

MANAGEMENT AGREEMENT

between the

Rosebud Sioux Tribe
and
BBC Entertainment, Inc.

February 11, 1993

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement") is made and entered into at Rosebud, South Dakota, as of the 11th day of February, 1993, by and between the Rosebud Sioux Tribe, a federally recognized Indian tribe (hereinafter referred to as the "Tribe"), and BEC Entertainment, Inc., a Minnesota Corporation, duly authorized in South Dakota with an office at Mission, South Dakota (hereinafter referred to as "Manager").

RECITALS

A. The Tribe and the Reservation. The Tribe exercises governmental authority over certain real property located in the State of South Dakota which is recognized under federal law as an Indian Reservation and is known as the reservation of the Rosebud Sioux (the "Reservation").

B. The Manager. Manager is a corporation organized and existing under the laws of the State of Minnesota and is duly licensed and authorized to conduct business in the State of South Dakota. The officers, directors, and shareholders, of Manager ("Parties-In-Interest"), and their respective interest therein, as well as that information required by 25 U.S.C. Sec. 2711(a)(1)(A), (B), and (C), and Parts 556 and 558 of the National Indian Gaming Commission Rules and Regulations dated January 22, 1993 (25 CFR 556, 558), are set forth in Exhibit "A" attached hereto.

C. The Ordinance. The Tribe has enacted an Ordinance (the "Ordinance") in compliance with the Compact and the Indian Gaming Regulatory Act ("IGRA") for the operation, conduct, and playing of

slot machines, blackjack, poker and other class III games which may be conducted under a Compact with South Dakota (the "Class III Games"), which are defined as Class III gaming in the Indian Gaming Regulatory Act ("IGRA") and for the operation, conduct and playing of games of chance commonly known as bingo including (if played at the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo and other games similar to bingo which are defined as Class II gaming in the IGRA, (a true copy of which Ordinance and Regulations are attached as Exhibit "B" hereto) in order to fund Tribal government operations and programs, including but not limited to programs which provide for the general welfare of the Tribe and its citizens, promote Tribal economic development, and provide employment and training opportunities for Tribal citizens, Indians generally, and persons who reside in the surrounding communities. The term "Ordinance" shall mean the Ordinance as it exists or may be amended or modified during the term hereof which is deemed for all purposes to be supplemental to the terms of this Agreement as of the effective date of such amendment or modification. The Tribe agrees that it will not at any time make any changes in said Ordinance that in any way are inconsistent with the terms of this Agreement or would cause material injury to the Project as hereinafter defined, unless any such change is required by the Compact or Federal law, rule or regulation.

D. The Land. The Tribe is the beneficial owner of certain land on the Reservation located in South Dakota, which is legally described on Exhibit "C" attached hereto. The tribe warrants that

said land is eligible for Class II and Class III gaming enterprises under the Indian Gaming Regulatory Act (IGRA), the Ordinance and the Compact. The Manager intends to construct and/or improve buildings and other real estate improvements according to plans and specifications and for a cost mutually agreeable to the parties at which the gaming project will conduct its business. The cost of the construction of all such facilities which is paid by the Manager except for the acquisition cost of the real property on which the project is situated shall be a Property Purchase Expense to be repaid as set forth in Article 6.4(c)(7).

E. The Compact. The Tribe has or will enter into a compact with the State of South Dakota relating to the conduct of Class III gaming on its reservation, a true and correct copy of which is attached hereto as Exhibit "D".

G. Desire for Management Agreement. The Tribe wishes to enter into this Management Agreement with an entity that is able and willing to supply financing and obtain the human resources to establish, operate, fund and manage Class II and III Games in accordance with the terms of this Agreement, the Compact, Tribal law, federal law and applicable state law (if any);

H. Manager's Right to Manage. The Tribe is willing to vest in the Manager, the right to improve, develop, and maintain the Project and to manage the Project (as hereinafter defined) in conformance with the terms and conditions of this Agreement, Tribal ordinances, rules, and regulations, rules and regulations of the Tribal Gaming Commission, IGRA, the Compact and, the applicable

state law (if any);

I. Manager's Qualifications. The Manager has available the capital, management expertise and operational skills necessary to establish, operate and manage the Project (as hereinafter defined, in accordance with this Agreement;

J. Exclusive Management Right. The Tribe wishes to contract with Manager to provide for the management and operation of Class III Games as permitted under IGRA and the Compact on the Tribe's land in South Dakota, together with related food and other services in all phases of this development and the right to manage Class II gaming activities as set forth herein ("the Project"). The tribe shall have the right to license or operate non gaming activities that are unrelated to the project itself but which might be developed in proximity to the project. Included in the concept of the Project is the Tribe's representation and warranty (hereby given) that the Manager shall have the right to manage Class III Gaming Activities conducted under authority of the Tribe by anyone on Indian Lands of the Tribe as that term is defined in IGRA in South Dakota, during the term of this Agreement. Upon payment of the initial payments provided for herein, manager shall have paid for the right to operate the 120 gaming devices authorized by the current compact. Manager shall have the right of first refusal on any gaming contracts authorized by the Tribe during the term of this agreement. For the purpose of this warranty hereby extended by the

Tribe, Gaming Activity shall mean all Gaming Activity permitted by any federal, state, local or Tribal Government now or in the future, including, but not limited to all Class II gaming activities permitted pursuant to federal, state and tribal law and all Class III gaming activities permitted pursuant to Tribal State Compact between State of South Dakota and the Rosebud Sioux Tribe. Provided further that Manager shall not have the exclusive on Class II Bingo gaming activities. Tribe and manager agree that bingo shall be included in the project. Additional Class II gaming activities at the project must be authorized by the Tribe prior to being utilized at the project.

L. No Interest in Indian Land. The parties acknowledge that this Agreement is not intended to create and shall not be deemed to create an interest in Indian land or with respect to any facilities thereon, such as but not limited to a license, tenancy lien, easement, leasehold interest, estate or any other form of possessory or non-possessory interest, either express or implied.

CONDITIONS SUBSEQUENT TO CONTRACT

The parties agree that the following conditions subsequent must be waived by Manager or Tribe or fulfilled on or before, sixty (60) days subsequent to approval of the Management Agreement by the National Indian Gaming Commission or this Management Agreement shall become void. In the event any of said conditions are not waived, extended or fulfilled within such time limit, the parties agree that the Manager or Tribe shall have the option to waive or extend the time for fulfillment or to declare that this

state law (if any);

I. Manager's Qualifications. The Manager has available the capital, management expertise and operational skills necessary to establish, operate and manage the Project (as hereinafter defined, in accordance with this Agreement;

J. Exclusive Management Right. The Tribe wishes to contract with Manager to provide for the management and operation of Class III Games as permitted under IGRA and the Compact on the Tribe's land in South Dakota, together with related food and other services in all phases of this development and the right to manage Class II gaming activities as set forth herein ("the Project"). The tribe shall have the right to license or operate non gaming activities that are unrelated to the project itself but which might be developed in proximity to the project. Included in the concept of the Project is the Tribe's representation and warranty (hereby given) that the Manager shall have the right to manage Class III Gaming Activities conducted under authority of the Tribe by anyone on Indian Lands of the Tribe as that term is defined in IGRA in South Dakota, during the term of this Agreement. Upon payment of the initial payments provided for herein, manager shall have paid for the right to operate the 120 gaming devices authorized by the current compact. Manager shall have the right of first refusal on any gaming contracts authorized by the Tribe during the term of this agreement. For the purpose of this warranty hereby extended by the

contract null and void as such time.

Said conditions are:

1. Formal Approval of Manager. The manager has received all required (if any) formal approvals from all authorities of the State of South Dakota and approvals of all authorities of the Tribe and federal government which are required to approve the Manager to conduct the management of the Project and approval of the term of this contract.
2. Manager's Consent to be Bound. The Manager shall have consented in writing to be bound by all rules and regulations adopted by the Tribe's Tribal Gaming Commission, together with all gaming laws adopted by the tribe as required by the Compact, after a reasonable opportunity to inspect the same. When completed, all such rules, regulations and laws shall be attached to this Agreement and marked Exhibit "B".
3. Tribal Gaming Commission License. The Tribal Gaming Commission required under the terms of the Compact shall have issued a license to the Manager to permit it to perform the terms of this Agreement, which shall not be unreasonably withheld.
4. Issuance of Licenses. Issuance of licenses by the appropriate governmental authorities and the Tribe sufficient to permit the sale and dispensing of beer, wine and all other alcoholic beverages on the Project. Said licenses shall either be issued in the name of the Tribe or the Manager as appropriate under applicable law.
5. Agreement on Preliminary Plans and Equipping. The parties

have reached agreement on the preliminary plans for the construction of and equipping of a gaming casino as provided in Article 4.1(a)(1).

ARTICLE 1.

APPOINTMENT OF MANAGER

1.1 Appointment. The tribe hereby engages Manager as an independent contractor with exclusive rights with respect to the operation and management of the Project for the Tribe's benefit, on the terms and conditions set forth below, and Manager hereby accepts such engagement.

ARTICLE 2.

TERM

2.1 Term. This Agreement shall be enforceable between the parties until the failure of a condition subsequent not waived by the Manager or the expiration of the Term. The Term ("Term") of this Agreement shall commence the day the gaming activities of the Project are open for business to the public and shall continue thereafter for Sixty (60) months, until midnight of the last day of said Term. In the event the tribe determines to contract with a management company at the end of the term hereof it is agreed that manager shall have the right of first refusal to accept the terms of that management contract so that if manager agrees to the terms and conditions offered, Tribe will continue manager's services based on those terms and conditions.

ARTICLE 3.

GOVERNMENTAL AGENCY APPROVAL: RESUBMISSION

3.1 Approval Required. It is understood that this Agreement must be, and shall not be effective notwithstanding the date of the signatures of the parties until, approved in writing by the Chairman of the National Indian Gaming Commission pursuant to the IGRA, which exercises the federal government's authority over Indian gaming (the "Governmental Agency").

3.2 Modification and Resubmission After Disapproval. In the event there is a Governmental Agency disapproval but recommendations for modification of the Agreement are made by such Governmental Agency at or about the time of such disapproval, or the parties hereto determine for any reason that the modification of the Agreement may overcome such disapproval, each party will have ninety (90) days after receipt of such disapproval to negotiate with the other party with respect to such modifications and resubmit the Agreement for approval, unless the Governmental Agency designates a shorter period for resubmission, in which case such shorter period shall control. The decision concerning whether or not to agree to such modifications shall not be unreasonably withheld, and such negotiations shall be conducted in good faith with the intent to reach agreement. If a new Agreement cannot be reached between the Tribe and the Manager which is acceptable to the appropriate agencies, then the entire Agreement shall be void from that date.

3.3 No Agreement; Reimbursement of Manager, Tribal Promissory

Notes. In such event, the Tribe specifically agrees to reimburse the Manager for the costs of construction of any building. An amount of \$3,300,000 is the ceiling agreed upon in Section 4.1(a)(1) for development costs for the Project. The parties acknowledge that \$3,300,000 is the maximum amount that will be invested in the project and to maximize financial returns to the tribe, Manager will endeavor to spend less on development. All costs referred to in this section shall be verified by manager and tribe shall have the right to audit the records of manager to verify the costs.

ARTICLE 4.

MANAGER'S RESPONSIBILITIES; CAPITAL; COVENANT

4.1 Manager's Services. As soon as practicable, and subject to the approval of the Tribe, Manager agrees to develop plans for the construction of a facility sufficient to provide the space for a casino of cost, size and scope and finish as agreed upon by the parties. Manager agrees to commence and complete the construction of the Project as soon as reasonably practicable following agreement upon the plans and costs. Within such time after the execution of this Agreement as Manager reasonably determines and throughout the Term of this Agreement, Manager will provide those management services which are reasonable necessary or desirable, to design, construct, market, develop, operate and maintain the Project and the conduct of the Class III Games, together with such capital as may be necessary for the operation of the Project. Manager warrants it will conduct the Project in the best interest

of the Tribe and Manager and to assure the attending public that operations are conducted in a fair, honest and professional manner. Without limiting the foregoing, Manager will use its best efforts to provide, and Tribe shall permit Manager to so provide, such services as may be necessary to implement the above: (The Tribe agrees to provide such assistance and suggestions to the Manager in the furnishing of such services as the manager from time to time may reasonably request);

(a) Project Preparation

(1) Within such time as the Manager determines to be practicable, and subject to the approval of the Tribe, the Manager agrees to select a building site or sites and develop preliminary plans for a casino which will include room for 120 gaming devices, bingo, a restaurant and lounge. (The Manager agrees to commence construction of the Project, according to such plans and specification as are mutually agreeable to the parties within the time reasonably determined by the Manager) and to pursue the completion of such construction with due diligence thereafter. The Tribe shall not be obligated to pay for the cost of the real estate on which the project shall be situated, which shall be contributed by manager at no cost to the Tribe. The parties agree that the maximum (agreed ceiling) development and construction cost of all such construction and equipping of the Project shall not exceed the aggregate sum of \$3,000,000. The Tribe does hereby exempt the Project from the Tribal Employment Rights Ordinance. Manager shall require that all contractors and subcontractors give

preference to hiring qualified Tribal citizens first, and Indians generally second, and then qualified non-Indians for construction of Project facilities and in awarding subcontractors.

(2) Development of an operating budget for a year's operation "Annual Budget", for the fiscal year agreed upon by the parties which shall estimate income, wages and salaries, prizes, utility, insurance and other overhead costs, reasonable reserves for prizes and other items, and Operating Expenses which may be appropriate to best estimate the income and expenses for the coming year. An initial budget for the first year of operation shall be completed within one hundred eighty (180) days after the execution of this Agreement. The Annual Budget shall be revised, if necessary, from time to time as the need may arise and as the parties shall agree, but in any event not less than annually. The manager agrees that all budgets shall have the prior approval of the Tribe before they are implemented.

(b) Project Operation. During the Term of this Agreement, the Manager agrees to:

(1) Operate the Project as the Manager seems best.

(2) Recruit, interview, screen and hire needed employees for the Project and provide all training necessary to assure that the project shall be operated in a professional and competent manner, and manager shall cooperate with Sinte Gleska College in training and hiring employees.

(3) Supervise and direct all procedure and activities necessary for Project operations giving first

consideration on all hired employees to qualified or trainable Native Americans who are members of the Tribe if they are available.

(4) Assist the Tribe in entering into such contracts and making such other plans and arrangements as will be necessary to improve and expand operations of the Project.

(5) Provide for ongoing daily supervision of and direction to Project operations and personnel, including the hiring, training, promotion and discharging of personnel, and maintain and administer comprehensive employment practices.

(6) Supervise and manage the operation of Class II and Class III Games, food and beverage operations and other services and goods provided by the Project, and implement such rules, regulations and procedures, and modifications thereof.

(7) Comply with IGRA, applicable Federal law, the Compact and all laws and ordinances of the Tribe and the rules and regulations of the Tribal Gaming Commission and state law (if and where applicable);

(8) Conduct regular meetings with and report to the Tribe, at least monthly, about the status of the Project operations, matters that may need improvement or change, and resolution of any problems areas.

(9) Supervise and conduct the collection, safeguarding and receipting of all revenues and the prompt deposit of same, which shall be put into the Project's Operating Accounts; make disbursements in payment of Operating Expenses and required

remittances to the Tribe and the Manager; and supervise and administer the bookkeeping and accounting therefore as governed herein.

(10) Hire and supervise adequate safety personal and to assure that the Project is secure and safeguarded at all times to assure the reasonable safety of patrons, personnel, monies and property of the Project, and maintain fire protection services which comply with all applicable safety regulations.

(11) Take all reasonable measures to assure that the Project is managed by Manager's personnel in a professional, orderly, and attractive manner, including the supervision of regular cleaning, painting, decorating, plumbing, and all other ordinary and customary maintenance and repair to the buildings that may be necessary from time to time, and that the Project is operated in good taste and in a professional and businesslike fashion.

(12) Not later than forty-five (45) days prior to the beginning of each fiscal year agreed upon by the parties, an Annual Budget shall be prepared by the Manager and submitted to the Tribe for its approval, which approval shall not be unreasonably withheld. If the Tribe disapproves the Annual Budget or any portion thereof, it shall advise the Manager as soon possible thereafter and the parties shall make every good faith effort to resolve their differences; if they are unable to do so, however, the matter shall be submitted to dispute resolution pursuant to Section 25.10 of this Agreement.

(13) Enter into all contracts for provision of gaming devices, and secure equipment necessary to the operation of the Project during the Term.

(14) Provide all financing as may be necessary or desirable for the operations of the Project and its business, installation of equipment, personal property and fixtures, procurement of supplies, management of operation of the Project, and provide sufficient operating cash to commence and carry on the Project's operations in the manner and on the scale contemplated hereby.

(15) Keep the Project, its buildings, improvements, and Tribal trust land of which they are a part, free and clear of all mechanics and other liens or encumbrances, of whatever kind or nature (other than Manager's Article 9 security interest to secure the purchase of personal property).

(16) To the extent that the parties agree that it is necessary, and beyond the initial construction of Project buildings and other improvements, the Manager agrees to construct, renovate, or add to the Project in a manner so as to comply with the substance county, state or federal building, electrical, plumbing, solid waste and sewage disposal, fire, health and safety codes and all laws relating to the satisfaction of applicable access requirements for handicapped persons. The parties agree that the cost of such construction or renovation beyond the cost of the initial construction and furnishing shall be charged as provided in Article 5 of the Project Agreement.

shall be construed to grant any jurisdiction to any state government, local, city, county or any agency or instrumentality of subdivision of any of the foregoing. Any relevant county or state permits or similar approvals the parties wish to obtain, shall be obtained to the satisfaction of the Tribe's desire for public safety, and conformity with local building codes and requirements, and shall not be sought or obtained unilaterally by the Manager. The Tribe shall have the right, at all times, to have the Project inspected for such compliance, with the cost to be treated as an Operating Expense as defined in Article 6.4(c)(4).

(17) Maintain a current and complete inventory of all Project property, other than real property, including all personal or intangible property. All such inventories shall be available to the Tribe at their request. The Manager and its employees may, from time-to time, have their own personal property on the Project site or in its facilities and shall maintain the right to remove such property.

(18) Perform all other acts necessary to fulfill the goals and comply with the policies and procedures of the Project, and to otherwise satisfy Manager's duties and obligations under this Agreement, including but not limited to those described elsewhere in this Agreement.

(19) Operate the Project a minimum of 14 hours per day, seven days per week. Manager shall determine the exact hours of operation and shall be allowed to operate the Project 24 hours

per day if business justifies such operation.

(20) Advertise the Project in such ways as manager shall deem in the best interest of the Project, and to spend the amount represented in its annual budget on advertising.

(21) Comply with all applicable provisions of the Internal Revenue Code.

(22) Supply the N.I.G.C. with all information necessary for the commission to comply with its regulations issued pursuant to the National Environmental Policy Act.

4.2 Manager's Warranties and Representations. Manager represents and warrants as follows:

(a) Parties-in-Interest; Listing. Exhibit "F" is a list of all Parties in Interest to this Agreement. All parties on this list will be approved, and licensed by the State of South Dakota (if applicable) and the Rosebud Sioux Tribe. Exhibit "F" includes the following:

(1) All of the Manager's management level personnel and corporate officers and directors;

(2) All persons who will be, directly or indirectly, investors in Manager, including all general and limited partners, corporate officers, directors, stockholders, and holders of stock options or warrants;

(3) Those persons who signed this Agreement on behalf of Manager;

(4) The lists in subsections (1) through (3) above, will be updated by Manager on periodic basis, if changes occur, but

not less than annually, so as to always accurately disclose the required information at all times during the Term of this Agreement and all extensions hereof. The initial list of information required by this Section 4.2 (Exhibit "F") is attached hereto. All future lists of information required by this Section 4.2, LSA or the Compact shall be deemed to be supplemental to this Agreement and incorporated by reference.

(b) Parties-in-Interest: Moral Character Manager represents and warrants that it shall use its best efforts to assure that all Parties-in-Interest employees are of good moral character and have never been convicted of any felony, of any other misdemeanor involving moral turpitude or any gaming offense and are and will continue to be eligible to be licensed by the Tribe in accordance with the Compact, the Tribal Ordinance and rules and regulations governing gaming.

(c) Operation of Project in Compliance with Law. Manager shall operate the project in accordance with applicable federal and state laws, including the Internal Revenue Code, the Compact, the Tribal Ordinances, and rules and regulations of the Tribal Gaming Commission authorizing and regulating the conduct of gaming as amended from time-to-time.

4.3 Manager's Warranties.

(a) Inducement and Survival of Representations and Warranties. The representations and warranties of Manager contained in Section 4.2, supra shall be true as of the date of

this Agreement and throughout the Term of this Agreement, and any extensions thereof, shall be deemed to survive execution of this Agreement and shall further be deemed to be material and to have been relied upon by the Tribe in making the decision whether to enter into this Agreement and the transactions contemplated hereby, notwithstanding any investigation or prior knowledge of the Tribe, and are made as an inducement to the tribe to enter into this Agreement, and the parties further acknowledge that but for the representations and warranties of Manager as contained Section 4.2, supra and this Section 4.3 and the absolute truth thereof, the tribe would not have entered into this Agreement. Accordingly, Manager hereby represent and warrants to the Tribe as follows:

(1) Organization and Good Standing. Manager is a Minnesota Corporation and is duly organized, validly existing and in good standing under the laws of the States of Minnesota and duly qualified to do business in South Dakota with full power and authority to conduct its business as presently conducted and to own and operate the assets and properties now owned and operated by it and to conduct all transactions and activities contemplated hereby. At the date of all required approvals of this Agreement and throughout the Term hereof management will possess all authorizations, charters, licenses, registrations, consents, and franchises necessary or required by law to carry on the activities in which Manager is presently engaged and the activities and transactions contemplated hereby.

(2) Compliance with Laws; Authorization and

Permits. Manager in the conduct of its business and transactions and activities contemplated hereby, and its use and occupancy of its assets and properties where located will be in all material respects in compliance with all licenses, permits, charters, and ~~and~~ and Manager is not aware of any claim or notice that such conduct, use, or occupancy is not or has not been in compliance with any, use, applicable laws, authorizations, codes and ordinances, orders, rules and regulations, insofar as any case of non-compliance, singly or in the aggregate, could result in any material adverse effect upon the operations of Manager and the conduct of the activities and transactions contemplated hereby or cause any of its operations to be suspended or terminated. Without limiting the generality of the foregoing, Manager's conduct of its business, activities and transactions contemplated hereby and occupancy and use of assets and properties is, and will be, in compliance with all applicable laws, authorizations, rules and regulations for the conduct of its business and transactions and activities contemplated hereby, by any governmental authority, agency, commission, subdivision or body having jurisdiction over the transactions and activities contemplated hereby.

(3) Governmental Licenses: Consents,
Registrations, franchises, Etc. Manager will have all governmental licenses, charters, consents, registration, franchises, permits, and other authorizations which are material in connection with the conduct of its business and the activities and transactions contemplated hereby and has complied or will comply in

all material aspects with the terms thereof and such licenses, consents, registrations, franchises, permits, and other authorizations are, and will continue throughout the Term of this Agreement and any extensions hereof, shall be valid and sufficient for such ownership and conduct of its business, and the activities and transactions contemplated hereby and are, and will, during the term hereof be unimpaired, and in full force and effect and Manager has received no written notice that any such license, charter, registration, franchise, permit or other authorization is not valid or sufficient or is impaired in any manner or is not in full force and effect and Manager has received no written notice that any such license, charter, registration, franchise, permit or other authorization is not valid or sufficient or is impaired in any manner or is not in full force and effect. As of the date of execution of this Agreement, Manager has filed and throughout the Term hereof will continue to file all applicable reports, returns and filing information or data with and pay the applicable taxes, fees, or assessments of all state, tribal and federal authorities and regulatory agencies, including the National Indian Gaming Commission and the Tribal Gaming Commission as required by applicable law, rule or regulation. All such taxes, fees or assessments, as they relate to Project operations, except the initial \$100,000 fee to the tribe shall be Operating Expenses as defined in Article 6.4(c)(4).

(4) Authority of Manager. Manager has full power and lawful authority to execute and deliver this Agreement and to

consummate and perform the transactions and activities contemplated hereby in the manner herein provided. The execution and delivery of this Agreement by Manager and the consummation and performance of the transactions and activities contemplated hereby in the manner herein provided have been duly and validly authorized by all necessary action of Manager, (including approval of its Board of Directors), and this Agreement, assuming due execution by the Tribe and subsequent approval of the Governmental Agency and its rules and, when executed delivered, and approved by the Governmental Agency, will constitute legal, valid, and binding obligations of Manager enforceable against it and in accordance with the term hereof.

(5) Effect of Agreement on Manager. Neither the execution, nor the delivery of this Agreement by Manager nor the consummation or performance of the transactions contemplated hereby in the manner herein provided conflicts, or will conflict, with or result, or will result, in the breach of or violation of any term or provisions of, constitutes, or will constitute, a default under, causes, or will cause, or otherwise impairs, or will impair, the good standing, validity or effectiveness of, the Corporate Charter of Manager in effect on the date hereof, (ii) any agreement or instrument to which Manager on the date hereof, is a party to or by which it or its assets or properties is bound, or (iii) any law, judgment, referendum or understanding, order, writ, injunction, rule regulation, decree or award in effect on the date hereof of any court, arbitrator, governmental agency, commission or body.

(6) Manager's Abilities. Manager has the

experience and present ability to obtain such financing as may be necessary or desirable for the operation of the Project and the full, faithful and complete performance of all of Manager's obligations hereunder and all activities contemplated hereby and that it will fulfill its obligations under this Agreement and that it will provide a sufficient Operating Expense Reserve to commence and carry on operations of the Project in the manner and on the scale contemplated hereby, and

(7) Property Free of Liens. Throughout the Term of this Agreement, Manager will keep the Project, its buildings, assets, personal property, fixtures, and the Tribal trust land of which they are a part, free and clear of all mechanic's liens and other liens and encumbrances or whatever kind or nature, whether imposed voluntarily, involuntarily, or by operation of law provided, however, that the parties agree that Manager shall have the right to use project assets, other than real property, to secure loans made for project construction, and the Tribe hereby grants an Article 9 security interest for all personal property, the expenditures for which is treated as a Property Purchase Expense and preapproved lease/purchase or finance contracts. Nothing in this section authorizes any encumbrance or lien whatsoever on any real property owned by the Tribe.

ARTICLE 5.

TRIBE TO HAVE SOLE PROPRIETARY INTEREST, LIENS

The parties acknowledge and agree that the Tribe has and will continue to have the sole proprietary interest in the Project (including but not limited to all construction accomplished thereon by the Manager) and all other real and personal property of the Project.

The parties understand, however, that the Manager will be required to construct certain facilities and purchase or lease certain furniture, fixtures, equipment, gaming devices and other items which while owned by the Tribe, shall be paid for by the Project to the Manager over the Term of the Agreement as provided in Article 6.4(c)(7) of this Agreement. All property shall be owned by the Tribe free of all liens if fully paid for. If not fully paid for, the provisions of Article 6.4(c)(7) shall govern. Notwithstanding the foregoing, all property including building components purchased on lease/purchase agreements, or on a conditional sales basis, shall be paid for, and expended to the project on such terms as shall be required by the source of the financing.

In the event that any property, the cost of which is treated as part of the Property Purchase Expense, is repossessed by a creditor or vendor, the total Property Purchase Expense for that item shall be reduced by the unpaid balance of such purchase price.

ARTICLE 6.

OPERATIONS

6.1 Employees.

(a) All management and other employees of the Manager will be supervised, disciplined, promoted and discharged on a day-to-day basis by the Manager. Any general manager hired by the Manager shall be approved in advance by the Tribe. Manager recognizes that an important purpose of the Project is to provide training and employment opportunities and in accordance herewith shall give preference in employment and training first to available, qualified or trainable members, of the tribe, then to other available, qualified or trainable members of other Tribes, then to other available, qualified or trainable Native Americans, and then other available qualified or trainable persons who reside in the area, including opportunities to participate in the Project at the management level and to advance such persons whenever possible and practicable to do so in accordance with these preferences. Manager shall place special emphasis on the recruiting, training and employment of Tribal members. Manager shall take all steps reasonably necessary to implement the foregoing, consistent with the terms of this Agreement and the requirements of law. One of the primary inducements for the Tribe to enter into this Agreement is the employment of its members and training them in management skills for all management positions to operate the Project for its own account at the end of the Term, or any renewal thereof, as the case may be, should it elect to do so.

(b) All employees hired by the Manager shall be of good moral character and shall, as a condition of their employment, be eligible for and receive and maintain in good standing an appropriate license from the Tribal Gaming Commission and shall be required to submit to any lawful means of testing, background examination and licensing as required by Ordinance or other law, including but not limited to testing in connection with the handling collection or disbursement of money or the like. Refusal to submit to such testing may, to the extent permitted by law, be grounds for termination. Employees shall also agree to follow all ordinances, laws and rules of the Tribe and the conditions of any licenses issued by Tribe, its agencies or instrumentalities, or any of its citizens, or upon Manager or its shareholders, officers, directors, agents or employees.

(c) To the extent not otherwise specified in this Agreement, all personnel who handle or have any contact with Project monies or proceeds shall, as a condition of employment be eligible for and be bonded in amounts to be mutually approved by the Tribe and Manager, which approvals shall not be unreasonably withheld, unless such bonding is impossible or economically prohibitive to obtain.

(d) Manager shall employ and engage such security personnel as may reasonably necessary to insure the reasonable safety and security of the Project and its guests and employees and of the monies incident to managing and operating the same at all times.

(e) All employees performing services in connection with the Project shall be employees of Manager and not the Tribe, and hired "at-will" unless otherwise specifically set forth to the contrary in writing.

(f) The parties agree that the manager shall have one hundred eighty (180) days from the execution of this Agreement within which to create written personnel policies covering employee fringe benefits, vacations and grounds for termination of employment. Such policies shall be subject to approval by the Tribe.

(g) Employee Grievance Procedure. Employees will be encouraged to first discuss all disputes with their supervisor. If that fails the employee can take the matter to the department head and then to the Human Resource Manager. If none of these steps resolve the matter the employee can request a hearing with the General Manager. Any employee who has completed 90 calendar days of employment and feels that they have been unfairly or unjustly terminated or suspended can appeal to a five member grievance committee made up of an employee from the same department, an employee from another department, a management representative from a department other than that of the aggrieved employee, the employee relations manager and the human resources manager. Decisions of the grievance committee are final and cannot be appealed or reviewed.

6.2 Implementation of Annual Budget. Manager shall implement the most recent Annual Budget approved by the Tribe in accordance

with this Agreement and Manager shall be authorized, without the need for further approval by the Tribe, to supervise Project personnel in making the specified expenditures for specified obligations provided for in the Annual Budget. Manager shall not vary Operating Expenses in excess of ten percent (10%) of the total amount thereof in any Annual Budget approved by the Tribe without first providing a suitable written explanation therefore. Manager shall notify the Tribe of gaming program changes at the monthly meetings.

6.3 Approval and Implementation of Project Policies. Tribe and Manager agree that the Project shall be operated in accordance with the Tribe's Ordinances, rules and regulations of the Tribal Gaming Commissions and account procedures.

6.4 Collection, Monitoring, Handling and Payment of Proceeds.

(a) Collection and Banking. Manager shall collect and receipt for all "Gross Receipts" (defined hereinbelow), and the payment therefrom of the amounts hereinafter provided. All Gross Receipts shall be deposited into the Operating Accounts as provided below. Such Operation Accounts shall be located in any bank or banks mutually agreeable to the parties. The Tribe shall have the irrevocable right to participate as an observer in the performance of such functions of the manager including video and audio surveillance.

(b) Monitoring of Gross Receipts, Game Materials and Bank Deposits. The Manager shall submit to the Tribe for approval all procedures to be used for monitoring "Gross Receipts", game

materials and bank deposits. After such approval if the Manager wishes any changes in such procedures in the future, it agrees to submit the changes to the Tribe for approval and not to implement any such changes until the Tribe has approved them. The Tribe shall have access to all procedures at any reasonable time.

(c) Expenses and profits.

(1) As used in this Agreement, the term "profits" is intended for accounting and convenience purposes only, and shall not be construed to alter the tax-exempt and sovereign political entity status of the Tribe.

(2) "Gross Receipts" means all monies actually received in connection with the project, including, but not limited to admission fees, table fees, lease fees, rentals, net income from wagers placed on Class III Games, routing receipts and sales of any other non-gaming product (including sales of souvenirs, food, beverages, candy and cigarettes and other revenues) in connection with the Project, refunds, rebates received from third parties and the like, and parking fees, if any. Gross revenues from Class II gaming and Class III gaming, and gross revenues from all non-gaming activity shall be accounted for separately.

(3) "Net Profits" means the excess, if any, of gaming revenues and gross revenues from all non-gaming sources (Gross Receipts) over "Operation Expenses" as defined in subsection 6.4(c) (4) below, or other items identified as Operating Expenses in other places in this Agreement. The Manager's Fee and Tribe's share (As defined below in subsection 6.5(b)) shall not be deemed

an Operating Expense for the purpose of determining the Net Profit.

(4) "Operating Expenses" shall mean all sums required for the maintenance and operation of the project, including but not limited to the following:

- A. Utilities;
- B. Insurance and Bonds;
- C. Heating and air conditioning;
- D. Cleaning and maintenance;
- E. Payroll, including taxes, insurance, employee benefits, etc.;
- F. Purchase of inventory and supplies;
- G. Maintenance and repair of the Building;
- H. Advertising, marketing and promotional expenses, including but not limited to cost of busing or other customer transportation;
- I. Prizes;
- J. Professional fees and costs, including legal and accounting expenses; provided, however, that no legal or other professional expenses relation to a dispute between the parties shall be an Operation Expense;
- K. Training costs;
- L. Security services;
- M. Travel expenses and lodging;

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- P. Lease payments.
- Q. Taxes, fees or assessments imposed on the Project under the Compact, Tribal law, and rules or regulation of the Tribal Gaming commission, IGRA, Tribal Ordinance, or applicable law.
- T. Inspection Fees as provided in Article 4.1(b) (16).
- U. Taxes, Fees or Assessments as provided in Article 4.3(a) (3).
- X. Costs of arbitration as provided in Article 24.9.
- Y. Actual interest expense incurred by the Project, including interest on start-up cost, Manager's Capital (any investment by Manager that is not a project debt) and Property Purchase Expense (cost of buildings and real estate improvements paid by Manager except for real estate acquisition), calculated at 10% per year payable monthly over 60 months unless the interest rates or financing/lease requirements are altered by the terms of the financing, and then shall be paid in

(5) There shall be an "operation Expense Reserve". The Manager agrees to contribute to such sum as the Manager in its discretion determines to be necessary to provide initial funding for such reserve. The parties agree that such initial contribution shall remain the property of the manager. The Manager shall be entitled to repay itself for such initial contribution at such time as the Manager determines to be feasible without jeopardizing the financial stability of the operation of the Project. In addition, the Manager agrees to make monthly contributions from Gross Receipts to such reserve from time to time as the Manager determines to be necessary to accumulate funds in such reserve in an amount reasonably required to provide financial stability to the Project. The contributions from Gross Receipts to such reserve shall be a part of the Annual Budget. Such reserve shall be used for project expenses such as, but not limited to, prize money, maintenance, contingent liabilities, taxes and assessments to the extent applicable, insurance, other future expenses and working capital.

(6) Capital improvements to the Project building, including but not limited to major repairs or replacement of the heating, air conditioning, plumbing, roof, exterior walls or structural building components, drainage or the like shall be made up to an amount to be agreed upon by the parties, which sum(s) shall be set aside into a reserve for future capital improvements (the "Capital Improvement Reserve") at the rate of three per cent (3%) per month with a cap of \$100,000. In the event that capital

improvements as described in this subsection (6), to any Project building exceed the budgeted amount of \$100,000 which fact must be approved in advance by the Tribe then such amount in excess thereof shall be deemed Capital Expenditures and shall, if the useful life of such Capital Expenditures as determined by GAAP exceeds the length of the Term, be paid for by the Tribe and treated as Tribe's Capital amortized as an operation Expense over the useful life. Capital Expenditures by the Tribe may be financed from the Tribe's Share or other sources, including loans from Manager repaid from monies due the Tribe under this Agreement as the parties shall mutually agree. In the event that the useful life of the Capital Expenditure as determined by GAAP does not exceed the length of the Term, the cost thereof shall be paid out of cash flow as an operating expense and amortized over the Term or useful life, whichever is shorter.

(7) For purposes of repaying the loan on the casino building and capital improvements related thereto, the parties agree as follows: (a) To the extent depreciation based on the useful life of the building is an allowable expense for GAAP purposes, an amount equal to depreciation charged as an expense item shall be paid out of gross revenues on a monthly basis for the retirement of the building loan. (b) The balance of the building loan will not be paid out of gross revenues, but will be paid after the split of net revenues, 65% by Tribe and 35% by Manager.

6.5 Exclusive Rights Fee, Management Fee and Tribe's Share.

(a) Exclusive Rights Fee to Tribe. In consideration of the Tribe's Agreement, NIGC Approval of said Agreement, and an approved compact, and all other approvals that might be necessary under the IGRA and regulations adopted pursuant thereto Manager will deposit the sum of \$100,000 in the following amounts:

- a. \$100,000 - Exclusive Rights fee including 120 gaming devices.
- b. \$100,000 - Annual Gaming License fee.

In the event the Tribe obtains authorization for additional devices within two years from the opening date of the casino, Tribe shall grant manager the exclusive right to said devices. In consideration thereof, manager shall pay Tribe an exclusive rights fee of \$1,000 per device for up to 300 devices.

In the event additional devices become available to Tribe during the final three year term of casino operations, Tribe shall grant manager the exclusive rights to said devices for up to 300 devices. In consideration thereof, the amount payable to the Tribe will be \$600 per device, during the third year and \$400 per device during the fourth year of operations. During the fifth year, the parties will negotiate an exclusive rights fee, taking into consideration