

LYTLE SOULÉ & FELTY

MICHAEL C. FELTY**
SHAWN E. ARNOLD
GORE GAINES
JASON C. HASTY
ROBERT RAY JONES, JR.
MATTHEW K. FELTY
STAN A. KOOP

A PROFESSIONAL CORPORATION
EST. JANUARY 1, 1902
ATTORNEYS & COUNSELORS
1200 ROBINSON RENAISSANCE
119 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA 73102
PHONE (405) 235-7471
FAX (405) 232-3852
www.lytlesoule.net

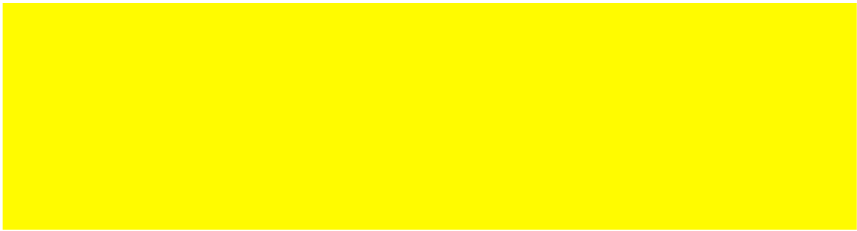
CHANTEL P. JAMES
MONTREL D. PRESTON

RICHARD M. HEALY, III
STEVEN K. MULLINS
OF COUNSEL

*Also admitted in Texas
*Also admitted in U.S. Patent Office

March 24, 2020

VIA U.S. MAIL AND E-MAIL



RE: Confidential Offer of Compromise – State-Tribal Gaming Compact

Dear 

We are in uncertain times. The COVID-19 pandemic has changed the landscape of Oklahoma's tribal and non-tribal environment. Now more than ever is a time for us to stand together. Unfortunately, the lawsuit currently pending in federal court is doing just the opposite.

With this letter, including the enclosed New Compact, the State hopes to set aside our differences by sending a message to all Oklahomans, native and non-native, that we are committed to a strong and prosperous future. First and foremost, we must send a message of healing that reinforces our partnership and shared history.

Enterprises throughout Oklahoma are suffering from the COVID-19 pandemic, including your gaming facilities. Tribal gaming provides the resources necessary for you to deliver critical care and services to your citizens. When that revenue is impacted by something as unforeseen as a pandemic, your ability to provide for the health and welfare of your citizens is challenged.

By committing to resolve our differences with this New Compact, you provide certainty to your tribal gaming enterprise, allowing for a swifter recovery when the commercial interruption caused by the pandemic is over.

The New Compact has a 15-year fixed rate for all class III gaming, giving tribal and nontribal stakeholders an opportunity to plan for the future. Using a fixed rate helps solve the one-size-fits-all problem created by the old exclusivity rate table, which operated as a disincentive to growth. Stated another way, as you prosper and grow over the next 15 years, the State will not ask for greater exclusivity payments but will instead partner with you to invest that gaming revenue in your people.

The fixed rate included in this compact is designed to reflect the realities of your relative share of the Tribal gaming market in Oklahoma, now and into the future. The State commits with you to reassess this rate every 15 years, both to ensure that it continues to accurately reflect your respective share of the Tribal gaming market, as well as the equitable needs of your Nation at that time. Put plainly, it is an individualized offer that reflects the State's commitment to sovereign-to-sovereign relationships.

Other important features of the New Compact include:

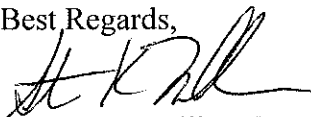
- Clarifying that Free Play will no longer be used in the calculation of class III revenue owed to the State;
- Enhanced gaming opportunities by removing restrictions on House-banked table and card games;
- Lowering the substantial exclusivity rate for table games;
- Redefining Covered Games to include Sports Wagering; *and*
- Providing each compacting Tribe with one (1) Sports Wagering License, which you can use at your own facility or lease to another compacting Tribe authorized to conduct Sports Wagering. In other words, the New Compact creates an asset that you can monetize.

Finally, the New Compact eliminates many of the contentious issues in the old compact. For example, the New Compact removes many regulations that interfered with your gaming operation; better distributes the costs of State monitoring based on the size of your gaming operation; and includes a cooperative dispute resolution mechanism designed to deliver enhanced opportunities for pre-litigation compromise so we can avoid costly legal fights in the future.

In conclusion, the purpose of this letter and the New Compact is to promote the prompt resolution of the present dispute. For that reason, time is of the essence, requiring the State to reserve its right to rescind this offer of a New Compact if not accepted by you within a reasonable time. With that in mind, please review this New Compact at your earliest convenience.

Thank you in advance for your time and consideration. Should you have any questions or concerns, please do not hesitate to contact me for further discussion.

Best Regards,



Steven K. Mullins, Esq.

ENCLOSURE

AND STATE OF OKLAHOMA GAMING COMPACT

As of the Effective Date, [REDACTED] a federally-recognized Indian tribe (the “Tribe” or “Party”), and the **STATE OF OKLAHOMA** (the “State” or “Party”), a state of the United States of America, collectively the “Parties,” hereby enter into the [REDACTED] and State of Oklahoma Gaming Compact (the “Compact”) for the purpose of authorizing and regulating the operation of Covered Games (as defined herein) on the Tribe’s Indian lands, as defined by the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2703(4) and 2719.

RECITALS

WHEREAS, the Tribe is a federally-recognized Indian tribe with a governing body duly recognized by the United States Department of the Interior, possessing sovereign powers and rights of self-government.

WHEREAS, the State is a state of the United States of America, possessing the sovereign powers and rights of a state.

WHEREAS, the Tribe and the State maintain a government-to-government relationship, and this Compact will help to foster mutual respect and understanding among Indians and non-Indians.

WHEREAS, the United States Supreme Court has long recognized the general right of an Indian tribe to regulate activity on lands within its jurisdiction.

WHEREAS, the Tribe desires to offer the play of Covered Games, as defined in Part 2(6) of this Compact, as a means of generating revenues for purposes authorized by the Indian Gaming Regulatory Act, 25 U.S.C., § 2701, *et seq.*

WHEREAS, the State recognizes that the positive effects of this Compact will extend beyond the Tribe's lands to the Tribe's neighbors and surrounding communities and will generally benefit all of Oklahoma.

WHEREAS, the previous gaming compact entered into by and between the Tribe and the State, and approved by the Department of Interior and published in the *Federal Register*, is hereby agreed and stipulated by the Parties to have expired as of the Effective Date of this Compact, and this Compact is the sole effective Compact between the Parties from and after the Effective Date hereof.

PART 1: RECITALS

A. The Parties agree that the recitals set forth above form a material part of this Compact and are hereby incorporated by reference.

PART 2: DEFINITIONS

A. As used in this Compact, the following terms shall be specially defined:

AND STATE OF OKLAHOMA GAMING COMPACT

1. "AAA" means the American Arbitration Association.
2. "Adjusted Net Win" or any derivative thereof means the combined Net Win from all Covered Games in facilities, with the following adjustments:
 - a. Account for the amounts paid for wide-area progressive Gaming Machines as set forth in subsection A(2)(a) of this Part; and
 - b. Subtract Free Play and Point Play.

The following applies when calculating the Adjusted Net Win:

- a. Pro-rata Portion of Wide-Area Progressive System Fees. Similar to the proprietary (in-house) progressive gaming device, the top jackpots for wide-area progressive gaming devices increment with the level of play. However, in the case of wide-area progressive gaming devices, a third-party vendor operates the system. The system spans multiple casinos. The top jackpots increment as each of the Gaming Machines in the system is played, regardless of the casino in which the Gaming Machine is located. The third-party vendor administers the system. In return, the casinos make periodic payments to the third-party vendor. The vendor payments provide for the progressive jackpot and a fee to the third-party vendor. The casinos collect the cash or cash equivalents from these Gaming Machines as drop. When a progressive jackpot is won, the third-party vendor pays the jackpot from funds collected from the casinos. If in calculating Net Win, fees to the third-party vendor in excess of those amounts necessary to fund the progressive jackpots have been applied to reduce Net Win, then for purposes of calculating Adjusted Net Win, the Tribe shall add back those amounts that did not fund the progressive jackpots. The third-party vendor shall inform the Tribe in writing as to the specific amount of the vendor payments that are contributed to the progressive system payouts (*i.e.*, jackpots).
- b. Participation Fees. Broadly, participation fees are any contractual payments made by casinos that are set at the minimum or maximum amount per day or are tied to the total coin-in, or drop generated by the gaming devices being operated, or other financial measures related to the operation of the gaming devices. An example of participation fees is the periodic payments casinos make to the third-party vendor for the use of a Covered Game. Participation fees can also be royalty payments, lease payments, or payments for other contractual arrangements. The participation fee is an expense and is not deductible for the purposes of calculating Adjusted Net Win and should be treated accordingly.
- c. Free Play and Point Play. Under the terms of this Compact, Free Play and Point Play do not increase Net Win, and amounts paid as a result

AND STATE OF OKLAHOMA GAMING COMPACT

of Free Play or Point Play reduce Net Win for purposes of the revenue sharing calculation set forth in Part 10(B) of this Compact. However, any form of credits with any cash redemption value increase Net Win when wagered on a Covered Game and amounts paid as a result of such wagers reduce Net Win for purposes of calculating Adjusted Net Win.

d. Promotions, Players' Clubs, Non-Cash Prizes and Complimentaries. Any rewards, awards or prizes, in any form, received by or awarded to a Patron under any form of a players' club program (however denominated), or promotion, or as a result of Patron-related activities, are not deductible from Net Win. The Value of any complimentary given to Patrons in any form, is not deductible from Net Win. If the Tribe chooses to use non-cash prizes in connection with play on Covered Games, Net Win is reduced by the amount of the Tribe's actual cost of a non-cash prize awarded as a direct result of a win on a Covered Game.

e. Void and Expired Tickets. Voided tickets are tickets unredeemed by Patrons and later voided by a Covered Game Employee. Expired tickets are tickets unredeemed prior to expiration and later voided by a Central Computer. Voided and expired tickets are deductible from revenue when issued for purposes of calculating Adjusted Net Win. If not paid (redeemed by a Patron) within the specified date on the voided or expired ticket, add the value of the voided or expired ticket back in to revenue for purposes of calculating Adjusted Net Win. If the Tribe elects to honor a voided or expired ticket, value of the voided or expired ticket may be deductible from revenue for purposes of calculating Adjusted Net win.

3. "*Annual Oversight Assessment*" the assessment paid by the Tribe to defray the costs associated with oversight of this compact by the State, as more fully described in Part 10(C) of this Compact.

4. "*Central Computer*" or any derivative thereof means a computer to which all Player Terminals are linked, also known as a back-of-house system.

5. "*Compact*" means this Tribal Gaming Compact between the State and the Tribe.

6. "*Covered Game*" or any derivative thereof means all Gaming Machines, House-banked Card Games, Nonhouse-Banked Card Games, House-banked Table Games, Nonhouse-banked Table Games, and Sports Wagering, which are conducted in accordance with the Standards, as applicable, if the operation of such game by the Tribe would require a Compact and if such game has been approved by the SCA.

7. "*Covered Game Employee*" or any derivative thereof means any individual employed by the Enterprise or a third party providing management services to the

AND STATE OF OKLAHOMA GAMING COMPACT

Enterprise, whose responsibilities include the rendering of services with respect to the operation, maintenance or management of Covered Games. The term Covered Game Employee includes, but is not limited to, the following: managers and assistant managers; accounting personnel; surveillance and security personnel; cashiers, supervisors, and floor personnel; cage personnel; and any other person whose employment duties require or authorize access to areas of the Facility related to the conduct of Covered Games or the maintenance or storage of Covered Game components. This shall not include the Tribe's elected officials so long as such individuals are not directly involved in the operation, maintenance, or management of Covered Game components. The Enterprise may, at its discretion, include other persons employed at or in connection with the Enterprise within the definition of Covered Game Employee.

8. "*Document*" or any derivative thereof means books, records, electronic, magnetic and computer media and other writings and materials, copies thereof, and information contained therein.

9. "*Effective Date*" means the date on which the last of the conditions set forth in this Compact and under federal law have been met.

10. "*Enterprise*" means: (i) the Tribe or the Tribal agency or section of tribal management with direct responsibility for conducting Covered Games; (ii) the tribal business enterprise that conducts Covered Games; or (iii) a person, corporation or other entity that has entered into a management contract with the Tribe to conduct Covered Games, in accordance with IGRA. In any event, the Tribe shall have the ultimate and final responsibility for ensuring that the Tribe or Enterprise fulfills the responsibilities created and agreed to under this Compact. For purposes of enforcing the terms and conditions of this Compact, the Tribe is deemed to have made all promises for on and behalf of the Enterprise, whether the Enterprise currently exists or is created following the Effective Date hereof.

11. "*FAA*" means the Federal Arbitration Act, Pub. L. 68-401, 43 Stat. 883, as amended, 9 U.S.C. §§ 1-16.

12. "*Facility*" or any derivative thereof means any building of the Tribe in which the Covered Games authorized by this Compact are conducted by the Enterprise, located on Indian lands as defined by IGRA. The Tribe shall have the ultimate responsibility for ensuring that a Facility conforms to the Compact as required herein.

13. "*Free Play*" means play on any Covered Game with points or credits used by Patrons without monetary consideration, and which have no cash redemption value.

14. "*Gaming Machine*" or any derivative thereof means a Covered Game that is a mechanical, electromechanical or an electronic contrivance or machine that uses a random number generator for outcome that, upon insertion of a coin, token or similar object, or upon payment of any consideration in any manner, is available to play or operate a game of chance in which the outcome depends to a material degree on an element of chance, notwithstanding that some skill may be a factor, whether the payoff is made automatically from the Gaming Machine or in any other manner.

AND STATE OF OKLAHOMA GAMING COMPACT

15. “*Geofencing*” means the practice of using global positioning system (“*GPS*”) or radio frequency identification (“*RFID*”) to define a geographic boundary. Then, once this “virtual barrier” is established, the Party can set up triggers that send a text message, email alert, or application notification when a mobile device enters (or exits) the specified area. Geofencing may include automatic Wi-Fi configuration as device moves in and out of geofence boundaries, restriction on game and social apps in geofenced area, and disabling of camera and other device settings to protect sensitive data, as allowed by law

16. “*House-Banked Card Game*” or any derivative thereof means any card game in which the Tribe has an interest in the outcome of the game.

17. “*House-Banked Table Game*” or any derivative thereof means any table game including, but not limited to, those table games involving a wheel, ball, or dice, which operate in a non-electronic environment and that the Tribe has interest in the outcome of the game.

18. “*IGRA*” means the Indian Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C., § 2701 *et seq.* and 18 U.S.C., §§ 1166 to 1168, which the Parties hereby adopt and incorporate into this Compact by reference.

19. “*iLottery*” means a system that provides for the distribution of lottery products through numerous channels that include web applications, mobile applications, mobile web, tablets and social media platforms that allows players to interface through a portal for the purpose of obtaining lottery products and ancillary services, such as account management, game purchase, game play and prize redemption. The term does not include games that represent physical, Internet-based or monitor-based interactive lottery games which simulate covered games, specifically including poker, roulette, slot machines and blackjack.

20. “*Independent Testing Laboratory*” means a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with this Compact and to otherwise perform the functions assigned to it in this Compact. An Independent testing Laboratory shall not be owned or controlled in whole or in part by the Tribe, the Enterprise, an organizational licensee as defined in the State-Tribal Gaming Act, the State, or any manufacturer, supplier or operator of gaming devices. The selection of an Independent Testing Laboratory for any purpose under this Compact shall be made from a list of one or more laboratories approved by the SCA.

21. “*Net Win*” means the win from gaming activities, which is the difference between gaming wins and losses before deducting costs and expenses or deducting incentives or adjusting for changes in progressive jackpot liability accruals. Generally, Net Win is the difference between Patron wagers and payouts made on winning wagers. Additional clarification of the accounting for Free Play, Point Play, participation fees, promotions, players’ clubs, non-cash prizes, complimentary items, voided tickets, expired tickets and amounts paid with respect to wide area progressive Gaming Machines is set out in subsection (A)(2) of this Part.

22. “*NIGC*” means the National Indian Gaming Commission.

AND STATE OF OKLAHOMA GAMING COMPACT

23. "*Nonhouse-banked Card Game*" or any derivative thereof means any card game in which the Tribe has no interest in the outcome of the game, including games played in tournament formats and games in which the Tribe collects a fee from the player for participating, and all bets are placed in a common pool or pot from which all player winnings, prizes and direct costs are paid. As provided herein, administrative fees may be charged by the Tribe against any common pool in an amount equal to any amount paid to the State; provided that the Tribe may seed the pool as it determines necessary from time to time.

24. "*Nonhouse-banked Table Game*" or any derivative thereof means any table game, including, but not limited to those table games involving a wheel, ball, or dice, operated in a nonelectronic environment in which the Tribe has no interest in the outcome of the game, including games played in tournament formats and gaming in which the Tribe collects a fee from the Patron for participating and all bets are placed in a common pool or pot from which all play winnings, prizes, and direct costs are paid.

25. "*Patron*" or any derivative thereof means any person who is on the premises of a Facility or adjacent structures generally acknowledged or understood to be part of the gaming experience including, but not limited to, hotels, recreation areas, restaurants, entertainment venues, and/or parking lots or garages.

26. "*Player Terminals*" means electronic or electromechanical terminals housed in cabinets with input devices and video screens or electromechanical displays on which players play Covered Games.

27. "*Point Play*" means play on a Covered Game with points earned or accrued by a Patron through previous Covered Games play, players' clubs, or any other method, and which have no cash redemption value.

28. "*Principal*" or any derivative thereof means, with respect to any entity, its sole proprietor or any partner, trustee, beneficiary or shareholder holding Five Percent (5.00%) or more of its beneficial or controlling ownership, either directly or indirectly, or any officer, director, principal management employee, or key employee thereof.

29. "*Prize Disputes*" means any dispute by and between the Enterprise and Patrons of the Facility concerning a Patron's play of any Covered Game, including the amount of any prize which has been awarded, the failure to be awarded a prize, or the right to receive a refund or other compensation from the Enterprise.

30. "*Rules and Regulations*" means the rules and regulations promulgated by the federal government, Tribal Compliance Agency, or the State Compliance Agency for implementation of this Compact.

31. "*Sports Wagering*" means the placing of a bet on the outcome of a sport event or events, subject to the following terms and conditions:

AND STATE OF OKLAHOMA GAMING COMPACT

a. Type. Sports Wagering is limited to professional sports, intercollegiate sports for schools not located in the State, and intercollegiate events not occurring in the State.

b. Reservation of State Licenses. At some future time, the State may license up to five (5) non-tribal Sports Wagering locations, with the same restrictions as those under this Compact, including Geofencing.

c. Location. Sports Wagering must be conducted by a Patron who is physically located at a Facility, within 1,000 feet of the Facility, or within the Tribe's land-trust boundary, whichever is less. The Tribe may not conduct Sports Wagering within the lands of the State.

d. Manner and Form. Sports Wagering transactions by Patrons may be conducted over-the-counter or electronically, subject to Geofencing of the Facility consistent with Part 2(A)(31)(c) above.

e. Vendor Approval. Any vendor who contracts with the Enterprise to provide Sports Wagering risk management software services must be mutually agreed upon by the State and the compacting Tribes, and shall also be subject to regulation by the State through the State Compliance Agency.

f. Vendor Restrictions. The Tribe, Tribally owned or operated businesses, non-Tribally owned businesses where the Tribe has more than a One Percent (1.00%) interest, and or Tribal officials, whether elected or unelected, shall be prohibited from having any pecuniary interest in vendors providing Sports Wagering risk management software services to an Enterprise

g. Single License. The Tribe shall be permitted to conduct Sports Wagering at a single Facility. Nothing shall prevent the Tribe from selling or leasing its right to operate Sports Wagering to any other compacting Tribe who is authorized to conduct Sports Wagering because such tribe has entered into a valid compact with the State; provided, however, the State shall receive notice of such a transaction within ten (10) days of the transaction. Notice to the State shall include the duration of such agreement and shall be to the State Compliance Agency.

32. "*Standards*" or any derivative thereof means the descriptions and specifications of Covered Games or components thereof as contemplated in this Compact, including technical specifications for component parts, requirements for cashless transaction systems, software tools for security and audit purposes, and procedures for operation of such games. Such standards are more particularly described in Appendix "A."

33. "*State*" means the State of Oklahoma.

AND STATE OF OKLAHOMA GAMING COMPACT

34. "*State Compliance Agency*" ("*SCA*") means the State agency that has the authority to carry out the state's responsibilities under this Compact, which shall be the Office of Management and Enterprise Services or its successor agency as determined by the Office of the Governor. Nothing herein shall supplant the role or duties of the Oklahoma State Bureau of Investigation under State law. The Oklahoma Horse Racing Commission and the Oklahoma Tax Commission shall have no role in regulating or oversight of any covered gaming conducted by a Tribe.

35. "*Tort Claims*" means any dispute by and between the Enterprise and a Patron concerning a Patron's claim that he or she is entitled to just and reasonable compensation from the Enterprise for injury to his or her person or property arising or deriving from an act, omission, or condition at the Facility, whether the act, omission, or condition was directly, indirectly, or vicariously caused or contributed to the Enterprise, including its employees, principals, or agents.

36. "*Tribal Compliance Agency*" ("*TCA*") means the tribal governmental agency that has the authority to carry out the Tribe's regulatory and oversight responsibilities under this Compact. Unless and until otherwise designated by the Tribe, the TCA shall be the Ottawa Tribe of Oklahoma Gaming Commission. No Covered Game Employee may be a member or employee of the TCA. The Tribe shall have the ultimate responsibility for ensuring that the TCA fulfills its responsibilities under this Compact. The members of the TCA shall be subject to background investigations and licensed to the extent required by any tribal or federal law, and in accordance with this Compact. The Tribe shall ensure that all TCA officers and agents are qualified for such position and receive ongoing training to obtain and maintain skills that are sufficient to carry out their responsibilities in accordance with industry standards.

37. "*Tribal Law Enforcement Agency*" means a police or security force established and maintained by the Tribe pursuant to the Tribe's powers of self-government to carry out law enforcement duties at or in connection with a Facility.

38. "*Tribe*" means the federally-recognized Indian Tribe that is identified herein.

PART 3: AUTHORIZATION OF COVERED GAMES

A. Scope. The Tribe and State agree that the Tribe is authorized to operate Covered Games only in accordance with this Compact. However, nothing in this Compact shall limit the Tribe's right to operate any game that is Class II under IGRA unless otherwise provided herein, and no Class II games shall be subject to the exclusivity payments set forth in this Compact. Furthermore, the State acknowledges that it is the current policy of Oklahoma that the Tribe has the right to conduct class III Covered Games in Oklahoma for an indefinite duration, subject to applicable State and Federal law, including amendments or modifications thereto.

B. iLottery. The Tribe agrees that the substantial exclusivity provided for in this Compact shall not include or prohibit the operation of iLottery by the State.

AND STATE OF OKLAHOMA GAMING COMPACT

C. Certification of Gaming Machines. The Tribe shall not operate a Gaming Machine pursuant to this Compact until such game has been certified by an SCA approved Independent Testing Laboratory and the TCA as meeting the Standards.

D. Annual Certification of Class III Revenue. On an annual basis, the Tribe shall certify by tribal resolution that Fifty Percent (50.00%) of Gaming Machine revenues – exclusive of revenue generated by Sports Wagering, House-Banked Card Games, Nonhouse-Banked Card Games, House-Banked Table Games, and Nonhouse-Banked Table Games – are derived from Class III devices.

E. Violations. A violation of Part 4 of this Compact shall constitute a material breach, resulting in termination of this Compact, unless otherwise agreed to by the Parties.

PART 4: RULES AND REGULATIONS; AUDITING; MINIMUM OPERATIONAL REQUIREMENTS

A. Regulations. At all times during the Term of this Compact, the Tribe shall be responsible for all duties which are assigned to it, the Enterprise, the Facility, and the TCA under this Compact. The Tribe shall promulgate any Rules and Regulations necessary to implement this Compact. Nothing in this Compact shall be construed to affect the Tribe's right to amend its Rules and Regulations, provided that any such amendment shall be in conformity with this Compact. The SCA may propose, in writing, additional Rules and Regulations related to implementation of this Compact to the TCA at any time. The TCA shall give good faith consideration to such suggestions and shall notify the SCA, in writing, within ninety (90) of its response or action with respect thereto.

B. Records. The Enterprise or the Tribe shall maintain all records relevant to this Compact in permanent form and as written or entered, whether manually or by computer. These records shall be maintained by the Enterprise, and be available for inspection by the SCA, for no less than seven (7) years from and after the date generated.

C. Confidentiality. Any information or Document provided to the SCA by the Tribe, TCA or Enterprise or prepared from information obtained from the Tribe, TCA or Enterprise are confidential. If the SCA is in receipt of such confidential information from the Tribe, TCA or Enterprise, it: **(i)** may release or disclose the same only with the prior written consent of the Tribe; **(ii)** shall use the same degree of care that the SCA uses to protect its own confidential information, but in no event less than a reasonable amount of care; and **(iii)** shall not use confidential information for purposes other than those necessary to further the purpose of the Compact.

1. The prohibitions set forth in Part 4(C) of this compact shall not be construed to prohibit:

a. The furnishing of any information to a law enforcement or regulatory agency of the State or Federal Government;

AND STATE OF OKLAHOMA GAMING COMPACT

b. The State from making known the names of persons, firms, or corporations conducting Class II Gaming pursuant to the terms of this Compact, locations at which such activities are conducted, or the dates on which such activities are conducted;

c. Disclosure of the terms of this Compact;

d. Disclosing information as necessary to audit, investigate, prosecute or arbitrate violations of this Compact or other applicable laws or to defend suits against the State;

e. Disclosures to other State agencies as required by State law, provided that the confidentiality provisions of this subsection C of this Part shall apply to the agencies receiving such information; *and*

f. Complying with subpoenas or court orders issued by a state or federal court.

2. Notwithstanding the foregoing, the Tribe agrees that:

a. The following Documents may be released by the SCA to the public: **(i)** the gaming ordinance of the Tribe or TCA; **(ii)** official rulings of the TCA in matters not subject to a confidentiality order imported by the SCA; **(iii)** other Documents of the Tribe, TCA or Enterprise ordinarily available to the public; **(iv)** amounts of payments received by the State made pursuant to this Compact; and **(v)** correspondence between the Tribe, TCA or Enterprise and the SCA, unless such correspondence is specifically labeled “Confidential”; *and*

b. The SCA may release to the public aggregate figures compiled by totaling comparable figures from the annual financial statements of all compacted tribes.

D. Annual Independent Financial Audit. Consistent with 25 C.F.R., Section 571.12, Audit Standards, the TCA shall ensure that an annual independent financial audit of the Enterprise’s conduct of Covered Games subject to this Compact is secured. The audit shall examine revenues and expenses in connection with the conduct of Covered Games in accordance with generally accepted auditing standards and shall include, but not be limited to, those matters necessary to verify the determination of Adjusted Net Win and the basis of the payments made to the State pursuant to Part 10(B) of this Compact.

1. Auditor Selection. The auditor selected by the TCA shall be a firm of known and demonstrable experience, expertise and stature in conducting audits of this kind and scope.

2. Timing. The audit shall be concluded within five (5) months following the

AND STATE OF OKLAHOMA GAMING COMPACT

close of each calendar year, provided that extensions may be requested by the Tribe and shall not be refused by the State where the circumstances justifying the extension request are beyond the Tribe's control.

3. Scope. The audit of the conduct of Covered Games may be conducted as part of or in conjunction with the audit of the Enterprise, but if so conducted shall be separately stated for the reporting purposes required herein.

4. Conformance. The audit shall conform to generally accepted accounting procedures. The audit must demonstrate the validity of revenue and expenses by utilizing the data from the machine system to verify coin in, coin out, actual drop, bonus activity, net win, and expired and void ticket information. As part of the audit report, the auditor shall certify to the TCA that, in the course of the audit, the auditor discovered no matters within the scope of the audit which were determined or believed to be in violation of any provision of this Compact or the NIGC's Minimum Internal Control Standards Agreed upon Procedures ("*MICS AUP*").

5. Costs. The Enterprise shall assume all costs incurred in connection with the audit.

6. Submission of Audit. The audit report, management letter(s) and MICS AUP report for the conduct of Covered Games shall be submitted to the SCA within thirty (30) days of completion. The auditors work papers concerning Covered Games and verifying all information described in this Part shall be made available to the SCA upon submission of the audit report.

7. SCA Involvement. Representatives of the SCA may meet with the auditors to discuss the work papers, the audit or any matters in connection therewith; provided, such discussions are limited to Covered Games information and pursue legitimate State Covered Games interests.

E. Sale of Alcoholic Beverages. The sale and service of alcoholic beverages in a Facility shall be in compliance with State, Federal, and Tribal law, including such Rules and Regulations concerning the licensing and sale of such beverages.

F. Facility Age Restriction. No person under the age of eighteen (18) shall be admitted into, or within 25 feet of, any area in a Facility where Covered Games are placed, nor be permitted to operate or obtain a prize from or in connection with the operation or conducting of any Covered Game, whether directly or indirectly.

G. Destruction of Documents. Enterprise books, records and other materials documenting the conduct of Covered Games shall be destroyed only in accordance with Rules and Regulations adopted by the TCA, which at a minimum shall provide as follows:

1. Tort Claims. Material that might be utilized in connection with a potential Tort Claim pursuant to Part 5 of this Compact, including, but not limited to, incident reports, surveillance records, statements, and the like, shall be maintained at least one (1) year beyond

AND STATE OF OKLAHOMA GAMING COMPACT

the time which a claim can be adjudicated under Part 5 of this Compact or, if a Tort Claim is made, beyond the final disposition of such Tort Claim;

2. Prize Disputes. Material that might be utilized in connection with a Prize Dispute, including but not limited to incident reports, surveillance records, statements, and the like, shall be maintained at least one hundred eighty (180) days beyond the time which a Prize Dispute can be adjudicated under Part 5 of this Compact or, if a Prize Dispute is made, beyond the final disposition of such Prize Dispute; *and*

3. Operational Materials. Unless otherwise provided herein, all Enterprise books and records with respect to the conduct of Covered Games or the operation of the Enterprise, including, but not limited to, all interim and final financial and audit reports and materials related thereto which have been generated in the ordinary course of business, shall be maintained for the minimum period of seven (7) years.

H. Location. The Tribe may establish and operate Enterprises and Facilities that operate Covered Games only on its Indian lands as defined by IGRA, 25 U.S.C. §§ 2703(4) and 2719.

1. Existing Facilities. Within thirty (30) days from and after Effective Date of this Compact, the Tribe shall forward to the SCA all necessary documents reflecting the status of the land. This documentation shall include, but is not limited to, any application to place the land into trust status and all documents associated therewith, any and all responses from the Bureau of Indian Affairs regarding such application, and a copy of the deed filed of record in the county where the facility is located.

2. New or Expanded Facilities. The Tribe shall notify the SCA of the operation of any new Facility following the Effective Date of this Compact at least ninety (90) days prior to the opening of such facility. Such notification shall include all documents referenced in Part H(1) of this compact.

3. Failure to Notify. Failure to notify in accordance herewith shall result in a penalty of \$5,000.00 per each thirty (30) day increment to be remitted to the SCA for purposes of deposit and expenditure in connection with Part 10(C) of this Compact. Such penalty shall be in addition to the Annual Oversight Assessment amount set forth in Part 10(C) of this Compact.

4. Limitation. Nothing herein shall be construed as expanding or otherwise altering the term Indian lands, as that term is defined in the IGRA, nor shall anything herein be construed as altering the federal process governing the tribal acquisition of Indian lands for gaming purposes.

I. Record of Games. The TCA shall keep a record of, and shall report at least quarterly to the SCA, the number of Games in each Facility, by the name or type of each and its identifying number, and denomination of bets accepted. This list shall include both Class II and Class III games. Failure to report in accordance herewith shall result in a penalty of \$5,000 per each facility per report to be remitted to the SCA for purposes of deposit and expenditure in

AND STATE OF OKLAHOMA GAMING COMPACT

connection with Part 10(C) of this Compact.

J. Health Reporting. The Tribe agrees to implement at its Facilities standards and guidelines relating to public health as promulgated by the U.S. Centers for Disease Control and Prevention (“*CDC*”) and the Oklahoma State Department of Health (“*OSDH*”) which would be applicable to non-Tribal facilities of a similar size and nature which are open to the public. Further, the Tribe agrees to comply with and implement all measures in its Facilities required by any States of Emergency declared by the President of the United States, the Governor of Oklahoma or any county or municipality within the State of Oklahoma relating to public health and applicable to the geographic location of the Tribe’s Facilities. This obligation includes any testing, reporting and/or notice requirements to the public, Patrons and/or employees of the Facilities, agencies of the United States, the State of Oklahoma or any county or municipality within Oklahoma which such declarations or corresponding government entities impose during a public health state of emergency.

PART 5: DISPUTE RESOLUTION – THE ENTERPRISE AND PATRONS

A. Scope. Part 5 of the Compact shall apply to Prize Disputes and Tort Claims.

B. Procedure. The goal of the Enterprise and Patrons should be to resolve Prize Disputes and Tort Claims amicably and voluntarily whenever possible through private negotiation. Unless otherwise agreed to in writing by the Enterprise and the Patron, private negotiation shall be deemed to have failed if the Enterprise and the Patron cannot reach a settlement within ninety (90) days from and after the Enterprise receives notice by the Patron of a claim. When private negotiations are deemed to have failed, the following procedure applies:

1. AAA. Either the Enterprise or the Patron may refer Prize Disputes or Tort Claims to arbitration pursuant to the applicable rules of the AAA for the category of dispute, subject to enforcement as provided by this Part by a federal district court.

2. Oklahoma Law. The claims, remedies, affirmative defenses, counterclaims, third-party claims, and cross-claims available through arbitration are limited to those arising under Oklahoma common-law.

3. Jurisdiction; Waiver. The Enterprise consents to the jurisdiction of such arbitration forum and court for such limited purposes and no other, and waives immunity with respect thereto.

4. Selection of Arbitrator. One (1) arbitrator shall be chosen by the Enterprise and the Patron from a list of qualified arbitrators to be provided by the AAA. If the parties cannot agree on an arbitrator, then the arbitrator shall be named by the AAA.

5. Expenses of Arbitration. The expenses of arbitration, including filing fees and fees charged by the arbitrator, shall be borne by the Enterprise.

6. Enforcement. The arbitration procedures described herein are subject to, and any decision or arbitration award issued by the arbitrator under to this agreement, is

AND STATE OF OKLAHOMA GAMING COMPACT

enforceable under, and otherwise subject to, the provisions of the FAA.

7. Appellate Rights. An order or final decision issued by the arbitrator under the FAA is subject to appeal, as provided in the FAA. Accordingly, the Enterprise waives immunity and consents to suit therein for such limited purposes, and agrees not to raise the United States Constitution, sovereign immunity, or comparable defense to the validity of such waiver.

C. Notice to Patrons. Notices explaining the procedure set forth in subsections A and B of this Part shall be prominently posted in the Facility. Such notices shall explain the method and places for making a claim, including to whom the notice should be made (e.g., the “registered agent” or legal equivalent for the Enterprise).

D. Commercial General Liability Insurance for Tort Claims. During the term of this Compact, the Enterprise shall maintain commercial general liability insurance for the express purposes of covering and satisfying tort claims. The insurance shall have liability limits of not less than Five Hundred Thousand Dollars (\$500,000.00) for any one person and Five Million Dollars (\$5,000,000.00) for any one occurrence for personal injury, and One Million Dollars (\$1,000,000.00) for any one occurrence for property damage. No Tort Claim shall be paid, or be the subject of any award, in excess of the limit of liability. The Enterprise’s commercial general liability insurance policy shall include an endorsement providing that the insurer may not invoke tribal sovereign immunity in connection with any claim made within the limit of liability. Copies of all such insurance policies shall be forwarded to the SCA.

PART 6: DISPUTE RESOLUTION – THE TRIBE AND THE STATE

A. Scope. Part 6 shall apply to disputes between the Tribe and the State arising under the Compact, including: (i) compliance with the Compact; (ii) performance required by the Compact; and/or (iii) interpretation of the Compact’s terms, conditions, and provisions; provided, however, that Part 6 shall not apply to the market evaluation of substantial exclusivity provided for in Part 10(B)(5) of this Compact.

B. Process. For disputes arising hereunder, the following two (2) step process shall apply:

1. Mediation. The State and the Tribe shall be required to first mediate the dispute, using a mutually agreeable mediator, unless one party reasonably believes that irreparable harm will result thus necessitating an action, in whole or in part, for injunctive relief to be filed directly in federal court.

2. Federal Court. If injunctive relief to prevent irreparable is sought, or if mediation fails, the dispute shall be litigated in federal court, requiring the State and the compacting Tribe to provide limited waivers of sovereign immunity, including for purposes of enforcing any ruling or judgment entered by the federal court regarding such dispute, as well as any resulting appeal.

C. Jurisdiction; Venue. Subject to Part 6(B) of this Compact, the Tribe and the State consent to the jurisdiction of federal district court pursuant to 25 U.S.C. § 2710(d)(3)(A) and 28

AND STATE OF OKLAHOMA GAMING COMPACT

U.S.C. § 1362. Suit shall be filed in the federal judicial district where a substantial part of the events or omissions giving rise to the claim(s) asserted by either Party occurred.

D. Controlling Law. The Tribe and the State consent to applicable federal and state law, whether arising by statute, ordinance, regulation, common-law, and/or in equity. The Parties acknowledge and agree that subsection D of this Part shall apply to claims, counterclaims, remedies, and affirmative defenses, whether arising at law or in equity.

E. Limited Waiver of Sovereign Immunity. The Tribe and the State waive sovereign immunity for the limited purpose described in this Part. By extension, the Tribe and the State agree not to raise the United States Constitution, sovereign immunity, or comparable defense to the validity of such waiver.

F. Exclusive Authority to Settle and Negotiate – State. The Tribe and the State expressly acknowledge and agree that the Governor for the State shall have exclusive authority to settle and negotiate any dispute arising under the Compact pursuant to Article 6, Section 8 of the Oklahoma Constitution. Such authority may be delegated to authorized agent(s) or representative(s), in whole or in part, except with respect to final approval of and executing the Compact on behalf of the State.

PART 7: STATE MONITORING OF COMPACT COMPLIANCE

A. SCA Authority. The SCA shall, pursuant to the provisions of this Compact, have the authority to monitor the conduct of Covered Games to ensure that the Covered Games are conducted in compliance with the provisions of this Compact. In order to properly monitor the conduct of Covered Games, agents of the SCA shall have reasonable access to all areas of the Facility related to the conduct of Covered Games as provided herein:

1. Facility Access. Access to the Facility by the SCA shall be during the Facility's normal operating hours only; provided that to the extent such inspections are limited to areas of the Facility where the public is normally permitted, SCA agents may inspect the Facility without giving prior notice to the Enterprise;

2. Compact Violations. Any suspected or claimed violations of this Compact or of law shall be directed in writing to the TCA; SCA agents shall not interfere with the functioning of the Enterprise; *and*

3. SCA Identification. Before SCA agents may enter any nonpublic area of the Facility, they shall provide proper photographic identification to the TCA. SCA agents shall be accompanied in nonpublic areas of the Facility by a TCA agent. A one (1) hour notice by SCA to the TCA may be required to assure that a TCA officer is available to accompany SCA agents at all times while in nonpublic areas.

B. Central Computer Monitoring. The Tribe will ensure all Gaming Machines will be connected to a central computerized monitoring and control system, which shall collect on a continual basis the unaltered activity of each Covered Game in use at the Facility, and that the

AND STATE OF OKLAHOMA GAMING COMPACT

wager and payout data of each Covered Game, electronically captured by the Tribe's Central Computer, may be accessed and downloaded electronically by the SCA by a dedicated telecommunications connection, on a "read-only" basis, upon entry of appropriate security codes; but provided that in no event shall the SCA be able to alter or affect the operation of any Covered Game or the data provided to the Central Computer, and provided further that the system for electronic access to the machine wager and payout data collected by the Tribe's Central Computer shall be constructed and installed at the Tribe's cost, and shall be designed in conjunction with the Tribe's technical staff so as to preserve the integrity of the system and the data contained therein, to minimize any possibility of unauthorized access to the system or tampering with the data, and to minimize any access by the SCA to information other than machine wager and payout data residing in the central monitoring and control system.

C. SCA Annual Review. The SCA shall be authorized to conduct an annual review of the Enterprise's conduct of Covered Games subject to this Compact. The review shall examine revenues in connection with the conduct of Covered Games and shall include, but not be limited to, those matters necessary to the verity of the determination of Adjusted Net Win and the basis of the payments made to the State pursuant to Part 10 of this Compact. The TCA shall provide all documentation and information reasonably requested by the SCA in connection with the annual review within sixty (60) days of such written request by the SCA. The Tribe, Enterprise, and TCA shall cooperate fully and not interfere with said annual review.

D. SCA Document Review. Subject to provisions herein, agents of the SCA shall have the right to review and copy Documents of the Enterprise related to its conduct of Covered Games. The review and copying of such Documents shall be during normal business hours or hours otherwise at Enterprise's discretion. However, the SCA shall not be permitted to copy those portions of any Documents of the Enterprise related to its conduct of Covered Games that contain business or marketing strategies or other proprietary and confidential information of the Enterprise, including, but not limited to, Patron lists, business plans, advertising programs, marketing studies, and Patron demographics or profiles. No Documents of the Enterprise related to its conduct of Covered Games or copies thereof shall be released to the public by the State under any circumstances. For the avoidance of doubt, the right to review and copy Documents is subject to Part 4(C) of this Compact.

E. SCA Reporting. Upon completion of any SCA inspection or investigation, the SCA shall forward a written report thereof to the TCA. The TCA shall be apprised on a timely basis of all pertinent, non-confidential information regarding any violation of Federal, State, or tribal laws, the Rules or Regulations, or this Compact. Nothing herein prevents the SCA from contacting tribal or federal law enforcement authorities for suspected criminal wrongdoing involving the TCA. TCA may interview SCA inspectors upon reasonable notice and examine work papers and SCA in the same fashion that SCA inspectors may examine auditor's notes and make auditor inquiry unless providing such information to the TCA will compromise the interests sought to be protected. If the SCA determines that providing the information to the TCA will compromise the interests sought to be protected, then the SCA shall provide such information to the Tribe in accordance with this Compact.

AND STATE OF OKLAHOMA GAMING COMPACT

F. Limitation. Nothing in this Compact shall be deemed to authorize the State to regulate the Tribe's government, including the TCA, or to interfere in any way with the Tribe's selection of its governmental officers, including members of the TCA.

PART 8: JURISDICTION

A. Subject to Parts 5 and 6 of this Compact, this Compact shall not be construed to alter Tribal, Federal or State civil adjudicatory or criminal jurisdiction.

PART 9: LICENSING

A. Covered Game Employees. Except as otherwise provided for herein, no Covered Game Employee shall be employed at a Facility or by an Enterprise unless such person is licensed in accordance with this Compact. In addition to the provisions of this Part which are applicable to the licensing of all Covered Game Employees, the requirements of 25 C.F.R., Part 556, background investigations for primary management officials and employees, and 25 C.F.R., Part 558, gaming licenses for employees and primary management officials, apply to employees and primary management officials of the Facility and Enterprise.

1. Application. All prospective Covered Game Employees shall apply to the TCA for a license. Licenses shall be issued for periods of no more than two (2) years, after which they may be renewed only following review and update of the information upon which the license was based; provided, the TCA may extend the period in which the license is valid for a reasonable time not to exceed one (1) month pending the outcome of any investigation being conducted in connection with the renewal of such license. In the event the SCA contends that any such extension is unreasonable, it may seek resolution of that issue pursuant to Part 9(A)(6) of this Compact.

2. Background Investigation. The application process shall require the TCA to obtain sufficient information and identification from the applicant to permit a background investigation to determine if a license should be issued in accordance with this Part and the Rules and Regulations. The TCA shall obtain information about a prospective Covered Game Employee that includes: (i) full name, including any aliases by which applicant has ever been known; (ii) social security number; (iii) date of birth; (iv) place of birth; (v) residential addresses for the past five (5) years; (vi) employment history for past five (5) years; (vii) driver's license number; (viii) all licenses issued and disciplinary charges filed, whether or not discipline was imposed, by any State, Federal, or Tribal regulatory authority; (ix) all criminal arrests and proceedings, except for minor traffic offenses, to which the applicant has been a party; (x) a set of fingerprints, which shall be used to conduct a criminal background check; (xi) current photograph; (xii) military service history; and (xiii) any other information the TCA determines is necessary to conduct a thorough background investigation.

3. SCA Notification. Upon obtaining the information set forth in Part 9(A)(2) above from a prospective Covered Game Employee, the TCA shall forward a copy of such information to the SCA, along with any determinations made with respect to the issuance or denial of a temporary or permanent license. The SCA may conduct its own background

AND STATE OF OKLAHOMA GAMING COMPACT

investigation of the applicant at SCA expense, shall notify the TCA of such investigation within a reasonable time from initiation of the investigation, and shall provide a written report to the TCA of the outcome of such investigation within a reasonable time from the receipt of a request from the TCA for such information. SCA inspector field notes and the SCA inspector shall be available upon reasonable notice for TCA review and inquiry.

4. Temporary Licensure. The TCA may issue a temporary license for a period not to exceed ninety (90) days, and the Enterprise may employ on a probationary basis, any prospective Covered Game Employee who represents in writing that he or she meets the standards set forth in this Part, provided the TCA or Enterprise is not in possession of information to the contrary. The temporary license shall expire at the end of the ninety-day period or upon issuance or denial of a permanent license, whichever event occurs first. Provided that the temporary license period may be extended at the discretion of the TCA so long as good faith efforts are being made by the applicant to provide required information, or the TCA is continuing to conduct its investigation or is waiting on information from others, and provided further that in the course of such temporary or extended temporary licensing period, no information has come to the attention of the TCA which, in the absence of countervailing information then in the record, would otherwise require denial of license. A permanent license shall be issued or denied within a reasonable time following the completion of the applicant's background investigation.

5. Prohibited Persons. In Covered Gaming the Tribe shall not employ and shall terminate, and the TCA shall not license and shall revoke a license previously issued to, any Covered Game employee who: (i) has been convicted of any felony or an offense related to any Covered Games or other gaming activity; (ii) has knowingly and willfully provided false material, statements or information on his or her employment application; or (iii) is a person whose prior activities, criminal record, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of the conduct of Covered Games, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of Covered Games or the carrying on of the business and financial arrangements incidental thereto.

6. SCA Right to Object. The SCA may object to the employment of any individual by the Enterprise based upon the criteria set forth in paragraph 2 of subsection A of this Part. Such objection shall be in writing setting forth the basis of the objection. The SCA inspectors work papers, notes and exhibits which formed the SCA conclusion shall be available upon reasonable notice for TCA review. Within a reasonable time after such notification, the TCA shall report to the SCA on the outcome of its investigation and of any action taken or decision not to take action.

7. Additional Background Investigation. The TCA shall have the discretion to initiate or continue a background investigation of any licensee or license applicant, and to take appropriate action with respect to the issuance or continued validity of any license at any time, including suspending or revoking such license.

AND STATE OF OKLAHOMA GAMING COMPACT

8. Identification. The TCA shall require all Covered Game Employees to wear, in plain view, identification cards issued by the TCA which include a photograph of the employee, his or her first name, a four-digit identification number unique to the license issued to the employee, a tribal seal or signature verifying official issuance of the card, and a date of expiration, which shall not extend beyond such employees license expiration date.

B. Management Contracts. Pursuant to 25 C.F.R., Part 533, all management contracts must be approved by the Chair of the NIGC. The SCA shall be notified in writing by the TCA promptly after any such approval.

C. Financing Agreements. Any person or entity extending financing, directly or indirectly, to the Facility or Enterprise in excess of Fifty Thousand Dollars (\$50,000.00) in any twelve-month period shall be licensed prior to providing such financing. Principals thereof shall be subjected to background investigations and determinations in accordance with the procedures and standards set forth in subsection A of this Part. Licenses issued under this section shall be reviewed at least every two (2) years for continuing compliance, and shall be promptly revoked if the licensee is determined to be in violation of the standards set forth in subsection A of this Part. In connection with such a review, the TCA shall require the person or entity to update all information provided in the previous application.

1. SCA Notification. The SCA shall be notified of all financing and loan transactions with respect to Covered Games or supplies in which the amount exceeds Fifty Thousand Dollars (\$50,000.00) in any twelve (12) month period, and shall be entitled to review copies of all agreements and Documents in connection therewith.

2. Exception. Financing provided by a federally regulated or State-regulated bank, savings and loan, or trust, or other federally or State-regulated lending institution; any agency of the federal, State, tribal or local government; or any person or entity, including, but not limited to, an institutional investor who, alone or in conjunction with others, lends money through publicly or commercially traded bonds or other commercially traded instruments, including but not limited to the holders of such bonds or instruments or their assignees or transferees, or which bonds or commercially traded instruments are underwritten by any entity whose shares are publicly traded or which underwriter, at the time of the underwriting, has assets in excess of One Hundred Million Dollars (\$100,000,000.00), shall be exempt from the licensing and background investigation requirements in subsections A and B of this Part, as well as this subsection.

D. TCA Reporting. The TCA shall report to SCA all issued licenses by Licensee name and whether temporary no less than quarterly and shall only include those licenses issued since the TCA's most recent report.

E. Violations of Part 9. Violations of this Part shall result in a penalty of Five Thousand Dollars (\$5,000.00) per violation to be remitted to the SCA for purposes of deposit and expenditure in connection with Part 10(C) of this Compact. Such penalty shall be in addition to the Annual Oversight Assessment amount set forth in Part 10(C) of this Compact.

AND STATE OF OKLAHOMA GAMING COMPACT

PART 10: SUBSTANTIAL EXCLUSIVITY; ASSOCIATED FEES AND ASSESSMENTS

A. Acknowledgment. The Tribe acknowledges and agrees that this Compact provides the Tribe with substantial exclusivity over class III Covered Gaming consistent with the goals of IGRA.

B. Substantial Exclusivity Fees. In consideration of the Acknowledgement set forth in subsection A of this Part, the adequacy of which is hereby agreed to, and pursuant to the terms of this valid Compact, the Tribe agrees to pay the following substantial exclusivity fees as provided for below:

1. Amount – Covered Games Less and Except Sports Wagering. The Tribe shall remit substantial exclusivity fees to the State on Covered Games, less and except Sports Wagering, as follows:

a. Five Percent (5.00%) of the Adjusted Net Win.

2. Amounts – Sports Wagering. In addition to the amounts provided for in Part 10(B)(1), the Tribe shall remit substantial exclusivity fees to the State on Sports Wagering as follows:

a. Two Percent (2.00%) of the Patron’s Sports Wagering transaction total.

3. Manner; Form. Such fees shall be paid no later than the twentieth (20th) day of each calendar month for revenues received by the Tribe in the preceding month. Payment of such fees shall be made to the Treasurer of the State. Nothing herein shall require the allocation of such fees to particular State purposes, including, but not limited to, the actual costs of performing the State’s regulatory responsibilities hereunder.

4. Violation for Failure to Remit. A single failure to remit exclusivity fees as provided for in subsection B of this Part shall result in a penalty of Five Thousand Dollars (\$5,000.00) to be remitted to the SCA for purposes of deposit and expenditure in connection with subsection C of this Part for each thirty (30) day period the fee(s) remain outstanding. Such penalty shall be in addition to the Annual Oversight Assessment amount set forth in subsection C of this Part. Multiple violations in a single year shall constitute a material breach resulting in termination of this compact, unless otherwise agreed to in writing by the Parties.

5. Market Valuation of Substantial Exclusivity. The right of substantial exclusivity provided for under subsection (B) of this Part will have a definite term, as provided for in Part 12(B) of this Compact. Subject to a written agreement between the Parties, such term may renew by way of amendment for another fifteen (15) year term pursuant to the following:

a. Within twelve (12) months prior to expiration, there shall be an agreed upon exclusivity evaluation for the purpose of setting revenue-sharing

AND STATE OF OKLAHOMA GAMING COMPACT

rates under the Compact to reflect the value of substantial exclusivity. This shall be accomplished using a three (3) person expert panel: one (1) attorney or one (1) economist to be selected by the State; one (1) attorney or one (1) economist selected by the compacting Tribe; and one (1) attorney or one (1) economist (the “*Panel*”) selected by the State’s selections and the compacting Tribe’s selections. The State and the Tribe shall exercise good faith as provided in applicable law in the selection of their respective Panel members;

- b. Subject to a determination by the Panel that a market evaluation is warranted to adjust the valuation of continued exclusivity under the Compact, such expert market evaluation shall determine the value of substantial exclusivity and the corresponding rates for each renewal term; *and*
- c. The State and the Tribe agree to be bound by the rates established by the Panel for each renewal term.

C. Administrative Oversight Assessment. In addition to the substantial exclusivity fees provided for in subsection (B) of this Part, the State shall be entitled to payment for its costs incurred in connection with the oversight of Covered Games to the extent provided herein, Annual Oversight Assessment. The Annual Oversight Assessment, as more particularly described below, shall be paid in advance on a fiscal year basis for each twelve (12) months ending on June 30 of each year, in accordance with the Schedule set forth below.

1. Schedule. The Annual Oversight Assessment Schedule shall be:

- a. \$25,000.00 Annual Oversight Assessment: \$0.01 to \$15,000,000.00 in annual revenue from the play of Covered Games.
- b. \$50,000.00 Annual Oversight Assessment: \$15,000,001.00 to \$50,000,000.00 in annual revenue from the play of Covered Games.
- c. \$75,000.00 Annual Oversight Assessment: \$50,000,001.00 to \$100,000,000.00 in annual revenue from the play of Covered Games.
- d. \$100,000.00 Annual Oversight Assessment: \$100,000,001.00 to \$150,000,000.00 in annual revenue from the play of Covered Games.
- e. \$125,000.00 Annual Oversight Assessment: \$150,000,001.00 to \$750,000,000.00 in annual revenue from the play of Covered Games.
- f. \$250,000.00 Annual Oversight Assessment: equal to or in excess of \$750,000,001.00 in annual revenue from the play of Covered Games.

AND STATE OF OKLAHOMA GAMING COMPACT

D. Covenants of the State. In consideration for the agreements described herein, the receipt and adequacy of which are acknowledged and agreed to, the State agrees that it will not, during the term of this Compact, permit the nontribal operation of any Covered Games otherwise presently prohibited by law within the State in excess of the number and outside of the designated locations authorized by the State-Tribal Gaming Act, 3A O.S. § 260 *et seq.*, or as otherwise provided elsewhere in this Compact.

PART 11: NOTICES

A. Manner and Form. All notices required under this Compact shall be given by certified mail, return receipt requested, commercial overnight courier service, to the Governor of the State and Chairperson (or Chief Executive designee) of the Tribe.

PART 12: DURATION & TERMINATION

A. Effective Date. This Compact will become effective upon the occurrence of all of the following:

1. The Compact is approved by action of the Tribe necessary to authorize the signing of the Compact on behalf of the Tribe and render the signature effective, including any tribal resolution or other action by the Tribe conducted in compliance with tribal procedures;
2. The Compact is executed by the Governor on behalf of the State; *and*
3. The Compact is approved as a Tribal-State compact within the meaning of IGRA by the Secretary of the Department of the Interior and notice of that approval is published in the *Federal Register*.

B. Term. The term of this Compact shall be begin on the Effective Date and end at 11:59 p.m. (CST) on December 31, 2035, unless otherwise agreed to in writing by all Parties.

C. Effect of Termination on Class III Gaming. The Tribe may continue to operate Class III gaming, as defined by IGRA, after expiration this Compact. However, in the absence of an effective gaming compact, the State shall no longer be required to provide the Tribe with substantial exclusivity for class III Covered Games.

D. Termination by Mutual Consent. The Compact may be terminated before the end of a term of the Compact by the mutual written consent of the Parties.

PART 13: ADDITIONAL TERMS & CONDITIONS

A. Amendments. This Compact shall not be amended or modified except by a writing executed by all the Parties.

B. Entire Agreement; Severability. This Compact constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and

AND STATE OF OKLAHOMA GAMING COMPACT

contemporaneous oral and written negotiations. If any clause or provision of this Compact is subsequently determined by any federal court to be invalid or unenforceable under any present or future law, the remainder of this Compact shall not be affected thereby. It is the intention of the Parties that if any such provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar to such provision as is possible to be legal, valid and enforceable.

C. No Construction Against the Drafter. Both the Tribe and the State have cooperated in the drafting and preparation of this Compact. Hence, in any construction to be made of this Compact, the same shall not be construed for or against either the Tribe or the State.

D. Section Headings. The titles and headings of any provision herein exist for convenience and clarity only and in no way shall restrict or modify this Compact.

E. Agreement to Defend. Each Party hereto agrees to defend the validity of this Compact against challenges or attacks from non-signatories hereto.

F. Survival. This Compact shall constitute a binding agreement between the parties and shall survive any repeal or amendment of the State-Tribal Gaming Act, 3A O.S. § 260 *et seq.*

G. Federal Approval. The Parties shall cooperate in seeking approval of this Compact from an appropriate federal agency as a tribal-state compact under IGRA.

PART 14: EXECUTION

This Compact, when signed by the Governor of the State of Oklahoma, is deemed approved by the State of Oklahoma. No further action by the State or any State official is necessary for this Compact to take effect upon approval by the Secretary of the Interior. The undersigned represent that they are duly authorized and have the authority to execute this Compact on behalf of the Party for whom they are signing.

IN WITNESS WHEREOF, the Parties have caused this Compact to be executed by their authorized representatives, who are deemed to have set their hand as of the Effective Date.

EXECUTED BY AND BETWEEN:

THE STATE OF OKLAHOMA

Governor J. Kevin Stitt



This the ___ of _____, 2020.

This the ___ of _____, 2020.

ATTACHMENT A

I. Testing, Approval and Certification of Gaming Machines and Components.

- a. No Gaming Machine, and no component thereof, may be offered for play unless it has been certified by an independent testing laboratory approved by the SCA as conforming to the Standards.
- b. A prototype of any Gaming Machine which the TCA intends to offer for play shall be tested and certified by an independent testing laboratory as meeting the Standards.
- c. TCA shall provide, or require that the manufacturer or vendor provide to the independent testing laboratory a written request as to each Gaming Machine for which certification is sought, any fees required to be deposited by the independent testing laboratory, and, on a confidential basis: two (2) copies of the game illustrations, schematics, block diagrams, circuit analyses, technical and enterprise manuals, program object and source codes, hexadecimal dumps (the compiled computer program represented in base 16 format), and any other information requested by the independent testing laboratory. The TCA shall send copies of the requests for certification to the SCA when made and shall make all materials submitted to the independent testing laboratory available to the SCA upon request. Any materials so submitted which are designated by the manufacturer or vendor as proprietary shall remain confidential and shall not be subject to the disclosure requirements of the Oklahoma Open Records Act.
- d. If requested by the independent testing laboratory, the TCA shall require the manufacturer or vendor to transport not more than two (2) working models of the Gaming Machine for which certification is sought to a location designated by the laboratory for testing, examination or analysis. Neither the State nor the independent testing laboratory shall be liable for any costs associated with the transportation, testing, examination, or analysis, including any damage to the components of the Gaming Machine. If requested by the independent testing laboratory, the TCA shall require the manufacturer or vendor to provide specialized equipment or the services of an independent technical expert to assist with the testing, examination and analysis. At the conclusion of each test, the independent testing laboratory shall provide to the SCA a report that contains findings, conclusions and a certification that the Gaming Machine conforms or fails to conform to the Standards. If the independent testing laboratory determines that the device fails to conform to such Standards, and if modifications can be made which would bring the Gaming Machine into compliance, the report may contain recommendations for such modifications. The independent testing laboratory shall retest for compliance following such modifications. The independent testing laboratory shall report all findings and conclusions to the TCA, the manufacturer/vendor and the SCA, provided that at any time prior to issuance of a final report by the laboratory the TCA may instruct it to terminate the process, in which case no report shall be made.
- e. The SCA shall review and approve a proposed Gaming Machine, or component thereof, based solely on the Standards, and the report and certification received from the

independent testing laboratory. The SCA shall approve any proposed Gaming Machine that meets the Standards. The SCA's review shall be completed within twenty (20) days of receipt of the certification from the independent testing laboratory as to any new Gaming Machine or component thereof, and within ten (10) days of the receipt of the certification as to any modification to an Gaming Machine which has already been approved by the SCA. The certification shall be deemed approved if the SCA does not disapprove the proposed Gaming Machine as not meeting the Standards within the twenty- or ten-day period, as may be applicable. If within the twenty- or ten-day periods described in this section for approval by the SCA of a Gaming Machine or modification thereof, the SCA gives notice to the TCA that it has disapproved a proposed Gaming Machine, such Gaming Machine shall not be placed in any Facility or, if already there, shall be removed or taken offline for play, to allow time for an appeal to be made in accordance with the applicable appeal process if an appeal is sought. The sole issue in the appeal process shall be whether the Gaming Machine, or a component thereof, which is the subject of the appeal, meets the Standards. The SCA shall have the authority to discuss the independent testing laboratory's report with representatives of the independent testing laboratory without any cost to the SCA and to physically review any Gaming Machine as part of the applicable appeal process.

- f. No modification to any Gaming Machine may be made after it is tested, certified and approved, without certification of the modification by the independent testing laboratory and approval thereof by the SCA. In situations where immediate modifications are necessary to preserve the integrity of a Gaming Machine which has been operating pursuant to an approval obtained under this section, the independent testing laboratory may issue an emergency certification of the modification and a certification that is based on information provided to it by the TCA or obtained independently, emergency certification must be issued immediately to preserve the integrity of the Gaming Machine, and that certification would likely be issued under ordinary circumstances. Such emergency certifications shall be deemed to be temporarily approved by the SCA and remain in effect until the SCA takes final action under this section on the certification.

II. Gaming Machines - Player Terminals – Prizes – Monitoring to Ensure Accountability.

- a. Gaming Machines shall be played through the employment of Player Terminals which, following the payment of a fee, present games in which the Patron can win prizes in a format in which a Patron's performance can be improved by skill.
- b. A Patron may purchase an opportunity to play a Gaming Machine at a Player Terminal, either through the insertion of coins or currency, cash voucher, or through the use of a cashless transaction system. The available games are displayed on the Player Terminal's video screen or otherwise prominently displayed on the terminal. The rules of the game are also displayed either prominently on the terminal or on a help screen, and include sufficient information to alert novice Patrons on the concept of the game so that a novice Patron can understand how to improve his or her performance.

Depending on the game selected, the Patron must physically interact with the screen (through touch screen technology) or by depressing or activating buttons or other input devices, to cause an intended result.

- c. Following play on a Player Terminal, the result shall be displayed and prizes awarded. Prizes may be dispensed in the form of cash, coin, cash voucher, merchandise or through a cashless transaction system.
- d. Every play of the game shall be recorded, monitored and regulated to ensure full accountability and integrity of play, in accordance with the provisions of this Compact.

III. Minimum Standards – Gaming Machines.

- a. Gaming Machines are games in which a Patron's performance can be improved by skill. Consistent with this intent, each Player Terminal employed in a Gaming Machine shall only offer games that meet the following minimum Standards:
 - i. Each Gaming Machine must require decisions or actions by Patrons that could affect the result of the game;
 - ii. No auto-hold, "smart-hold", or similar feature shall be employed which permits the Patron Player Terminal to automatically determine optimum play or make decisions for Patrons;
 - iii. Each Player Terminal must prominently display either on the terminal or on a help screen:
 - 1. the rules of the game and instructions and other information regarding the concept of the game so that a novice Patron can understand how to improve his or her performance, and
 - 2. possible winning combinations based on the amounts paid to play the game and the other information required in this section. Such information may not be incomplete, confusing or misleading;
 - iv. In Gaming Machines in which Patrons are competing against others, the Patrons shall be informed about whether and how winning prizes will be shared; and
 - v. No Gaming Machine shall base its outcome on the number or ratio of prior wins to prior losses or any other factor relating to the profit or revenues retained by the Tribe from prior plays of the game.
- b. Following any play on a Player Terminal, data shall be maintained electronically and shall be viewable either electronically or by printed report. Such data shall provide basic information regarding the amount paid in, the game played, the result, and the prize awarded, if any.

IV. Secure Software Audit Tools – Gaming Machines.

- a. For auditing and security purposes, any Gaming Machines shall include and have available a secure software tool to audit the software of each Gaming Machine. Such tool shall be used only during authorized audits of Gaming Machines, or in cases of Patron disputes.

V. Standards for Player Terminals Used in Connection with Gaming Machines.

- a. Player Terminals used in connection with Gaming Machines shall conform to the following Standards:
 - i. No Player Terminal shall be capable of being used as a stand-alone unit for the purposes of engaging in any game not permitted by this Compact;
 - ii. In addition to a video monitor or other electromechanical display, each Player Terminal may have one or more of the following: a printer, graphics and signage;
 - iii. Each Player Terminal may have one or more of the following: electronic buttons, touch screen capability, and a mechanical, electromechanical or electronic means of activating the game and providing Patron input, including a means for making Patron selections and choices in games;
 - iv. Each Player Terminal shall have a nonvolatile backup memory or its equivalent, which shall be maintained in a secure compartment on each Player Terminal for the purpose of storing and preserving a redundant set of critical data which has been error checked in accordance with this Compact, and which data shall include, at a minimum, the following Player Terminal information:
 - 1. electronic meters required by paragraph 7 of this subsection,
 - 2. recall of all wagers and other information associated with the last ten (10) plays, and
 - 3. error conditions that may have occurred on the Player Terminal;
 - v. An on/off switch that controls the electrical current that supplies power to the Player Terminal, which must be located in a secure place that is readily accessible within the interior of the Player Terminal;
 - vi. The operation of each Player Terminal must not be adversely compromised or affected by static discharge, liquid spills, or electromagnetic interference;
 - vii. A Player Terminal must have electronic accounting meters which have tally totals to a minimum of seven (7) digits and be capable of rolling over when the

maximum value of at least 9,999,999 is reached. The Player Terminal must provide a means for on-demand display of the electronic meters via a key switch or other secure method on the exterior of the machine. Electronic meters on each Player Terminal for each of the following data categories are required:

1. credits, or equivalent monetary units, deposited on a cumulative basis on that terminal,
 2. if a Player Terminal offers more than one Gaming Machine game, then for each game, the meter shall record the number of credits, or equivalent monetary units, wagered and won for each game,
 3. hand-paid and progressive jackpots paid for that terminal, which must include the cumulative amounts paid by an attendant for any such jackpot not otherwise metered pursuant to subparagraph b of this paragraph,
 4. the number of Gaming Machine games played on the terminal, and
 5. the number of times the cabinet door is opened or accessed;
- viii. Under no circumstances shall the Player Terminal electronic accounting meters be capable of being automatically reset or cleared, whether due to an error in any aspect of its or a game's operation or otherwise. All meter readings must be recorded and dated both before and after an electronic accounting meter is cleared;
- ix. At a minimum, each Player Terminal shall have the following game information available for display on the video screen and/or displayed on the Player Terminal itself, in a location conspicuous to the Patron:
1. the rules of the game being played,
 2. the maximum and minimum cost of a wager, purchase or play activation and the amount of credits, or cash equivalents, which may be won for each game offered through that terminal,
 3. the Patron's credit balance,
 4. the outcome of the game then being played, and
 5. any prize won on the game then being played;
- x. The video screen or other means for displaying game rules, outcomes and other game information shall be kept under a glass or other transparent substance which places a barrier between the Patron and the actual surface of the display.

At no time may stickers or other removable media be placed on the Player Terminal's face for purposes of displaying rules or payouts;

- xi. No hardware switches may be installed on a Player Terminal or any associated equipment which may affect the outcome or payout of any game for which the Player Terminal is used. Switches may be installed to control the ergonomics of the Player Terminal; and
- xii. Where the Gaming Machine system or components are linked with one another in a local network or wide area progressive jackpot, function sharing, aggregate prizes or other purposes, communication protocols must be used which ensure that erroneous data or signals will not adversely affect the operations of any such system or components.

VI. Electronic Accounting Systems Required.

- a. One or more electronic accounting systems shall be required to perform reporting and other functions in support of the Gaming Machine activities described in this Compact. These systems may communicate with the other computers, Player Terminals and other game components described in this Compact utilizing the Standards. The electronic accounting system shall not interfere with the outcome of any Machine Game functions.

VII. Standards for Cashless Transaction Systems/Patron Tracking.

- a. The following Standards shall be met in connection with any cashless transaction system:
 - i. All Patron account information must be stored on at least two (2) separate nonvolatile media;
 - ii. An audit file must be kept of all financial transactions against the account. This file must be stored in at least two (2) separate nonvolatile media, and be accessible for purposes of audit and disputes resolution to authorized individuals. This file must be available on-line for a minimum of thirty (30) days, after which it must be available off-line for a minimum of one hundred eighty (180) days;
 - iii. Access controls must be in place to guarantee that unauthorized individuals will not have access to account information or history;
 - iv. Passwords or personal identification numbers (PINs), if used, must be protected from unauthorized access;
 - v. All means for communicating information within the system shall conform to the Standards;

- vi. Patron accounts shall follow accounting procedures which are designed to verify and protect the accurate recording of all Patron transactions;
 - vii. Any card or other tangible instrument issued to a Patron for the purpose of using the cashless transaction system shall bear on its face a control or inventory number unique to that instrument;
 - viii. Encoded bearer instruments printed or magnetic may include coupons and other items distributed or sold for game play, promotional, advertising or other purposes, but may not include cash. Such instruments must be in electronically readable form in addition to having unique identification information printed on the instrument face. The daily and monthly reporting must include with respect to such instruments:
 - 1. cash converted to Point Play,
 - 2. outstanding unredeemed balance,
 - 3. Point Play converted to cash,
 - 4. Point Play used, and
 - 5. Point Play won;
 - ix. All Patron accounts or instruments must have a redemption period of at least fourteen (14) days; and
 - x. No ATM card, financial institution debit card or credit card shall be utilized as part of any cashless transaction system.
- b. Any Patron tracking which the TCA intends to implement as part of the cashless transaction system shall be tested by an independent testing laboratory approved by the SCA to ensure the integrity of Patron funds. Any Patron player card must store on the card or on the system using the card an audit trail of the last ten (10) transactions involving the use of the card. Each transaction record must include, at a minimum, the type of transaction, the amount of the transaction, the date of the transaction, the time of the transaction, and the identification of the Player Terminal or cashier terminal or other points of cash exchange where the transaction occurred. The minimum daily and monthly reporting for Patron player card activity must include:
- i. Total of cash transferred to Patron player cards;
 - ii. Total of Patron player card amounts transferred to cash;
 - iii. Total of Patron player card amounts transferred to Point Play;

- iv. Total of Point Play transferred to Patron player card amounts; and
 - v. Total unredeemed Patron player card balance.
- c. Systems shall be permissible that allow Patron tracking, maintenance tracking, and other gaming management or marketing functions. These systems shall not interfere with, or in any way affect, the outcome of any game being played. Systems shall be permissible that allow progressive prize management with the certification of the independent testing laboratory approved by the SCA.

VIII. Testing and Certification of Gaming Machine Components – Cost of Testing – Inspection by SCA.

- a. Before any component of a Gaming Machine may be placed into operation by TCA, the TCA shall first have obtained and submitted to the SCA a written certification from the manufacturer that upon installation, each such component:
 - i. Conforms to the Standards of Gaming Machines contained in this Compact as certified by the independent testing laboratory;
 - ii. Can be used with components manufactured by others in accordance with open architectural and communication Standards, platform and protocols to be approved by the SCA that promotes competition among manufacturers and vendors of equipment and components for such games; and
 - iii. Operates and plays in accordance with the Standards.
- b. The TCA shall be responsible for the payment of all independent testing laboratory fees and costs in connection with the duties described herein. In order to assure independence of the independent testing laboratory, any independent testing laboratory payment delinquency may be grounds by the SCA for rejecting such laboratory's reports or certification.
- c. The TCA shall allow the SCA to inspect any Gaming Machine or components of a Gaming Machine for the purposes of confirming that such component is operating in accordance with the requirements of this Compact and that such component is identical to that game or component tested by an independent testing laboratory.