, we expect that the National Indian Gaming Commission (NIGC) will also prohibit hiring of such felons when it promulgates regulations and assumes responsibility for approving gaming contracts.

Please be advised that Section 11(d) of the IGRA requires the Chairman of the NIGC to approve tribal ordinances authorizing Class III gaming. On July 8, 1992, the NIGC's proposed regulations to govern approval of Class II and Class III gaming ordinances were published in the FEDERAL REGISTER. Once the regulations become final and are in effect, we expect the NIGC will request submission of existing ordinances for review and approval in accordance with the standards contained in the final regulations. It may be useful for the Tribe to review the proposed regulations to insure that the Tribe's ordinances are consistent with or do not otherwise conflict with NIGC requirements.

We wish the Tribe and the State success in this economic venture.

Sincerely,

/S/ Eddie F. Brown

Assistant Secretary - Indian Affairs

Enclosures

Identical Letter to: Honorable George Sinner
Governor of North Dakota
Capitol Building
600 E. Boulevard Avenue
Bismarck, North Dakota 58505

cc: Aberdeen Area Director w/copy of approved Compact
Supt., Fort Berthold Agency w/copy of approved Compact
Kevin Meisner, SOL(2)
National Indian Gaming Commission w/copy of approved Compact
Twin Cities Field Solicitor w/copy of approved Compact
North Dakota United States Attorney w/copy of approved Compact

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-state compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved the Gaming Compact Between the Three Affiliated Tribes and the State of North Dakota, which was enacted on October 7, 1992.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Interim Staff Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–0994.

Dated: December 3, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–30079 Filed 12–10–92; 8:45 am]

BILLING CODE 4310-02-M

RECEIVED
BRANCH OF ADMINISTRATION
OCT 09 1992
FORT BERTHOLD AGENCY
NEW TOWN, N. DAKOTA 58763

GAMING COMPACT BETWEEN THE THREE AFFILIATED TRIBES AND THE STATE OF NORTH DAKOTA

This Compact is made and entered into this 7th day of October, 1992, by and between the Three Affiliated Tribes (hereinafter referred to as the "Tribe") and the State of North Dakota (hereinafter referred to as the "State").

I. RECITALS.

The Tribe is a federally-recognized Indian Tribe, organized pursuant to the Constitution and By-Laws of the Three Affiliated Tribes, approved by the Secretary of the Interior and situated on its permanent homeland, the Fort Berthold Reservation, North Dakota. Pursuant to the Tribal Constitution, the Tribal Council is the governing body of the Tribe with constitutional and federal statutory authority to negotiate with state and local governments.

The State, through constitutional provisions and legislative acts, has authorized games of chance and other gaming activities, and the Congress of the United States, through the Indian Gaming Regulatory Act, Public Law 100-407, 102 Stat. 2426, 25 U.S.C. §2701 et seq. (1988) (hereinafter referred to as the "IGRA"), has authorized the Tribe to operate Class III gaming pursuant to a tribal gaming ordinance approved by the National Indian Gaming Commission and a Compact entered into with the State for that purpose. Pursuant to its inherent sovereign authority and the IGRA, the Tribe intends to operate Class III gaming, and the Tribe and State desire to negotiate a Compact under the provisions of the IGRA to authorize and provide for the operation of such gaming.

NOW, THEREFORE, in consideration of the covenants and agreements of the parties hereinbelow, the Tribe and the State agree as follows:

II. POLICY AND PURPOSE.

The Tribe and the State mutually recognize the positive economic benefits that gaming may provide to the Tribe and to the region of the State adjacent to Tribal lands, and the Tribe and the State recognize the need to insure that the health, safety and welfare of the public and the integrity of the gaming industry of the Tribe and throughout North Dakota be protected. In the spirit of cooperation, the Tribe and the State hereby agree to carry out the terms of the IGRA regarding tribal Class III gaming.

Tribal Law and regulations (hereinafter referred to collectively as "Tribal Law"), this Compact, and the IGRA shall govern all Class III gaming activities, as defined in the IGRA.

The purpose of this Compact is to provide the Tribe with the opportunity to license and regulate Class III gaming to benefit the Tribe economically.

III. AUTHORIZED CLASS III GAMING.

3.1 **Kinds of Gaming Authorized.** The Tribe shall have the right to operate upon Tribal trust lands within the current exterior boundaries of the Fort Berthold Reservation, the following Class III games during the term of this Compact, pursuant to Tribal Law and Federal Law, but subject to limitations set forth within this Compact.

A. Electronic games of chance with video facsimile displays. Machines featuring coin drop and payout, and machines featuring printed tabulations shall both be permitted;

B. Electronic games of chance with mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence or lack thereof, of a winning combination and pay out, if any. Machines featuring coin drop and payout, and machines featuring printed tabulations shall both be permitted;

C. Blackjack;

D. Poker; including Pai Gai Poker and Caribbean Stud Poker;

E. Pari-mutuel and simulcast betting as guaranteed pursuant to a separate agreement between the parties as an addendum to this Compact;

F. Sports and Calcutta pools on professional sporting events as defined by North Dakota law, except as to bet limits and except that play may be conducted utilizing electronic projections or reproductions of a sports pool board;

G. Pull-tabs or break-open tickets subject to the limitations set forth at Section 3.4, below;

H. Raffles;

I. Keno;

J. Punchboards, and jars;

K. Paddlewheels;

L. Craps and Indian dice; and

M. All games of chance and/or skill, other than those subject to Section 3.3 of this Compact authorized to be conducted by any group or individual under any circumstances within the State of North Dakota rules of play to be negotiated in good faith by the parties hereto.

3.2 **Limits of Wagers.** The Tribe shall have the right to operate and/or conduct authorized Class III gaming with individual bet maximum wagers to be set at the discretion of the Tribe, except that maximum wagers shall not exceed those set forth herein.

A. Wagers on blackjack shall not exceed fifty and no/100 ($50.00) dollars per individual hand.

B. Wagers on poker shall not exceed ten and no/100 ($10.00) dollars per individual bet per round, with a three raise maximum per round being applicable.

C. Individual bets on paddlewheels shall not exceed twenty-five and no/100 ($25.00) dollars for either a single bet or overall multiple bets by an individual player per spin of the wheel.

D. Individual bets placed during the play of craps and Indian dice shall not exceed twenty-five and no/100 ($25.00) dollars per bet. Each game shall be attended by at least a three-person team and overseen by at least one other nonparticipant supervisor who may oversee more than one game.

E. Electronic games of chance shall not process individual bets in excess of five and no/100 ($5.00) dollars per bet. However, play may be conducted upon individual machines which process simultaneously, up to three (3) bets, each not exceeding five and no/100 ($5.00) Dollars.

3.3 **Availability of Additional Games and Bet Limits Legally Conducted by Other Tribes.** All games and/or increased wager limits which any other Indian Tribe may legally conduct, or utilize, on trust lands located within North Dakota, whether by compact with the State, or through action by the United States Secretary of Interior, or determination of any court maintaining

jurisdiction, shall be available for play by Tribe subject to the following: The State may condition play upon the provision by Tribe of consideration similar or equivalent to that provided by another compacting Tribe. Upon identification by Tribe of any such game, and written notice to State, the parties shall within fourteen (14) days commence good faith negotiations as to the inclusion of such additional game or games, consideration by the Tribe, if applicable, rules of play and presentation thereof. Such negotiations shall proceed with deliberate speed and attention.

3.4 Limits on Conduct of Pull-Tabs. Pull-tabs and/or break-open tickets when conducted as Class III gaming shall be conducted in accordance with standards and limitations then currently established under North Dakota State Law for the conduct of similar games, within the State of North Dakota. This Compact, as to pull-tabs and break-open games only, shall be deemed to be revised simultaneously with any revisions of North Dakota law as to the conduct of pull-tabs or break-open tickets to incorporate within the Compact, as applicable to Tribe, any such revisions.

Further, and in addition to the limitations set forth above, pull-tabs shall be dispensed only by machines which incorporate devices to tabulate machine activity.

The Tribe shall voluntarily comply with the above criteria in its conduct of all pull-tabs and break-open games. Should it not do so, it is agreed by the parties that the Tribe under the terms of this Agreement shall not be authorized to conduct any Class III pull-tabs or break-open ticket sales and shall not do so.

3.5 No Machine or Table Limit. There shall be no limit on the number of machines, tables, or other gaming devices which the Three Affiliated Tribes may operate pursuant to this Compact, nor shall there be a limit as to number of sites on trust lands within the exterior boundaries of the Fort Berthold Reservation upon which gaming may be offered.

IV. TRIBAL LAW.

4.1 Gaming Code. The Tribe has adopted a Tribal Code, entitled "Gaming", and shall adopt regulations of the Tribal Gaming Commission pursuant thereto. Such Tribal Law shall be, and shall remain after any amendment thereto, at least as stringent as those specified in the Indian Gaming Regulatory Act and this Compact, and, with the exception of wagering limits and

other specifics of this compact and IGRA, those statutes and administrative rules adopted by the State of North Dakota to regulate those games of chance as may be authorized for play within the State of North Dakota generally. The Tribe shall furnish the State with copies of such Tribal Law, including all amendments thereto.

4.2 Incorporation. The Gaming Code of the Tribe, as it may be from time-to-time amended, is incorporated by reference into this Compact except insofar as it conflicts with this Compact.

V. TRIBAL REGULATION OF CLASS III GAMING.

5.1 Tribal Council to Regulate Gaming. The Tribal Council of the Tribe ("the Council") shall license, operate and regulate all Class III gaming activities pursuant to Tribal Law, this Compact, and the IGRA, including, but not limited to, the licensing of consultants, primary management officials and key employees of each Class III gaming activity or operation, and the inspection and regulation of all gaming devices. Any discrepancies in any gaming activity or operation and any violation of Tribal Law, this Compact or IGRA shall be corrected immediately by the Tribe pursuant to Tribal Law and this Compact.

5.2 Tribal Gaming Commission. The Tribal Gaming Commission, appointed pursuant to Tribal Law (hereinafter referred to as the "Tribal Commission"), shall have primary responsibility for the day-to-day operation of all tribal gaming activities of operations, pursuant to delegation of authority by the Council, including supervision of all gaming employees.

5.3 Regulatory Requirements. The following regulatory requirements shall apply to the conduct of Class III gaming. The Tribe shall maintain as part of its lawfully enacted ordinances, at all times in which it conducts any Class III gaming, requirements at least as stringent as those set forth herein.

A. Odds and Prize Structure. The Tribe shall publish the odds and prize structure of each Class III game, and shall prominently display such throughout every gaming facility maintained by the Tribe.

B. No credit extended. All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated within the Reservation, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not

restrict the right of the Tribe or any other person or entity authorized by the Tribe to offer check cashing or to install or accept bank card, or credit card or automatic teller machine transactions in the same manner as would be normally permitted at any retail business within the State.

C. Age Restrictions.

(i) No person under the age of 18 may purchase a ticket, make a wager, or otherwise participate in any Class III game; provided that this section shall not prohibit a person 18 years old or older from giving a ticket or share to a person under the age of 18 as a gift.

(ii) No person under the age of 18 shall be permitted on the premises where any component of Class III gaming is conducted unless accompanied by a parent, guardian, spouse, grandparent, or great-grandparent over the age of 18, sibling over the age of 18, or other person over the age of 18 with the permission of the minor's parent or guardian; provided that this subsection shall not apply to locations at which sale of tickets is the only component of Class III gaming.

D. Player Disputes. The Tribe shall provide and publish procedures for impartial resolution of a player dispute concerning the conduct of a game which shall be made available to customers upon request.

VI. COMPLIANCE.

6.1 Report of Suspected Violation by Parties.

The parties hereto, shall immediately report any suspected violation of Tribal Law, this Compact, or the IGRA to the Tribal Gaming Commission and to such State official as the State may designate. If the Commission concludes that a violation has occurred, the violation will be addressed by the Commission within five (5) days after receipt of such notice. The Commission shall notify the State promptly as to such resolution.

6.2 Response to Complaints by Third Parties.

The Tribe shall through its Gaming Commission arrange for reasonable and accessible procedures to address consumer complaints. The Commission shall submit to such State official as the State may designate, a summary of any written Complaint received which addresses a suspected violation of Tribal law, this Compact, or the IGRA, along with specification as to any action or resolution deemed warranted and/or undertaken.

6.3 Non-Complying Class III Games. The following are declared to be non-complying Class III Games:

A. All Class III games to which the agents of the State have been denied access for inspection purposes; and

B. All Class III games operated in violation of this Compact.

6.4 Demand for Remedies for Non-Complying Games of Chance. Class III games believed to be non-complying shall be so designated, in writing, by the agents of the State. Within five (5) days of receipt of such written designation, the Three Affiliated Tribes shall either:

A. Accept the finding of non-compliance, remove the Class III games from play, and take appropriate action to ensure that the manufacturer, distributor, or other responsible party cures the problem; or

B. Contest the finding of non-compliance by so notifying the agents of the State, in writing, and arrange for the inspection of the contested game, by an independent gaming test laboratory as provided within ten (10) days or the receipt of the finding of non-compliance. If the independent laboratory finds that the Class III game or related equipment is non-complying, the non-complying Class III game and related equipment shall be permanently removed from play unless modified to meet the requirements of this Compact.

VII. SPECIFIED USAGE OF FUNDS

The Tribal Council of the Tribe has determined that it is in the interest of the Tribe that designated portions of revenue derived from gaming operations be guaranteed for usage within Tribal programs for economic development, other than gaming, and social welfare. In accordance therewith, at least twenty-five (25%) percent of Adjusted Gross Revenues from Class III gaming operations, not including monies paid out as prizes or winnings, shall be directed to, and utilized within, economic development and social welfare programs of the Tribe. Adjusted Gross Revenues shall be considered all revenue from Class III gaming operations, except those specifically excluded above, and shall be inclusive of monies directed to any Management Agent engaged by the Tribe. The State shall have the right to audit to assure that the 25% is utilized as provided herein.

VIII. LICENSING.

8.1 Tribal License. All personnel employed or contractors engaged by the Tribe, and/or by any Management Agent under contract with the Tribe, whose responsibilities include the operation or management of Class III games of chance, shall be licensed by the Tribe. All personnel employed or contractors engaged by the Tribe and/or by any Management Agent under contract with the Tribe, other and apart from Members of the Tribe, whose responsibilities include the operation or management of Class III games of chance, shall conform to such requirements as are applied by the State for state licensure.

IX. BACKGROUND INVESTIGATION.

9.1 Information Gathering. The Tribe, prior to hiring a prospective employee or engaging a contractor whose responsibilities include the operation or management of Class III gaming activities, shall obtain sufficient information and identification from the applicant to permit the conduct of a background investigation of the applicant.

9.2 Authorization of Background Investigation. Any person who applies for a tribal license pursuant to this Compact and Tribal law shall first submit an application to the Tribe which includes a written release by the applicant authorizing the Tribe to conduct a background investigation of the applicant and shall be accompanied by an appropriate fee for such investigation as determined by the Commission pursuant to Tribal law and this Compact.

9.3 Background Investigation by the Tribe. Upon receipt of the application and fee, the Commission shall investigate the applicant within thirty (30) days of the receipt of the application or as soon thereafter as is practical. The Commission shall utilize the North Dakota Bureau of Criminal Investigations (BCI) to assist in background investigations, but may utilize any other resource the Tribe determines appropriate.

9.4 Background Investigations by State Prior to Employment. The Tribe, prior to placing a prospective employee whose responsibilities include the operation or management of games of chance, shall obtain a release and other information from the applicant to permit the State to conduct a background check on the applicant. This information, along with the standard fee, shall be provided in writing to the state which report to the

Tribe regarding each applicant within thirty (30) days of receipt of the request. The Tribe may employ any person who represents, in writing, that he or she meets the standards set forth in this section, but must not retain any person who is subsequently revealed to be disqualified. Criminal history data compiled by the State on prospective employees shall, subject to applicable state to federal law, be released to the Tribe as part of the reporting regarding each applicant. The background check of employees and contractors to be conducted pursuant to this paragraph shall be independent of any similar federal requirements.

9.5 Background Investigations of Employees During Employment. Each person whose responsibilities include the operation or management of Class III games shall be subject to periodic review by the Gaming Commission comparable to that required for initial employment. This review shall take place at least annually, commencing with the date of employment. Employees found to have committed disqualifying violations shall be dismissed.

9.6 State Processing of Tribal Requests. The State shall process background investigation requests by the Tribe with equal priority as to that afforded requests for background investigations by State Agencies.

9.7 Investigation Fees. The applicant shall reimburse the State for any and all reasonable expenses for background investigations required with this Compact.

X. PROHIBITIONS IN HIRING EMPLOYMENT AND CONTRACTING.

10.1 Prohibitions. The Tribe may not hire, employ, or enter into a contract, relating to Class III gaming with any person or entity which includes the provision of services by any person who:

A. Is under the age of 18.

B. Has, within the immediate preceding ten (10) years, been convicted of, entered a plea of guilty or no contest to, or has been released from parole, probation or incarceration, whichever is later in time; any felony, any gambling related offense, any fraud or misrepresentation offense; unless the person is a member of the Tribe and the Tribe has made a determination that the person has been sufficiently rehabilitated, or unless the State, through determination by the appropriate official or Agency, has determined that the person has been sufficiently rehabilitated.

C. Is determined to have poor moral character or to have participated in organized crime or unlawful gambling, or whose prior activities, criminal record, 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 as to the business and financial arrangements incidental to the conduct of gaming.

In the case of individuals who are members of the Tribe, determinations specified above shall be disqualifying as to employment and/or contracting should such be made by the Tribal Gaming Commission. In the case of individuals who are not members of the Tribe, determinations specified above shall be disqualifying as to employment and/or contracting should such be made by either the Tribal Gaming Commission or by the State.

10.2 Availability of Dispute Resolution Procedures. If the State determines that an individual is disqualified from employment or contracting with the Tribe as to the Tribe's gaming operation, and if the Tribe disagrees with such determination, the Tribe may pursue Dispute Resolution pursuant to Section XXVII of this Compact.

XI. EMPLOYEES.

11.1 Procedural Manual. The Tribe shall publish and maintain a procedural manual for all personnel, which includes disciplinary standards for breach of the procedur-,.

11.2 Limitation of Participation in Games by Employees.

The Tribe may not employ or pay any person to participate in any game, (including, but not limited to, any shill or proposition player); except that an employee may participate, as necessary, to conduct a game as a dealer or bank.

XII. MANAGEMENT AGREEMENTS.

12.1 Option for Tribe. The Tribe in its discretion may, but in no manner shall be required to enter into a management contract for the operation and management of a Class III gaming activity permitted under this Compact.

12.2 Receipt of Information by Tribe. Before approving such contract, the Tribe shall receive and consider the following information:

A. The name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 5 percent or more of its issued and outstanding stock;

B. A description of any previous experience that each person listed has had with other gaming contracts with Indian Tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency which has issued the person a license or permit relating to gaming or with which such person has had a contract relating to gaming; and

C. A complete financial statement of each person listed.

12.3 Provisions of Management Agreement. The Tribe shall not enter a management contract unless the contract provides, at least, for the following:

A. Adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the Tribe on a monthly basis;

B. Access to the daily operations of the gaming activities to appropriate officials of the Tribe, who shall also have a right to verify the daily gross revenues and income made from any such Tribal gaming activity;

C. A minimum guaranteed payment to the Tribe, that has preference over the retirement of development and construction costs;

D. An agreed ceiling for the repayment of development and construction costs;

E. A contract term not to exceed five (5) years, except that the Tribe may approve a contract term that exceeds five (5) years but does not exceed seven (7) years if, the Tribe is satisfied that the capital investment required, and the income projections, for the particular gaming activity require the additional time;

F. A complete, detailed specification of all compensation to the Contractor under the contract;

G. Provisions for an early Tribal buy out of the rights of the Management Agent; and

H. Grounds and mechanisms for terminating such contract.

I. At least twenty-five (25%) percent of Adjusted Gross Revenues, from Class III gaming operations, not including monies paid out as prizes or winnings, shall be directed to, and utilized within, economic development, other than gaming, and social welfare programs of the Tribe. Adjusted Gross Revenues shall be considered all revenue from Class III gaming operations, except those specifically excluded above, and shall be inclusive of monies directed to any Management Agent engaged by the Tribe. The State shall have the right to audit to assure that the 25% is utilized as provided herein.

12.4 Fee. The Tribe may approve a management contract providing for a fee based upon a percentage of the net revenues of a Tribal gaming activity, which shall not exceed thirty (30%) percent, unless the Tribe, determines that the capital investment required, and income projections, for such gaming activity, require an additional fee, which in no event shall exceed forty (40%) percent of net revenues of such gaming activity. A contract providing for a fee based upon a percentage of net revenues shall include a provision describing in detail how net revenues will be determined.

12.5 Background Check.

A. Prior to hiring a Management Agent for Tribal Class III games, the Gaming Commission shall obtain release and other information sufficient from the proposed Management Agent and/or its principals to permit the State to conduct a background check. All information requested shall be provided in writing to the State which shall conduct the background check and provide a written report to the Tribe regarding each Manager applicant and/or its principals within thirty (30) days of receipt of the request. The background check to be conducted pursuant to this paragraph shall be in addition to any similar federal requirements.

B. The Tribe shall not employ a Management Agent for the Class III games if the State determines that the Management Agent applicant and/or its principals are in violation of the standards set forth in Section X of this Compact.

XIII. ACCOUNTING AND AUDIT PROCEDURES.

13.1 **Accounting Standards.** The Tribe shall adopt accounting standards which meet or exceed those standards established in the IGRA.

13.2 **Systems.** All accounting records shall be kept in a manner consistent with accepted accounting standards utilizing a double entry system of accounting, maintaining detailed, supporting, subsidiary records.

13.3 **Audits.** The Tribe shall conduct or cause to be conducted independent audits of every Class III gaming activity or operation. Audits will be conducted at least annually with copies all annual audits to be furnished to the State by the Tribe at no charge.

XIV. TRIBAL RECORD KEEPING.

14.1 **Record Maintenance.** The Tribe shall maintain the following records related to its gaming operations for at least three (3) years.

A. Revenues, expenses, assets, liabilities and equity for each location at which any component of Class III gaming is conducted.

B. Daily cash transactions for each game at each location at which Class III gaming is conducted including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank.

C. Individual and statistical game records to reflect statistical drop, statistical win, the statistical drop by table for each game, and the individual and statistical game records reflecting similar information for all other games.

D. Records of all tribal enforcement activities.

E. All audits prepared by or on behalf of the Tribe.

F. All returned checks which remain uncollected, hold checks or other similar credit instruments.

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

14.2 Accounting Records and Audits Concerning Class III Gaming by Tribe. The Tribe shall provide a copy to the State of any independent audit report upon written request of the State. Any costs incidental to providing copies to the State will be borne by the Tribe.

XV. ACCESS TO RECORDS.

15.1 The Tribe shall permit reasonable access to review by the State of Tribal accounting and audit records associated with gaming conducted under this Compact. The State may copy such documents as it desires subject to the confidentiality provisions set forth herein below. Any costs incidental to such an inspection shall be covered from the Escrow Account for State Expenses established and maintained pursuant to Section XXV of this Compact.

15.2 The Tribe requires that its gaming records be confidential. Any Tribal records or documents submitted to the State, or of which the State has retained copies in the course of its gaming oversight and enforcement, will not be disclosed to any member of the public except as needed in a judicial proceeding to interpret or enforce the terms of this Compact, or except as may be required for law enforcement or tax assessment purposes. Such disclosure, however, shall be conditional upon the recipient making no further disclosure absent authorization by the Tribe or under Court Order. This Compact is provided for by Federal law and therefore supersedes State records law to the contrary.

15.3 The Tribe shall have the right to inspect and copy all State records concerning the Tribe's Class III gaming unless such disclosure would compromise the integrity of an ongoing investigation.

XVI. TAX REPORTING MATTERS.

Whenever required by federal law to issue Internal Revenue Service Form W2G, the Tribe shall also provide a copy of the same to the State. In addition, the Tribe shall comply with employee income withholding requirements for all non-Indian employees and all Indian employees not living on the Fort Berthold Reservation.

XVII. JURISDICTION, ENFORCEMENT AND APPLICABLE LAW.

17.1 Criminal Enforcement. Nothing in this Compact shall deprive the Courts of the Tribe, the United States, or the State of North Dakota of such criminal jurisdiction as each may enjoy under applicable law.

Nothing in this Compact shall be interpreted as extending the criminal jurisdiction of the State of North Dakota. All criminal matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State, or Federal law.

17.2 Civil Enforcement. Nothing in this Compact shall deprive the Courts of the Tribe, the United States, or the State of North Dakota of such criminal jurisdiction as each may enjoy under applicable law. Nothing in this Compact shall be interpreted as extending the civil jurisdiction of the State of North Dakota. All civil matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State, or Federal law.

XVIII. SOVEREIGN IMMUNITY.

18.1 Tribe. Nothing in this Compact shall be deemed to be a waiver of the sovereign immunity of the Tribe.

18.2 State. Nothing in this Compact shall be deemed to be a waiver of the sovereign immunity of the State.

XIX. QUALIFICATIONS OF PROVIDERS OF CLASS III GAMING EQUIPMENT OR SUPPLIES.

19.1 Purchase of Equipment and Supplies.

A. No Class III games of chance, gaming equipment or supplies may be purchased, leased or otherwise acquired by the Tribe unless the Class III equipment or supplies are purchased, leased or acquired from a manufacturer or distributor licensed by the Tribe to sell, lease, or distribute Class III gaming equipment or supplies, and further unless the gaming manufacturer is licensed to do business in one or more of the following states; Nevada, New Jersey, South Dakota. Should the Tribe wish to purchase equipment on supplies from a business not shown to be licensed to do business in one or more of the above mentioned States, the Tribe may petition the Office of the Attorney General for the State of North Dakota for review and approval of said manufacturer or supplier.

B. Should the State of North Dakota commence a comprehensive program of licensing the sale, lease, and/or distribution of games of chance, gaming equipment, or supplies, no Class III games of chance, gaming equipment or supplies may be purchased, leased or otherwise acquired by the Tribe, after one year subsequent to the date of such enactment, except from a

manufacturer or distributor licensed both by the Tribe and the State of North Dakota to sell, lease or distribute Class III gaming equipment or supplies.

19.2 Required Information. Prior to entering into any lease or purchase agreement, the Tribe's Gaming Commission 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 Tribal Gaming Commission to conduct a background check on those persons.

19.3 No Business Dealings with Disqualified Parties.

The Tribe shall not enter into any lease or purchase agreement for Class III gaming equipment or supplies with any person or entity if the Tribal Gaming Commission determines that the lessor or seller, or any manager of the lessor or seller or person holding a direct or indirect financial interest of 5 percent or more in the lessor/seller or the proposed lease/purchase agreement, has been convicted of a felony or any gambling related crime within the previous five (5) years, or who is determined by the Tribe or by the State to have participated in or have involvement with organized crime or is determined to have poor moral character or to have participated in unlawful gambling, or whose prior activities, criminal record, 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 as to the business and the financial arrangements incidental to the conduct of gaming.

In the case of individuals who are members of the Tribe, determinations specified above shall be disqualifying as to contracting such agreements should such be made by the Tribal Gaming Commission. In the case of individuals who are not members of the Tribe, determinations specified above shall be disqualifying as to contracting such agreements should such be made by either the Tribal Gaming Commission or by the State.

19.4 Receipt of Gaming Equipment. All sellers, lessors, manufacturers and/or distributors shall provide, assemble and install all Class III games of chance, gaming equipment and supplies in a manner approved and licensed by the Tribe.

XX. REGULATION AND PLAY OF ELECTRONIC GAMES OF CHANCE.

20.1. Electronic Games of Chance - Definition. "Electronic Game of Chance" means a microprocessor-controlled electronic device which allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a coin or currency, or by the use of a credit, and which awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash. The term "electronic game of chance" does not include the operation and play of devices which utilize mechanical or optical sensors to evaluate reel positions when they come to rest after being spun for game play.

20.2 Reporting System. For electronic games of chance, each location shall have an interconnected one-way reporting system, subject to the requirements of Section 20.7(G)(ii) applicable to data collection and downloading of machines at remote locations. The reporting system shall provide for each machine, periodic analytic reports, that record coins in and coins out, calculate actual hold, and compare actual hold to theoretical hold percentages.

20.3 Record Keeping. The reporting system reports shall be prepared as a minimum on a monthly basis and held by the Tribe for a minimum of three (3) years. The reports shall be subject to inspection by an agent of the State pursuant to Section 15.1 of the Compact.

20.4 Display. Game play may be displayed by:

A. Video Facsimile; or

B. Mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and pay out, if any.

20.5 Testing of Electronic Games of Chance.

A. Testing and Approval of Electronic Games of Chance. No electronic games of chance may be operated by the Tribe unless the electronic game of chance, or a prototype thereof, has been tested, approved or certified by a Qualified Gaming Test Laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a Qualified Gaming Test Laboratory is a laboratory:

(i) Agreed to and designated in writing by the State and the Tribe as competent and qualified to conduct scientific tests and evaluations of electronic games of chance and related equipment; or

(ii) A laboratory operated by or under contract with any State of the United States to conduct scientific tests and evaluations of electronic games of chance and related equipment.

B. Application for Approval of Prototype Electronic Games of Chance. The Tribe shall provide or require that the manufacturer provide to the Qualified Gaming Test Laboratory two copies of electronic game of chance illustrations, schematics, block diagrams, circuit analyses, technical and operation manuals, program object and source codes, hexadecimal dumps (the compiled computer program represented in base-16 format), and any other information requested by the Qualified Gaming Test Laboratory.

C. Testing of Electronic Games of Chance. If required by the Qualified Gaming Test Laboratory, the Tribe shall require the manufacturer to transport not more than two working models of the electronic games of chance and related equipment to a location designated by the laboratory for testing, examination, and analysis. The Tribe shall require the manufacturer to pay for any and all costs for the transportation, testing, examination, and analysis. The testing, examination, and analysis may include the entire dismantling of the electronic games of chance and related equipment and some tests may result in damage or destruction to one or more electronic components of the devices. If required by the laboratory, the Tribe must require the manufacturer to provide specialized equipment or the services of an independent technical expert to assist the testing, examination, and analysis.

D. Report of Test Results. At the conclusion of each test, the Qualified Gaming Test Laboratory shall provide to the State and the Tribe a report that contains findings, conclusions, and a determination that the electronic game of chance and related equipment conforms or fails to conform to the hardware and software requirements of this Compact. If modifications can be made which would bring the electronic game of chance or related equipment into compliance, the report may contain recommendations for such modifications.

E. Modifications of Approved Electronic Games of Chance. No modification to the assembly or operational functions of any electronic game of chance or related equipment may be made after testing and

installation unless a Qualified Gaming Test Laboratory certifies to the State and the Tribe that the modified electronic game of chance conforms to the standards of this Compact.

F. Conformity to Technical Standards. The Tribe shall require the manufacturer or distributor to certify, in writing, to the Tribe and the State that, upon installation, each electronic game of chance placed in a Tribal gaming facility:

(i) Conforms precisely to the exact specifications of the electronic game of chance prototype tested and approved by the Qualified Gaming Test Laboratory; and

(ii) Operates and plays in accordance with the technical standards prescribed in this section.

G. Machine Identification. A non-removable plate shall be affixed to each electronic game of chance. This plate shall have written upon it the machine's serial number, manufacturer, and a unique identification number assigned by the Tribe, and the date the unique identification number was assigned.

20.6 Tribal Reports to State.

A. Installation and Operation. At least forty-eight (48) hours prior to installation of an electronic game of chance, the Tribe shall report to the State the following information for each electronic game of chance, including, but not limited to:

(i) The type of electronic game of chance;

(ii) The game's serial number;

(iii) The game's manufacturer;

(iv) The person from whom the game was acquired; the means by which the game was transported into the State and the name and street address of any common carrier or other person transporting the game;

(v) The certification required;

(vi) The unique identification number assigned by the Tribe;

(vii) The EPROM chip's identification number;

(viii) The location in which the game will be placed; and

(ix) The date of installation.

B. Removal from Play. Upon removal of an electronic game of chance from a tribal gaming facility, the Tribe shall provide to the State specification of:

(i) The date on which it was removed;

(ii) The game's destination; and

(iii) The name of the person to whom the equipment is to be transferred, including the person's street address, business and home telephone numbers; the means by which the game is to be transported and the name and street address of any common carrier or other person transporting the game.

C. Existing Games. The Tribe shall provide, within thirty (30) days after this Compact becomes binding on the parties, a listing of all electronic, electro-mechanical, and mechanical games installed, in service, or operated by the Tribe on or before the date of execution of this Compact which are to remain in service following the execution of this Compact. The listing shall include as to each machine:

(i) The type of electronic game of chance;

(ii) The game's serial number;

(iii) The game's manufacturer;

(iv) The person from whom the game was acquired;

(v) The EPROM chip's identification number; and

(vi) The game's location.

20.7 Hardware Requirements for Electronic Games of Chance.

A. Physical Hazard. Electrical and mechanical parts and design principles of the electronic games of chance may not subject a player to physical hazards.

B. Surge Protector. A surge protector must be installed on the line that feeds power to the electronic game of chance.

C. Battery Backup. A battery backup or an equivalent shall be installed on the electronic game of chance for the electronic meters and must be capable of maintaining the accuracy of all information required by this Compact for one hundred eighty (180) days after power is discontinued from the machine. The backup device shall be kept within the locked microprocessor compartment.

D. On/Off Switch. An on/off switch that controls the electrical current used int he operation of a electronic game of chance and any associated equipment must be located in a place which is readily accessible within the interior of the machine.

E. Static Discharge. The operation of each electronic game of chance must not be adversely affected by static discharge or other electromagnetic interference.

F. Approved Coin and Bill Acceptors. At least one electronic coin acceptor must be installed in or on each electronic game of chance. The devices may also contain bill acceptors for denominations determined by the Tribe. Prior to operation, all models of coin and bill acceptors installed must have been tested and approved in writing by a Qualified Gaming Test Laboratory.

G. Electronic Game Management/Reporting System.

(i) The electronic game of chance shall have an electronic computer system, approved by the Qualified Gaming Test Laboratory, that shall record and maintain essential information associated with machine play and error conditions. This information must be retained for a minimum of thirty (30) days.

(ii) Electronic games of chance utilizing coin drop hoppers are permitted, provided they are monitored by an on-line electronic game management/reporting system which has been approved by the Qualified Gaming Test Laboratory. However, should the Tribe maintain individual machines or clusters of machines apart from a major casino location, all coin hoppers shall be computer monitored with data from such machines being downloaded into the central on-line electronic game management/reporting system at least daily.

(iii) The term "error conditions" as used in this subdivision includes:

(a) Cabinet door open and cash compartment door open.

(b) Coin-in tilt and reverse coin-in tilt.

(c) Hopper empty, hopper jam, or hopper runaway/malfunction.

H. Cabinet Security.

(i) The cabinet or interior area of the electronic game of chance shall be locked and not readily accessible.

I. Repairs and Service. An authorized agent or employee of the Tribe may open the gaming cabinet to effect repairs and service, but shall do so only in the presence of another Tribal agent or employee.

J. Microprocessor Compartment. The compartment containing the microprocessor-controlled device within the cabinet of the electronic game of chance must be locked and sealed, and unlocked by a different key than the key which unlocks the cabinet or cash compartment. The compartment may only be opened in the presence of a tribal official or a security officer appointed by the Tribe. The key to the microprocessor compartment shall be kept by the Tribe in a secure place.

K. Secure Electronic Components.

(i) Logic Boards and software Erasable Programmable Read Only Memory (EPROM) chips and other logic control components shall be located in a separate compartment within the electronic game of chance and that compartment shall be sealed and locked with a different key or combination than that used for the main cabinet door, and cash compartment.

(ii) Upon installation, the Tribe shall affix or cause to be affixed to the EPROM chip of each electronic game of chance a strip of security tape, capable of evidencing the removal of the EPROM chip if the EPROM chip is removed from the circuit board. The security tape shall be secured and available only to the authorized personnel of the Tribe. The Tribe shall maintain accurate and complete records of the identification number of each EPROM chip installed in each electronic game of chance.

L. Secure Cash Compartment. The coins and currency compartment shall be locked separately from the main cabinet area, and secured with a different key or combination than used for the main cabinet door, except that a separate cash compartment shall not be required for coins necessary to pay prizes in a machine which pays prizes through a drop hopper as permitted in this section. Cash compartment keys must be kept in a secure location. Except as provided in this section, the compartment in which the inserted coins and bills are deposited shall be locked at all times. An employee or official of the Tribe may open the cash compartment in the gaming cabinet for the purpose of collecting the accumulated cash. The person collecting the accumulated cash shall record the amount collected.

M. Hardware Switches Prohibited. No hardware switches may be installed on an electronic game of chance or on any associated equipment which may alter the pay tables or payout percentages in the operation of the gaming device. Hardware switches may be installed to control the machine's sound.

N. Printing of Written Statement of Credits. Each electronic game of chance which awards credits or replays but not coins or tokens shall allow the player to request a written statement upon completing play. Upon printing a written statement, the printer must retain an exact, legible copy of the written statement within the machine.

O. Operation of Part of a Network. The hardware requirements of this subsection shall not be construed to prevent the operation of the electronic game of chance as part of a network with an aggregate prize or prizes; provided:

(i) An electronic game of chance capable of bi-directional communication with external associated equipment must utilize communication protocol which insures that erroneous data or signals will not adversely affect the operation of the game. The operation of the local network must be approved by the Qualified Gaming Test Laboratory; and

(ii) Where the network links the Tribe's electronic games of chance to tribal games of chance on other Indian reservations, each Tribe participating in the network shall have in force a Class III gaming compact authorizing such gaming as part of a network and all segments of the network shall utilize security standards agreed between the Tribe and the Executive Director of the State which are at least as restrictive as those used by the State for its on-line games.

20.8 Software Requirements for Video Games of Chance.

A. Randomness Testing. Each electronic game of chance must have a true random number generator that will determine the occurrence of a specific card, symbol, number, or stop opposition to be displayed on the electronic screen or by the mechanical rotating reels. A selection process will be considered random if it meets all of the following requirements:

(i) Chi-Square Analysis. Each card, symbol, number, or stop position which is wholly or partially determinative satisfies the 99 percent confidence limit using the standard chi-square analysis.

(ii) Runs Test. Each card, symbol, number, or stop position does not as a significant statistic produce predictable patterns of game elements or occurrences. Each card, symbol, number, or stop position will be considered random if it meets the 99 percent confidence level with regard to the "runs test" or any generally accepted pattern testing statistic.

(iii) Correlation Analysis. Each card, symbol, number, or stop position is independently chosen without regard to any other card, symbol, number or stop position, drawn within that game play. Each pair of card, symbol, number, or stop position is considered random if they meet the 99 percent confidence level using standard correlation analysis.

(iv) Serial Correlation Analysis. Each card, symbol, number, or stop position is independently chosen without reference to the same card, number, or stop position in the previous game. Each card, number, or stop position is considered random if it meets the 99 percent confidence level using standard serial correlation analysis.

(v) Live Game Correlation. Video games of chance that are representative of live gambling games must fairly and accurately depict the play of the live game.

B. Software Requirements for Percentage Payout. Each electronic game of chance must meet the following maximum and minimum theoretical percentage payout during the expected lifetime of the game:

(i) Video games that are not affected by player skill shall pay out a minimum of eighty (80%) percent and no more than one hundred (100%) percent of the amount wagered. The theoretical payout percentage

will be determined using standard methods of probability theory;

(ii) Video games that are affected by player skill, such as electronic draw poker and blackjack, shall pay out a minimum of eighty-three (83%) percent and no more than one hundred (100%) percent of the amount wagered. This standard is met when using a method of play that will provide the greatest return to the player over a period of continuous play.

C. Minimum Probability Standard for Maximum Payout. Each electronic game of chance must have a probability of obtaining the maximum payout which is greater than 1 in 17,000,000 for each play.

D. Software Requirements for Continuation of Game After Malfunction. Each game must be capable of continuing the current game with all current game features after a game malfunction is cleared. This provision does not apply if a game is rendered totally inoperable; however, the current wager and all player credits prior to the malfunction must be returned to the player.

E. Software Requirements for Play Transaction Records. Each game must maintain a electronic, electro-mechanical, or computer system, approved by the Qualified Gaming Test Laboratory, that shall record and maintain essential information associated with machine play. This information must be for a minimum of thirty (30) days, regardless of whether the machine is being supplied with power.

F. No Automatic Clearing of Accounting Meters. No game may have a mechanism by which an error will cause the electronic accounting meters to automatically clear. All meter readings must be recorded and dated in the presence of a tribal official both before and after the electronic accounting meter is cleared.

G. Display of Information. The display information required shall be kept under glass or another transparent substance and at no time may stickers or other removable devices be placed on the machine face.

H. Rules Display. The machine shall display:

(i) The rules of the game prior to each game being played;

(ii) The maximum and minimum wagers, the amount of credits which may be won for each winning hand or combination of numbers or symbols; and

(iii) The credits the player has accumulated.

Provided, however, in the case of an electronic game of chance with a mechanical display, the information required shall be permanently affixed on the game in a location which is conspicuous to the player during play.

XXI. **TRANSITIONAL PROVISION.**

Electronic, electro-mechanical, and mechanical games of chance in play prior to the execution of this Compact must be tested and approved by a Qualified Gaming Test Laboratory and reported to the Tribe and the State within one hundred twenty (120) days of the approval of this Compact by the United States Secretary of Interior. Notwithstanding the foregoing, if these games cannot comply with the technical standards of this Compact within the one hundred twenty (120) day period due to circumstances beyond the control of the Tribe, these games shall be brought into compliance or replaced with complying equipment at the earliest date possible, but in no instance later than two hundred seventy (270) days after the Tribe's execution of this Compact. New complying machines introduced pursuant to this compact after one hundred twenty (120) days of the approval of this compact by the United States Secretary of Interior shall be regarded as replacements for existing non-complying machines, if any, and the non-complying machines shall be withdrawn from play in equal number until all such non-complying machines are withdrawn.

XXII. **AMENDMENTS TO REGULATORY AND TECHNICAL STANDARDS FOR ELECTRONIC GAMES OF CHANCE.**

The State and the Tribe acknowledge the likelihood that technological advances or other changes will occur during the duration of this Compact that may make it necessary or desirable that the regulatory and technical standards set forth in Sections 20.6 and 20.7 for electronic games of chance be modified to take advantage of such advances or other changes in order to maintain or improve game security and integrity. Therefore any of the regulatory or technical standards set forth in Sections 20.6 and 20.7 may be modified for the purposes of maintaining or improving game security and integrity by mutual agreement of the North Dakota Attorney General and the Tribal Council upon the written recommendation

and explanation of the need for such change made by either party.

XXIII. REGULATION AND PLAY OF TABLE GAMES.

23.1 Gaming Table Bank. The Tribe shall maintain at each table a gaming table bank, which shall be used exclusively for the making of change or handling player buy-ins.

23.2 Drop Box. The Tribe shall maintain at each table a game drop box, which shall be used exclusively for rake-offs or other compensation received by the Tribe for maintaining the game. A separate game drop box shall be used for each shift.

23.3 Gaming Room Bank. The Tribe shall maintain, at each location at which table games are placed, a gaming room bank, which shall be used exclusively for the maintenance of gaming table banks and the purchase and redemption of chips by players.

23.4 Rules to be Posted. The rules of each game shall be posted and be clearly legible from each table and must designate:

A. The maximum rake-off percentage, time buy-in or other fee charged.

B. The number of raises allowed.

C. The monetary limit of each raise.

D. The amount of the ante.

E. Other rules as may be necessary.

XXIV. INSPECTION.

24.1 Periodic Inspection and Testing. Tribal officials, agents or employees shall be authorized to periodically inspect and test any tribally licensed electronic games of chance. Any such inspection and testing shall be carried out in a manner and at a time which will cause minimal disruption of gaming activities. The Tribal Gaming Commission shall be notified immediately of all such inspection and testing and the results thereof.

24.2 Receipt of Reports of Non-compliance. The Tribe shall provide for the receipt of information by the State as to machines believed to not be in compliance

with this Compact or not to be in proper repair. Upon its receipt of such information the Tribe shall reasonably inspect or arrange for the inspection of any identified machine and shall thereafter undertake and complete, or commission the undertaking and completion of such corrective action as may be appropriate.

24.3 State Inspection of Operations. Agents of the State of North Dakota, or their designated representatives, shall upon the presentation of appropriate identification, have the right to gain access, without notice, during normal hours of operation, to all premises used for the operation of games of chance, or the storage of games of chance or equipment related thereto, and may inspect all premises, equipment, daily records, documents, or items related to the operation of games of chance in order to verify compliance with the provisions of this Compact. Agents of the State making inspection shall be granted access to non-public areas for observations upon request. The Tribe reserves the right to accompany State inspectors within non-public areas. The Tribe shall cooperate as to such inspections. Inspections shall be conducted, to the extent practicable, to avoid interrupting normal operations. Any costs associated with such inspection shall be covered from the Escrow Account for State Expenses established and maintained pursuant to Section XXV of this Compact.

24.4 Inspection of Electronic Games of Chance. The State may cause any electronic game of chance in play by the Tribe to be inspected by a Qualified Gaming Test Laboratory or examiner. Inspections shall be conducted, to the extent practicable, to avoid interrupting normal operations. Any costs associated with inspection shall be covered from the Escrow Account for State Expenses established and maintained pursuant to Section XXV of this Compact. The Tribe shall cooperate in such inspection. Upon completion of such testing, test results shall be provided to both the State and the Tribe.

24.5 Removal and Correction. Any machine confirmed to be in non-compliance with this Compact shall be removed from play by the Tribe and brought into compliance before reintroduction.

XXV. ESCROW ACCOUNT FOR STATE EXPENSES.

25.1 Escrow Fund. The Tribe shall establish an escrow fund at a bank of their choosing with an initial contribution of Fifteen Thousand and no/100 ($15,000.00) dollars to reimburse the State for the expenses

specifically named for reimbursement in this Compact and for participation in legal costs and fees incurred in defending, with the concurrence of the Tribe, third party challenges to this Compact. The Tribe shall replenish the said escrow account as necessary and agree that the balance in the said escrow account will not drop below the sum of seven thousand five hundred and no/100 ($7,500.00) dollars.

25.2 Procedure. The payments referenced above shall be made to an escrow account from which the State may draw as hereinafter provided. The State shall bill the Tribe the reasonable, necessary, and actual costs related to obligations undertaken under this Compact. The State shall send invoices to the Tribe for these services and shall thereafter be permitted to withdraw the billed amounts from the escrow account under the circumstances provided in this section. The Tribe shall be advised in writing by the State of all withdrawals from the Escrow Account and as to the purpose of such withdrawal.

25.3 Tribal Challenge. If the Tribe believes that any expenses for which the State has billed the Tribe under this section, or actions which the State proposes to undertake and charge the Tribe for, are unnecessary, unreasonable or beyond the scope authorized by this Compact, the Tribe may invoke any of the Dispute Resolution procedures specified in Section XXVII below. In such event, the provisions set forth above shall remain in full force and effect pending resolution of the complaint of the Tribe. However, if it is determined that any expense charged against the Tribe is not necessary, not reasonable and/or is not within the scope of this Compact, the State shall reimburse the Tribe any monies withdrawn from escrow to meet such expense.

25.4 Termination of Escrow. Any monies that remain on deposit at the time this Compact, including all extensions thereof, concludes, shall be reimbursed to the Tribe.

XXVI. IGRA REMEDIES PRESERVED.

Nothing in this Compact shall be construed to limit the rights or remedies available to the parties hereto under the IGRA.

XXVII. DISPUTE RESOLUTION.

27.1 If either party believes that the other party has failed to comply with any requirement of

this Compact, it shall invoke the following procedure:

A. The party asserting the non-compliance shall serve written notice on the other party. The notice shall identify the specific statutory, regulatory or Compact provision alleged to have been violated and shall specify the factual basis for the alleged non-compliance. The State and Tribe shall thereafter meet within thirty (30) days in an effort to resolve the dispute.

B. If the dispute is not resolved to the satisfaction of the parties within ninety (90) days after service of the notice set forth, either party may pursue any remedy which is otherwise available to that party to enforce or resolve disputes concerning the provisions of this Compact, including:

(i) Arbitration pursuant to the specifications set forth in this section.

(ii) Commencement of an action in the United States District Court for the District of North Dakota.

(iii) Any remedy which is otherwise available to that party to enforce or resolve disputes concerning the provisions of this Compact.

27.2 In the event an allegation by the State asserting that a particular gaming activity by the Tribe is not in compliance with this Compact, where such allegation is not resolved to the satisfaction of the State within ninety (90) days after service of notice, the State may serve upon the Tribe a notice to cease conduct of such gaming. Upon receipt of such notice, the Tribe may elect to stop the gaming activity specified in the notice or invoke one or more of the additional dispute resolution procedures set forth above and continue gaming pending final determination.

27.3 In the event an allegation by the Tribe is not resolved to the satisfaction of the Tribe within ninety (90) days after service of the notice set forth above, the Tribe may invoke arbitration as specified above.

27.4 Any arbitration under this authority shall be conducted under the rules of the American Arbitration Association, except that the arbitrators will be selected by the State picking one arbitrator, the Tribe a second arbitrator and the two so chosen shall pick a third arbitrator. If the third arbitrator is not chosen in this manner within ten (10) days after the second arbitrator is picked, the third arbitrator will be

chosen in accordance with the rules of the American Arbitration Association.

XXVIII. EFFECTIVE DATE.

This Compact shall become effective upon execution by the Chairperson of the Tribe and the Governor of the State, approval by the Secretary of the Interior, and publication of such approval in the Federal Register pursuant to the IGRA.

XXIX. DURATION.

29.1 Term. This Compact shall be in effect for a term of ten (10) years after it becomes binding on the parties.

29.2 Automatic Extension. The duration of this Compact shall thereafter be automatically extended for terms of five (5) years upon written notice of renewal by either party on the other party during the final year of the original term of this Compact or any extension thereof, unless the other party serves written notice of non-renewal within thirty (30) days thereafter.

29.3 Operation. The Tribe may operate Class III gaming only while this Compact, or any extension thereof under this section, is in effect.

29.4 Successor Compact. In the event that written notice of non-renewal of this Compact is given by one of the parties above, the Tribe may, pursuant to the procedures of the Act, request the State to enter into negotiations for a successor compact governing the conduct of Class III gaming activities to become effective following the expiration of this Compact. Thereafter the State shall negotiate with the Tribe in good faith concerning the terms of a successor compact (see sec. 11(d)(3)(A) of the Act).

29.5 Litigation. If a successor compact is not concluded by the expiration date of this Compact, or any extension thereof the Tribe may commence action in the United States District Court pursuant to Section 11(d)(7) of the Act, or such other authority as may be applicable, in which event this Compact shall remain in effect until the procedures set forth in Section 11(d)(7) of the Act, or such other authority as may be applicable, are exhausted, including the resolution of any appeal.

29.6 Cessation of Class III Gaming. In the event written notice of non-renewal is given by either party

as set forth in this section, the Tribe shall cease all Class III gaming under this Compact upon the expiration date of this Compact, or upon the date the procedures specified above associated with a successor compact are concluded and a successor compact, if any, is in effect.

XXX. GEOGRAPHIC SCOPE OF COMPACT.

This Compact shall only govern the conduct of Class III games by the Tribe within the current exterior boundaries of the Fort Berthold Reservation which are in compliance with Section 2719 of the Indian Gaming Regulatory Act. The execution of this Compact shall not in any manner be deemed to have waived the rights of the State pursuant to that section.

XXXI. AMENDMENT.

The State or the Tribe may at any time and upon proper notification request amendment or negotiations for the amendment, replacement or repeal of this Compact. Both parties shall negotiate any requested amendment, replacement or repeal in good faith and reach a determination thereupon within ninety (90) days. Amendments to or replacement or repeal of this Compact shall not become applicable until agreed to by both parties and, if necessary, approved by the United States Secretary of Interior.

XXXII. NOTICES.

Unless a party advises otherwise in writing, all notices, payments, requests, reports, information or demand 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 Tribe shall be sent to:

Chairperson, Tribal Council
Three Affiliated Tribes
Business Office
HC3, Box 2
New Town, North Dakota 58763

Notice to the State shall be sent to:

Governor, State of North Dakota
Office of the Governor
Capitol Building
600 E. Boulevard Avenue
Bismarck, ND 58505

Attorney General, State of North Dakota
Office of the Attorney General
600 E. Boulevard Avenue
Bismarck, ND 58505

Each 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.

XXXIII. ENTIRE AGREEMENT.

This Compact and the addenda provided by Section 3.1E is the entire agreement between the parties and supersedes all prior agreements whether written or oral, with respect to the subject matter hereof. Neither this Compact nor any provision herein may be changed, waived, discharged, or terminated orally, but only by an instrument in writing.

XXXIV. NO ASSIGNMENT.

Neither the State nor the Tribe may assign any of its respective right, title, or interest in this Compact, nor may either delegate any of its respective obligations and duties except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be void.

XXXV. SEVERABILITY.

Each provision, section, and subsection of this Compact shall stand separate and independent of every other provision, section, or subsection. In the event that a court of competent jurisdiction shall find any provision, section, or subsection of this Compact to be invalid, the remaining provisions, sections and subsections of the Compact shall remain in full force and effect unless such provision, section or subsection is deemed integral to the Compact.

IN WITNESS WHEREOF, the parties hereto have caused this Compact to be executed as of the day and year first above written.

THREE AFFILIATED TRIBES

Dated: 10-7-92

Wilbur Wilkinson
Tribal Chairman

STATE OF NORTH DAKOTA

Dated: 7 October 1992

George Sinner
Governor

Dated: DEC 03 1992

Assistant Secretary - Indian Affairs

Resolution #91- [illegible] 372

RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934 and the authority under said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, In Chapter 27, Section 2, Subsection 2.1 and 2.4 discusses the composition and selection of Gaming Commission members; and

WHEREAS, Due to changes in administration, resignation, etc. there are vacancies on the Three Affiliated Tribes Gaming Commission; and

WHEREAS, To be prepared for further gaming development on the Fort Berthold Reservation and to ensure proper supervision of existing gaming activity the Three Affiliated Tribes Gaming Commission needs to be returned to full membership.

NOW, THEREFORE BE IT RESOLVED, That the Tribal Council of the Three Affiliated Tribes hereby in compliance with Chapter 27, Section 2, Subsection 2.1 and 2.4 appoints:

JIM MOSSETT	Tribal Business Council Member
TITUS HALL	Tribal Business Council Member
TOM GUNDERSON	Adult Non-Indian Resident of Fort Berthold
CLEMENT BAKER	Resident Adult Enrolled Member of Fort Berthold
EDMOND WHITE BEAR	Resident Adult Enrolled Member of Fort Berthold
DARRYL HALL	Alternate Resident Adult Enrolled Member of Fort Berthold

BE IT FURTHER RESOLVED, That the Tribal Business Council hereby approves the revised Gaming Ordinance prepared by Hans Walker and approves the proposed State Compact.

GFT stc
RECE
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BE IT FURTHER RESOLVED, That the Chairman is hereby authorized to negotiate and sign any and all documents, agreements, necessary to obtain a State Compact and Tribal Gaming Operation.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum 5 were present at a Special Meeting thereof duly called, noticed, convened and held on the 3rd day of July, 1991; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 1 members opposed, 0 members abstained, 0 members not voting and that said Resolution has not been rescinded or amended in any way.

Dated the 3rd day of July, 1991

John J. Rabbithead Jr.
Secretary, Tribal Business Council

ATTEST:

Wilbur D Wilkinson
Chairman, Tribal Business Council