

SEP - 9 2010

AMENDED AND RESTATED MANAGEMENT AGREEMENT

BETWEEN

SPOKANE TRIBE OF INDIANS

AND

WG-WASHINGTON, LLC

DATED AS OF AUGUST 1, 2010

(Two Rivers Casino)

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AMENDED AND RESTATED MANAGEMENT AGREEMENT

(Two Rivers Casino)

This AMENDED AND RESTATED MANAGEMENT AGREEMENT (this "**Agreement**") is made and entered into as of August 1, 2010 (the "**Execution Date**"), by and between SPOKANE TRIBE OF INDIANS, a federally recognized Indian Tribe (the "**Tribe**") and WG-WASHINGTON, LLC, a Nevada limited liability company ("**Manager**"). The Tribe and the Manager are sometimes referred to singly herein as a "**Party**" and collectively herein as the "**Parties**".

Recitals

A. The Tribe is a federally recognized Indian tribe and possesses sovereign governmental powers pursuant to the Tribe's powers of self-government over certain land owned by the United States of America in trust for the Tribe. Such land, as well as any other land or territory over which the Tribe's sovereign jurisdiction may extend at any time, is referred to herein as the "**Reservation**."

B. In compliance with the Indian Gaming Regulatory Act of 1988, P.L. 100-497, 25 U.S.C. § 2701 *et seq.*, as it may from time to time be amended ("**IGRA**"), the Spokane Tribal Business Council (the "**Business Council**") has enacted Chapter 23 of the Revised Spokane Law and Order Code (such Chapter 23 as it may be amended or in effect from time to time, or any successor provisions thereto, the "**Gaming Code**"), which regulates the operation of Gaming within the Reservation. The Gaming Code creates the Spokane Tribal Gaming Commission (the "**Tribal Gaming Commission**") and authorizes Class III gaming within the Reservation subject to the provisions of the Gaming Code and The Spokane Tribe and the State of Washington Class III Gaming Compact (as it may be amended and in effect from time to time, the "**Compact**").

C. The Tribe owns and operates the Two Rivers Casino, a casino located at 6828-B Highway 25, Davenport, WA 99122 (the "**Casino**"). The Casino is located on the Reservation and on a site that qualifies as "Indian lands," as such term is defined in 25 U.S.C. § 2703(4).

D. The Tribe operates the Casino to improve the economic conditions of members of the Tribe, to enable the Tribe to serve the social, economic, educational and health needs of the Tribe, to increase Tribal revenue and to enhance the Tribe's economic self-sufficiency and self-determination.

E. The Tribe seeks technical experience and expertise for the management of gaming and non-gaming activities at the Casino and instruction for members of the Tribe in the operation of the Casino. The Manager is willing and able to provide such experience, expertise and instruction.

F. The Tribe wishes to grant the Manager the exclusive right and obligation to manage, operate and maintain the Casino, and to train members of the Tribe and others in the operation and maintenance of the Casino during the term of this Agreement while conforming with the provisions of this Agreement. The Manager desires to perform these functions.

G. In connection with all of the foregoing, the Parties entered into that certain Management Agreement dated as of April 20, 2010 (the "Original Agreement"), which was submitted on April 26, 2010 to the National Indian Gaming Commission for approval by the Chairperson of the NIGC. The Parties wish to amend and restate the Original Agreement as provided herein, and re-submit this Agreement to the National Indian Gaming Commission for approval by the Chairperson of the NIGC.

Agreement

In consideration of the foregoing premises and the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Article 1

Definitions; Construction

1.1 Definitions. As they are used in this Agreement, the terms listed below shall have the meaning assigned to them as follows:

"Affiliate" means as to any Party, any Indian tribe, corporation, partnership, limited liability company, joint venture, trust, department, agency, subdivision or instrumentality or individual controlled by, under common control with, or which controls, directly or indirectly such Party.

"Agreement" has the meaning ascribed thereto in the first paragraph hereof.

"Annual Management Fee" has the meaning ascribed thereto in Section 5.1.1.2.

"Bank Accounts" means those accounts described in Section 3.15.1.

(b)(4)

"BIA" means the Bureau of Indian Affairs under the Department of the Interior of the United States of America.

"Business Council" has the meaning ascribed thereto in Recital B.

"Capital Budget" has the meaning ascribed thereto in Section 3.9.

"Capital Replacement(s)" means any alteration or rebuilding or renovation of the Casino, and any replacement of Furnishings and Equipment, the cost of which is capitalized and depreciated, rather than being expensed, applying GAAP.

"Capital Replacement Reserve" has the meaning ascribed thereto in Section 3.11.

"Casino" has the meaning ascribed thereto in Recital C and includes the Two Rivers Amphitheater, the Two Rivers Restaurant, and the Two Rivers RV Park. The Parties acknowledge and agree, for the avoidance of doubt, that in no event will the Two Rivers Marina be deemed part of the Casino for any purpose of this Agreement.

"Casino Employee" means any employee who is assigned to work at the Casino.

"Casino Employee Policies" has the meaning ascribed thereto in Section 3.5.2.

"Chewelah Casino" means the Chewelah Casino located at 2555 Smith Road, Chewelah, WA 99109.

"Chief Operating Officer" means the person employed by the Tribe to direct the day-to-day operations of the Casino.

"Class II Gaming" means Class II gaming as defined in IGRA.

"Class III Gaming" means Class III gaming as defined in IGRA.

"Compact" has the meaning ascribed thereto in Recital B.

"Confidential Information" has the meaning ascribed thereto in Section 6.4.1.

"Consulting Agreement" has the meaning ascribed thereto in Section 18.1.

"Department" means those general divisional categories shown in the Operating Budget and Annual Plan (e.g. food department), but shall not mean or refer to the subcategories (e.g. uniforms) appearing in each such divisional category.

"Depository Account" means a bank account described in Section 3.15.2.

"Depreciation and Amortization Expense" means, for any period, the total amount of depreciation and amortization expense (exclusive of the amortization of the principal amount of any indebtedness) and other similar non-cash operating charges for such period.

"Disbursement Account" means the bank account described in Section 3.15.3.

"Discloser" has the meaning ascribed thereto in Section 6.4.1.

(b)(4)



(b)(4)

"Effective Date" means the date on which the last of the following listed conditions is satisfied:

(i) written confirmation that the Tribal Gaming Commission, and the State (to the extent required by the Compact or other applicable state law), have approved background investigations of Manager; and

(ii) written approval of this Agreement and any documents collateral hereto identified by the NIGC as requiring its approval, is granted by the Chairperson of the NIGC.

"Emergency Condition" has the meaning ascribed thereto in Section 3.10.

"Estimated Monthly Management Fee" means, with respect to each calendar month during the Term, an amount equal to (a) the Manager's good-faith estimate of what the Annual Management Fee will be for the Fiscal Year of which such calendar month is a part, divided by (b) twelve (12).

"Execution Date" has the meaning ascribed thereto in the first paragraph of this Agreement.

"Facilities" means the buildings, improvements, and fixtures, now or hereafter in which the Casino is located.

"Fiscal Quarter" means each of the following periods: (i) the calendar months of October, November and December; (ii) the calendar months of January, February and March; (iii) the calendar months of April, May and June; and (iv) the calendar months of July, August and September.

"Fiscal Year" means the period commencing on October 1 of each year and ending on September 30 of the following year.

"Furnishings and Equipment" means all furniture, furnishings and equipment required for the operation of the Casino in accordance with the standards set forth in this Agreement, including, without limitation:

(i) cashier, money sorting and money counting equipment, surveillance and communication equipment, and security equipment;

(ii) Gaming Equipment;

(iii) office furnishings and equipment;

(iv) specialized equipment necessary for the operation of any portion of the Casino for accessory purposes, including equipment for kitchens, laundries, dry

cleaning, cocktail lounges, restaurants, public rooms, commercial and parking spaces, and recreational facilities;

(v) all other furnishings, equipment, and other personal property used in the operation of the Casino; and

(vi) all other furnishings and equipment hereafter located and installed in or about the Casino which are used in the operation of the Casino in accordance with the standards set forth in this Agreement.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, in each case which are in effect from time to time.

"Gaming" means Class II Gaming and Class III Gaming.

"Gaming Equipment" means equipment permitted under the IGRA for Gaming, including without limitation gambling devices (as permitted under the Compact), video games of chance, table games, keno equipment and other Class II and Class III Gaming equipment

"Gaming Operations" means any and all Gaming operated by Manager in accordance with the terms of this Agreement within the Casino.

"Gaming Code" has the meaning ascribed thereto in Recital B.

"Governmental Action" means any resolution, ordinance, statute, regulation, order or decision having the force of law or legal authorization of the Tribe, the Business Council or any instrumentality or agency of the Tribe.

"Gross Gaming Revenue (Win)" means the net win from gaming activities which is the difference between gaming wins and losses before deducting costs and expenses (including, without limitation, any deduction for Promotional Allowances), determined in accordance with GAAP consistently applied.

"Gross Revenues" means all revenues of any nature derived directly or indirectly from the Casino including, without limitation, Gross Gaming Revenue (Win), retail, food and beverage sales and other rental or other receipts from lessees, sublessees, licensees and concessionaires (but not the gross receipts of such lessees, sublessees, licensees or concessionaires), and before any deduction is made for Promotional Allowances, all as determined in accordance with GAAP consistently applied.

"House Bank" means the amount of cash, chips, and tokens that Manager from time to time determines necessary to have at the Casino daily to meet its cash needs.

"IGRA" has the meaning ascribed thereto in Recital B.

EXECUTION DOCUMENT

"Insider" means (i) with respect to any person, (a) a relative of such person or of a general partner of such person, (b) a partnership in which such person is a general partner, (c) a general partner of such person and (d) a corporation of which such person is a director or officer or person in control and (ii) with respect to any entity, (a) any director or officer of such entity, (b) any partnership in which such entity is a general partner, (c) any general partner in or of such entity and (d) any relative of any general partner in, general partner of, such entity or any relative of any such director, officer or person in control of such entity.

"Interest Expense" means, for any period, without duplication, the total consolidated interest expense including (i) interest expense attributable to capital leases, (ii) amortization of indebtedness discount and indebtedness issuance costs (including any original issue discount attributable to any issuance of equity securities and indebtedness securities, (iii) capitalized interest, (iv) non-cash interest payments, (v) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing, (vi) net cash costs under interest rate protection agreements (including amortization of fees), and (viii) interest actually paid under any guarantee of indebtedness or other obligations of any other person.

"Internal Control System" has the meaning ascribed thereto in Section 3.14.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

"Inter-Tribal Lottery" means a lottery, which, as of the Execution Date, has been proposed but is not in effect, to be operated jointly by the Tribe and certain other Indian tribes.

"Legal Requirements" means any and all present and future judicial, administrative, and tribal rulings or decisions, and any and all present and future federal, state, local, and tribal laws, ordinances, rules, regulations, permits, licenses and certificates applicable to the Tribe, Manager, Reservation, or the Casino, including without limitation and to the extent applicable, State law, IGRA and its implementing regulations, the Compact and the Gaming Code.

"Management Fee" means the fee payable to the Manager as consideration of performance of its obligations hereunder, as such fee is to be accrued, paid, estimated and reconciled in accordance with Section 5.1.

"Manager" has the meaning ascribed thereto in the first paragraph of this Agreement.

"Managing Officer" means the individual designated by the Manager and authorized to grant consents and approvals on behalf of the Manager as provided in this Agreement. The Managing Officer shall serve on behalf of the Manager as a liaison between the Manager and the Tribe.

"Marks" has the meaning ascribed thereto in Section 6.2.

"Member of the Tribal Government" means a member of the Business Council or the Tribal Gaming Commission.

"Minimum Balance" means the amount described as such in Section 3.7.

"Minimum Guaranteed Monthly Payment" means the minimum payment due to the Tribe in accordance with 25 U.S.C. §2711(b)(3), which will be an amount equal to (b)(4) per month.

"National Indian Gaming Commission" or "NIGC" means the commission established pursuant to 25 U.S.C. § 2704.

"Net Revenues" means the sum of "Net Revenues (gaming)" and "Net Revenues (other)."

"Net Revenues (gaming)" means Gross Gaming Revenue (Win) from Gaming Operations less all Gaming related Operating Expenses, excluding the Management Fee, and less the retail value of any Promotional Allowances. Notwithstanding the foregoing, the following shall be excluded from "Net Revenues (gaming)":

- (i) any gratuities or service charges added to a customer's bill;
- (ii) any credits or refunds made to customers, guests or patrons ;
- (iii) any sums and credits received by the Tribe for lost or damaged merchandise;
- (iv) any sales taxes, excise taxes, gross receipt taxes, admission taxes, entertainment taxes, tourist taxes or charges received from patrons and passed on to the Tribe or any other governmental or quasi governmental entity;
- (v) any proceeds from the sale or other disposition of furnishings and equipment or other capital assets;
- (vi) any fire and extended coverage insurance proceeds other than for business interruption;
- (vii) any condemnation awards other than for temporary condemnation; and
- (viii) any interest on bank account(s).

It is intended that this provision be interpreted to be consistent with 25 U.S.C. § 2703(9).

"Net Revenues (other)" means all Gross Revenues from Non-Gaming Operations not included in "Net Revenues (gaming)". "Net Revenues (other)" includes food and beverage, entertainment, and retail at the Casino, less all Non-Gaming related Operating Expenses, excluding the Management Fee, and less the retail value of Promotional Allowances. Notwithstanding the foregoing, the following shall be excluded from "Net Revenues (other)":

- (i) any gratuities or service charges added to a customer's bill;
- (ii) any credits or refunds made to customers, guests or patrons;
- (iii) any sums and credits received for lost or damaged merchandise;

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(iv) any sales taxes, excise taxes, gross receipt taxes, admission taxes, entertainment taxes, tourist taxes or charges received from patrons and passed on to the Tribe or any other governmental or quasi governmental entity;

(v) any proceeds from the sale or other disposition of furnishings and equipment or other capital assets;

(vi) any fire and extended coverage insurance proceeds other than for business interruption;

(vii) any condemnation awards other than for temporary condemnation;
and

(viii) any interest on bank account(s).

It is intended that this provision be interpreted to be consistent with 25 U.S.C. § 2703(9).

"Non-Gaming Operations" means the operation of the Casino and any lawful commercial activity allowed in the Facilities other than Gaming Operations.

"Operating Budget and Annual Plan" means the operating budget and plan for the Casino described in Section 3.7.

"Operating Expenses" means all expenses of the operation of the Casino pursuant to GAAP, including but not limited to the following:

(i) the payment of salaries, wages, and benefit programs for Casino Employees;

(ii) Operating Supplies for the Casino;

(iii) utilities;

(iv) repairs and maintenance of the Facilities (excluding Capital Replacements);

(v) interest accruing under Two Rivers Indebtedness;

(vi) interest on installment contract purchases or other interest charges on debt of the Casino approved by the Business Council;

(vii) insurance and bonding;

(viii) advertising and marketing, including busing and transportation of patrons to the Facilities;

(ix) accounting, legal and other professional fees, including those of the Tribe directly related to Gaming Operations;

- (x) security and surveillance costs;
- (xi) reasonable travel expenses for Casino Employees directly related to the operation of the Casino and subject to the approved Annual Budget and Operating Plan;
- (xii) operating lease payments for Furnishings and Equipment to the extent approved by the Business Council;
- (xiii) trash removal;
- (xiv) costs of goods sold;
- (xv) other expenses designated as Operating Expenses in accordance with the accounting standards as referred to in Section 3.17.3;
- (xvi) expenses specifically designated as Operating Expenses in this Agreement;
- (xvii) depreciation and amortization of the Facilities based on schedules used by the Tribe as of the Execution Date, and depreciation and amortization of all other assets, each in accordance with GAAP;
- (xviii) recruiting and training expenses;
- (xix) any required fees due to state or federal agencies pursuant to applicable state and federal law;
- (xx) any required payments to the State or local governments made by or on behalf of the Casino or the Tribe pursuant to the Compact or any other governmental agreement;
- (xxi) any services payments or community benefit payments to be made for city services such as for fire, police and other services;
- (xxii) any budgeted charitable contributions by the Casino;
- (xxiii) charges, assessments, fines or fees imposed by governmental entities of the Tribe which are reasonably related to the cost of Tribal governmental regulation of public health, safety or welfare, or the integrity of Tribal gaming operations (but excluding (i) any funding of the Tribal Gaming Commission, which will be borne by the Tribe, and (ii) any fines or fees imposed by the Tribal Gaming Commission in connection with the license of Manager, and persons and entities affiliated thereto); and
- (xxiv) reasonable expense reserves to the extent approved by the Business Council.

"Operating Supplies" means food and beverages (alcoholic and nonalcoholic) and other consumable items used in the operation of the Casino, such as playing cards, tokens, chips, plaques, dice, fuel, soap, cleaning materials, matches, paper goods, stationery and all other similar items.

"Party" or "Parties" has the meaning ascribed thereto in the first paragraph of this Agreement.

"Promotional Allowances" means the retail value of complimentary food, beverages, merchandise, and tokens for gaming, provided to patrons as promotional items.

"Proposed Airway Heights Development" means that certain gaming, retail and entertainment complex proposed for development on an approximately 145-acre parcel contiguous to the western boundary of the City of Airway Heights, Washington, held in trust for the Tribe by the United States.

"Qualified" means having the ability to provide the same or similar quality goods or services at competitive prices as non-tribal competitors, having demonstrated skills and abilities to perform the tasks to be undertaken in an acceptable manner and able to meet the bonding requirements of Manager applicable to non-tribal competitors.

"Qualified Contractor" has the meaning ascribed thereto in Section 3.6.

"Recipient" has the meaning ascribed thereto in Section 6.4.1.

"Reconciliation Amount" has the meaning ascribed thereto in Section 5.1.1.3.

"Regulatory Cap" has the meaning ascribed thereto in Section 5.3.

"Representatives" has the meaning ascribed thereto in Section 6.4.2.

"Reservation" has the meaning ascribed thereto in Recital A.

"Soft Count" means the count of the contents in a drop box (Tables) or the bill validator acceptor (Gaming machine).

"State" shall mean the state of Washington.

"Stub Period" means any partial calendar month or partial Fiscal Year occurring at and immediately after the commencement of or immediately prior to the expiration of the Term. The Effective Date, as well as the last day of the Term, will be included within any Stub Period.

"Suspension of Operations" means a period during which the conduct of Gaming Operations at the Casino or a material portion thereof has been rendered illegal, impossible or impracticable by virtue of condemnation or casualty, a change in Legal Requirements, or other circumstances beyond the reasonable control of the Parties.

"Term" has the meaning set forth in Section 2.2.

"Tolling Period" means a Suspension of Gaming Operation during which (a) no Gaming Operations are being conducted at the Casino and (b) no Management Fee accrues for the benefit of the Manager.

"Tribe" has the meaning set forth in the first paragraph of this Agreement.

"Tribal Gaming Commission" has the meaning set forth in Recital B.

"Tribal Governmental Action" means any resolution, ordinance, statute, regulation, order or decision of the Tribe, the Business Council, the Tribal Gaming Commission, or any instrumentality or agency of the Tribe, however constituted, that has the force of law.

"Two Rivers Indebtedness" means the indebtedness evidenced by that certain note dated (b)(4)

1.2 Captions; Section References. The captions for each Section and Subsection are intended for convenience only. Unless expressly indicated otherwise, references in this Agreement to "Sections" and "Articles" are references to sections of and articles of this Agreement.

1.3 Other Rules of Construction. Except as otherwise expressly provided herein:

1.3.1 defined terms have the meanings assigned to them in this Agreement and include the plural as well as the singular;

1.3.2 pronouns of either gender or neuter shall include, as appropriate, the other pronoun forms;

1.3.3 the words "herein," "hereof," "herewith," "hereunder," and "hereto," and other words of similar import, refer to this Agreement as a whole and not to any particular Section or other subdivision hereof; and

1.3.4 the words "include," "including" and other words of similar import mean "include, without limitation" or "including, without limitation," regardless of whether any reference to "without limitation" or words of similar import is made.

Article 2

Engagement; Term; Other Agreements

2.1 Engagement of Manager. The Tribe hereby retains and engages Manager as the exclusive manager of the Casino (as it may be expanded, improved or modified over the course of the Term) pursuant to the terms and conditions of this Agreement, and Manager hereby accepts such retention and engagement.

2.2 Term; Access to Casino. The term of this Agreement shall begin on the Effective Date and continue for a period of five (5) years after the Effective Date, unless this Agreement is otherwise terminated prior to such time pursuant to the terms hereof (the "**Term**"). The Tribe covenants that, during the Term, the Manager shall have complete peaceable access to and presence in the Casino in accordance with the terms of this Agreement, free from molestation, eviction and disturbance by the Tribe or by any other person or entity (except as may be reasonably necessary in connection with the Tribe's exercise of its obligations to provide for the safety of persons or property, and then for no greater a duration that is reasonably necessary); provided, however, that such right of access to and presence in the Casino shall cease upon the termination of this Agreement for any reason, except to the extent necessary for Manager to perform its transitional obligations pursuant to Article 10 (provided, however, that in no event will the Manager's performance of such transitional obligations involve the Manager's management of the Casino beyond the date that this Agreement has been terminated).

2.3 Status of Gaming on Reservation.

2.3.1 Exclusive Rights. The Tribe represents and warrants to the Manager that as of the Execution Date, Gaming is not conducted anywhere on the Reservation other than at the Casino and the Chewelah Casino. The Tribe agrees that, during the Term: (a) except with respect to the Chewelah Casino, the Proposed Airway Heights Development, and the Inter-Tribal Lottery, the Manager (or its designated Affiliate) will have the exclusive right to develop Gaming on the Reservation and facilities housing such operations on the Reservation to the extent any such gaming operations and facilities are developed beyond the scope in effect on the Reservation as of the Execution Date; (b) except with respect to the Chewelah Casino, the Proposed Airway Heights Development, and the Inter-Tribal Lottery, the Manager will have the exclusive right to operate Gaming on the Reservation; (c) the scope of Gaming at the Chewelah Casino will not be materially expanded without the prior written consent of the Manager, which will not be unreasonably withheld, delayed or conditioned by the Manager; and (d) the Tribe will consult with the Manager with respect to any material expansion, improvement to or modification of the Casino and will not undertake any material expansion, improvement to or modification of the Casino without the prior written consent of the Manager, which will not be unreasonably withheld, delayed or conditioned by the Manager. Should any development of Gaming on the Reservation beyond the scope in effect as of the Execution Date occur, as contemplated in clause (a) of the preceding sentence, then the Parties agree that they will either amend this Agreement or enter into a new agreement or agreements, as appropriate, with respect to such development of new Gaming, and submit all of such amendments or new agreements to the National Indian Gaming Commission for approval (or, in the case of a development agreement or other agreement that the Parties believe is not a management contract, for a determination by the National Indian Gaming Commission that such agreement is not a management contract).

2.3.2 Inter-Tribal Lottery. The Manager acknowledges that the Tribe is considering participation in the Inter-Tribal Lottery, and that it is possible that Inter-Tribal Lottery operations may commence and continue during the Term. The Manager acknowledges and agrees that the sale of tickets, scratch-cards and the like (but not use of electronic gaming devices) with respect to such Inter-Tribal Lottery at locations

throughout the Reservation during the Term will not constitute a violation of the Manager's exclusive rights pursuant to Section 2.3.1. Further, the Parties agree that if the Tribe wishes to operate Inter-Tribal Lottery ticket stations at the Casino during the Term, it will consult with the Manager as to the number and placement of such stations, which will be subject to the Manager's approval, not to be unreasonably withheld, delayed or conditioned by the Manager. The Parties agree that in the event any such Inter-Tribal Lottery ticket stations are placed and operated at the Casino, then, notwithstanding any other term or provision of this Agreement to the contrary, such Inter-Tribal Lottery ticket stations will be excluded from Casino operations for all purposes of this Agreement.

2.4 Business Council. With respect to any matter requiring the approval or consent of the Business Council pursuant to this Agreement: (i) the Manager will receive advance notification of any meeting of the Business Council at which the Business Council will deliberate on such matter, and will be given the reasonable opportunity to be present at such meeting and heard with respect to such matter, subject to the right of the Business Council to deliberate in executive session without the presence of the Manager or its designated representative after the Manager has been given a reasonable opportunity to be heard with respect to such matter, and (ii) the Business Council will not unreasonably withhold, delay or condition any such consent or approval. The Tribe covenants to provide the Manager with true and correct copies of all minutes of Business Council meetings at which matters pertaining to this Agreement are deliberated or discussed; *provided, however*, that the content of unrelated matters and the content of any discussions held in executive session may be redacted from copies of such minutes.

2.5 Compliance with Law; Licenses. Each Party covenants that it will at all times comply with all Legal Requirements in connection with the performance of its duties under this Agreement. Without limitation of the foregoing, the Parties agree that all Gaming Operations will be conducted in accordance with IGRA and the Gaming Code. The Tribe shall not unreasonably withhold, delay, withdraw, qualify or condition such licenses as the Tribe is authorized to grant.

2.6 Gaming Code. The Tribe agrees that any of the following will constitute a material breach of this Agreement by the Tribe (except as required by the Compact or applicable federal law or regulation): (i) any amendments made to the Gaming Code and the regulations promulgated thereunder other than as a legitimate effort to ensure that Gaming is conducted in a manner that adequately protects the environment, public health and safety, and the integrity of the Casino; (ii) any amendments made to the Gaming Code, the regulations promulgated thereunder or any other ordinances or resolutions (or the adoption of new ordinances, regulations or resolutions) in a manner that would materially and adversely impair Manager's rights under this Agreement; and (iii) Manager's failure to receive a reasonable opportunity to comment on the Gaming Code and any proposed amendments to the Gaming Code, the regulations promulgated under it, and any changes to any system for internal controls prior to their enactment.

2.7 Fire and Safety. Manager will maintain the Facilities in compliance with all Legal Requirements related to fire and safety. Nothing in this Section 2.7 grants any

jurisdiction to the State or any political subdivision thereof over the Casino or the Facilities, except as otherwise provided or required by applicable law. The Tribe shall be responsible for arranging fire protection, emergency ambulance and medical services, and police services for the Facilities. The costs incurred in good faith of such increased public safety services attributable to the Facilities shall be an Operating Expense.

2.8 Compliance with the Environmental Laws. The Tribe will comply with environmental Legal Requirements to the extent applicable, with the assistance of Manager as reasonably requested by the Tribe.

2.9 Nonrecruitment of Employees. The Tribe and the Manager each covenant and agree that, during the Term and for a period of one year after the expiration of or any termination of this Agreement, neither it nor its Affiliates will directly or indirectly employ, cause to be employed, solicit or recruit for engagement or employment, or encourage to leave employment with the other Party, any employee *of the* other Party or any of their Affiliates; *provided* that the foregoing shall not be deemed to prohibit general advertisement or solicitations that are not directed to such employees, nor shall anything in the foregoing apply to any employee of the Tribe, who, within twelve (12) months prior to the commencement of employment with the Tribe, were employed by the Manager or any of its Affiliates. The Tribe and the Manager acknowledge and agree that the obligations set forth in this Section 2.9 are a direct inducement for each Party to enter into this Agreement.

(b)(4)



2.11 Covenant of Good Faith and Fair Dealing. Each Party agrees to act in good faith in dealing with one another pursuant to this Agreement. Each Party hereby covenants to the others that it shall not undermine the rights of the other Parties hereto with respect to the Agreement and will cooperate with each other in achieving the goals of this Agreement; *provided, however*, that nothing in the foregoing will be deemed to limit or otherwise affect the rights of a Party to terminate this Agreement or seek remedies for defaults hereunder, all as provided for in this Agreement.

Article 3

Management and Operation of Casino

3.1 Manager's Authority and Responsibility. During the Term, Manager will have the exclusive authority to, and Manager will, conduct and direct all business and affairs in connection with the day-to-day operation, management and maintenance of the Casino, except with respect to matters that, pursuant to the express provisions of this Agreement require the approval of the Business Council or the Tribe. Without limitation of the foregoing, the Manager will establish the operating days and hours for the Casino. Manager is hereby granted the necessary power and authority to act in order to fulfill all of its responsibilities under this Agreement. Nothing herein grants or is intended to grant Manager a titled interest to the Casino. The Tribe shall have the sole proprietary interest in all Gaming, subject to the rights and responsibilities of Manager under this Agreement.

3.2 Duties of Manager. Manager's duties shall include, without limitation, the following:

3.2.1 Physical Duties. Manager shall use reasonable measures for the orderly physical administration, management, and operation of the Facilities, including without limitation cleaning, painting, decorating, plumbing, carpeting, grounds care and such other maintenance and repair work as is reasonably necessary.

3.2.2 Required Filings. Manager shall comply with all applicable provisions of the Internal Revenue Code including, but not limited to, the prompt filing of any cash transaction reports and W-2G reports that may be required by the Internal Revenue Service of the United States or under the Compact.

3.2.3 Contracts. Contracts relating to the operations of the Casino shall be entered into in the name of the Tribe and may be executed on behalf of the Tribe by either the Chief Operating Officer or the Managing Officer; *provided that*, any expenditure or contract with a value or potential exposure in excess of (b)(4) must be approved in advance by the Business Council, and any contract containing any waiver of the Tribe's sovereign immunity (in any form or scope) must be approved in advance by the Business Council. No expenditures, of any amount, for the supply of goods or services to the Casino shall be entered into with an Affiliate or Insider of the Manager unless such relationship is disclosed to and approved in advance by the Business Council. Nothing contained in this Section 3.2.3 shall be deemed to be or constitute a waiver of the Tribe's sovereign immunity.

3.2.4 Advertising. Manager shall be responsible for placing advertising. Advertising shall be consistent with the Tribe's policies and standards. In the event the Business Council determines that a particular ad or ad campaign is not consistent with the Tribe's policies, Manager shall remove such ads or ads campaign, upon the Tribe's direction to do so, as expeditiously as reasonably possible in the circumstances.

3.2.5 Payment of Bills and Expenses. Manager shall be responsible for promptly paying bills and expenses as they become due.

3.3 Security and Surveillance. Manager shall be responsible for providing for appropriate security for the operation of the Casino (including the hiring and supervision of security personnel), subject to regulatory oversight and access of the Tribal Gaming Commission, and all other Legal Requirements. A surveillance system (including without limitation, closed circuit television) for monitoring the activities of the customers, employees, supervisors and management personnel, as well as tracking the movement of all funds into, within and out of the Casino and Facilities, shall be maintained by the Tribal Gaming Commission.

3.4 Alcoholic Beverages and Tobacco Sales. During the Term, alcoholic beverages may be served at the Casino if permitted pursuant to all Legal Requirements. Tobacco and tobacco products may be sold at the Casino if permitted pursuant to all Legal Requirements.

3.5 Employees.

3.5.1 Manager's Responsibility for Employees. All Casino Employees shall be employees of the Tribe and not of the Manager (except with respect to any Casino Employees that the Manager agrees will be an employee of the Manager). Notwithstanding the foregoing, during the Term, the Tribe delegates to the Manager (which delegation may not be revoked while this Agreement is in force and effect) and agrees that the Manager shall have, subject to the terms of this Agreement (including, without limitation, Section 3.5.3), (i) the exclusive responsibility and authority to direct the selection, control, promotion, discipline, and discharge of all Casino Employees, and (ii) the exclusive responsibility and control for determining whether a prospective employee is qualified subject to the Indian preference provisions set forth herein, and the appropriate level of compensation to be paid, subject to tribal law; *provided, however*, that the selection, promotion, and compensation of the Chief Operating Officer will be subject to the prior approval of the Business Council.

3.5.2 Casino Employee Policies. Manager shall adopt and administer standard personnel policies and procedures (the "Casino Employee Policies"), subject to the approval of the Business Council. The Casino Employee Policies shall include a job classification system with compensation levels and scales. The Casino Employee Policies shall include the grievance procedure set forth on Exhibit "A" attached hereto, provided that nothing herein shall authorize Manager to waive the Tribe's sovereign immunity from suit in any action brought by an aggrieved employee. Manager may, with advance notice to and approval of the Business Council, modify the Casino Employee Policies. All such actions and policies shall comply with Legal Requirements.

3.5.3 Employment Suitability. No individual whose prior activities, criminal record, if any, or reputation, habits and associations are known to pose a threat to the public interest, the effective regulation of Gaming, or to the gaming licenses of Manager or any of its Affiliates, or to create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of Gaming, shall knowingly be employed by Manager or the Tribe. Without limitation of the foregoing, (i) the Tribal Gaming Commission shall have the exclusive right to determine the licensing suitability of any Casino Employee and shall be solely responsible for the licensing of each Casino

Employee and (ii) no person that has been found unsuitable by the Tribal Gaming Commission or that has not received a license as required by the Tribal Gaming Commission may be a Casino Employee. The background investigation procedures employed by the Tribal Gaming Commission shall satisfy all regulatory requirements independently applicable to Manager in connection with the Gaming Operation. Any costs associated with obtaining such background investigations shall constitute an Operating Expense. Notwithstanding the foregoing, all background investigations of Manager (including the Manager's Affiliates) shall not constitute an Operating Expense or an expense of the Tribe and shall be paid by Manager.

3.5.4 No Manager Wages or Salaries. Neither Manager nor Manager's Affiliates nor any of their officers, directors, shareholders, or employees (other than Casino Employees, if any Casino Employees are employees of Manager) nor any of their respective Insiders shall without Business Council approval receive any payment from the Tribe, other than the Management Fee or other amounts to be paid to Manager under Section 5.1 and reimbursement of certain expenses as provided in Section 5.2.

3.5.5 Indian Preference, Recruiting and Training. Notwithstanding any other provision of this Agreement, Manager will, during the Term, to the extent permitted by applicable law, including but not limited to the Indian Civil Rights Act, 25 U.S.C. §1301 et seq., give preference in recruiting, training and employment to qualified members of the Tribe, their spouses and children and enrolled members of other federally recognized Indian tribes in all job categories of the Casino. In doing so, Manager will:

3.5.5.1 abide by any duly enacted Tribe preference laws;

3.5.5.2 give such preferences in the following order of preference to the extent consistent with law;

- (a) enrolled members of the Tribe;
- (b) spouses, parents or children of members of the Tribe; and
- (c) enrolled members of other federally recognized Indian Tribes; and

3.5.5.3 in consultation with and subject to approval of the Business Council, develop and conduct a management training program for members of the Tribe or people selected by Business Council, which shall be structured to provide appropriate training for those participating to assume full managerial control of the Casino at the conclusion of the Term.

3.6 Preference in Contracting. In entering into contracts for the supply of goods and services for the Casino, Manager will give preference to Qualified members of the Tribe, and Qualified business entities certified by the Tribe as controlled by members of the Tribe and spouses, parents and children of members of the Tribe and businesses controlled by such persons in the following order of preference: (i) Qualified members of the Tribe; (ii) Qualified business entities certified by the Tribe as controlled by members of the Tribe; and (iii) spouses, parents and children of members of the Tribe and businesses controlled by such persons (persons or

business entities described in the foregoing clauses (i), (ii) and (iii) collectively, "**Qualified Contractors**"). If no Qualified Contractor is available to perform a specific contract, then the Manager may select for such contract a contractor other than a Qualified Contractor; provided, however, that with the written approval of the Business Council, the Manager may select for a contract a contractor who is not a Qualified Contractor even if a Qualified Contractor is available to perform such contract. To the extent commercially practicable, the Manager shall provide written notice to the Business Council in advance of all such contracting, subcontracting and construction opportunities. To the extent that any tribal employment ordinance enacted by the Tribe conflicts with or provides for employment standards or requirements different than those set forth above, the terms, employment standards and requirements of the tribal ordinance shall control provided such preference does not have a material adverse effect on this Agreement. The Manager will notify the Business Council of any contract awarded to any person or entity described in clauses (i), (ii) and (iii) of the first sentence of this Section 3.6.

3.7 Operating Budget and Annual Plan. Manager will, in consultation with the Business Council, not less than sixty (60) calendar days prior to the commencement of each full or partial Fiscal Year during the Term, submit to the Business Council, for its approval, a proposed Operating Budget and Annual Plan for the ensuing Fiscal Year. The Business Council shall have the opportunity to make additions to the proposed Operating Budget and Annual Plan. The Operating Budget and Annual Plan shall include a projected income statement, balance sheet, and projection of cash flow for the Casino, separately and on a combined basis, for such Fiscal Year, with detailed justifications explaining the assumptions used therein and included with the Operating Budget and Annual Plan shall be a schedule of repairs and maintenance (other than Capital Replacements) expected during such Fiscal Year, a business and marketing plan for such Fiscal Year, and the Minimum Balance which must remain in the Bank Accounts and the House Bank as of the end of each month during such Fiscal Year to assure sufficient monies for working capital purposes, and other expenditures authorized under the Operating Budget and Annual Plan. The Business Council may, in its sole discretion, engage an independent firm or firms with expertise in gaming operations to consult with concerning the Operating Budget and Annual Plan and the Capital Budget (the "**Financial Advisor**"). The costs of the Financial Advisor, up to a maximum of (b)(4) per year, shall be an Operating Expense.

The Operating Budget and Annual Plan for the Casino will be comprised of the following:

3.7.1 a statement of the estimated income and expenses for the coming Fiscal Year, including estimates as to Gross Revenues and Operating Expenses for such Fiscal Year, such operating budget to reflect the estimated results of the operation during each month of the subject Fiscal Year;

3.7.2 either as part of the statement of the estimated income and expenses referred to in the preceding clause (a), or separately, budgets (and timetables and requirements of Manager) for:

3.7.2.1 repairs and maintenance;

3.7.2.2 Capital Replacements;

- 3.7.2.3 Furnishings and Equipment;
 - 3.7.2.4 advertising and business promotion programs; and
 - 3.7.2.5 the estimated cost of Promotional Allowances;
- and

- 3.7.3 a business and marketing plan for the subject Fiscal Year.

The Business Council's approval of the Operating Budget and Annual Plan shall proceed with all deliberate speed and shall not be unreasonably withheld or delayed. The Business Council shall meet within ten (10) business days of the delivery of the proposed Operating Budget and Annual Plan. The Business Council shall deliver to the Manager any objection or addition to the proposed Operating Budget and Annual Plan within sixty (60) calendar days of its delivery to the Business Council. Such objections and additions must contain specific detail as to any line item to which an objection is made and specific detail as to why an addition should be made.

If the Business Council is unable to resolve the additions, or disputed or objectionable item(s) prior to the commencement of the applicable Fiscal Year, the undisputed portions of the proposed Operating Budget and Annual Plan shall be deemed to be adopted and approved and the corresponding line item(s) contained in the Operating Budget and Annual Plan for the preceding Fiscal Year shall be adjusted as set forth in the following sentence and shall be substituted in lieu of the disputed item(s) in the proposed Operating Budget and Annual Plan. Those line items which are in dispute shall be determined by increasing the preceding Fiscal Year's actual expense for the corresponding line items by an amount determined by Manager which does not exceed the All Items Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, U.S. City Average (1982-1984 = 100) for the Fiscal Year prior to the Fiscal Year with respect to which the adjustment to the line item(s) is being calculated or any successor or replacement index thereto (provided, however, in no event will the foregoing described adjustment result in a budgeted expense for a line item that is lower than the actual expense amount for the preceding Fiscal Year). The resulting Operating Budget and Annual Plan obtained in accordance with the preceding sentence shall be deemed to be the Operating Budget and Annual Plan in effect until such time as the Business Council has resolved the items in dispute.

The Manager may, after notice to and approval from the Business Council, revise the Operating Budget and Annual Plan from time to time, as necessary, to reflect any unpredicted significant changes, variables or events or to include significant, additional, unanticipated items of expense. Further, after notice to the Business Council, the Manager may reallocate part or all of the amount budgeted with respect to any line item to another line item within the same Department and may make such other modifications to the Operating Budget and Annual Plan as Manager deems necessary, provided that the total amount budgeted for any Department in the Operating Budget and Annual Plan may not be adjusted by more than 10% without approval from the Business Council. The Manager shall provide the Business Council with a revised Operating Budget and Annual Plan on a quarterly basis. The Tribe acknowledges that the Operating Budget and Annual Plan is intended only to be a reasonable estimate of the Casino's

revenues and expenses for the ensuing Fiscal Year. The Manager shall not be deemed to have made any guarantee or covenant concerning projected results contained in the Operating Budget and Annual Plan.

3.8 Tribal Regulatory Costs. Notwithstanding any other term or provision of this Agreement to the contrary, funding of all Tribal Gaming Commission costs (including, without limitation, regulatory surveillance costs) will be borne by the Tribe, and no such costs will be charged as an Operating Expense.

3.9 Capital Budgets. The Manager will, not less than sixty (60) calendar days prior to the commencement of each Fiscal Year, submit to the Business Council for its approval a recommended capital budget (the "**Capital Budget**") describing the cost, estimated useful life and estimated replacement costs (together with the business purpose for any such replacement or capital expenditure) for the ensuing Fiscal Year, for the physical plant, furnishings, equipment, and ordinary capital replacement items, all of which are defined to be any items, the cost of which is capitalized and depreciated, rather than expensed, using GAAP ("**Capital Replacements**") as shall be required to operate the Casino in accordance with sound business practices. Expenditures for Capital Replacements shall be subject to approval by the Business Council. The Business Council shall meet to discuss the proposed Capital Budget. The Manager shall be responsible for the design and installation of Capital Replacements.

3.10 Capital Replacements. The Tribe will expend such amounts for any Capital Replacements as shall be required, in the course of the operation of the Casino, to maintain, at a minimum, the Casino in compliance with any Legal Requirements and to comply with Manager's recommended programs for renovation, modernization and improvement intended to keep the Casino competitive in its market, or to correct any condition of an emergency nature. Such condition of an emergency nature ("**Emergency Condition**") shall include without limitation, maintenance, replacements or repairs which require immediate action to preserve and protect the Casino, assure its continued operation, and/or protect the comfort, health, safety and/or welfare of the Casino's guests or Casino Employees. In no event, however, will the Tribe be under any obligation to fund Capital Replacements in an aggregate amount greater than its periodic required contributions to the Capital Replacement Reserve described in Section 3.11. Manager may take all steps and make all expenditures from the Disbursement Account described in Section 3.15.3 (in the case of non-capitalized repairs and maintenance), or Capital Replacement Reserve described in Section 3.11 (in the case of expenditures for Capital Replacements) as are reasonably necessary to repair and correct any Emergency Condition, regardless of whether such provisions have been made in the Capital Budget or the Operating Budget and Annual Plan for any such expenditures. Manager shall give notice to the Business Council within a reasonable time of any expenditure in excess of (b)(4) for any Emergency Condition.

3.11 Capital Replacement Reserve. Manager shall establish a Capital Replacement Reserve on the books of account of the Tribe, and the periodic contributions of cash required by Section 3.12 shall be deposited by the Manager into an account (the "**Capital Replacement Reserve**") established in the Tribe's name at a bank designated by the Business Council in accordance with Section 3.15.1 hereof. All amounts in the Capital Replacement Reserve shall be invested in interest-bearing investments as approved by Manager and the Business Council to the extent that the availability of funds, when required, is not thereby impaired. Interest earned on

amounts deposited in the Capital Replacement Reserve shall be credited to the Capital Replacement Reserve and shall be available for payment of expenditures for Capital Replacements to the Casino. The Manager shall draw on the Capital Replacement Reserve for Capital Replacements to purchase those items included in the Capital Budget approved by the Business Council or to fund such emergency additions, repairs or replacements as shall be required to correct an Emergency Condition.

3.12 Periodic Contributions to Capital Replacement Reserve. Within 20 days after the end of each calendar month during the Term, Manager will make monthly deposits into the Capital Replacement Reserve in amounts equivalent to (b)(4) of Gross Revenues (less Promotional Allowances) for such calendar month. If any adjustment of Gross Revenues (or Promotional Allowances) is made as a result of an audit or for other accounting reasons, a corresponding adjustment in the Capital Replacement Reserve deposit shall be made or transferred from the Capital Replacement Reserve to the Disbursement Account, as applicable. In addition, all proceeds from the sale of capital items no longer needed for the operation of the Casino and the proceeds of any insurance received in reimbursement for any items previously paid for from the Capital Replacement Reserve, shall be deposited into the Capital Replacement Reserve upon receipt.

3.13 Use and Allocation of Capital Replacement Reserve. Any expenditures for Capital Replacements which have been budgeted and previously approved may be paid by the Manager from the Capital Replacement Reserve without further review or approval. Any amounts remaining in the Capital Replacement Reserve at the close of any Fiscal Year will be carried forward and retained in the Capital Replacement Reserve until fully used.

3.14 Internal Control System. Manager will operate the Gaming Operations subject to the system of internal controls (the "**Internal Control System**") in place as of the Effective Date. The Tribal Gaming Commission will retain the right to review and approve the Internal Control System and any changes instituted to the Internal Control System. The Tribal Gaming Commission and Manager will have the right and duty to maintain and police the Internal Control System in order to minimize the potential for any loss of proceeds from the Gaming Operations.

3.15 Banking and Bank Accounts.

3.15.1 Bank Accounts. The Business Council will select a bank or banks for the deposit and maintenance of funds and shall establish such bank or banks accounts as the Business Council deems appropriate and necessary in the course of business and as consistent with this Agreement ("**Bank Accounts**"). The sum of money agreed to by the Business Council to be maintained in the Bank Account(s) to serve as working capital for operations of the Casino shall be the responsibility of the Tribe to provide and shall include at least all sums needed for the House Bank and all sums needed to accrue for payment of expenses not paid on a monthly basis (the "**Minimum Balance**"). The Tribe will cause irrevocable banking instructions to be executed with regard to each Bank Account to be in effect during the Term in form and substance satisfactory to the Business Council and the Manager, which instructions will allow each of the Manager and the Tribe to control such Bank Accounts.

3.15.2 Daily Deposits to Depository Account. Manager will establish for the benefit of the Tribe in the Tribe's name a Depository Account. Manager will collect all gross revenues and other proceeds connected with or arising from the operation of the Casino, the sale of all products, food and beverage, and all other activities of the Casino and deposit the related cash into the Depository Account at frequent intervals reasonably determined by the Manager. Manager agrees to obtain a bonded transportation service to effect the safe transportation of the daily receipts to the bank, which expense will constitute an Operating Expense.

3.15.3 Disbursement Account. Manager will establish for the benefit of the Tribe in the Tribe's name a Disbursement Account. Manager will, consistent with and pursuant to the approved annual Operating Budget and Annual Plan, have responsibility and authority for making all payments for Operating Expenses, debt service (subject, however, to Section 3.19), Management Fee, and disbursements to the Tribe from the Disbursement Account.

3.15.4 No Cash Disbursements. Manager will not make any cash disbursements from the Bank Accounts and all payments or disbursements by the Manager from Bank Accounts will be made by check or wire transfer drawn against a Bank Account

3.15.5 Transfers Between Accounts. Manager has the authority to transfer funds from and between the Bank Accounts to the Disbursement Account in order to pay Operating Expenses and to invest funds in accordance with any approved investment policy adopted by the Business Council and approved by Manager and to pay the fees payable to Manager and distributions to the Tribe pursuant to this Agreement.

3.15.6 Petty Cash Fund. Manager will maintain for the benefit of and in the name of the Tribe a petty cash fund, the amounts in which will be established in conjunction with the establishment of the annual Operating Budget and Annual Plan as an Operating Expense. The petty cash funds shall be used for miscellaneous small expenditures of the Casino and shall be maintained at the Casino in the Casino's cash cage.

3.15.7 No Suspension of Transfers Upon Default. Notwithstanding any occurrence or continuation of any breach by or default of this Agreement by the Tribe, Manager agrees that, unless it exercises its right to terminate this Agreement in accordance with Section 9.4, it will make timely transfers from the appropriate accounts of funds to pay (a) Operating Expenses, (b) the Minimum Guaranteed Monthly Payment, (c) payments due on Two Rivers Indebtedness, (d) deposits into the Capital Replacement Reserve in accordance with this Agreement, and (e) any other reserves approved by the Business Council.

3.16 Insurance. Manager, on behalf of and subject to the approval of the Business Council, shall arrange for, obtain and maintain, or cause its agents to maintain, with responsible insurance carriers, insurance in compliance with the Compact and as satisfactory to Manager and the Business Council covering the Casino and its operations, including coverage of public liability and property loss or damage, naming the Tribe as insured party.

3.17 Accounting and Books of Account.

3.17.1 Statements. Manager will prepare and present to the Business Council on a monthly, quarterly, and annual basis, within 20 days, 20 days and 60 days of the end of such periods, respectively, an operating statement for the Casino. The operating statement will comply with all Legal Requirements and shall include an income and expense statement, statement of cash flows (including projections of future cash flows), and balance sheet. Such statement will include the Operating Budget and Annual Plan and Capital Budget projections as comparative statements, and which will include comparative statements from the comparable period for the prior year (provided that the Tribe provides the Manager with any information needed for Manager to make comparisons against periods prior to the Term). The Manager will provide such additional information relating to the business, property or financial condition of the Casino as the Business Council may request from time to time.

3.17.2 Books of Account. Manager will maintain full and accurate books of account at an office at the Casino and copies of such books of account at Manager's corporate offices. The Business Council and Tribal Gaming Commission or their designated representatives will have immediate access to the daily operations of the Casino and will have the unlimited right to inspect, examine, and copy all such books and supporting business records.

3.17.3 Accounting Standards. Manager will maintain the books and records reflecting the operations of the Casino in conformity with GAAP consistently applied and shall adopt and follow the fiscal accounting periods used by the Tribe. The accounting systems and procedures shall comply with Legal Requirements and, at a minimum, shall:

- 3.17.3.1 include an adequate system of internal accounting controls;
- 3.17.3.2 permit the preparation of financial statements in accordance with GAAP;
- 3.17.3.3 be susceptible to audit;
- 3.17.3.4 permit the calculation and payment of the Management Fee in accordance with Section 5.1;
- 3.17.3.5 permit the calculation by the Tribe and the NIGC of annual fees payable under 25 C.F.R. Section 514.1; and
- 3.17.3.6 provide for the allocation of operating expenses or overhead expenses among the Tribe and the Manager, and any other user of shared facilities and services (to the extent such parties are responsible for such operating expenses or overhead expenses).

3.17.4 Annual Audit. An independent certified public accounting firm with at least five (5) years experience auditing casinos of a size similar to that of the Casino selected by the Business Council will perform an annual audit of the books and records of

the Casino and of all contracts for supplies, services or concessions reflecting Operating Expenses. The Tribal Gaming Commission will also have the right to perform special audits of the Casino at any time without restriction. The NIGC and the WSGC may perform special audits of the Casino to the extent allowed by the Compact or applicable federal law. The costs incurred for such audits by the Tribe and/or the Casino (or by the Manager on behalf of the Casino) will constitute an Operating Expense. Such audits will be provided by the Tribe to all applicable federal and state agencies, as required by law, and may be used by Manager for reporting purposes under federal and state securities laws, if required.

3.18 Daily Reports. The Manager will prepare daily performance reports with respect to the Casino's operations, covering each calendar day that the Casino is open to the public, with such reports to cover such matters as the Business Council may reasonably request. The Manager will exert commercially reasonable efforts to deliver each such daily report to the Business Council no later than the business day immediately following the day covered by such report.

3.19 Operating Capital for Casino. To the extent not provided from the available cash flow of the Casino after the requirements of Section 5.1.2 have been met, the Tribe, and not the Manager, will be responsible for providing operating capital for the operation of the Casino; provided, however, that the Tribe will have sole discretion in determining whether to provide operating capital for operation of the Casino and in what amount. The Manager will not be deemed to be in breach of its obligations under this Agreement to the extent performance of such obligations is rendered commercially impracticable by the unavailability of such operating capital. In no event will Manager be required to advance funds to or for the benefit of the Tribe (except with respect to the Minimum Guaranteed Monthly Payment as expressly provided in Section 5.1.2.)

3.20 Two Rivers Indebtedness. Notwithstanding any other term or provision of this Agreement to the contrary, the Parties agree that the Tribe, and not the Manager, will have sole discretion in determining the amounts of all payments and/or reserves to be made with respect to Two Rivers Indebtedness at any time, and the Manager will follow the Tribe's instructions with respect thereto; provided, however, that the Tribe agrees not to cause payments and/or reserves to be made with respect to Two Rivers Indebtedness in amounts greater than that are required at any time if such pre-payment, acceleration or reserving could reasonably be expected to materially impair the availability of Net Revenues pursuant to Section 5.1.2 for amounts payable to the Manager. Further, the Parties acknowledge and agree that: (i) historically, a portion of the Two Rivers Indebtedness in the amount of (b)(4) has been allocated to the Casino (as between the Casino and the Chewelah Casino), and the Parties intend to continue to use such apportionment to provide the basis of the amount of the Two Rivers Indebtedness to be charged as an Operating Expense under this Agreement; and (ii) notwithstanding the foregoing, the lender under the Two Rivers Indebtedness, under certain circumstances, may have recourse against certain assets comprising the Casino with respect to the entirety of the Two Rivers Indebtedness.

Article 4

Condemnation or Casualty; Change in Legal Requirements

4.1 Condemnation or Casualty. If the Casino or any portion thereof is damaged, destroyed or condemned, the Casino will be reconstructed and/or restored if the insurance or condemnation proceeds are sufficient to restore or replace the Casino to a condition at least substantially comparable to that before the casualty or condemnation occurred. If the insurance proceeds or condemnation awards are not used to restore the Casino, then the Tribe and Manager will jointly adjust and settle any and all claims for such insurance proceeds or condemnation awards, and such proceeds or awards shall be applied: first, to amounts required to be repaid under any Two Rivers Indebtedness; second, to any amounts owing to the Manager (including, without limitation, accrued but undistributed Management Fees); and third, the surplus will be distributed as directed by the Tribe.

4.2 Change in Legal Requirements. If a change in Legal Requirements causes a Suspension of Operations, then Manager will have the option at any time within a sixty (60) day period following the commencement of such Suspension of Operations to notify the Tribe in writing that it is terminating this Agreement no sooner than one hundred twenty (120) days from the date of notice of its election under this provision, in which case Manager will retain the rights it may have to undistributed Net Revenues pursuant to Article 5 and rights to repayment of amounts owed to it by the Tribe. If Manager does not so elect to terminate this Agreement, then Manager will commence or recommence the operation of Gaming Operations at such time as such commencement or recommencement shall no longer be prohibited by Legal Requirements. If Manager fails to commence or recommence Gaming Operations within a reasonable time after which Gaming Operations are no longer prohibited by Legal Requirements, the Tribe, at its option will have the right to terminate this Agreement.

4.3 Suspension of Operations. A Suspension of Operations will occur in the event that (a) any change in Legal Requirements requires that Gaming Operations or a material portion thereof be ceased or suspended, (b) any total destruction by casualty of, or total condemnation with respect to, the Casino occurs, or (c) any partial destruction by casualty of, or partial condemnation with respect to, the Casino occurs, and the Manager elects for the Suspension of Operations to occur. Notwithstanding any term or provision of this Agreement to the contrary, during a Suspension of Operations, the Manager will relinquish possession of and control of the Casino to the Tribe, the Manager's obligations and duties hereunder with respect to operation and management of the Casino will be suspended, no Management Fee will accrue for the benefit of the Manager, and the Manager will not be obligated to guarantee the Minimum Guaranteed Monthly Payment. The Parties will cooperate reasonably and in good faith towards minimizing the duration of any Suspension of Operations. With respect to any partial calendar month occurring immediately prior to and immediately after a period of Suspension of Operations, the Tribe's right to the Minimum Guaranteed Monthly Payment will be pro-rated consistent with the pro-ration of the Minimum Guaranteed Monthly Payment as described in Section 5.1.2. With respect to any partial calendar month or partial Fiscal Year occurring immediately prior to and immediately after a period of Suspension of Operations, accrual of the Management Fee for the benefit of the Manager will be pro-rated consistent with the pro-ration of the Management Fee as described in Section 5.1.1.4. Any Suspension of Operations will not be deemed to have been part of the Term and the date of expiration of the Term shall be extended by the number of days of such period. Any such period by which the Term is extended to match the Suspension of Operations must be affirmed in a writing executed by the Parties.

Article 5

Management Fee, Reimbursements, and Disbursements

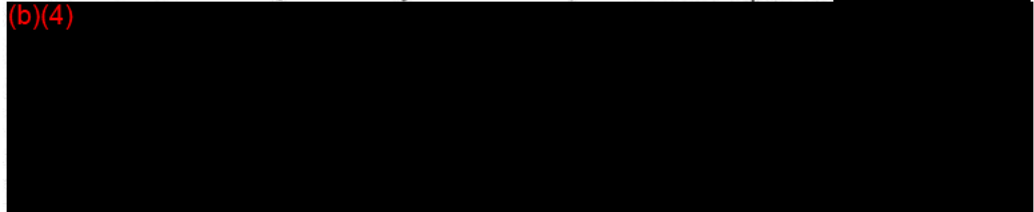
5.1 Management Fee.

5.1.1 The Management Fee shall accrue from and after the Effective Date and shall be paid as follows, subject to Section 5.1.1.4, Section 5.1.2, and Section 5.3:

5.1.1.1 Within 21 days after the end of each calendar month during the Term, the Manager shall receive the Estimated Monthly Management Fee.

5.1.1.2 As soon as practicable after the end of each Fiscal Year, Manager will calculate the Annual Management Fee (as defined in the following sentence) for such Fiscal Year based on and consistent with the financial statements delivered to the Tribe in accordance with Section 3.17.1. "Annual Management Fee" means, with respect to any Fiscal Year, an amount equal to (b)(4)

(b)(4)

A large black rectangular redaction box covers the text in this section, obscuring the specific amount or formula for the Annual Management Fee.

5.1.1.3 Concurrently with the calculation of the Annual Management Fee, the Manager will also calculate the resulting Reconciliation Amount (as defined in the following sentence). "Reconciliation Amount" means, with respect to any Fiscal Year, an amount equal to (a) the Annual Management Fee for such Fiscal Year, minus (b) the total of all Estimated Monthly Management Fees as actually received by the Manager during such Fiscal Year (as payment of such Estimated Monthly Management Fee may be limited pursuant to the provisions of this Agreement). For the avoidance of doubt, the Reconciliation Amount calculated in accordance with the foregoing may yield either a positive value or negative value. If the Reconciliation Amount for a Fiscal Year is a positive value, then the Manager will receive the Reconciliation Amount within 21 days after the end of such Fiscal Year. If the Reconciliation Amount for a Fiscal Year is a negative value, then the Manager will pay the Reconciliation Amount to the Tribe (by payment into the Depository Account) within 21 days after the end of such Fiscal Year.

5.1.1.4 With respect to any Stub Period, the Estimated Monthly Management Fee and Annual Management Fee, as applicable, will be pro-rated based on the actual number of calendar days occurring during such Stub Period and

divided by the actual number of calendar days occurring during the complete calendar month or complete Fiscal Year (as applicable) of which such Stub Period is a part. With respect to any Stub Period that is a partial Fiscal Year, the pro-rated Annual Management Fee will be calculated based on (b)(4)
 (b)(4)

5.1.2 All amounts payable to the Manager hereunder shall be disbursed by the Manager from the Disbursement Account in accordance with this Section 5.1.2. Notwithstanding any other provision of this Agreement to the contrary, all amounts payable to Manager as provided for in this Agreement, with respect to each calendar month during the Term, shall be paid only from Net Revenues and only to the extent that (1) the Tribe has received the Minimum Guaranteed Monthly Payment with respect to such calendar month, (2) the Capital Replacement Reserve contribution has been made with respect to such calendar month, (3) the Tribe's instructions with respect to payments and/or reserves with respect to Two Rivers Indebtedness then due have been complied with (in accordance with Section 3.20) and (4) such payment would not cause the Bank Accounts to have a balance less than the Minimum Balance. The Tribe's right to receipt of the Minimum Guaranteed Monthly Payment shall be absolute and unconditional (and without limitation of the foregoing, shall have priority over the retirement of any development and construction costs), shall be pro-rated for any calendar month that is a Stub Period in accordance with the pro-ration described in Section 5.1.1.4, and will not subject to setoff or recoupment by the Manager; provided, however, to the extent that the Manager makes advances in order to make a Minimum Guaranteed Monthly Payment, the principal amount of any such advance, without accrual of interest, may be recouped by the Manager as a deferred payment in accordance with this Section 5.1.2. To the extent that Net Revenues for a month (after the requirements of this Section 5.1.2 are met) are insufficient to pay the Manager amounts that would otherwise be payable for such month, then the amounts that were not available to the Manager in such month but were otherwise payable will be deferred to future months. With respect to any month, any Net Revenues remaining after all amounts owing to the Manager (and not deferred to future months) have been accounted for shall be distributed as directed by the Business Council at the same time the Estimated Monthly Management Fee is paid, to the extent such payment would not cause the Bank Accounts to have a balance less than the Minimum Balance.

5.2 Reimbursement of Travel and Other Approved Expenses. The Tribe agrees that upon the presentation of appropriate invoices, the Tribe will reimburse Manager for (i) reasonable out-of-pocket "coach" class airfare and other travel expenses necessary for Manager to perform its duties hereunder, including without limitation, lodging, meals and rental cars, and (ii) other expenses as agreed by the Business Council from time to time. Any such reimbursements shall be for the amount of the actual cost of the expense, without premium or markup. Manager shall submit an invoice to the Business Council on a monthly basis setting forth the reimbursable expenses incurred by Manager in connection with Manager's performance of its obligations pursuant to this Agreement. With respect to such reimbursable expenses, the invoice shall include an itemized account of such expenses, together with reasonable and appropriate documentation and receipts verifying the amounts of the expenses. The Tribe will pay the invoices submitted by Manager within 20 days of receipt by the Tribe. Other than the

payment of the Management Fee, payment of any Reconciliation Amount, and payment of amounts deferred in accordance with the provisions of this Agreement, and the reimbursement of expenses pursuant to this Section 5.2, the Tribe will not be liable for the payment or reimbursement of any other fees, charges, or expenses in connection with the tasks performed by Manager under this Agreement.

5.3 Regulatory Cap on Payments to Manager. Except as otherwise set forth in this Agreement, charges to and amounts payable by the Tribe to the Manager under this Agreement for a calendar month (including, without limitation, deferred amounts) when combined with the Estimated Monthly Management Fee for a calendar month, and with all of the foregoing netted against any Reconciliation Amount paid by the Manager to the Tribe during such calendar month, will not exceed thirty percent (30%) of Net Revenues for such month (the "**Regulatory Cap**"); provided, however, that to the extent that the Regulatory Cap prohibits the Manager's receipt of amounts that would otherwise be payable in a month, such amounts will be deferred and payable to the Manager in future months (subject to the Regulatory Cap as described in this Section 5.3). Notwithstanding the foregoing, however, upon expiration of the Term, Manager will not be entitled to receive any amounts that, as of the time of such expiration, are still deferred by virtue of the Regulatory Cap.

5.4 Agreed Ceiling for Repayment of Development and Construction Costs. The Parties acknowledge and agree that the Casino is already in existence. Accordingly, the agreed ceiling for repayment of development and construction costs is zero. Certain improvements, upgrades and renovation to the Facilities may occur over the course of the Term, but the Parties contemplate that such improvements, upgrades and renovations will be paid by the Tribe from its available funds, rather than from borrowed funds. However, in the event that, during the Term, the Tribe does borrow funds to be used for development and construction of improvements, upgrades or renovation to the Facility, then the Parties will amend this Agreement to provide for a new ceiling for repayment of development and construction costs and submit such amendment to the NIGC for approval, together with all loan agreements governing any such borrowing, which agreements would be deemed collateral to this Agreement and therefore requiring submission to the NIGC.

5.5 Availability of Net Revenues. The Parties acknowledge and agree that the Management Fee and other charges payable to the Manager hereunder may, in accordance with Section 5.1.2 and Section 5.3, be deferred or limited by virtue of the amount of Net Revenues that is available for a particular calendar month during the Term. Accordingly, the Tribe agrees as follows:

5.5.1 the amount of current debt service (meaning all principal, interest, and other charges and reserves) on all Two Rivers Indebtedness will not exceed Seventy Five Thousand (\$75,000) for any calendar month during the Term; and

5.5.2 it will be a material breach of this Agreement by the Tribe if any taxes, fees, assessments, or other charges of any nature whatsoever on the Casino or on the revenues therefrom are imposed other than (a) fees imposed on the Tribe by the NIGC under IGRA which directly relate to the Casino, and (b) payments expressly and

specifically provided for under this Agreement (e.g. tribal regulatory costs as described in Section 3.8).

Article 6

Intellectual Reservation; Confidentiality

6.1 Name of the Casino. The Casino shall be operated under the name "Two Rivers Casino," or such other business name as may be approved by the Business Council.

6.2 Marks. All service marks, trademarks, copyrights, trade names, patents or other similar rights or registrations now or hereafter (collectively, the "**Marks**") used in connection with the business name, identity or branding of the Casino shall be the property of the Tribe. The Manager hereby disclaims any right or interest therein, regardless of any legal protection afforded thereto. The Manager covenants that in the event of termination, cancellation or expiration of this Agreement, whether as a result of a default by Tribe or otherwise, the Manager shall not hold itself out as the manager of the Casino, nor will it utilize any Marks or any variant thereof in the name or operation of any property. The Manager shall not use the Marks, or any variation thereof, directly or indirectly, in connection with a private placement or public sale of securities or other comparable means of financing or press releases and other public communications related to the financial performance of the Casino without the prior written approval of the Business Council, which consent shall not be unreasonably withheld or delayed.

6.3 Litigation Involving Marks. The Parties agree that, in the event the Tribe and/or Manager is or are the subject of any litigation or action brought by any party seeking to restrain the use by a Party of any Mark used for or on or in connection with the Casino, any such litigation or action shall be defended entirely by the Tribe, notwithstanding the possibility that the Tribe is not named as a party thereto. The Manager shall not have the right to bring suit against any user of any of the Marks. In all cases, the conduct of any suit, whether brought by Tribe or instituted against a Party shall be under the absolute control of counsel to be nominated and retained by Tribe, notwithstanding the possibility that the Tribe is not named as a party thereto.

6.4 Confidentiality.

6.4.1 Confidential Information. In connection with this Agreement, the Manager and the Tribe may disclose Confidential Information (as hereinafter defined) to the other. The Party disclosing Confidential Information is referred to herein as the "**Discloser**," and the Party receiving Confidential Information is referred to herein as the "**Recipient**." "**Confidential Information**" means information, advice or know-how, whether tangible or intangible and in whatever form or medium and however disclosed, provided or communicated, with respect to Discloser's business, operations, technology or advice to Recipient and is (i) proprietary to, about or created by Discloser; (ii) gives Discloser some competitive business advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of Discloser; (iii) designated as Confidential Information by Discloser, or from all the relevant

circumstances should reasonably be assumed by the recipient thereof to be confidential and proprietary to Discloser; or (iv) not generally known by non-Discloser personnel. "Confidential Information" includes such terms and provisions of this Agreement that are redacted with the approval of the NIGC, but does not include the existence of this Agreement (and without limitation of the foregoing, the Tribe expressly consents to the Manager publicly disclosing and publicizing that it has entered into this Agreement with respect to the Casino). Further, "Confidential Information" shall not include information or data that: (w) is or becomes publicly known or available other than as a result of acts by Recipient in violation of this Agreement; (x) is known to or in the possession of Recipient prior to disclosure by Discloser; (y) is or becomes available to Recipient from third persons that to Recipient's knowledge are not bound by a confidentiality agreement with Discloser prohibiting such disclosure; or (z) is independently created or developed by Recipient without the aid, application or use of the Confidential Information disclosed.

6.4.2 Non-Disclosure of Confidential Information. Recipient agrees that it will keep Confidential Information in strict confidence and not disclose Confidential Information to third parties (except as expressly provided below) and that Recipient will not use Confidential Information other than for the purpose of performing its obligations under this Agreement. Recipient additionally agrees that it will disclose Confidential Information only to those of its employees, attorneys, accountant and advisors (any such parties, "**Representatives**") who need the Confidential Information to assist Recipient in performing its obligations under this Agreement, provided that such Representatives are advised of the requirements of this Agreement and agree to abide by its terms. Recipient will be responsible for any violation of the terms of this Agreement by its employees whom Recipient has provided or disclosed Confidential Information. Without limitation of the foregoing, the Tribe agrees that it will not disclose or share the Manager's Confidential Information with any third-party contractors for the purposes of allowing such third parties to compete with the Manager or replicate tasks or services to be provided by the Manager hereunder.

6.4.3 Permitted Disclosures. Notwithstanding anything in this Section 6.4 to the contrary, and subject to all terms and provisions of this Section 6.4.3, a Recipient may disclose Confidential Information if necessary to comply with any applicable law, order, regulation, ruling, subpoena or order of a governmental authority or tribunal with competent jurisdiction. In the event that Recipient is so requested or required to disclose any Confidential Information, the Recipient shall promptly notify the Discloser of such request or requirement prior to disclosure so that Discloser may, if it so elects, seek an appropriate protective order or otherwise seek to contest, limit or protect the confidentiality of any such requested or required disclosure.

6.4.4 No License. No disclosure of Confidential Information to the Recipient will in any way be deemed a license or other grant of proprietary interest in Confidential Information.

Article 7

Taxes

7.1 State and Local Taxes. If the State of Washington or any local government attempts to impose any tax, including but not limited to any possessory interest tax, upon any Party or upon the Casino or the Reservation, then the Tribe, in the name of the appropriate party or parties in interest, may resist such attempt through legal action. The costs of such action and the compensation of legal counsel will be an Operating Expense. Any such tax shall constitute an Operating Expense. This Section will in no manner be construed to imply that any party to this Agreement is liable for any such tax.

7.2 Tribal Taxes. The Tribe represents and warrants to the Manager that, as of the Execution Date, neither the Tribe nor any agent, agency, affiliate or representative of the Tribe imposes any taxes, fees, assessments, or other charges on the Casino or on the revenues therefrom other than (a) fees imposed on the Tribe by the NIGC under IGRA which directly relate to the Casino, (b) fees imposed on the Tribal Gaming Commission which directly relate to the Casino and (c) payments expressly and specifically provided for under this Agreement (e.g. tribal regulatory costs as described in Section 3.8).

7.3 Compliance with Internal Revenue Code. Manager shall comply with all applicable provisions of the Internal Revenue Code. Notwithstanding the foregoing, the Parties acknowledge and agree that the Manager is not responsible for, and will not be required to, file any tax returns of the Tribe with any applicable taxing authority.

Article 8

Prohibition of Certain Transactions Between Manager and Members of the Tribe

The Parties agree that no Member of the Tribal Government will have a direct or indirect financial interest in Manager. Further, without the prior written consent of the Business Council, the Manager will not do any of the following, nor allow any Affiliate to do any of the following: (i) employ any person known to the Manager to be a member of the Tribe (but this clause (i) is not a restriction on the Manager's ability to select members of the Tribe to be Casino Employees), (ii) give any material gifts or other items of material value or worth to any member of the Tribe, or (iii) give, sell, or trade any equity or ownership interest in Manager or an Affiliate to any member of the Tribe.

Article 9

Grounds for Termination

9.1 Termination. This Agreement may be terminated pursuant to the provisions of Section 4.2, Section 9.2, Section 9.3, Section 9.4 or Section 18.6.

9.2 **Voluntary Termination.** This Agreement may be terminated upon the mutual written consent and approval of the Parties.

9.3 **Tribe's Right to Terminate Agreement.** The Tribe may terminate this Agreement by written notice to the Manager if:

9.3.1 Manager fails to pay any amount due to the Tribe hereunder when due (or causes a disbursement owing to the Tribe under Section 5.1.3 hereunder to not be made), and fails to cure the foregoing within 30 days after written notice thereof;

9.3.2 Manager is in breach hereunder (other than as set forth in Section 9.3.1 above), and fails to cure such breach within 60 days after written notice of such breach from the Tribe. Without limitation of the definition of "breach," it shall be a "breach" with respect to the Manager if William W. Warner (who, as of the Execution Date, is the manager of the Manager) is convicted of, or pleads *nolo contendere* (or a similar plea), to any felony or any crime involving the Tribe, or has his license with the Tribal Gaming Commission revoked (in accordance with all applicable provisions of the Gaming Code and the regulations thereunder) for changes in circumstances such that he is no longer suitable for applicable gaming licenses.

In the event of the termination of this Agreement by the Tribes under this Section 9.3, Manager shall not, prospectively from the date of termination, have the right to accrual of its Management Fee, but such termination shall not affect Manager's rights relating to receipt and reimbursement of amounts under this Agreement that are owing to Manager and unpaid as of such termination. Any Net Revenues accruing through the date of termination shall be distributed in accordance with Article 5. An election to pursue damages or to pursue specific performance of this Agreement or other equitable remedies while this Agreement remains in effect pursuant to the provisions shall not preclude the Tribe from providing notice of termination pursuant to this Section 9.3. Neither shall termination of this Agreement preclude initiation of an action for damages under the provisions of Article 16.

9.4 **Manager's Right to Terminate Agreement.** Manager may terminate this Agreement by written notice to the Tribe if:

9.4.1 The Tribe fails to pay any amount due to Manager hereunder when due (or causes a disbursement owing to Manager hereunder to not be made), and fails to cure the foregoing within thirty (30) days after written notice thereof;

9.4.2 The Tribe is in breach hereunder (other than as set forth in Section 9.4.1 above), and fails to cure such breach within sixty (60) days after written notice of such breach from Manager;

9.4.3 Manager has been notified by any regulatory agency that the performance by it of any obligation imposed by this Agreement will jeopardize the obtaining of or retention of any license, permit or approvals pursued or held by the Manager or any of its Affiliates in any jurisdiction; provided however, that prior to termination pursuant to this subsection 9.4.3, the Tribe shall be afforded opportunity that is reasonable in light of the

circumstances to address the applicable regulatory agency and present argument as to why Manager's association with the Tribe should not jeopardize Manager, or

9.4.4 For any Fiscal Year occurring after the first anniversary of the Effective Date, the Manager fails to receive a Management Fee (as reconciled in accordance with Section 5.1) with respect to such Fiscal Year in an amount of (b)(4) (b)(4) For purposes of this Section 9.4.4, the Manager will have failed to receive a Management Fee in the foregoing amount to the extent that disbursement of such fee or portion thereof to the Manager is deferred in accordance with the provisions of Article 5.

9.4.5 In the event of termination of this Agreement by Manager under this Section 9.4, Manager shall not be required to perform any further services under this Agreement. Manager shall have the right to its Management Fee accruing until the date of termination as provided in Article 5. An election to pursue damages or to pursue specific performance of this Agreement or other equitable remedies while this Agreement remains in effect pursuant to the provisions shall not preclude the Manager from providing notice of termination pursuant to this Section 9.4. Neither shall termination of this Agreement preclude initiation of an action for damages under the provisions of Article 16.

Article 10

Termination and Transition

The following terms and provisions will apply to any termination of this Agreement (whether through expiration of the Term or otherwise):

10.1 Transition. Manager will take reasonable steps for the orderly transition of management of the Casino to the Tribe or its designee(s) pursuant to a transition plan. If, at least 180 days prior to the expiration of the Term, the Parties have not agreed upon terms of a renewal of the Term or upon a new management agreement, then the Tribe and Manager shall agree upon a transition plan within 60 days. The transition plan shall be implemented for a reasonable period, but in any event not less than 60 days. With respect to any termination of this Agreement prior to expiration of the Term, the Tribe and the Manager will negotiate towards a transition plan in good faith and in a manner that is reasonable in light of the circumstances of such termination. Manager, will, on expiration or termination of this Agreement, provide the Tribe with the data relating to the Casino's customers, as such data appears in Manager's database, and such data shall be provided in machine readable form or written form, at the election of the Tribe. Manager will be prohibited from using such information for any purpose after termination or expiration of this Agreement.

10.2 Payments; Property Interest. The Parties shall retain all money previously paid to them pursuant to Article 5 (subject to any reconciliation that may be owing in accordance with the provisions of Section 5.1); all amounts due to the Manager through the date of termination shall be paid; and the Tribe shall retain title to Casino (including, without limitation, all Facilities, fixtures, improvements, supplies, Furnishings and Equipment, Marks,

funds and accounts comprising the Casino), subject to the rights of Manager to its accrued and unpaid Management Fees due under Article 5.

10.3 Manager's Obligations. In connection with the expiration and/or termination of this Agreement, Manager shall:

10.3.1 deliver possession of the Casino to the Tribe subject to rights of all parties in possession, in "as is" condition, without recourse or any warranty whatsoever;

10.3.2 deliver to the Tribe all books and records of the Casino; and

10.3.3 after deducting therefrom any amounts due and payable under this Agreement and not theretofore paid, disburse to the Tribe, no later than twenty-one (21) days after termination or expiration of this Agreement, the balance, if any, remaining in the Bank Account(s).

10.4 Tribe's Obligations. In connection with the expiration and/or termination of this Agreement, the Tribe will be solely responsible for and paying the costs of:

10.4.1 assuming and continuing performance under, or terminating, any agreements entered into in connection with the Casino;

10.4.2 all Casino Employees (except for any Casino Employees who are employees of the Manager or any Affiliate of the Manager), including the payment of any severance or other termination benefits in connection with the termination of any such employees; and

10.4.3 cooperating with Manager (and any of Manager's suppliers or vendors, as applicable) to permit the removal of any proprietary system owned or licensed to Manager or Manager's Affiliates at the Casino, provided, however, that such equipment shall be removed from the Facilities by Manager within ten (10) business days after termination or expiration of this Agreement and provided further that the Tribe will not be responsible for any damage to such equipment caused by such removal (except to the extent of the negligence or intentional misconduct of the Tribe).

10.5 Survival of Provisions. Any covenant, term or provision of this Agreement which, in order to be effective, must survive the termination of this Agreement (including, without limitation, the provisions of this Article 10 and Article 15 and Article 16), shall survive any such termination.

Article 11

Consents and Approvals

11.1 Tribe. Where approval or consent or other action of the Business Council is required, such approval shall mean the written approval of the Business Council evidenced by a resolution thereof, certified by a Tribal official as having been duly adopted, or such other person or entity designated by resolution of the Business Council.

11.2 Manager. Where approval or consent or other action of Manager is required, such approval shall mean the written approval of the Managing Officer, who shall be provided with all requisite corporate authority to act on behalf of Manager.

Article 12

Parties in Interest in Manager

12.1 Parties in Interest. Manager represents and warrants that as of the Execution Date, all Parties in Interest in Manager and all of its managers, officers, directors and members have been disclosed to the Tribe. As used herein, the phrase "Parties in Interest" shall mean any person or entity with a financial interest in, or having management responsibility for this Agreement or for which background investigations are required by 25 C.F.R. Part 537, and any amendments thereto. Manager represents and warrants that no officer, director or individual owner of 5% or more of the equity interests of Manager or any affiliate of Manager has been arrested, indicted for, convicted of, or pleaded *nolo contendere* (or any similar plea) to any felony or any gaming offense or had any association with individuals or entities known to be connected to organized crime.

12.2 Covenants. Manager agrees that all of its managers and any individual owner of five percent (5%) or more of the membership interests or equity interests of Manager, shall:

12.2.1 consent to background investigations to be conducted by the Tribal Gaming Commission, the State, the Federal Bureau of Investigation (the "**FBI**") or any law enforcement authority to the extent required by the IGRA and the Compact;

12.2.2 be subject to licensing requirements in accordance with the Gaming Code and this Agreement;

12.2.3 consent to a background, criminal and credit investigation to be conducted by or for the NIGC, if required;

12.2.4 consent to a financial and credit investigation to be conducted by a credit reporting or investigation agency at the request of the Tribal Gaming Commission;

12.2.5 cooperate fully with such investigations; and

12.2.6 disclose any information requested by the Tribal Gaming Commission which would facilitate the background and financial investigation.

Any materially false or deceptive disclosures or failure to cooperate fully with such investigations by an employee of Manager will result in the immediate dismissal of such employee. The results of any such investigation may be disclosed by the Tribe to federal officials and to such other regulatory authorities as required by law.

12.3 **Compliance with Licensing Requirements.** Manager agrees that whenever there is a change in the direct or indirect ownership interest of Manager, Manager will notify the Tribe and the NIGC of such change not later than ten (10) business days following the change or within ten (10) business days after Manager becomes aware of such change. In accordance with 25 C.F.R. § 537.2, Manager will submit to the NIGC the background information required in 25 C.F.R. § 537.1. Any such change in the ownership interest of Manager will not be effective until such time as the NIGC and the Tribe have each completed any applicable background investigation and approval of the proposed transferee(s). The Parties agree that such a change in ownership interest does not constitute an amendment of this Agreement and that NIGC approval is only required if a new individual or entity acquires an ownership interest in Manager. NIGC approval will not be required if the change in ownership interest pertains to an existing individual or entity terminating or withdrawing its ownership interest in Manager.

Article 13

No Present Lien, Lease or Joint Venture

The Parties agree and expressly warrant that this Agreement is not a mortgage or lease and, consequently, does not convey any present interest whatsoever in the Facilities or the Casino. The Parties further agree and acknowledge that it is not their intent, and that this Agreement shall not be construed, to create a joint venture between the Tribe and Manager; rather, Manager shall be deemed to be an independent contractor for all purposes hereunder.

Article 14

Indemnification; Limitation of Liability

14.1 **Indemnification.**

14.1.1 The Tribe hereby agrees to indemnify and hold Manager, its members, principals, officers and employees, and the affiliates of all of them (the “**Manager Indemnitee Parties**”), harmless from and against any and all claims, liabilities, damages, losses, costs or expenses (including costs and expenses incurred in defending against the foregoing, “**Losses**”) incurred by or sustained by any such Manager Indemnitee Party arising out of or as a result of the Manager's entering into this Agreement and performing its obligations hereunder, except to the extent of Losses caused by the negligence or intentional misconduct of the Manager.

14.1.2 The Manager hereby agrees to indemnify the Tribe, its officials, officers and employees, and affiliates of all of them (the “**Tribal Indemnitee Parties**”), harmless from and against any and all Losses incurred by or sustained by any such Tribal Indemnitee Party arising out of or as a result of any damage or injury to persons or property resulting from the intentional or willful misconduct of the Manager.

14.1.3 The indemnified Party must notify the other Party promptly in writing of any claim for which such indemnified Party is seeking indemnification hereunder, and

provide, at such indemnifying Party's expense, all reasonably necessary assistance, information and authority to allow such indemnifying Party to control the defense and settlement of such claim.

14.2 Limitation of Liability. NO PARTY HERETO SHALL BE LIABLE TO ANY OTHER PARTY HERETO FOR ANY PUNITIVE, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES.

Article 15

Governing Law

15.1 General. This Agreement shall be subject to and construed in accordance with the internal laws of the State of Washington (except its choice of law rules); provided, however, that nothing in the foregoing will be deemed to excuse the Parties' obligations to comply with Legal Requirements as provided for in this Agreement (including, without limitation, Legal Requirements of the Tribe). The provisions of this Article 15 are irrevocable and may not be rescinded, revoked or amended without the prior written consent of the Parties.

15.2 Choice of Governing Law Not to Be Deemed an Imposition of Sovereignty. For the avoidance of doubt, the Parties acknowledge and agree that the provisions of this Article 15 are intended for the limited purpose of providing for a body of substantive law that will apply with respect to the contractual relationship between the Parties arising under this Agreement, but in no event is anything in this Article 15 (nor any other term or provision of this Agreement) to be deemed as an imposition of sovereignty or police power by the State of Washington or any political subdivision thereof over the Tribe, the Reservation or the Casino. Further, in no event shall any term or provisions of this Article 15 be deemed to override the terms and provisions of Section 16.4.

Article 16

Limited Waiver of Sovereign Immunity; Dispute Resolution

16.1 Limited Waiver of Sovereign Immunity. Only to the extent expressly set forth herein, the Tribe hereby agrees to a limited, conditional (with such conditions being solely the conditions expressly set forth in this Article 16) waiver of its sovereign immunity from unconsented suit or other legal proceedings. The Tribe's limited, conditional waiver of sovereign immunity from suit is specifically limited to the following actions and remedies:

16.1.1 Injunctive relief as specifically provided for in Section 16.2 or Section 16.3;

16.1.2 order performance or compliance with any of the provisions of this Agreement, order amounts payable under this Agreement to be paid in accordance with applicable terms including dispute resolution awards in accordance with the provisions of this Article 16 applicable to dispute resolution; provided that any such award shall be

limited to actual damages and shall specifically exclude punitive, consequential, incidental, special or indirect damages, and provided further that the applicable dispute resolution tribunal shall have no authority or jurisdiction to order execution against any assets or revenues of the Tribe except revenues and assets (other than assets comprising real property) of the Casino, the Two Rivers Casino, or other gaming facilities located on the Reservation. In no instance shall any enforcement of any kind whatsoever be allowed against any assets of the Tribe other than the limited assets of the Tribe specified in this Section 16.1.2;

16.1.3 determine whether any consent or approval of the Tribe has been improperly granted; or

16.1.4 An Action to compel arbitration or enforce arbitration awards or orders in accordance with all applicable terms, provisions and limitations of this Article 16.

16.2 No Revocation. The Tribe agrees not to revoke, in whole or in part, the limited waiver of sovereign immunity hereunder or in any way to attempt to revoke, in whole or in part, such limited waiver of sovereign immunity. In the event of any such revocation or attempted revocation, the Parties expressly recognize and agree that there remains no adequate remedy at law available to Manager, Manager will be irreparably injured upon any revocation or attempted revocation of the limited waiver of sovereign immunity hereunder, and the Tribe consents to the entry of appropriate injunctive relief, consistent with the terms and conditions of this Agreement. In the event of any attempted revocation or revocation of the limited waiver of sovereign immunity granted in this Agreement, Manager may immediately seek judicial injunctive relief as provided without first complying with any of the prerequisites contained in this Agreement to the limited waiver of sovereign immunity granted there. Any action seeking injunctive relief shall be brought in the Federal District Court for the Eastern District of Washington. If the Federal District Court for the Eastern District of Washington declines jurisdiction, then the Tribe expressly consents to the jurisdiction of the Courts of the State of Washington over such actions for injunctive relief. The Tribe agrees to be bound by any order or judgment of such court, and any federal or state court with appellate jurisdiction thereover.

16.3 Arbitration. If a dispute arises between Manager and the Tribe in connection with this Agreement (a "**Dispute**"), then any such Dispute will be submitted to binding arbitration for resolution in accordance with this Section 16.3; provided, however, that a Party may apply directly to a court of law (in accordance with the provisions and limitations of Section 16.4, and subject to the limitations of Section 16.5) only to the extent that (i) injunctive or similar relief is necessary to prevent irreparable injury to such Party or (ii) a remedy for payment of monetary damages would not be adequate with respect to the claim for which such relief is sought. Without limitation of the foregoing, the Parties agree that a Party may apply directly to a court of law (in accordance with the provisions and limitations of Section 16.4) with respect to any remedy sought in connection with a breach or anticipated breach of the provisions of Section 2.2, Section 2.3, clause (iii) of Section 2.6, Section 2.9, Section 2.10, or Article 6. To initiate binding arbitration of a Dispute, a Party shall notify the other Party in writing. The Dispute shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. In the event of arbitration, the prevailing Party shall be entitled to all of its costs, including reasonable attorneys' fees, from the nonprevailing Party. The

arbitration shall take place in Spokane, Washington, or such other location as agreed upon by the Parties. The arbitrator shall render an award within 45 days from the conclusion of the arbitration.

16.4 Consent to Jurisdiction. Each Party expressly and unequivocally consents and submits to the jurisdiction of the United States District Court for the Eastern District of Washington (as well as to the Superior Court of Spokane County, Washington, but only to the extent that the United States District Court first has declined jurisdiction), and all courts to which appeals therefrom are available, and enforcement of any judgment of such court to:

- (i) uphold or enforce any awarded granted in binding arbitration of a Dispute (subject to the damage limitations set forth in Section 16.1.2);
- (ii) compel arbitration as set forth in this Article 16;
- (iii) determine whether any consent or approval of the Tribe has been improperly granted; and
- (iv) enforce any judgment prohibiting the Tribe from taking any action, or mandating or obligating the Tribe to take any action.

The Tribe expressly waives any right it may otherwise have to require any matter subject to the dispute resolution provisions of this Article 16 to be considered or heard first in any tribal court of the Tribe or tribal administrative tribunal, now or hereafter existing, whether because of the doctrine of exhaustion of tribal remedies or as a matter of comity or abstention.

16.5 Specific Performance Restriction. The Parties agree that, notwithstanding any other term or provision of this Agreement to the contrary, in no event will the Manager be entitled to specific performance or other injunctive relief to the extent that such specific performance or relief would have the effect of overturning or nullifying any Tribal Governmental Action; provided, however, that notwithstanding the foregoing, an arbitration panel or court of law (having competent jurisdiction in accordance with this Article 16) may find that the taking, passage or enactment of a Tribal Governmental Action constitutes a breach of this Agreement in accordance with the terms of this Agreement, and in such event, the Manager will have available to it the right of termination of this Agreement (subject to the terms and provisions of Section 9.4) as well as a legal remedy for monetary damages.

Article 17

Non-Impairment

The Tribe agrees that it will be a material breach of this Agreement by the Tribe if either the Tribe or any of its Affiliates: (a) adopts, enacts, promulgates or otherwise places into effect any law or legal requirement that impairs or interferes, or could impair or interfere, in any manner, with any right, remedy or obligation of Manager under this Agreement or (b) demands, imposes or receives any tax, charge, assessment, fee or other imposition or impose any regulatory or licensing requirement against Manager or its successors based solely upon the rights, benefits, duties and obligations of the Parties under this Agreement. The Tribe represents

and warrants that (a) its acceptance of this Agreement complies with all tribal laws, rules, regulations and ordinances and (b) Manager's obligations are solely as set forth in this Agreement and tribal law does not place any other obligations on Manager.

Article 18

Miscellaneous

18.1 Consulting Agreement. The Parties are also parties to that certain Consulting Agreement dated as of approximate date herewith (the "**Consulting Agreement**"), pursuant to which the Party that is the Manager under this Agreement provides consulting services as the "Consultant" with respect to the Casino under the Consulting Agreement. The Parties agree that, immediately and automatically upon the Effective Date: (i) the Consulting Agreement will terminate; and (ii) the Manager will waive any and all rights to collection of any "Task Fee" as such term is defined in the Consulting Agreement, regardless of the amount of work performed as of such time under the Consulting Agreement (provided, however, that the foregoing waiver will not apply to reimbursement of expenses incurred in accordance with the terms and provisions of the Consulting Agreement). In the event that WG-Washington, LLC has received any Task Fee under the Consulting Agreement as of the Effective Date of this Agreement, then any and all such Task Fees received by WG-Washington, LLC will be credited against the Management Fee owing to Manager under Article 5 of this Agreement.

18.2 Notice. Notices permitted or required to be given hereunder shall be deemed sufficient if given by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective addresses of the applicable parties or at such other addresses as the respective parties may designate by like notice from time to time. Notices so given shall be effective upon receipt by the party to which notice is given.

<p>If to the Tribe:</p> <p>Spokane Tribe of Indians 6195 Ford-Wellpinit Road Spokane, WA 99040 Attention: Chairman</p> <p>-with a copy to-</p> <p>Crowell Law Offices 10 North Post Suite 445 Spokane, WA 99210 Attn: Scott D. Crowell, Esq.</p>	<p>If to Manager:</p> <p>WG-Washington, LLC 8912 Spanish Ridge Avenue Suite 120 Las Vegas, NV 89148 Attention: William W. Warner</p> <p>-with a copy to-</p> <p>Warner Gaming, LLC 8912 Spanish Ridge Avenue Suite 120 Las Vegas, NV 89148 Attention: General Counsel</p>
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18.3 **Representations and Warranties as to Authority and Other Matters.**
Each Party represents and warrants to the other Party as follows:

18.3.1 such representing Party has the full legal right, power and authority and has taken all action necessary to enter into this Agreement, to perform its obligations hereunder, and to consummate all other transactions contemplated hereby;

18.3.2 the person executing and delivering this Agreement is duly authorized to execute and deliver this Agreement on behalf of such representing Party;

18.3.3 this Agreement has been duly executed and delivered by such representing Party and constitutes a valid and binding obligation of such representing Party, enforceable against it in accordance with its terms; and

18.3.4 the execution and delivery of this Agreement, the performance by such representing Party of its obligations hereunder, and the consummation by such representing Party of the transactions contemplated hereby will not violate any contract or agreement to which such representing Party or any of its Affiliates is a party or any law, regulation, rule or ordinance or any order, judgment or decree of any federal, state, tribal or local court or require any regulatory approval beyond those contemplated herein.

18.4 **Defense.**

18.4.1 Each Party shall notify the other Party hereto within five (5) business days of becoming aware of any legal claim which may be brought by a third party arising out of the operation of the Casino or the subject matter of this Agreement. The Parties agree that the Tribe shall defend any litigation or action brought by any party for a claim in connection with the Casino or the subject matter of this Agreement (except for any disputes by and among the Parties hereto, which will be subject to the dispute resolution procedures of Article 16 of this Agreement) notwithstanding that the Tribe may not be named as a party thereto; provided, however, that the Manager, at the Manager's expense may engage separate legal counsel to represent its interest with respect to any such litigation or claim.

18.4.2 All liabilities, costs and expenses, including reasonable attorneys' fees and disbursements incurred in defending and/or settling any such claim or legal action which are not covered by insurance (regardless of whether payment has been made under such insurance) shall be an Operating Expense. Nothing contained herein is a grant to Manager of the right to waive the Tribe's sovereign immunity, which right is strictly reserved to the Tribe. Any settlement of a third party claim or cause of action shall require the approval of the Tribe.

18.5 **Waivers.** No failure or delay by Manager or the Tribe to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy consequent upon the breach thereof, shall constitute a waiver of any such breach or any subsequent breach of such covenant, agreement, term or condition. No covenant, agreement, term, or condition of this Agreement and no breach thereof shall be waived, altered or modified except by written instrument. No waiver of any breach shall affect

or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.

18.6 Severability. If any of the terms or provisions hereof shall be held invalid or unenforceable, such terms or provisions will be deemed reformed (without requirement of the execution of an amendment by the Parties hereto) to the extent required for such term or provision to be held valid or enforceable, as applicable; and further, no such invalidity or unenforceability shall affect any of the other terms or provisions hereof. Notwithstanding the foregoing, however, if any material part of a Party's rights under this Agreement shall be declared invalid or unenforceable (including without limitation Manager's right to receive its Management Fee) the party whose rights have been declared invalid or unenforceable shall have the option to terminate this Agreement upon thirty (30) days written notice to the other party, without liability on the part of the terminating party. Any termination pursuant to this Section 18.6 shall be subject to Article 11.

18.7 Interest. Any deferred amounts payable to Manager under this Agreement shall accrue interest at a rate of eighty-three hundredths of one percent (0.83%) per month.

18.8 Third Party Beneficiaries. This Agreement is exclusively for the benefit of the Parties hereto and it may not be enforced by any party other than the Parties to this Agreement and the Indemnitee Parties under Section 14.1 and shall not give rise to liability to any third party other than the authorized successors and assigns of the parties hereto as such are authorized by this Agreement.

18.9 Brokerage. Each Party hereby agrees to indemnify and hold the other Party hereto harmless from and against any and all claims, loss, liability, damage or expenses (including reasonable attorneys' fees) suffered or incurred by the other Party as a result of a claim brought by a person or entity engaged or claiming to be engaged as a finder, broker or agent by the indemnifying Party. Any claim for indemnification arising hereunder shall be subject to the dispute resolution provisions of Article 16.

18.10 Periods of Time. Whenever any determination is to be made or action is to be taken on a date specified in this Agreement, if such date shall fall on a Saturday, Sunday or legal holiday under the laws of the Tribe, the State, or the United States, then in such event said date shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

18.11 Successors, Assigns, and Subcontracting. Except as expressly provided otherwise herein, neither Party may assign or subcontract its rights, responsibilities or duties under this Agreement. Any assignment or purported assignment made in violation of the foregoing will be void. Contracts entered into by the Manager on behalf of the Tribe (as expressly provided for in this Agreement) will not be deemed to be "subcontracting" for purposes of this Section 18.11. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

18.12 **Time is of the Essence.** Time is of the essence in the performance of this Agreement.

18.13 **Patron Dispute Resolution.** Patron disputes concerning play which cannot be resolved on an informal basis shall be addressed and resolved in accordance with the Compact, the Gaming Code, and the regulations promulgated thereunder.

18.14 **Amendments.** No amendment or modification of any provision of this Agreement shall be effective unless the same shall be in writing signed by the Manager and the Tribe and approved by the Chairperson of the NIGC.

18.15 **Force Majeure.** Neither Party shall be in default in the performance of its obligations under this Agreement if such failure of performance is due to causes beyond its reasonable control, including acts of God, war, fires, floods, or accidents causing damage to or destruction of the Casino, or any other causes, contingencies, or circumstances not subject to such Party's reasonable control which prevent or hinder performance of this Agreement; provided, however, in no event will the provisions of this Section 18.15 excuse an obligation of a Party to make a payment as required in accordance with the terms and provisions of this Agreement.

18.16 **Entire Agreement.** This Agreement (including all exhibits hereto) constitute the entire understanding and agreement of the Parties hereto with respect to the Casino (including, without limitation, all Gaming Operations) and supersede all other prior agreements and understandings, written or oral, between the parties with respect thereto.

18.17 **Government Savings Clause.** Each of the Parties agrees to execute, deliver and, if necessary, record any and all additional instruments, certifications, amendments, modifications and other documents as may be required by the State, the United States Department of the Interior, BIA, the NIGC, or any applicable statute, rule or regulation in order to effectuate, complete, perfect, continue or preserve the respective rights, obligations, liens and interests of the parties hereto to the fullest extent permitted by law; provided, that any such additional instrument, certification, amendment, modification or other document shall not materially change the respective rights, remedies or obligations of the Tribe or Manager under this Agreement or any other agreement or document related hereto.

18.18 **Preparation of Agreement.** This Agreement was drafted and entered into after careful review and upon the advice of competent counsel for the Parties hereto; it shall not be construed more strongly for or against any Party.

18.19 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[signature page follows]

EXECUTION DOCUMENT

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Execution Date.

Manager:


Tribe:

WG-Washington, LLC

Spokane Tribe of Indians

By: 

WILLIAM W. WARNER, Manager


By: 

GREGORY J. ABRAHAMSON
Chairman

Exhibits

Exhibit A Employee Grievance Procedure

The Amended and Restated Management Agreement (Two Rivers Casino), dated August 1, 2010, between the Spokane Tribe of Indians and WG-Washington, LLC is approved by the National Indian Gaming Commission.

By: 

Date: 09-29-2010

Tracie Stevens, Chairwoman

Exhibit A

Employee Grievance Procedure

Purpose

To provide employees with the opportunity for an objective and fair hearing and resolve work-related problems and or terminations.

Policy

The Human Resource Department is responsible for ensuring that employee grievances are processed in an orderly and expedient manner. Employees who claim to be aggrieved by misapplication of Two Rivers Casino policies and procedures may file a grievance with assurances of no interference, discrimination or reprisal. The following steps are intended to provide a method for processing grievances in the interest of obtaining a fair and equitable resolution.

The employee filing a grievance (aggrieved employee) must file a grievance in writing to the Human Resources Department within 3 working days of receiving the written decision from his/her department head. This written grievance shall specify:

- a. The specific problem;
- b. The date of the problem or when it became known; and
- c. The specific solution sought.

The Human Resources Director will convene a five-member grievance committee comprised of elected representatives from each Casino Department and will conduct a hearing within 5 working days from receiving the written grievance. The Grievance Committee will issue a written decision immediately following the hearing.

Selection of Grievance Committee

Grievance Committee members will be elected by departmental co-workers through a balloting process. Each Department will select one representative. Committee members will serve for a period of six (6) months at which time a new committee will be elected to serve for the next six months.

Grievance Process

At the time a grievance is filed names of elected committee members will be entered into a lottery drawing to select a five-member committee and two alternates. No individuals from the grievant's department or relative of the grievant will serve on the grievance hearing committee. (Relatives including step will be defined as mother, father, siblings, children, and household members). The Human Resource Director will coordinate the date, time, and location of the grievance hearing but will not participate other than to serve as a source of information regarding Casino Policies and Practices.

Exhibit A

Employee Grievance Procedure

Grievance Committee members will hear from the grievant appropriate witnesses, the grievant's supervisor and others directly involved in the complaint. The grievance committee shall have the opportunity to ask questions at any time during the hearing. After receiving pertinent information, committee members will render a decision concerning the outcome of the grievance. The decision will be binding for the individual situation but not precedent - setting. Decisions will not be accepted that are in conflict of Two Rivers Casino Policies and Practices.

The Human Resource Director shall ensure that the hearing is conducted with the following steps.

1. The grievant shall be given the first opportunity to present their case.
2. The accused shall then have an opportunity to present their case.
3. The grievant shall be allowed to respond to, and give final argument.
4. The accused shall then be allowed to respond and give final argument.
5. The Human Resource Director shall adjourn the hearing and excuse all parties except for the grievance committee.
6. The Grievance Committee shall then discuss the hearing and issue a decision immediately or within 3 working days.
7. The Human Resource Director shall prepare an "order of final decision".

The Human Resource Director will ensure that the "order of final decision" contains the following information and that it is placed in the grievant's personnel file with a copy sent to the grievant and the accused. The "order of final decision" document will include:

- Date of hearing
- Name of grievant
- Name of accused
- Summary of grievance
- Decision of Grievance Committee
- Signature of Human Resource Manager and Grievance Committee members

All decisions made by the Grievance Committee are final.

Grievance Committee decisions may not be overturned by the Casino General Manager, Tribal Gaming Commission, nor by Spokane Tribal Council.