

AUG 25 1995

FILE COPY

Billy Evans Horse, Chairman
Kiowa Tribe of Oklahoma
P.O. Box 369
Carnegie, OK 73015

Dear Chairman Horse:

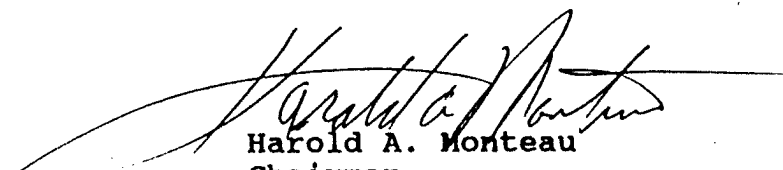
This letter responds to your request to review and approve the tribal gaming ordinance and Gaming Facility Bonding Ordinance, Resolution No. CY-95-39 and CY-95-40, respectively, adopted on June 26, 1995, by the Kiowa Tribe of Oklahoma (Tribe). This letter constitutes approval of Resolution No. CY-95-39 under the Indian Gaming Regulatory Act (IGRA). The Tribe's Gaming Facility Bonding Ordinance, Resolution No. CY-95-40, is not subject to our approval.

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games. It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Tribe's gaming ordinance, the Tribe is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Kiowa Tribe of Oklahoma for review and approval. The NIGC staff and I look forward to working with you and the Tribe in implementing the IGRA.

Sincerely yours,



Harold A. Monteau
Chairman

JUL 24 1995

POSTAL BOX 369 • CARNEGIE, OKLAHOMA 73015 • 405/654-2300



Kiowa Tribe of Oklahoma

RESOLUTION NO. CY-95-39

A RESOLUTION TO APPROVE AND ADOPT THE KIOWA TRIBE OF OKLAHOMA GAMING ORDINANCE OF 1995 AND REPEAL PRIOR GAMING ORDINANCES

WHEREAS, the Kiowa Indian Tribe of Oklahoma is federally recognized by the Secretary of the Department of Interior, as evidenced by an approved Constitution and Bylaws adopted and ratified on May 23, 1970; and

WHEREAS, pursuant to Article V, Section 2 of the Constitution the Kiowa Business Committee is delegated with the responsibility of taking all necessary action to (i) promulgate and enforce ordinances and codes governing law and order to protect the peace, health, safety and general welfare of the Tribe and its members, and (ii) develop, negotiate and approve economic, industrial and commercial enterprises on Tribal Land; and

WHEREAS, in furtherance of the foregoing the Kiowa Business Committee is responsible for providing for the maintenance of property owned by the Tribe and serving as custodian and manager of the Tribal owned land located within the jurisdiction of the Tribe; and

WHEREAS, the Indian Gaming Regulatory Act and the National Indian Gaming Commission require the Tribe to develop an ordinance for Class II and Class III Gaming as defined in the Act and in the Federal Register; and

WHEREAS, the Kiowa Business Committee and counsel retained by the Committee have drafted, reviewed a proposed gaming ordinance and have compared and cross-referenced the same with the Model Ordinance proposed by the National Indian Gaming Commission; and

NOW THEREFORE BE IT RESOLVED, that the Kiowa Business Committee approves and adopts the Kiowa Indian Tribe of Oklahoma Gaming Ordinance of 1995;

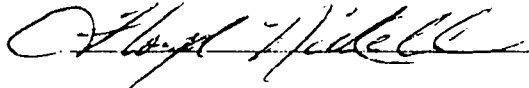
BE IT FURTHER RESOLVED, that the Kiowa Business Committee will immediately implement the ordinance and directs the Chairman or his designee to submit the ordinance to the National Indian Gaming Commission for approval.

BE IT FINALLY RESOLVED, that the Kiowa Business Committee hereby, to the extent they are inconsistent with the Gaming Ordinance of 1995, repeals all prior gaming ordinances.

CERTIFICATION

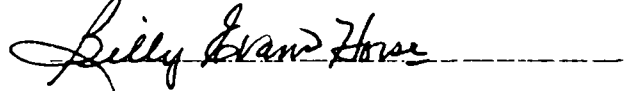
The forgoing resolution was adopted in an official meeting of the Kiowa Business Committee on June 26, 1995 in Carnegie, Oklahoma with a majority vote of 3 for 0 against and 0 abstentions and 1 absent, with a full quorum present.

ATTEST:



Floyd Nickell
(Acting) Secretary

WITNESS:



Billy Evans Horse, Chairman

**THE KIOWA INDIAN TRIBE
OF OKLAHOMA
GAMING ORDINANCE OF 1995**

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**THE KIOWA INDIAN TRIBE
OF OKLAHOMA
GAMING ORDINANCE OF 1995**

An Ordinance to authorize, license and regulate Class II and Class III gaming on Tribal Lands of the Kiowa Indian Tribe of Oklahoma.

Article I. Introduction

Section 1.1. Declaration of Policy

It is the declared policy of the Kiowa Indian Tribe of Oklahoma that:

- (1) All gaming conducted on Tribal Lands of the Tribe shall be regulated by the Kiowa Gaming Commission to protect the public health, welfare and morals of residence, employees and patrons from the adverse effects which may derive from unregulated gaming;
- (2) It is the objective of the Tribe to achieve and sustain the maximum Tribal revenue from gaming; and
- (3) The conduct of gaming activities provided for by this Ordinance on Tribal Lands shall conform with the Indian Gaming Regulatory Act, 102 Stat. 2467, 25 U.S.C. § 2701 et seq., and the regulations promulgated by the National Indian Gaming Commission.

Section 1.2. Scope

This Ordinance shall apply to all Gaming conducted within the territorial jurisdiction of the Kiowa Indian Tribe of Oklahoma in which a prize is offered or awarded to any participant or in which a participant is required or requested to provide any legal consideration in order to participate, whether in person or by an agent.

Section 1.3. General Prohibition - Exceptions

No person shall conduct any game of Bingo or any other Class II Gaming or any Class III Gaming within Tribal Lands, for which a charge is made or other

consideration requested or required for participation, or to the winner of which any Prize is awarded except as licensed pursuant to this Ordinance.

Section 1.4. Definitions

As used in this Ordinance, the following definitions shall apply:

- (1) "Act" means the Indian Gaming Regulatory Act, 102 Stat. 2467, codified 25 U.S.C. § 2701 *et seq.*, as amended from time to time.
- (2) "Bingo" means a game of chance (whether or not electronic, computer, or other technologic aids are used in connection therewith):
 - (i) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - (ii) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined;
 - (iii) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punchboards, tip jars, instant bingo, and other games similar to bingo; and
 - (iv) card games that -
 - (a) are explicitly authorized by the laws of the State; or
 - (b) are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.
- (3) "Cheating" means operating or playing in a game in a manner in violation of the written or commonly understood rules of the game, with the intent to create for himself/herself or someone in privity with him/her an advantage over and above the change of the game.
- (4) "Class II Gaming" means that gaming defined in 25 U.S.C. § 2703(7)(A) and 25 C.F.R. § 502.3.

- (5) "Class III Gaming" means that gaming defined in 25 U.S.C. § 2703(8) and 25 C.F.R. § 502.4.
- (6) "Concessions" means all soft drinks, food, novelty items, and gaming and bingo paraphernalia sold at the Gaming Facility.
- (7) "Council" means the Kiowa Indian Council as described in the Constitution of the Kiowa Indian Tribe of Oklahoma.
- (8) "Development Advances" means the funds provided or expended by a Management Contractor, from its independent funds or by loans from third party institutional lenders to a Management Contractor, as a portion or all of the Facilities Cost for a Gaming Facility and as initial start-up costs and operating reserves as may be required pursuant to the terms and provisions of a Management Contract, and to be reimbursed to a Management Contractor solely from Gaming Receipts in accordance with the terms of a Management Contract, without recourse against the Tribe or its officers, agencies or employees in the event the Gaming Receipts are insufficient to repay the Development Advances and/or interest thereon, in which even the Development Advances shall be deemed forgiven and no right of action shall exist in any Court as against the Tribe, its officers, agencies, other business enterprises, or employees for the reimbursement of the Development Advances, and a Management Contractor shall indemnify the Title in such respect.
- (9) "Equipment" means all gaming, office, concession, and maintenance equipment necessary to the operation of Class II Gaming or Class III Gaming, as applicable, and of a Gaming Facility.
- (10) "Equipment Costs" as to any item of Equipment or period of time, means the cost at which Equipment may be acquired pursuant to competitive building.
- (11) "Facility Costs" means the actual and direct cost of acquiring a Gaming Site and the development, construction and establishment thereon of a Gaming Facility, including the Equipment Costs incurred in connection therewith.
- (12) "Gaming" means risking any money or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gaming apparatus, or the happening or outcome of an event over which the person taking the risk has no control.

- (13) “Gaming Facility” means a building or buildings used in the operation of Bingo Games, other Class I Gaming, or Class III Gaming, as applicable, including all appurtenances, access roads, parking lot, easements, outside lighting, water and sewer facilities, electrical facilities, heating and air conditioning equipment, fixtures, and any and all other improvements reasonable and necessary to a facility of similar operation and use.
- (14) “Gaming Operation” means each economic entity that is licensed under this ordinance, operates the games, receives the revenues, issues the prizes, and pays the expenses. A Gaming Operation may be operated by the Tribe directly or by a Management Contractor.
- (15) “Gaming Site” or “Site” means the tract or tracts of land upon which a Gaming Facility is located.
- (16) “Gross Gaming Receipts” means, as to any period, all monies (calculated on a cash basis) derived, produced, or created in any manner whatsoever related to or as a result of business done, sales made and services rendered at, in, about, or from a Gaming Facility by a Management Contractor and its affiliates, whether individuals, corporations, partnerships, limited liability companies, firms or other business entities recognized under the laws of the State and shall further include income to the Management Contractor produced or derived from the subleasing, subrenting, permitting, contracting, or other authorized use of a Gaming Facility at the fair annual rental value of each portion or part of the Gaming Facility subject to a sublease, subrental, permit, license, concession agreement, or other contract for use thereof; provided, however, that all sales made on credit shall be treated as “Gross Gaming Receipts” as of the date the sale is made. The term “Gross Gaming Receipts” however, shall not include:
- (i) sums collected and paid out for any sales or excise tax imposed by any duly constituted governmental taxing authority, where such sum is billed to the purchaser as a separate item;
 - (ii) the exchange of merchandise between Gaming Facilities or storehouses maintained by a Management Contractor where such exchanges of goods or merchandise are made solely for the convenient operation of the business of the Management Contractor and not for the purpose of consummating a sale which has previously been made at, in, for, or upon a Gaming Facility;

- (iii) sales of fixtures and Equipment not in the regular course of business; or
 - (iv) revenue from Concessions.
- (17) “In privity with” means one who acts jointly with another or as an accessory before the fact to an act committed by the other or as a co-conspirator with the other.
- (18) “Key employee” of a Gaming Operation means:
 - (i) a person who performs one or more of the following functions:
 - (a) bingo caller;
 - (b) counting room supervisor;
 - (c) security personnel;
 - (d) custodian of gaming supplies or cash;
 - (e) floor manager;
 - (f) pit boss;
 - (g) dealer;
 - (h) croupier;
 - (i) approver of credit; or
 - (j) custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - (ii) if not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
 - (iii) if not otherwise included, the four most highly compensated persons in the gaming operation.
- (19) “Management Contract” means any contract, subcontract, or collateral agreement between the Tribe and an outside Management Contractor, not a regular employee of the Tribe, or between a Management Contractor and a subcontractor if such contract or agreement provides for the development and/or management of all or part of a Gaming Operation at a specified Gaming Facility.
- (20) “Management Contractor” means the Person (other than the Tribe) holding a Management Contract entered into pursuant to 25 U.S.C. § 2710(d)(9) or § 2711.

- (21) “National Gaming Chairman” means the Chairman of the National Indian Gaming Commission, or his or her designee.
- (22) “National Indian Gaming Commission” means the National Indian Gaming Commission or any successor authorized under the Act.
- (23) “Net Gaming Receipts” means Gross Gaming Receipts of a Gaming Operation *less* -
 - (i) amounts paid out as, or paid for, Prize Costs; and
 - (ii) total gaming-related Operating Expenses.
- (24) “Operating Expenses” means, for any period of time, all reasonable, necessary and customary costs, calculated on a cash basis, incurred in Gaming Operations at a Gaming Facility, including but not limited to:
 - (i) reasonable payroll expenses;
 - (ii) advertising;
 - (iii) security;
 - (iv) insurance;
 - (v) applicable taxes;
 - (vi) utilities;
 - (vii) printing; and
 - (viii) costs of goods sold.

The term does not include:

- (i) depreciation of the Gaming Facility and Gaming Equipment;
- (ii) amounts paid in amortization for reimbursement of Development Advances;
- (iii) management fees;

- (iv) payroll compensation to Primary Management Officials and Key Employees of a Management Contractor in excess of \$50,000.00 per annum.
- (25) “Patron” means a person participating in a game with the hope of winning money or other benefit, but does not include a licensee, or any assignee of a licensee.
- (26) “Person” means any individual, firm, partnership, corporation, limited liability company, association or other business entity recognized under the laws of the State.
- (27) “Primary Management Official” means:
 - (i) the person having management responsibility for a Management Contract;
 - (ii) each Person (including individuals comprising a business entity) having a direct financial interest in a Management Contract. In the case of a corporation, the term includes those Persons who serve on the board of directors of such corporation and every Person who owns directly or indirectly, either individually or by agent, including Relatives, any stock in a corporate Management Contractor or equity interest in any other legal entity which is a Management Contractor however those shares or interests be designated, or a person having sufficient voting power individually or by proxy to elect at least one member to the board of directors or other managing entity of a Management Contractor. The term also includes all other persons employed by a Management Contractor in any capacity, and Relatives of persons who are defined as Primary Management officials by the preceding text, having five percent (5%) or more equity ownership, either individually or by agent, including Relatives, in any other business entity hired by a Management Contractor or doing any business with a Management Contractor with respect to an agreement entered into by the Management Contractor in a gaming operation;
 - (iii) any person who has authority:
 - (a) to hire and fire employees; or
 - (b) to set up working policy for a Gaming Operation; or

- (iv) the chief financial officer or other person who has financial management responsibility.
- (28) “Prize Costs” means, as to any period of time, the total amount of all money and property (limited to the actual acquisition costs of property prizes) given away as prizes to bona fide participants of gaming conducted at a Gaming Facility.
- (29) “Relative” means an individual related to a referenced natural Person as a father, mother, son, daughter, brother, sister, husband, wife, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.
- (30) “Revenue” means Gross Gaming Receipts *less*:
 - (i) Operating Expenses;
 - (ii) Prize Costs;
 - (iii) actual amortized payments made to reimburse Development Advances; and
 - (iv) a percentage of the Equipment Costs appropriate for the period for which the Revenue is to be calculated.
- (31) “State” means the State of Oklahoma and any of its agencies or instrumentalities.
- (32) “Tribal Business Committee” means the Kiowa Business Committee as described in the Constitution of the Kiowa Indian Tribe of Oklahoma.
- (33) “Tribal Court” means a court duly constituted under the Constitution of the Kiowa Indian Tribe of Oklahoma, or any court functioning under the federal laws of the United States of America; but shall exclude any court functioning under the laws of any state of the United States of America.
- (34) “Tribal Gaming Chairman” means the Chairman of the Kiowa Tribal Gaming Commission.
- (35) “Tribal Gaming Commission” means the Kiowa Tribal Gaming Commission created under Article III hereof.
- (36) “Tribal Gaming Operation” means a Gaming Operation owned, operated and managed solely by the Tribe through its own employees.

- (37) "Tribal Lands" means any land within the boundaries of the former Kiowa, Comanche and Kiowa/Apache Indian Reservations as those boundaries and Jurisdiction existed prior to and after the Sixth Section of the Act of June 6, 1900, or all land over which the Tribe exercises governmental power and that is either held in trust by the United States for the benefit of the Tribe or individual members of the Tribe, or held by the Tribe or individual members of the Tribe subject to restrictions by the United States against alienation.
- (38) "Tribal Manager" means an individual Person hired by the Tribe as a regular employee of the Tribe with overall management responsibility for a Tribal Gaming Operation.
- (39) "Tribal Prosecutor" means any attorney regularly employed as an employee of the Tribe or other special counsel retained by the Tribe as a law enforcement official.
- (40) "Tribal-State Compact" means an agreement between the Tribe and the State of Oklahoma concerning Class III gaming negotiated pursuant to 25 U.S.C. § 2710(d).
- (41) "Tribal Treasurer" means the Tribal Treasurer as described in the Constitution of the Kiowa Indian Tribe of Oklahoma.
- (42) "Tribe" means the Kiowa Indian Tribe of Oklahoma.

Article II. General Provisions

Section 2.1. Gaming Authorized

Class II Gaming as defined at Section 2703(7)(A) of the Indian Gaming Regulatory Act and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1992) is hereby authorized in accordance with the provisions of this Ordinance.

Section 2.2. Class II Licensing

Class II Games as follows may be licensed for conduct on Tribal Lands:

- (i) Bingo as defined under the Act (whether or not electronic, computer, or other technologic aids are used in connection therewith) including, if played at the same location, pull-tabs,

lotto, punch boards, tip jars, instant bingo, and other games similar to bingo);

- (ii) non-banking card games defined as Class II Gaming under 25 C.F.R. § 502.3(c);
- (iii) any game determined to be a Class II Gaming by amendment of the Act, by regulation, or by decision of the National Indian Gaming Commission or the federal courts.

Section 2.3. Class III Licensing

Class III Games as follows may be licensed for conduct on Tribal Lands:

such games as may be provided for in a compact between the State of Oklahoma and the Tribe, or such procedures as prescribed by the Secretary of the Interior pursuant to the Act.

Section 2.4. Interest and Responsibility

The Tribe shall have the sole proprietary interest and responsibility for the conduct of any Gaming authorized by this Ordinance. If the Tribe, acting through the Tribal Business Committee, elects to allow individually owned Gaming Operations, it shall authorize such operations in accordance with the requirements set forth in 25 C.F.R. §§ 522.10 and 522.11.

Section 2.5. Matters Relating to Hiring of Employees

(1) Eligibility Issues

Tribal Managers and Management Contractors licensed to conduct Gaming pursuant to this Ordinance shall never allow any of the following persons to become an employee of such Tribal Manager or Manager Contractor, or otherwise receive any salary, remuneration, dividend, benefit, or recompense in any manner whatsoever, either directly or indirectly as a result of, or due to, the conduct of Gaming within the Tribal jurisdiction:

- (i) any Person less than eighteen (18) years of age;
- (ii) any Person who has been convicted by any court of competent jurisdiction of a felony, a gaming offense, or other crime involving moral turpitude;

- (iii) any Person who holds an office of the Tribe or any member of the Tribal Business Committee or the Tribal Gaming Commission; or
- (iv) any Person who is a Relative of any person described in clause (iii) of this section.

(2) Substance Abuse Testing

Primary Management Officials, Key Employees, and all other general employees of a Gaming Operation shall be subject to regular, random and routine tests, for the abusive or illegal use of alcohol and drugs in accordance with specific ordinance or by regulations adopted by the Tribal Business Committee.

Section 2.6. Audit Provisions

(1) Implied Consent for Audits and Reviews

Any Person which applies for or receives a license to conduct Gaming pursuant to this Ordinance shall be deemed to have consented to the audit and review of its records by authorized accounting or law enforcement agencies or officers of the Tribal Gaming Commission and the Commission without notice or warrant at any reasonable time, including spot checks or field audits of its operations during Gaming sessions in return for the privilege of conducting Gaming within the Tribal jurisdiction.

(2) Annual Audits.

Not less frequently than once each calendar year, a complete audit, which may be encompassed within the existing independent Tribal audit system, will be conducted by a certified public accountant designated by the Tribal Gaming Commission with respect to each Gaming Operation. The resulting audit reports shall be submitted promptly to the Commission.

(3) Audit of Contracts

All contracts for supplies, services, or concessions for a contract amount in excess of \$25,000.00 annually (except contracts for professional legal or accounting services) relating to a Gaming Operation shall be subject to such independent audits, and each such contract shall contain a clause

whereby each party thereto agrees to cooperate and comply with said audit.

(4) Costs of Audits

The Tribal Gaming Commission shall levy upon each Gaming Operation a fee sufficient to pay for the expenses associated with the audit or audits provided for by this section. Such levy, upon being filed in the office of the Director of the Kiowa Tax Commission, shall be subject to collection in the same manner as money judgments entered by a Tribal Court.

Section 2.7. Environmental Protection

(1) General

A Tribal Manager or Management Contractor shall construct, maintain and operate a Gaming Facility in a manner which adequately protects the environment and the public health and safety.

The Tribal Gaming Commission shall have jurisdiction to make and enforce any regulations necessary to protect the environment and the public health and safety with regard to the construction, maintenance, and operation of a Gaming Facility. In doing so, it may request the assistance of the Tribal health department and all other interested tribal and federal agencies.

(2) Environmental Audits

Any Person, including a Management Contractor, submitting a Gaming Site for proposed Gaming Operations shall be required to provide the Tribal Gaming Commission an appropriate environmental report and assessment.

Section 2.8. Allowable Charges and Hours of Operation

The Tribal Gaming Commission shall from time to time and by appropriate regulation, duly adopted, establish (i) maximum charges which may be charged to Patrons for participation in Gaming subject to Tribal jurisdiction, and (ii) days and hours of operation for Gaming at Gaming Facilities.

Section 2.9. Public Notice of Prices, Charges and Rules

A list of Prizes to be given away by game, the charges for participation by game, and the rules of each game with appropriate examples, shall be prominently displayed at each Gaming Facility and within the room in which Games are to be conducted in such manner that the public shall have immediate and unrestricted access thereto.

Section 2.10. Intoxicating Beverage Prohibited

No Person shall sell, serve, give away, consume, furnish, or possess any beer, ale, wine, liquor, spirits, or any other beverage or product containing alcohol for ingestion by human beings or any substance listed in Section 812 of Title 21 of the United States Code or added to the schedules contained therein as provided by federal law, at or near any Gaming Facility operated within the Tribal jurisdiction. Any Indian violating this section shall be guilty of an offense. Any non-Indian violating this section shall be expelled from the Indian Country subject to the jurisdiction of the Tribe, or held for the federal authorities.

Section 2.11. Age Restrictions

No Person under the age of eighteen (18) years shall be permitted to play Games.

Section 2.12. Discrimination Prohibited

No Person shall be discriminated against due to race, color, creed, sex, or national origin at any game of Bingo, or for employment by any Tribal Manager or Management Contractor.

Section 2.13. Indian Preference Required

Every Tribal Manager and Management Contractor shall give preference in hiring and employee retention practices to members of federally recognized Indian Tribes, pursuant to employment policies adopted by the Kiowa Business Committee by appropriate regulation.

Section 2.14. Civil Penalties

Any violations of this Ordinance are hereby declared to be a public nuisance. The Tribal Gaming Commission is authorized to bring a civil action in any Tribal Court against any Person violating the provisions of this Ordinance. Upon finding that a violation has occurred, the Tribal Court may impose a civil

penalty as provided in Section 13.9 for each separate violation in addition to any or all actual damages, administrative costs, court costs, and the fees of counsel retained by the Tribal Gaming Commission to prosecute such offense. Each Game played at which a continuing violation occurs shall be deemed a separate violation.

Section 2.15. Criminal Penalties

Any Indian person violating the provisions of this Ordinance shall be guilty of an offense and shall upon conviction thereof be punished by the confinement for a period of not more than one year, and a fine of not more than Five Thousand Dollars (\$5,000.00) or by both such fine or imprisonment for each separate violation, in addition to court costs and the fees of counsel retained by the Tribal Gaming Commission.

Section 2.16. Requirements to Receive a Prize

In addition to being the first player to properly cover a predetermined and publicly announced pattern of squares upon the card being used by him, a player, in order to qualify to receive a Prize, must furnish:

- (i) Acceptable proof of said winner's name, address, and social security number. Acceptable proof may be a driver's license, photo identification, or other identification. An oral statement or the winner's social security number may be acceptable when accompanied by two forms of identification, one of which is a photo identification.
- (ii) A signed receipt acknowledging acceptance and receipt of the prize awarded.

Article III. Tribal Gaming Commission

Section 3.1. Tribal Gaming Commission Created

There is hereby established a Tribal Gaming Commission which shall be called the Kiowa Tribal Gaming Commission. The Tribal Business Committee shall serve as the Tribal Gaming Commission. The Tribal Gaming Commission may meet and take official action only at the Kiowa Tribal Complex in Carnegie, Oklahoma upon due notice as required for meetings of the Tribal Business Committee under the Constitution.

Section 3.2. Conflict of Interest

No member of the Tribal Gaming Commission shall engage in any business which is subject to regulation by the provisions of this Ordinance. No member, during his term of office or for two (2) years thereafter, may consult with or in any manner be employed by or own, directly or through a Relative, nominee or trustee any interest in any business subject to regulation by this Ordinance.

Section 3.3. Voting

The Tribal Gaming Commission shall act by majority vote of a quorum present and each member of the Tribal Gaming Commission shall be entitled to one vote.

Section 3.4. Appointment of Members

Whenever a member of the Tribal Business Committee no longer serves on the Tribal Business Committee, his/her successors shall also serve as the successor on the Tribal Gaming Commission.

Section 3.5. Appointment of Officers

The Chairman of the Tribal Business Committee will serve as the Chairman of the Tribal Gaming Commission. The Chairman shall be the official spokesperson for the Tribal Gaming Commission and may delegate this role only by written instrument. The Vice Chairman of the Tribal Business Committee will serve as the Vice Chairman of the Tribal Gaming Commission. In the absence of the Chairman, the Vice Chairman will serve as Chairman. The Tribal Gaming Commission may also elect such other officers as the Commission deems appropriate. The Tribal Gaming Commission may designate the Director of the Kiowa Tax Commission to serve as General Manager/Comptroller or designate such other Tribal employee or Commission member to serve in this capacity. The person chosen as General Manager/Comptroller will be responsible for the collection of all funds, *i.e.*, application fees, license fees, fines, penalties and guaranteed monthly payments, due to the Tribe from any Gaming Operation on Tribal Lands in accordance to the relevant provisions of this Ordinance. Payroll, expenses, and disposition of all funds hereunder will be made by the Tribal Business Committee and shall require the co-signatures of the Committee's Chairman and Treasurer for disbursements.

Section 3.6. Authority and Responsibility of Tribal Gaming Commission

The Tribal Gaming Commission shall have the power, authority and responsibility to:

- (i) approve or disapprove all documents necessary for the promotion of Gaming within the jurisdictional boundaries of Tribal Lands.
- (ii) issue and renew gaming licenses for the conduct of Class II Gaming activity on Tribal Lands;
- (iii) issue and renew gaming licenses for the conduct of Class III Gaming activity on Tribal Lands upon such terms and conditions which may be provided for in a Tribal-State Compact;
- (iv) enforce and administer the provisions of this Ordinance and any regulations promulgated by the Tribal Gaming Commission;
- (v) revoke, suspend or condition a gaming license or deny an application for a gaming license for violations of this Ordinance, the Act, regulations promulgated by the National Indian Gaming Commission and regulations promulgated by the Tribal Gaming Commission;
- (vi) promulgate regulations regarding Class II and Class III gaming on Tribal Lands;
- (vii) approve or disapprove the annual operating budget of a Tribal Manager or Management Contractor, including Equipment Costs for the replacement or necessary upgrading of Equipment, and approve budget modifications;
- (viii) submit an annual budget for the Tribal Gaming Commission to the Council for approval;
- (ix) negotiate and approve Management Contracts and submit proposed Management Contracts for specific Gaming Operations to the Tribal Business Committee and to the National Indian Gaming Commission for approval;

- (x) monitor all Gaming conducted on Tribal Lands and oversee the conduct of the management and employees of Gaming Operations on a continuing basis;
- (xi) inspect and examine all Gaming Sites and Gaming Facilities on Tribal Land at such times as the Tribal Gaming Commission or the Tribal Business Committee may deem proper to determine and verify compliance with this Ordinance and any Management Contract;
- (xii) conduct or cause to be conducted such background investigations as may be necessary and advisable or required by this Ordinance and the Act, and in particular conduct thorough checks of the background and suitability of Tribal Managers, Management Contractors, Primary Management Officials, and Key Employees;
- (xiii) demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting Gross Gaming Receipts, Operating Expenses and Revenues and operations of Gaming Operations conducted on Tribal Lands and any other matters necessary to carry out the duties of the Tribal Gaming Commission pursuant to this Ordinance;
- (xiv) use such Tribal buildings and other property in the performance of its duties as shall be approved by the Tribal Business Committee or the Tribal agency having jurisdiction or use of said buildings or other property;
- (xv) procure supplies, services, and property by contract in accordance with applicable Tribal laws and regulation;
- (xvi) enter into contracts with Federal or other Tribal governments or their subdivisions and private entities for activities necessary to the discharge of the duties of the Tribal Gaming Commission, and, to the extent feasible, contract with the National Indian Gaming Commission for the responsibility to enforce the regulations of the National Indian Gaming Commission;
- (xvii) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Tribal Gaming Commission deems appropriate;

- (xviii) administer oaths or affirmations to witnesses appearing before the Tribal Gaming Commission;
- (xix) order the temporary or permanent closing of a Gaming Operation upon a violation of this Ordinance, any regulations promulgated hereunder, any Management Contract, the Act, or other applicable laws of the Tribe, with any such order for permanent closure being appealable upon the record directly to a Tribal Court of competent jurisdiction;
- (xx) by majority vote authorize the Chairman of the Tribal Gaming Commission to issue subpoenas, which subpoenas shall be of like effect as subpoenas issued by a Tribal Court;
- (xxi) promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Ordinance, and to provide for its own rules of procedure, provided that all such rules and regulations shall be filed with the Tribal Secretary and shall be public records open to inspection by any person during normal business hours;
- (xxii) conduct or cause to be conducted the annual audit of all Gaming Operations required by Section 2.2 of this Title, and to report the results of said audit to the Council and the National Indian Gaming Commission;
- (xxiii) to approve, issue, disapprove, suspend, cancel, or renew licenses as provided in this Ordinance.
- (xxiv) collect fees and assessment as provided for in of this Ordinance;
- (xxv) levy and collect civil penalties and fines as provided for in of this Ordinance;
- (xxvi) review, on demand, such books and records and inspect the Gaming Facilities and operations of applicants and licensees as it deems necessary or proper for the enforcement of this Ordinance;
- (xxvii) prepare such forms as it deems necessary to fulfill its duties, responsibilities and powers hereunder;

- (xxviii) institute such legal proceedings in Tribal Courts as it deems necessary for the enforcement of this Ordinance and regulations promulgated thereunder;
- (xxix) conduct hearings as provided in this Ordinance and regulations promulgated hereunder;
- (xxx) deposit all payments, fees, assessments, penalties, interest, and civil fines collected under authority of this Ordinance into accounts designated by the Tribal Gaming Commission to the credit of the Tribe;
- (xxxi) maintain a correct and full accounting of all payments, fees, penalties, interest, and civil fines received under authority of this Ordinance; and
- (xxxii) take such other actions and issue such orders as the Tribal Gaming Commission may deem necessary or proper to perform properly and fully its duties and responsibilities under this Ordinance.

Section 3.7. Reports

The Tribal Gaming Commission shall submit a report, including the views of individual members if submitted, to the Council once during the month of January each calendar year. The report shall include information concerning:

- (i) funding, including income and expenses, of the Tribal Gaming Commission;
- (ii) Net Revenue received by the Tribe from Gaming Operations;
- (iii) recommendations for amendments to this Ordinance;
- (iv) a summary of gaming licenses issued and denied by type during the preceding twelve (12) months; and
- (v) any other matter considered appropriate by the Tribal Gaming Commission.

Section 3.8. Staffing of Tribal Gaming Commission

(1) General Counsel

The Tribal Gaming Chairman shall designate counsel to act as General Counsel to the Tribal Gaming Commission.

(2) Other Staff

The Tribal Gaming Commission may appoint and supervise other staff for the Tribal Gaming Commission without regard to the personnel policies of the Tribe, at such rates of pay as shall be reflected in the budget of the Tribal Gaming Commission as approved by the Council, provided that no Person may be appointed to the staff of the Tribal Gaming Commission who is a Relative of a member of the Tribal Gaming Commission, or a Tribal Manager, Management Contractor, Primary Management Official, or Key Employee.

(3) Assignment of Other Personnel

Upon the request of the Tribal Gaming Commission, the head of any Tribal agency or department is authorized to assign any of the personnel of such agency or department to the Tribal Gaming Commission on a temporary or split time basis to assist the Tribal Gaming Commission in carrying out its duties under this Ordinance, unless otherwise prohibited by law or contract.

Section 3.9. Access to Information

(1) General Authorization

The Tribal Gaming Commission may secure from any department or agency of the Tribal government, and from cooperating agencies or departments of the government of any Indian Tribe, any State, or the United States of America information necessary to enable it to carry out its functions hereunder. Upon request of the Tribal Gaming Commission, the head of any department or agency of the Tribe shall furnish such information to the Tribal Gaming Commission unless otherwise prohibited by law.

(2) Distribution

The Tribal Gaming Commission is authorized, upon request for law enforcement purposes or as required by law, to distribute to the National

Indian Gaming Commission, and any agency of another federally recognized tribe or state having authority to regulate gaming or prosecute offenders for violations of the appropriate gaming laws within the jurisdiction of such tribe or state, such information as it may have available, unless otherwise prohibited by law.

Section 3.10. Assessment of Fees

(1) Authorization

The Tribal Gaming Commission shall from time to time, promulgate regulations establishing a schedule of fees to be paid annually by each Tribal Manager or Management Contractor operating a Gaming Facility that is regulated by this Title, and shall review said schedule annually during its budget process. The rate of fees imposed under this Section shall be:

- (i) no less than 0.5 percent nor more than 2.5 percent of the first \$1,000,000 of Gross Receipts, and
- (ii) no more than 5 percent of the Gross Receipts in excess of the first \$1,000,000 of the Gross Receipts from each entity regulated by this Ordinance.

(2) Non-Payment

Failure to pay the appropriate fees required under any provision of this Ordinance shall, subject to the regulations of the Tribal Gaming Commission, be grounds for revocation or suspension of the license of the nonpaying Person.

(3) Credit

To the extent that fee revenue derived from license fees imposed under the schedule established by this Section is not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each Person who paid fees during that year pro rata against such fees imposed for the succeeding year.

Section 3.11. Judicial Review

(1) Scope and Procedure

The decisions of the Tribal Gaming Commission denying, suspending, or revoking a license, or ordering permanent closure of a Gaming Operation or Gaming, shall be subject to judicial review in a suit, in the Tribal Court only, naming the Tribal Gaming Commission as the sole defendant notwithstanding Tribal sovereign immunity. The Tribal Court may enter declaratory and injunctive relief only against the Tribal Gaming Commission and may not enter a money damage judgment of any nature, provided, that the limited waiver of immunity herein contained is conditioned upon the plaintiff in such action posting a bond with good and sufficient sureties in an amount not less than \$20,000.00, to be increased by the Court for cause shown, for the payment of the attorney's fees and court costs incurred by the Tribal Gaming Commission which costs and fees shall be awarded by the Tribal Court as a part of any judgment or decree; and provided further, that no temporary restraining order may be issued under any circumstances and no preliminary injunction may be issued in favor of such plaintiff absent a clear showing upon hearing of testimony and other evidence that:

- (i) the plaintiff is likely to prevail upon the law and facts, and the evidence in favor of plaintiff is clear and convincing;
- (ii) that the public health, welfare, and safety will not be harmed by such temporary relief;
- (iii) that the balance of equity is strongly in favor of such plaintiff;
- (iv) the plaintiff will suffer irreparable harm absent such temporary relief other than simply loss of profits or fees; and
- (v) at least forty-eight (48) hours notice is given to the counsel appointed by the Tribal Gaming Commission.

(2) Immunity

The individual members of the Tribal Gaming Commission shall be absolutely immune from civil suit in all actions at law or in equity for any actions taken or statements made within the scope of their authority as members of the Tribal Gaming Commission, or in a good faith belief that their actions or statements were within the scope of their authority. The Kiowa Tribe of Oklahoma may defend and indemnify the individual

members against any civil suit, even if the civil suit alleges actions outside the scope of authority; provided, however, that if a final judgment determines that actions were, in fact, outside the scope of authority, with no good faith belief that they were otherwise, then the costs of defense may be recovered from the members of the Tribe.

Section 3.12. Subpoena and Deposition Authority

(1) Authority

The Tribal Gaming Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, documents, and things relating to any matter under consideration or investigation.

(2) Enforcement Power

The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Tribal Gaming Commission may request the National Indian Gaming Commission to bring appropriate action to enforce any subpoena under this Section.

(3) Failure to Appear or Comply

A Tribal Court, in case of contumacy or refusal to obey a subpoena for any reason, may issue an order requiring such person to appear before the Tribal Gaming Commission, and produce books, papers, documents, or things as so ordered, and give evidence concerning the matter in question, and any failure to obey such order of a Tribal Court may be punished by the Tribal Court as a contempt thereof.

(4) Depositions

The Tribal Gaming Commission may order testimony to be taken by deposition in any proceeding or investigation pending before the Tribal Gaming Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Tribal Gaming Commission and having the power to administer oaths. Reasonable notice must first be given to the Tribal Gaming Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which the Tribal Gaming Commission proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his

deposition. Any person may be compelled to appear and depose, and to produce books, papers, documents, or things in the same manner as witnesses may be compelled to appear and testify and produce like physical or documentary evidence before the Tribal Gaming Commission as hereinbefore provided.

(5) Transcription

Every person deposing as herein provided shall be cautioned and shall be required to swear or affirm to testify to the whole truth, and shall be carefully examined. The person's testimony shall be reduced to writing where possible by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent in the same manner as depositions in civil cases. All depositions shall be promptly filed with the Tribal Gaming Commission.

(6) Presumptions

Where any current or proposed Tribal Manager, Management Contractor or licensee, or a Primary Management Employee, Key Employee, or other employee or Relative of a potential licensee or current licensee fails or refuses to comply with a subpoena issued pursuant to this Section, the Tribal Gaming Commission may presume that the testimony and evidence which would have been presented to the Tribal Gaming Commission would be adverse to the interests of the current or potential licensee in the matter under investigation.

Section 3.13. Referrals for Prosecution

The Tribal Gaming Commission shall, when information received during an investigation indicates a violation of Tribal, Federal, or State statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials. The Tribal Gaming Commission may from time to time appoint counsel as a special Tribal Prosecutor for the purposes of investigating activities associated with gaming authorized by this Ordinance which may be a violation of Tribal law.

Section 3.14. Authorization for Appropriations

There are hereby authorized to be appropriated such sums as may be necessary for the operation of the Tribal Gaming Commission.

Article IV. Gaming License Requirements

Section 4.1. Types of Licenses to be Issued

(1) Third Party Management

The Tribal Gaming Commission shall issue the following with respect to Gaming Operations operated by a Management Contractor under a Management Contract or by an individual Operator:

- (i) Gaming Facility License
- (ii) Management Contractor's License
- (iii) Gaming Manager License
- (iv) Primary Management Official License
- (v) Key Employee License
- (vi) General Employee License

(2) Tribal Management

The Tribal Gaming Commission shall issue the following licenses with respect to Tribal Gaming Operations owned and operated directly by the Tribe:

- (i) Gaming Facility License
- (ii) Gaming Manager License
- (iii) Key Employee License
- (iv) General Employee License

Section 4.2. License Fees

(1) Fees for Third Party Operations

For Gaming Operations to be conducted by a Management Contractor pursuant to a Management Agreement, the Management Contractor shall tender the following fees to the Tribal Gaming Commission at the time application is made for a license:

(i)	Gaming Facility License	\$3,000.00
(ii)	Management Contractor's License	2,500.00
(iii)	Primary Management Official License	1,000.00
(iv)	Gaming Manager License	1,000.00
(v)	Key Employee License	750.00
(vi)	General Employee License	150.00

(2) Fees for Facilities Operated by Tribe

License fees for Tribally owned and operated Gaming Facilities shall be:

(i)	Gaming Facility License	\$20.00
(ii)	Gaming Manager License	50.00
(iii)	Key Employee License	20.00
(iv)	General Employee License	15.00

Article V. License Application Procedure

Section 5.1. Application Forms

- (1) Each Person having a Management Contract, each Primary Management Official and each Key Employee shall complete an application for an initial license or renewal of an existing gaming license for each Gaming Operation on an application form prescribed by the Tribal Gaming Commission. The application shall set forth:
- (i) the name under which the applicant transacts or intends to transact business on Tribal Lands;
 - (ii) the location of the Gaming Facility for which the gaming license is sought; and
 - (iii) the application shall be signed by the applicant if a natural person, or, in the case of an association or partnership, by a member or partner thereof, or in the case of a limited liability company, by a manager thereof, or, in the case of a corporation, by an executive officer thereof. The applicant shall provide evidence of authority of the signatory or any other representative to act for and bind the applicant. If any change is made in that authority, the Tribal Gaming Commission shall be immediately informed in writing and, until that information is filed with the Tribal Gaming Commission, any action of the representative shall be presumed to be that of the applicant.

Section 5.2. Submissions with Applications

(1) Minimum Requirements for Natural Persons

All individuals to be licensed in any capacity shall submit at a minimum:

- (i) a complete personal resume, on a form to be developed by the Tribal Gaming Commission;
- (ii) a statement whether the applicant is a member, or a Relative of a member, of the governing body of the Tribe, any other constitutional or statutory agency or body of the Tribe, or an employee of the Tribe;
- (iii) whether the individual has been convicted of any felony, gaming offense, or offense involving moral turpitude;
- (iv) all prior experience or contact with Indian gaming enterprises in any capacity, and the gaming industry generally, including specifically, the name, address, and telephone number of any regulatory or licensing agency having jurisdiction over or records of such prior actions;
- (v) any previous contact the applicant has had with persons involved in organized crime;
- (vi) a complete financial statement showing assets, liabilities, net worth, all debts owed and including specifically any financial agreements made relative to the Gaming Operation with any person.

(2) Minimum Requirements for Business Entities

Each business entity seeking to be licensed in any capacity shall submit the following minimum information with its license application:

- (i) a complete statement as to the form of the organization, including copies of its organizational and governing documents and the name, address, and telephone number of the governmental authority having copies of such records on file or responsible for oversight of the organization;
- (ii) a complete certified copy of the entity's minute book(s), records relating to ownership, governance, and management of

- the entity, and a complete list of all owners of equity interests in the entity or other interests convertible to equity interests;
- (iii) the entity's federal tax identification number;
 - (iv) the address and telephone number of all places which it has or does conduct its business, and the name, address and telephone number of its service agent, if any;
 - (v) a statement as to whether any Primary Management Official or Key Employee of the business entity is a member, or Relative of a member, of the governing body of the Tribe, any other Constitutional or statutory agency or body of the Tribe, or a tribal employee;
 - (vi) a statement as to whether the business entity, or any Primary Management Official or Key Employee of the organization, has been convicted of any felony, gaming offense, or offense involving moral turpitude;
 - (vii) a statement setting forth all prior experience or contact of the business entity, its Primary Management Officials and Key Employees, with Indian gaming enterprises in any capacity, and the gaming industry generally, including specifically the name, address, and telephone number of any regulatory or licensing agency having jurisdiction over or records of such prior activities;
 - (viii) a statement describing any previous contact that the business entity, its Primary Management Officials and Key Employees, have had with persons involved with organized crime;
 - (ix) a complete statement as to prior arrests, convictions, and civil suits, whether as plaintiff or defendant, involving the business entity, its Primary Management Officials and Key Employees, including the name of the court, the style and number of the case, a description of the claims by each of the parties, and the outcome. Whenever possible, the final judgment, and any opinion if available, of the court should be attached to the application;
 - (x) a complete list of every other organization with which the business entity is affiliated, including without limitation, a parent, subsidiary, owner of equity interests sufficient to name

one person to a managing entity, organizations with which the applicant has at least one common director, officer, Primary Management Official, or Key Employee even though the individual's status may not be the same in both organizations; and

- (xi) a description of the safeguards the organization has in place to prevent any person from becoming a Primary Management Official or Key Employee of said organization without first obtaining a license from the Tribal Gaming Commission.

(3) Additional Information Required of a Management Contractor

The following additional information shall be submitted with an application for a Management Contractor license:

- (i) an organizational chart of the proposed management organization and job description of the employees of the proposed Gaming Operation. The chart shall identify which employees are or will be the Primary Management Officials and the Key Employees of the Gaming Operation;
- (ii) a statement describing all other prior and current management contracts the Management Contractor has providing for the operation of any Indian or non-Indian gaming location and if so: (a) description of the location of each such operation, and (b) the name, address and telephone number of the party with whom such contract was entered;
- (iii) a list of all jurisdictions in which the Management Contractor regularly conducts business or maintains an office or other place of business; and
- (iv) all other information required by 25 U.S.C. § 2711 and 25 C.F.C. § 537.1.

(4) Gaming Facility License

Applications for a Gaming Facility license must contain at a minimum:

- (i) a complete legal description of the Gaming Site, including evidence that the Gaming Site is within the territorial jurisdiction of the Tribe and qualifies as Indian Land;

- (ii) a complete and accurate description of the Gaming Facility, including where possible blueprints, drawings, floor plans including square footage, utility services, waste services, parking plans, and photographs (or renderings for a facility to be constructed);
- (iii) evidence that the proposed Gaming Facility complies with national building and fire codes; and
- (iv) evidence that the proposed Gaming Facility is insurable against fire and other hazards, and that liability insurance may be obtained to protect the public from hazards which may exist in or around the proposed Gaming Facility.

(5) Verification

Every application for a license shall be verified under oath or affirmation.

Section 5.3. Notice Features

(1) Privacy Act Notice

The following notice shall be placed on the application form of a Key Employee or a Primary Management Official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701, et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's

being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

Existing Key Employees and Primary Management Officials, if any, shall be notified in writing that they shall either:

- (i) Complete a new application form that contains a Privacy Act Notice; or
- (ii) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(2) Notice of Consequences of False Statements

The following notice shall be placed on the application for a key employee or primary official before that form is filled out by an applicant:

A false statement or any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18. Section 1001).

The Tribal Gaming Commission shall notify in writing existing key employees and primary management officials, if any, that they shall either:

- (i) Complete a new application form that contains a notice regarding false statements; or
- (ii) Sign a statement that contains the notice regarding false statements.

Section 5.4. Payment of Application Fee

Each application shall be accompanied by payment of an application fee established by the Tribal Gaming Commission which shall include the cost of the background investigation conducted pursuant to Article VI below.

Section 5.5. Description on Application

An application for a gaming license shall include a description of the place, facility, or location on Tribal Lands where the applicant will operate a Gaming Operation or where the applicant will be employed.

Section 5.6. Manner of Filing Instruments with Tribal Gaming Commission

Any application, affidavit, return, report, fee or other instrument or payment required to be filed with, delivered to, or served upon the Tribal Gaming Commission by this Ordinance shall be deemed to be properly filed, delivered, or served, as the case may be if it is filed, delivered, or served upon the Chairman of the Tribal Gaming Commission at the Tribal Complex, or such Tribal employee at the Tribal Complex as the Tribal Gaming Commission shall designate in writing.

Section 5.7. Issuance of Instruments by Tribal Gaming Commission

Any license, registration form, receipt, or other instrument which the Tribal Gaming Commission is required or permitted to issue pursuant to this Ordinance, may be issued by the Chairman of the Tribal Gaming Commission to the order of the Commission, or in such other manner as the Commission shall by rule provide.

Article VI. Background Investigations

Section 6.1. General

Upon receipt of any application forms submitted by a Management Contractor, the Tribal Gaming Commission shall conduct, or cause to be conducted, a background investigation of the Management Contractor and each applicant for a position who is designated as a Key Employee or Primary Management Official sufficient to make a qualification determination under Section 6.3 below. In conducting the investigation, the Tribal Gaming Commission shall have the authority to employ or retain or appoint such private parties as special investigators, including licensed private investigators and credit reporting agencies, as the Tribal Gaming Commission may deem necessary, appropriate or advisable to conduct the required background investigation in a thorough and comprehensive manner and make the determinations required by this Ordinance and the Act. All such independent investigative personnel employed by the Tribal Gaming Commission shall have appropriate experience in investigation techniques in the subject matter of the specific area of inquiry for which they are retained. The Tribal Gaming Commission shall keep confidential the identity of each person interviewed in the course of the investigation.

Section 6.2. Background Investigations

(1) Required Background Information

The Tribal Gaming Commission shall request from each Primary Management Official and from each Key Employee all of the following information:

- (i) full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (ii) currently and for the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business addresses, residence addresses since age 18, and drivers license number(s);
- (iii) the names and current addresses of at least five (5) personal references, including one personal reference who was acquainted with the applicant during the most recent period of residence listed under paragraph (b) of this Section;
- (iv) current business and residence telephone numbers;
- (v) a description of any existing and previous business relationships with Indian Tribes, including ownership interests in those businesses;
- (vi) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (vii) the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (viii) for each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
- (ix) for each misdemeanor conviction or misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the

date of the application, the name and address of the court involved and the date and disposition;

- (x) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to sections (viii) or (ix) of this Section, the criminal charge, the name and address of the court involved, and the date and disposition;
- (xi) the name and address of any licensing or regulatory agency with which the applicant has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (xii) a current photograph;
- (xiii) fingerprints of the applicant to be taken by the Bureau of Indian Affairs police located in Anadarko, Oklahoma or the Oklahoma State Bureau of Investigation for a criminal history check. The criminal history check will include a check with the Federal Bureau of Investigation National Crime Information Center;
- (xiv) copies of the applicant's federal income tax returns for the prior three (3) years; and
- (xv) any other information the Tribal Gaming Commission deems relevant.

(2) Scope of Investigatory Authority

The Tribal Gaming Commission shall conduct an investigation sufficient to make a determination of applicant eligibility under Section 6.3 In conducting such investigation the Tribal Gaming Commission shall be authorized to contract with private investigative agencies licensed under the laws of any state and to make inquiry of appropriate state and local law enforcement agencies, business registration and licensing agencies, and taxing authorities for purposes of conducting inquiry and investigation of the truthfulness and accuracy of all information required hereunder for each applicant. All such investigative firms or individuals shall submit detailed written reports to the Tribal Gaming Commission disclosing the results of the background inquiry and designating areas of inquiry for which incomplete information exists following diligent efforts

customary for the subject matter of the particular inquiry. In conducting such inquiries, the investigative personnel shall conduct interviews of a sufficient number of people having substantial knowledge of the applicant, including former and current employers and business associates, personal references, and others to whom referred in order to (i) verify information submitted with an application, (ii) identify any potential problem areas reflected in the applicant's background; (iii) complete a comprehensive report and summary concerning the applicant's background for submission to the Tribal Gaming Commission, and (iv) provide the Tribal Gaming Commission a factual record from which to make the review and findings concerning the applicant's eligibility for employment in a Gaming Operation.

Section 6.3. Eligibility Determination

(1) Review

The Tribal Gaming Commission shall promptly review all investigatory reports concerning an applicant at a meeting specially called for such purpose and as the sole agenda item.

(2) Criteria

The Tribal Gaming Commission shall ensure that any Person involved with the conduct of gaming activities is a person of good character, honesty, and integrity.

(3) Findings

The Tribal Gaming Commission shall review the investigatory reports covering a Person's prior activities, criminal records, if any, and business affairs, reputation, habits, and associations to make a finding concerning the eligibility of such person for employment in the Gaming Operation. If the Tribal Gaming Commission determines that employment of the person poses a threat to the public interest of the Tribe or to the effective regulation and control of Gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of Gaming or the carrying on of the business and financial arrangements incidental to the conduct of gaming, the Gaming Operation shall not employ that Person in a Key Employee or Primary Management official position.

Section 6.4. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission

- (1) When a Key Employee or Primary Management official begins work at a Gaming Operation authorized by this Ordinance, the Tribal Gaming Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Section 6.3.
- (2) The Tribal Gaming Commission shall forward the report referred to in Subsection 6.5 to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60) days of the approval of this Ordinance by the Chairman of the National Indian Gaming Commission.
- (3) The Gaming Operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license after ninety (90) days.

Section 6.5. Report to the National Indian Gaming Commission

(1) Investigative Report

Pursuant to the procedures set out in Section 6.4 of this Ordinance, the Tribal Gaming Commission shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- (i) the steps taken in conducting the background investigation;
- (ii) the results obtained;
- (iii) the conclusions reached; and
- (iv) the basis for those conclusions.

(2) Eligibility Findings

The Tribal Gaming Commission shall submit, with the report, a copy of the eligibility determination made under Section 6.3.

(3) Notification of Non-Licensing Decision

If a license is not issued to an applicant, the Tribal Gaming Commission:

- (i) shall notify the National Indian Gaming Commission; and
- (ii) may forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individual Records System.

(4) Record Keeping

With respect to Key Employees and Primary Management Officials, the Tribe shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commissioner his or her designee for no less than three (3) years from the date of termination of employment.

Article VII. Issuance Of Licenses; Renewal; Suspension

Section 7.1. General

(1) Notification to National Indian Gaming Commission

Whenever it appears to the Tribal Gaming Commission that a proposed license would be consistent with the Act, this Ordinance, and the public interest, it may issue the requested license after thirty (30) days notice of intent to issue the license to the National Indian Gaming Chairman, unless during the notice period, the Tribal Gaming Commission is directed by the National Indian Gaming Commission to delay issuance of the license for further investigation. It shall be a condition of the license that the licensee or the proponent of the license notify the Tribal Gaming Commission in writing within three (3) business days of any event which would change any of the answers or information submitted with a license application.

(2) Issuance of License

If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribal Gaming Commission that it has no objection to the issuance of a license pursuant to a license application filed by a Key

Employee or a Primary Management Official for whom the Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission may issue a license to such applicant.

(3) Providing Additional Information

The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the 30-day period under Section 7.1(1) until the National Indian Gaming Chairman receives the additional information.

(4) Objections by National Indian Gaming Commission

If, within the 30-day period described above, the National Indian Gaming Commission provides the Tribal Gaming Commission with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management official for whom the Tribal Gaming Commission has provided an application and investigative report to the National Indian Gaming Commission, the Tribal Gaming Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribal Gaming Commission shall make the final decision whether to issue a license to such applicant.

(5) Ineligible Persons

The Tribal Gaming Commission may issue or renew a gaming license to an applicant who submits a proper and completed application and pays the appropriate annual fee, provided that no license shall be issued to or renewed for an applicant:

- (i) who is a member of the Kiowa Business Committee;
- (ii) who is not a person of good character, honesty, and integrity;
- (iii) has knowingly and willfully provided materially false statements or information to the Tribal Gaming Commission pursuant to the Act or this Ordinance, or has refused to respond to a subpoena issued pursuant to this Ordinance;

- (iv) who is not found by the Tribal Gaming Commission to be eligible for employment under the criteria of Section 6.3;
- (v) who has had, or who is in privity with anyone who has had, a gaming license revoked for cause in any jurisdiction;
- (vi) who is delinquent in the payment of any obligation owed to the Tribe, the Tribal Gaming Commission pursuant to this Ordinance, any regulations that the Tribal Gaming Commission has or may adopt, or a Management Contract; or
- (vii) who has failed to comply with the Act, regulations of the National Indian Gaming Commission, this Ordinance, or any regulation that the Tribal Gaming Commission has or may adopt.

Section 7.2. Validity

Each gaming license shall be valid for the three-year period commencing January 1 and ending December 31 of a respective year.

Section 7.3. Assignment/Transfer/Display

A gaming license may not be assigned or transferred and is valid only for use by the Person in whose name it is issued and at the Gaming Facility for which it is issued. A gaming license shall be conspicuously displayed at all times at the Gaming Facility for which it is issued.

Section 7.4. No Class III Gaming License

Until authorized by a Tribal-State Compact, no gaming license shall be issued for any Class III gaming.

Section 7.5. License Suspension

(1) Grounds for Revocation

If, after the issuance of a gaming license, the Tribal Gaming Commission receives from the National Indian Gaming Commission, or any other source, reliable information indicating that a Key Employee or a Primary Management official is not eligible for employment, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(2) Notice and Hearing

The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(3) Notification to National Indian Gaming Commission

After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Tribal Gaming Commission shall notify the National Indian Gaming Commission of its decision.

Section 7.6. Renewals

(1) Procedure

Every license shall be renewable upon request in such form as the Tribal Gaming Commission shall by regulation determine, provided that the renewal request shall specifically identify any changes in the renewal applicant's original license application or renewal license application, as the case may be, since the issuance of the license being renewed.

(2) Renewal Fee

The renewal applicant shall pay a renewal fee established by the Tribal Gaming Commission, but not to exceed _____ percent (___%) of the fee for the original license being renewed.

Section 7.7. No Property Rights in Licenses

No applicant for or holder of a license shall be deemed to have acquired any property right in any license required hereunder for Gaming Operations. All such licenses are intended solely for purposes of the Tribe exercising its required regulation of Gaming. The decision to issue, refuse to issue, suspend, or revoke a license is solely a matter of the exercise of the Tribe's regulatory authority and within the discretion of the Tribal Gaming Commission, subject to the notice and hearing provisions specifically provided for herein, as applicable.

Article VIII. Tribal Gaming

Section 8.1. Establishment of Tribal Operated Gaming Operation(s)

The Tribal Gaming Commission is hereby granted authority to establish, from time to time, Tribal Gaming Operations within the Tribal jurisdiction. Any such Tribal Gaming Operations shall be a body corporate of the Tribe and shall have the authority to conduct Class II Games and sessions within the jurisdiction of the Tribe under the terms and conditions herein or hereafter prescribed by law. Tribal Gaming Operations shall never issue any capital stock.

Section 8.2. Commencing Operations

No Tribal Gaming Operation may begin operation except upon written resolution by the Tribal Gaming Commission which shall provide for (i) the name in which the particular Gaming Operation is to be conducted, (ii) the method of management, (iii) the particular Gaming Site upon which Games will be conducted, and (iv) the beginning date. Every such resolution shall be delivered promptly to the Tribal Gaming Commission.

Section 8.3. Use of Net Revenue

(1) Purposes

The portion of the Revenue belonging to the Tribe as a result of any Tribal Gaming Operation shall be used for the following purposes:

- (i) to fund Tribal government operations and programs,
- (ii) to provide for the general welfare of the Tribe and its members, or
- (iii) to promote Tribal economic development, or
- (iv) to donate to charitable organizations, or
- (v) to help fund operations of local Tribal agencies.

(2) Revenue Accounts

In order to adequately account for the portion of the Revenue belonging to the Tribe as a result of any Tribal Gaming Operation, the Treasurer shall deposit all such Revenue in a separate account, identified as such, and all such Revenue shall be expended only upon authority of a

Resolution appropriating such funds for one or more of the purposes identified in subsection (1) of this Section 8.3.

(3) Per Capita Payments

No per capita payment of such Revenues may be made. If the Council subsequently elects to make per capita payments, it shall authorize such payments only upon approval of a plan submitted to the secretary of the United States Department of Interior pursuant to 25 U.S.C. § 2710(b)(3).

Section 8.4. Administration and Regulations by Tribal Subdivision

Except for those Gaming Operations managed through Management Contractors, each separate Tribal Gaming Operation shall be administered by the Tribal Business Committee sitting as its Board of Directors and regulated by the Tribal Gaming Commission as provided for and to the extent of this Ordinance and any regulations hereinafter adopted, the Act, and regulations of the National Indian Gaming Commission. All Gaming Operations shall be subordinate agencies of the Tribe.

Section 8.5. Designation of the Gaming Manager

The Kiowa Business Committee may appoint and employ one individual person for each Tribal Gaming Operation who shall be designated the Tribal Manager of the particular Gaming Facility. In order to enter into employment, a Tribal Manager must obtain a Manager's License from the Tribal Gaming Commission.

Section 8.6. Powers and Miscellaneous Provisions

Each Gaming Operation operated by the Tribe shall have the following powers which it may exercise consistent with the purpose for which it is established:

- (i) To have perpetual succession by its corporate name.
- (ii) To sue in its corporate name, and to be sued where sovereign immunity has been expressly waived by Tribal law but only to the extent of such waiver.
- (iii) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

- (iv) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated, when useful to its conduct of Games, provided that title to any real property acquired by such corporation shall be taken in the name of the United States of America in trust for the Tribe with the approval of the Secretary of the Interior. Such acquisition shall be made with the prior notice to the Council. At the time of such acquisition, the Tribe shall lease or patent such real property to the Gaming Operation for business purposes for a period not to exceed twenty-five (25) years with an option to renew such lease or revocable patent for an additional period of twenty-five (25) years or such other maximum period as may be authorized by Tribal law. The consideration received for exercising the option for the additional twenty-five (25) year term shall be the One Dollar (\$1.00). The rights created by such lease or patent shall be enforceable in the Tribal Court against the Tribe notwithstanding the defense of sovereign immunity, and the lease or revocable patent shall be considered a contract and property right which may not be abridged by the Tribe without just compensation.
- (v) To enter into agreements, contracts, and undertakings with any governmental agency, tribal, federal, state, or local or with any person, partnership, corporation, or other legal entity, and to agree to any conditions attached to federal financial assistance;
- (vi) To make contracts and incur liabilities, borrow money at such rates of interest as the Gaming Operation may determine not inconsistent with this Ordinance, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgages or pledge of all or any of its property or investments (except the real property);
- (vii) To lease property from or to the Tribe and others for such periods as are authorized by law, and to hold and manage or sublease the same;
- (viii) To pledge the assets, other than real property, as security for its contractual obligations and to acquire, sell, lease, exchange, transfer or assign personal property or any interest therein.

- (ix) To make rules and regulations regarding its activities pursuant to this Ordinance as the Tribal Gaming Commission may deem necessary and desirable to effectuate the powers granted by this Ordinance. Provided, that all such rules and regulations shall be filed for record in the tribal Secretary's office and approved by the Tribal Business Committee prior to being given any force or effect.
- (x) To purchase insurance from any stock or mutual company for any property or against any risk or hazards, and the sovereign immunity of the Gaming Operation is hereby waived to the limit of the scope and extent of such insurance as may be in force as to any claim payable by such insurance.
- (xi) To invest such funds as are not required for immediate disbursements.
- (xii) To establish and maintain such bank accounts as may be necessary or convenient, subject to audit by the Tribal Gaming Commission.
- (xiii) To employ such officers as may be necessary or convenient, and to employ technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Gaming Operation may require, to establish the conditions of their employment, and to delegate to such officers and employees their powers or duties.
- (xiv) To take such further actions, not inconsistent with this Ordinance, as are commonly engaged in by public or corporate bodies of this character.
- (xv) To enter into partnerships, joint ventures, and other business arrangements with any legal entity to effectuate the purposes of the Gaming Operation.
- (xvi) To adopt such rules and regulations for the government of its internal affairs as the Tribal Gaming Commission deems necessary or appropriate to administer or enforce this Ordinance and its activities thereunder, provided, that all such rules and regulations shall be filed for record in the Tribal office and approved by the Kiowa Business Committee prior to being given any force or effect.

- (xvii) To operate, manage, use, and control, including entering into leases as herein before provided, such real or personal property which the Kiowa Business Committee shall assign to its use.
- (xviii) To use such name as may be approved by the Kiowa Business Committee in any of its business activities within or without the Tribal jurisdiction, and to incorporate or hold stock in such other corporations as may be necessary or convenient.
- (xix) To exercise, in conformity with Tribal law, the power of eminent domain excepting land or interest therein held by any other agency of the Tribe, in order to further the purposes and powers express in this Ordinance.
- (xx) To operate Class II Games in the manner provided for by this Ordinance at a particular Gaming Facility and Gaming Site approved by the Kiowa Business Committee.

Section 8.7. Duties of the Tribal Gaming Manager

It shall be the duty of the Tribal Manager to manage and conduct all Class II Games of a Tribal Gaming Operation in a fiduciary capacity to maximize the Revenues of said operation, to cause to be prepared and submitted to the Kiowa Business Committee such reports as may be required by law, to account for all monies and property entrusted to the Tribal Gaming Operation, to collect and pay over all taxes due the Tribe and all assessments due the National Indian Gaming Commission and the Tribal Gaming Commission, and to perform any other duties as may be required by law.

Section 8.8. Supplies and Equipment

Subject to the approval of the Kiowa Business Committee, a Tribal Manager may incur such expenses and purchase such Equipment as may be necessary for the conduct of the Tribal Gaming Operation. All equipment purchases shall be the property of the Tribe.

Section 8.9. Location of Gaming Sessions

All games and sessions of Class II Games conducted by a Tribal Gaming Operation shall be conducted at a Gaming Facility approved by the Tribal Gaming Commission within the territorial jurisdiction of the Tribe for that Gaming Operation.

Section 8.10. Report of Winners

The Tribal Manager shall file with the Treasurer a list of each winner or winners of any Class II Game at each session. The list shall be itemized by session and game and shall include the name of the winner, the address of the winner, the social security number of the winner, the amount or fair market value of the prize won, and the method of identification from the driver's license or other acceptable identification of the winner prior to issuing the prize to the winner. It shall be the duty of the Manager to comply with 25 U.S.C. § 2719(d).

Section 8.11. Report of Receipts and Disbursements

The Tribal Manager shall file with the Treasurer a verified report of all receipts and disbursement of all funds relating to said Class II Games or sessions. At the time of filing said report, the Manager shall deposit with the Treasurer the Revenues of the Gaming Operation for the reporting period. Such report shall contain an itemized list of all Gross Gaming Receipts from Class II Games conducted, Concessions, and any and all related activities. Such reports shall also contain an itemized list of all disbursements including but not limited to Operating Costs, Equipment Costs, Facilities Costs, materials, supplies and equipment furnished and prizes paid. The required reports shall be submitted on a frequency established pursuant to regulations adopted from time to time by the Tribal Gaming Commission.

Section 8.12. Verification of Report

The Tribal Manager shall verify the accuracy of each report submitted to the Treasurer.

Section 8.13. Deposit of Monies

(1) Deposits with Treasurer

The Tribal Manager shall deliver all monies received, less amounts retained for petty cash, the bank(s), and other cash funds approved by the Kiowa Business Committee, on a same day basis to the Tribal Treasurer. The Treasurer shall issue a written receipt for said monies to the Tribal Manager.

(2) Accounts

The Treasurer shall deliver all monies received from the Gaming Operation to the Accounting Office on a same day basis for deposit in

the Tribal Gaming Funds Account. The Accounting Office shall issue a written receipt for said monies to the Treasurer. The Accounting Office shall deposit said monies in the special gaming account required by this Ordinance on a same day basis.

Section 8.14. No Tribal Liability

Neither the Tribe, nor its officers, agents, or agencies, shall be responsible for the debts or liabilities of any Gaming Operation, it being the intent that each Gaming Operation shall be a corporate entity solely responsible (with its Management Contractor when provided for by contract) for its own debts, torts, and other liabilities, and subject to suit in its own name to the extent explicitly provided for by this Ordinance.

Section 8.15. Appropriations for Gaming Operation

The Kiowa Business Committee may appropriate such sums as may be necessary for the function of the Gaming Operation based upon a written budget request submitted by the Tribal Manager through the Treasurer and approved by the Tribal Gaming Commission. The Kiowa Business Committee shall not be bound by any requested budget when making such appropriations.

Section 8.16. Employee Grievances

Any employee of a Tribal Gaming Operation aggrieved by a decision of the Manager with respect to promotion, retention, termination, or violations of the Gaming Operations' personnel policies may appeal such decision to the Tribal Court naming the Tribal Manager and the Gaming Operation as the sole defendants. In such cases, a Tribal Court may grant declaratory and injunctive relief against the Tribal Manager or Gaming Operation as may be appropriate.

Article IX. Management Contracts

Section 9.1. Appointment of Contractor

(1) General Authority

In lieu of hiring and appointing a Tribal Manager for a particular authorized Gaming Operation, the Tribal Gaming Commission may enter into a Management Agreement with a Management Contractor to provide for the renovation (if applicable), management and administration of an existing Gaming Operation upon such terms and conditions not inconsistent with the Act or this Ordinance as the Kiowa Business Committee may deem appropriate.

Additionally, the Kiowa Gaming Commission may enter into a Management Agreement with a Management Contractor to provide for the development, construction, management and administration of a proposed Gaming Facility not then in existence, upon such terms and conditions not inconsistent with the Act or this Ordinance as the Kiowa Gaming Commission may deem appropriate.

(2) Proposals

The Tribal Gaming Commission is hereby authorized to prepare and solicit requests for proposals for competitive bids for the development, construction or renovation, management and administration of:

- (i) existing Gaming Operations operated by the Tribe;
- (ii) Gaming Operations at Gaming Facilities for which a Management Contractor's license has been revoked or not renewed; and
- (iii) proposed future Gaming Operations at a Gaming Facility to be constructed at a Gaming Site to be selected.

Any such request for proposal shall be in form and content developed by the Tribal Gaming Commission pursuant to regulations adopted by the Tribal Gaming Commission.

(3) Evaluation of Proposals

Bids in response to requests for proposals and proposals submitted without formal requests for proposals shall be reviewed and evaluated by the Tribal Gaming Commission. Both costs, projected financial return to the Tribe, experience and technical expertise shall be considered in determining the best bid or an acceptable proposal. The Tribal Gaming Commission shall present its evaluation and recommendation in writing, which report shall be a matter of public record.

(4) Application Fee

The Tribal Gaming Commission shall, from time to time, set an application fee schedule in an amount not less than Fifty Thousand and No/100 Dollars (\$50,000.00). The application fee must be paid upon acceptance by the Tribal Gaming Commission of a bid in response to a request for proposal or upon acceptance by the Tribal Gaming

Commission for review and evaluation of an unsolicited proposal from a proposed Management Contractor. The Tribal Gaming Commission shall adopt regulations setting forth criteria for determining the schedule of application fees and the circumstances under which all or any part of the application fee shall be refundable. The application fee is required to defray the direct and indirect costs to be incurred by the Tribal Gaming Commission in reviewing, evaluating and negotiating the final terms and provisions of Management Contract for a specific Gaming Operation at a specific Gaming Facility, including without limitation, costs and expenses of employing independent third party consultants, accountants, and counsel to assist in the review, evaluation and negotiation process.

(5) Failure to Pay Application Fee

If the application fee required pursuant to subsection (4) of this Section is not timely paid when due, any prior negotiations, correspondence, proposals, submissions, and collateral agreements shall be of no force and effect and the proposed Management Contractor shall have no claims, right, title and interest in any proposed Gaming Operation.

(6) Prescribed Form of Management Contract

The Tribal Gaming Commission shall adopt a model form of Management Contract, which shall be employed with all Gaming Operations to be conducted by a Management Contractor. It shall be an express condition of the acceptance by the Tribal Gaming Commission of any bid or unsolicited proposal for review and evaluation that the Management Contractor agree to the format and contents of the model form. The model form shall be revised only to reflect specific terms set forth in an accepted bid under a specific request for proposal or an accepted proposal submitted by any Person other than by a request for proposal.

In developing and adopting a model form of Management Contract, the Tribal Gaming Commission shall incorporate at a minimum the specific content required under 25 CFR § 31.1. The Tribal Gaming Commission shall also consider and incorporate such additional terms, provisions and requirements as are commercially reasonable and customary for contracts of such scope and magnitude in private contractual arrangements involving major land acquisition, site development, construction procedures and contracts, financing, including without limitation, assurances of marketability of title to land, survey requirements, engineering studies, economic feasibility studies, and performance standards.

Section 9.2. Duties of a Management Contractor

It shall be the duty of a Management Contractor:

- (i) To manage and conduct all Games of a Gaming Operation for which a Management Contractor has management responsibility in a fiduciary capacity to maximize the Revenues of said Gaming Operation, to cause to be prepared and submitted to the Tribal Gaming Commission such reports as may be required by the Act, regulations of the National Indian Gaming Commission, this Ordinance and regulations adopted hereunder, and the Management Contract, to account for all monies and property entrusted to the Gaming Operation, to collect and pay over all taxes and fees due the Tribe, and all assessments due the Commission, and to perform any other duties as may be required by law or the Management Contract.
- (ii) To perform all the duties of a manager imposed by law.

Section 9.3. Requirements for Management Contracts

Every Management Contract of a Tribal Gaming Operation shall provide, at a minimum:

- (i) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the Tribal Gaming Commission on a monthly basis;
- (ii) for access to the daily operations of the Gaming Operations to appropriate representatives of the Tribal Gaming Commission, who shall also have a right to verify the daily Gross Gaming Receipts and income made from any such Tribal Gaming Operation;
- (iii) for a minimum guaranteed payment to the Tribe that has preference over the retirement of Facility Costs and is payable to the Tribe regardless of the adequacy of Revenues from the Gaming Operations;
- (iv) for an agreed ceiling for the repayment of Facility Costs;
- (v) for a contract term not to exceed five (5) years, except that, upon the request of the Tribe, the Chairman of the National Indian Gaming may authorize a contract term that exceeds five

(5) years but does not exceed seven (7) years if the Chairman is satisfied that the capital investment required, and the income projections, for the particular gaming activity require the additional time;

- (vi) for performance and payment bonds for any renovation to or construction of Gaming Facilities and such other bonds or other surety as the Tribal Gaming Commission may require pursuant to Tribal law;
- (vii) for performance criteria from Gaming Operations to be determined by the Tribal Gaming Commission; and
- (viii) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

Every Agreement with a Management Contractor for the operation and management of a Gaming Operation shall be deemed to contain the foregoing provisions whether or not such provisions are reproduced in a Management Contract.

Section 9.4. Licensing Required

No Management Contractor may enter into its management duties until it has satisfied all applicable licensing requirements for a Contractor License, a Facility License, and licenses for its Primary Management Officials and Key Employees. General Employee licenses shall be secured before new employees are allowed to actually begin work.

Article X. Nonprofit Gaming

Section 10.1. Licensing of Certain Nonprofit Organizations

The Tribal Gaming Commission shall be authorized to issue a license to conduct bingo games to any organization that is a bona fide religious, charitable, labor, fraternal, educational, or other nonprofit which qualifies as a 501(c) tax exempt organization and provided that such organization has been in existence for not less than two (2) years prior to making application for license, if no part of the receipts derived from such activity, except actual expenses incurred in the conduct thereof, is to inure to the benefit of any individual member or employee of the organization, except as compensation for actual expenses incurred by such person in the conduct of such activity.

Section 10.2. Licensing Procedure

The Tribal Gaming Commission shall adopt regulations governing the application and licensing procedures for non-profit bingo to be conducted within Tribal jurisdiction. The application form shall be prescribed by the Tribal Gaming Commission. The Tribal Gaming Commission shall establish a schedule of appropriate license fees (and any exemptions from payment of such fees) for such activities and operations and specific reporting requirements.

Article XI. Records And Reports

Section 11.1. Keep and Maintain

(1) Scope

Each Gaming Operation shall keep and maintain sufficient books and records to substantiate the Gross Gaming Receipts, Operating Costs, and uses of revenues relating to the conduct of Gaming Operations authorized under a license. Included in the records of the activity shall be session summary sheets, operational budgets and projections, and tour/bus attendance and compensation.

(2) Duty to Account

No Management Contractor shall fail to account fully for all moneys received or collected in connection with Gaming Operations.

Section 11.2. Statement of Gross Gaming Receipts and Net Revenues

- (1) No later than the fifteenth (15th) day of each month, each Gaming Operation shall provide, in a report form prescribed by the Tribal Gaming Commission, a statement of Gross Gaming Receipts, Operating and net Revenues received or collected at each Gaming Facility during the immediately preceding period.
- (2) Consistent with reasonable gaming industry business practices, the Gross Gaming Receipts derived from operations of a tribal-owned and licensed Gaming Operations may be expended and dispersed by a Management Contractor as specifically outlined in a Management Contract.

Section 11.3. Falsification of Books and Records

No licensee shall falsify any books or records relating to any transaction connected with the conduct of Gaming Operations authorized under this Ordinance.

Section 11.4. Inspection of Tribal Gaming Commission

(1) General Requirement

All books and records of each Gaming Operation relating to licensed gaming activities shall be subject to inspection, examination, photocopy and auditing by the Tribal Gaming Commission or a person designated by the Tribal Gaming Commission at any time during reasonable hours.

(2) Assured Access

In compliance with 25 C.F.R. § 571.5 or § 571.6, or of a Tribal Ordinance or resolution approved by the Chairman of the National Indian Gaming Commission under parts 522 or 523 in Title 25 C.F.R., a Gaming Operation shall not refuse to allow an authorized representative of the National Indian Gaming Commission or an authorized Tribal Gaming Commission official to enter or inspect a Gaming Operation.

Section 11.5. Insurance Policies

A copy of all required insurance policies covering each Gaming Operation or any part thereof shall be filed with the Tribal Gaming Commission.

Article XII. Violations

Section 12.1. General

Each Gaming Facility licensed under this Ordinance shall be constructed, maintained and operated in a manner which adequately protects the environment and the public health and safety.

Section 12.2. Gaming License

No person shall operate or conduct any Gaming activity in a Gaming Operation within Tribal Lands without a gaming license issued by the Tribal Gaming Commission, as required by this Ordinance.

Section 12.3. Falsifying Information

No licensee or license applicant shall provide false information in connection with any document or proceeding required or provided for under this Ordinance.

Section 12.4. Age Limit

No Person under the age of eighteen (18) years shall be permitted to participate in any Gaming activity.

Section 12.5. Cheating

No Person shall engage in Cheating in any gaming activity.

Section 12.6. Possession of a Firearm

No Person, other than a law enforcement officer or security personnel licensed to carry a firearm, may enter or remain in a Gaming Facility licensed under this Ordinance while in the possession of a firearm or other weapon.

Section 12.7. Violation of Any Provision, Rule, Regulation or Order

No Person shall intentionally violate any provision of this Ordinance, nor any rule, regulation or order that the Tribal Gaming Commission may adopt or issue, nor any provision of the Act or and regulation adopted by the Commission.

Section 12.8. In Privity

Any Person who is in privity with a Person who violates any provision of this Ordinance shall be deemed to be in violation of this Ordinance to the same extent as the violator, and shall be treated in a similar manner.

Section 12.9. Compliance of Ordinance

Each Management Contractor is responsible for ensuring that all Primary Management Officials and Key Employees assisting in Gaming Operations on the licensee's behalf comply with this Ordinance. A violation by any such officials or employees shall be deemed a violation by a Management Contractor and subject the Management Contractor to civil enforcement action. It shall not be a defense that a Management Contractor was unaware of the violation.

Section 12.10. Fraudulent Scheme or Technique

No Person, playing in or conducting any gaming activity authorized under this Ordinance, shall:

- (i) use bogus or counterfeit cards, or substitutes or use any game cards that have been tampered with;
- (ii) employ or have on one's person any cheating device to facilitate cheating in any gaming activity;
- (iii) use any fraudulent scheme or technique, including when an operator or player of games of charitable gaming tickets directly or indirectly solicits, provides, or receives inside information of the status of a game for the benefit of either Person; or
- (iv) knowingly cause, aid, abet, or conspire with another Person or cause any Person to violate any provision of this Ordinance or any rule adopted under this Ordinance.

Article XIII. Civil Enforcement

Section 13.1. Action to be Taken

The Tribal Gaming Commission may take any one or a combination of the following actions with respect to any Person who violates any provision of this Ordinance:

- (1) Impose a civil fine not to exceed Five Hundred Dollars (\$500.00) for each violation, and if such violation is a continuing one, for each day of such violation.
- (2) Suspend or revoke any gaming license issued by the Tribal Gaming Commission.
- (3) Bring an action in a Tribal Court for imposition of one or more of the following sanctions:
 - (i) suspension or termination of the license and further conduct of Gaming Operations or other activities;
 - (ii) seizure of any gaming apparatus, proceeds, or other property of a licensee or connected with the Gaming Operations engaged in by the licensee;

- (iii) in the case of any non-member of the Tribe, expulsion of such persons from Tribal Lands;
- (iv) collection of any unpaid fees together with interest at the rate of one percent (1%) per month;
- (v) execution on any nonexempt property of a violator located within the exterior boundaries of the Tribal Lands; or
- (vi) a penalty of Fifty Dollars (\$50.00) per day for failure to file any report when due and Five Hundred Dollars (\$500.00) per day for failure to file such report after notice and demand.

Section 13.2. Jurisdiction

The Tribal Court shall have jurisdiction over any civil action brought by the Tribal Gaming Commission under this Ordinance, and also shall have the authority to impose any and all sanctions imposed by the Tribal Gaming Commission pursuant to this Ordinance.

Section 13.3. Notification

Before taking any enforcement action authorized in this Section, the Tribal Gaming Commission shall use its best efforts to notify the alleged violator, in person or by letter delivered to his/her last known address, of the charges against him/her, and allow the alleged violator an opportunity for a prompt hearing. If the alleged violator fails to respond, or cannot be found, the Tribal Gaming Commission may proceed with a hearing notwithstanding, and take such action as it deems appropriate.

Section 13.4. Acknowledgment

Every Person which applies for a gaming license and accepts such license thereby acknowledged the civil enforcement jurisdiction and authority of the Tribal Gaming Commission and a court of competent jurisdiction under this Ordinance to order an execution on his/her nonexempt property, the suspension or termination of his/her further conduct of gaming activities and the seizure of his/her Gaming Equipment or proceeds of other property, upon a proper finding of the Tribal Gaming Commission or the Court that the Person has violated a provision of the Act, regulations of the Commission, this Ordinance, or regulations promulgated by the Tribal Gaming Commission, despite lack of actual notice, provided that the Tribal Gaming Commission has used its best efforts to notify the person, in person, or by letter delivered to his/her last known address.

Article XIV. Hearings And Appeals

Section 14.1. Petition for Payment of Penalty

Any licensee paying a penalty for late filing or failing to file a report for which there is an acceptable excuse may petition the Tribal Gaming Commission for a credit. The petition shall be filed within thirty (30) days after the petitioner knew or should have known that payment was excusable, but not more than six (6) months after payment in any case.

Section 14.2. Petition for Hearing and Reconsideration

Any person or entity aggrieved by a decision made or action taken by the Tribal Gaming Commission without notice and opportunity for hearing, may petition the Tribal Gaming Commission for a hearing and reconsideration. The petition shall be filed within thirty (30) days after the petitioner knew or should have known of the decision or action.

Section 14.3. Petition for Review

Any person or entity aggrieved by a decision made or action taken by the Tribal Gaming Commission after notice and opportunity for hearing may petition any court of competent jurisdiction for review. Such petition shall specifically set forth the reasons for aggrieving, and be filed with the Court no later than thirty (30) days after the Tribal Gaming Commission's decision or action. The Court shall set the matter for hearing no later than thirty (30) days after receipt of the petition, and may, upon establishing that it has jurisdiction and finds good cause, affirm, modify, reverse and/or vacate the Tribal Gaming Commission's order.

Article XV. Applicable Law

Section 15.1. Controversies Involving Contract

All controversies involving contracts relating to gaming entered into under the authority of the Tribe on Tribal Lands shall be resolved, as appropriate, in accordance with:

- (1) the Act;
- (2) regulations promulgated by the National Indian Gaming Commission;
- (3) the laws, ordinances and regulations of the Tribe; and

- (4) if no Tribal laws exist, the law of the State of Oklahoma.

Article XVI. Service

Section 16.1. Tribal Gaming Commission Service Agent

The Chairman of the Tribal Gaming Commission is hereby designated agent for service of any official determination, order, or notice of violation. Specific confirmation of this designation shall be communicated to the National Indian Gaming Commission.

Section 16.2. Management Service Agent

Each Management Contractor shall designate by written notification to the Tribal Gaming Commission and the National Indian Gaming Commission an agent for service of any official determination, order, or notice of violation.

Article XVII. Savings Provision

Section 17.1. Invalidity

If any provision of this Ordinance or the application thereof to any Person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or application, and, to this end, the provisions of this Ordinance are severable.

Article XVIII. Policies And Procedures For Resolution Of Disputes Between Manager And Customers

Section 18.1. Improper Conduct by Customers

(1) Notice

Notice of warning regarding the improper conduct set out in gaming rules established and enforced by the Gaming Operation shall be posted at the entrance of the Gaming Facility and/or given to patrons upon entering the premises.

(2) Types of Improper Conduct

The following improper conduct shall result in ejection of a Patron from any Gaming Facility:

- (i) Cheating;
- (ii) possession of weapons in the Gaming Facility;
- (iii) possession of alcohol that has been brought by a Patron into the Gaming Facility;
- (iv) possession of a controlled substance in the Gaming;
- (v) disorderly conduct, including the willful, or wanton disregard for the rights of others, and any other act which is disruptive to the Gaming Operation and other Patrons.

(3) Submission of Proof of Age

Failure by a Patron to provide proof of age when requested by Gaming Operation personnel shall result in ejection of the Patron from the Gaming Facility. The admission fee shall be refunded in such instance.

(4) Ejection

Ejection of a Patron shall be accomplished by security personnel, upon request of management personnel of the Gaming Facility.

Section 18.2. Complaints by Customers

A designated representative of management shall be present at all times to resolve complaints by Patrons involving the Gaming Operation.

If the designated representative is unable to resolve any dispute, the matter may, upon request of the patron, be referred to the Tribal Gaming Commission for resolution. The decision of the Tribal Business Committee on any dispute so referred to it for resolution shall be final.

Article XIX. Amendment Of Ordinance

Section 19.1. Amendment by Majority Vote

This Ordinance may be amended by majority vote of the Tribal Business Committee. Within fifteen (15) days after adoption, the Tribal Business Committee shall submit for the Chairman of the National Indian Gaming Commission's approval any amendment to the Ordinance.

Article XX. Effective Date/Repeal

Section 20.1 General

This Ordinance shall be effective upon approval of the Chairman of the National Indian Gaming Commission. Once effective, this Ordinance shall serve to repeal all previous gaming ordinances of the Tribe.