

the months remaining, availability of devices, and the practicality of whether they can be economically feasible after consideration of factors such as time delays in obtaining devices, installation costs, and the economic impact on both the Tribe and manager.

No funds shall be disbursed until the following conditions have been fulfilled:

1. The manager has received formal approval from all authorities of the State of South Dakota and the Tribe which are reasonably required to approve the Manager to conduct the management of the Project.

2. This contract is formally approved by all United States government agencies whose approval is reasonably necessary to permit the conduct of gaming pursuant to this contract, including but not limited to the Bureau of Indian Affairs, the National Indian Gaming Commission under IGRA and any other United States governmental agencies whose approval is reasonably required.

3. 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, attached as Exhibit "B".

4. The Tribal Gaming Commission appointed pursuant to the terms of the Compact and the State of South Dakota shall have issued all licenses, certificates and approvals to the Manager to permit it to perform the terms of this Agreement, as required by the Compact.

5. Issuance of Licenses by the State of South Dakota 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.

(b) Manager's Fee, Tribe's Share and Guarantee. Manager shall receive as compensation for services rendered hereunder, thirty-five (35%) percent of the net profits (Manager's Fee). The remaining net profits, I.E. sixty-five (65%) percent shall be the Tribe's share of net profits, provided that the Tribe's share of the profits shall never be less than Twelve Thousand (\$12,000.00) dollars per month (the Guarantee).

In the event that there is insufficient net profits to guarantee the Tribe the sum of Twelve Thousand Dollars (\$12,000) for any month, the Manager shall be required to provide revenue to make the whole payment or any shortage necessary to equal that sum. Manager shall be reimbursed for any revenues provided to satisfy the guarantee from the Tribe's net revenues of any following months provided that the Tribe has been paid its guarantee of Twelve Thousand Dollars (\$12,000) for each of said subsequent months.

(c) Computation and Payment of Project Proceeds to Manager and Tribe; Priorities. Monthly pro forma reports shall be made available to the Tribe. All Net Profits shall be calculated on a monthly basis (within 45 days after the 1st month of operation) based upon the accrual method of accounting. The Tribe's Share and Manager's Fee shall, to the extent available, be paid simultaneously each month from Project funds, except as stated

above, such payments to be calculated and made as follows:

(1) Not more than forty five (45) days after the end of each calendar month Manager will prepare and submit to the Tribe a statement estimating, on the basis of the books and records of the Project and actual data collected, the Net Profits, if any, or operating losses for the preceding month. Said statement shall itemize the Gross Receipts and Operating Expenses. The effect of said statement shall be to allocate the operating expenses and net profit 65% to the Tribe and 35% to the manager. One hundred percent (100%) of the Net Profits so determined will be used as the basis for paying, if applicable, concurrently with the rendition of such statement, and in the following order of priority:

(i) The Guarantee;

(ii) Then, (simultaneously) the Tribe's capital (every investment by the Tribe that is not a project debt) and the Manager's Capital (any investment by Manager that is not a project debt) pro rata as amortized on a monthly basis over a period of 60 months pursuant to the terms of this agreement;

(iii) All other principal payments, note payments, amortization of start up costs, and all other project costs incurred by manager and not recovered

elsewhere in this agreement.

(iv) Then (simultaneously) Manager's Fee
and Tribe's Share.

The parties agree that, pursuant to any of the audits, adjustments may be required to payments made on the above-described basis. If so, such adjustments shall be made within sixty (60) days after completion of such audit for the period covered by said audit.

6.6 Compliance With Laws. Manager and Tribe mutually covenant and agree that they shall use their best efforts to comply with, and assure that the project is in compliance with the Compact and requirements imposed thereby, all laws of the United States, and any Tribal Ordinances, rules, or regulations and rules and regulations of the Tribal Gaming Commission applicable to the Operation of the Project as amended from time-to-time, all of which are incorporated herein by reference. The Tribal Gaming Ordinances, rules and regulations of the Tribal Gaming Commissions are attached hereto as Exhibit "B".

6.7 Books and Records. The Manager shall maintain full and accurate original Project books and records, files, receipts, contracts, correspondence, memoranda, inventory records, supporting documentation for all expenses and disbursements, and all other business books, books of account of records normally maintained by a prudent businessman. The Tribe and Manager shall at all times and for four (4) years following the Term, or any extensions, have complete access to said books and records, including the right to

inspect, photocopy and examine such records.

6.8. Accounting and Audits. Monthly statements of all Gross Receipts, Operating Expenses, Net Profits, Manager's Fees, Tribe's Share, and other amounts collected and received and all deductions and disbursements made therefrom, and all assets and liabilities of the Project (the "Monthly Statements"), shall be accurately issued in reasonable detail by manager.

The Manager shall establish an accounting system and procedures which shall at all times be in place which shall, at a minimum: (1) Include an adequate system of internal accounting controls (2) Permit the preparation of financial statements in accordance with generally accepted accounting principles (3) Be susceptible to audit, and (4) Allow a Class II operation, the Tribe, and the National Indian Gaming Commission to calculate the annual fee under 25 CFR 514.1 (5) Permit the calculation and payment of the manager's fee, and (6) Provide for the allocation of operating expenses or overhead expenses among the Tribe, the Tribal gaming operation, the contractor, and any other user of shared facilities and services.

The manager shall provide the Tribe with immediate access to the gaming operation, including its books and records, by those who the Tribe designates in writing, which persons shall have the right to verify the daily gross revenues and income from the gaming operation and access to any other gaming-related information the Tribe deems appropriate.

The Monthly Statements shall be issued to Manager and Tribe on

or before forty-five (45) days following the month of reporting. The Tribe shall select a certified public accounting firm to perform an audit of books, records, and internal controls of the Project, at least once each fiscal year, and to certify the accuracy of the monthly statement issued hereunder and give opinion thereon to Manager and Tribe. All such audits shall be conducted pursuant to the AICPA standards for audits of business when applicable. The expense of those audits shall be an Operating Expense. The Tribe may also conduct its own independent audit of the Project's books and records at any reasonable time, at the Tribe's sole cost and expense, provided such audit is conducted in accordance with reasonable accounting practices and by persons qualified to perform such audits.

6.9 Insurance. The parties agree that the Manager shall secure and maintain;

(a) Public liability and property damage insurance in the amount of at least \$1,000,000 per person and \$3,000,000 per occurrence, protecting against any claim arising out of an occurrence taking place or act or omission during the Term of the policy, regardless of whether the claim is made during such Term of thereafter;

(b) Sufficient insurance to keep the buildings, improvements and contents thereof insured for their full replacement value against loss or damage by fire, with such extended coverage endorsements as determined by Tribe and Manager and

(c) Business interruption insurance in an amount to be agreed upon by Tribe and Manager, when and if available and if obtainable at a reasonable cost.

(d) Any bonding that shall otherwise be required under this agreement.

Manager and Tribe shall each be named as insured in all policies and Manager shall supply to the Tribe written evidence satisfactory to the Tribe of such insurance coverage. All insurance policies shall provide that the Tribe reserves unto itself the sole and absolute right to waive its sovereign immunity from suit (with the consent of the United States, if necessary) in any amount should it wish to do so for any reason whatsoever or for no reason. The Tribe must receive notices of alteration, termination or cancellation of any policy or coverage by certified mail not less than thirty (30) days prior to such alteration, termination or cancellation. Manager will promptly notify Tribe in connection with any matter related to the Project, and Tribe shall do likewise as to Manager.

5.10 Destruction, Replacement of Premises: Use of Insurance Proceeds. In the event of any destruction of a Project building or other catastrophic event causing interruption of the Project, any available insurance proceeds must be utilized to rebuild or repair the building and recommence Project operations hereunder unless mutually agreed otherwise. The term of this Agreement shall be suspended upon such destruction or interruption for each day until the Project recommences operation. Reconstruction shall begin or

recommencement shall occur within ninety (90) days after destruction or interruption. In the case of reconstruction, it shall proceed promptly and the Project shall commence operations as soon as reasonably possible after completion. In the event that the Project is terminated in accordance herewith, this Agreement shall be terminated and the Term shall come to an end, notwithstanding anything herein to the contrary.

6.11 Disputes with Patrons. Patrons must be advised when they have a dispute that they have the right to the presence of a member or agent of the Tribal Gaming Commission. If the dispute involves more than \$250.00 manager shall notify the Gaming Commission Director. The dispute will be resolved by the Gaming Commission within 30 days after it receives notice of the dispute.

ARTICLE 7.

COVENANTS OF THE TRIBE

7.1 Additional Covenants. In addition to any other obligations which may be contained in this agreement, Tribe hereby covenants and agrees as follows:

(a) The Tribe shall act in good faith and take all necessary steps and execute, ratify and endorse all documents, contracts and agreements required of it pursuant to the provisions of this agreement, and shall not unreasonably withhold its approval of any act or thing for which such approval may be required hereby.

(b) the Tribe shall indemnify, and hold manager harmless from and against any cost, expense or damage incurred by or claimed against Manager as a result of the willful, or intentional tortious

act by the Tribe.

(c) Tribe agrees to perform necessary acts and duties in order to expedite Governmental Agency approval of this Agreement and compliance with the National Environmental Policy Act to the extent applicable. Any expenses incurred by the Tribe or Manager in connection therewith shall be considered Operating Expenses.

(d) Tribe shall maintain Tribal government operations and be solely responsible for disseminating information concerning the project to its members. This does not prohibit advertising by the manager.

(e) For all purposes under this Agreement, the Tribe shall be represented by the Tribal Council. The Manager shall be entitled to rely upon any decision or representation made by the council. Any action or inaction required or permitted of the Tribe hereunder shall be taken only by council meeting in official session. All actions of the council shall be reviewed at monthly meetings.

(f) The Tribe will cooperate with Manager in all efforts necessary to fulfill its duties herein and to ensure that the project is operated, and Manager's duties are performed, in compliance with the Compact, applicable laws, ordinances, rules and regulations. Manager shall comply at all times with all Tribal Ordinances, law rules and regulations and rules, regulations and procedures of the Tribal Gaming Commission including those governing gaming and in effect from time to time. Tribe shall not be required to take any action which will violate its sovereignty

or right to self government unless expressly provided herein. The Tribe warrants that it will not change its laws, rules and regulations regarding Class III Gaming authorized under this Agreement to be managed by Manager in any way that would cause unnecessary material injury to the Project or change the terms of this Agreement, unless such changes are required to be made by the Compact or applicable Federal Laws, rules or regulations. In which event Manager may terminate this Agreement within Thirty (30) days of the change in such law, rule or regulation by giving notice to the Tribe of its intent to terminate the Agreement, pursuant to this subsection, but no such notice of termination shall be effective until thirty (30) days following receipt by the Tribe. Any such termination shall be governed by Articles 10 and 11. Within ten (10) days of any changes in Tribal Laws, rules and regulations regarding any aspect of gaming of this Project, the Tribe shall cause copies to be served upon Manager in accordance with Article 22 herein.

(g) the Tribe agrees to deliver to the Manager a copy of any written notice received by the Tribe from the State of South Dakota, given under the Compact, within five (5) days after receipt of such notice by the Tribe.

(h) The Tribe warrants and represents that it will not levy any fee, charge or assessment, of any kind or nature, for which the economic incidence falls upon the Manager or the Project which is not explicitly authorized by this Agreement, and in the event that the Tribe breaches this warranty, then such charges shall be paid

solely out of the Tribe's share of net profits, and if such charges exceed Tribe's share, Manager may pursue any remedy under this contract, at law, or in equity. This does not prohibit raising or lowering existing taxes for such items as sales, cigarettes, excise and taxes of a similar nature.

7.2 Changes in Applicable Law. It is the present understanding and intention of the parties hereto that the Project contemplated hereby does conform, and will conform in all respects with the Compact and all applicable Tribal and Federal laws. In the event this Agreement or the Project is determined to be unlawful by Congress, the Department of the Interior, the Bureau of Indian Affairs, or the National Indian Gaming Commission, the Chairman thereof, or a court of competent jurisdiction; the parties shall employ their best efforts to modify this Agreement to bring it into compliance with applicable law, including the consideration of different types of businesses which can be conducted at the Project, both gaming and non-gaming. The parties acknowledge that changes in applicable law may necessitate changes to this Agreement to reflect economic reality and the parties agree to negotiate in good faith to reach agreement.

ARTICLE 8.

COMPLAINTS AND REPORTS

Manager shall carefully review any written complaint received

from Tribe relating to any aspect of the Project or its operations and promptly take such action as may be reasonably appropriate to resolve Tribal concerns regarding such complaint, so long as Manager shall not be required to take any action which would be commercially unreasonable or materially injurious to the Project or its business. This section does not restrict the power of the Tribal Gaming Commission Acting pursuant to its ordinance.

ARTICLE 9

DEFAULT AND TERMINATION

9.1 Termination for Breach by Manager. All duties, covenants, representations, warranties and agreements contained in this Agreement are declared to be material conditions to this Agreement. Should Manager default in the performance of any duty, covenant, representation, warranty, condition or agreement contained in this Agreement and the default is not cured after notice as provided in Section 9.7 tribe may proceed as provided in Section 9.7 and Article 10. This section does not restrict the power of the Tribal Gaming Commission Acting pursuant to its ordinance.

9.2 Insolvency of Manager. Manager shall notify the Tribe within fifteen (15) days following the time Manager becomes insolvent with the meaning of 11 U.S.C. "101(31)". Should Manager become insolvent, Tribe may, by giving fifteen (15) days written notice to Manager or to the person Appointed to manage Manager's affairs at the address for such appearing in the official records of the court that appointed him, terminate this Agreement. For purposes of this section 9.2, Manager shall be conclusively

presumed to have become insolvent if Manager can no longer perform its financial obligations hereunder, or;

(a) Has filed for relief under title 11 of the United States Code or has suffered the filing of an involuntary petition under Title 11 which is not dismissed within one (1) year after filing;

(b) Has a receiver appointed to take possession of all or substantially all of Manager's property; or

(c) Has suffered an assignment for the benefit of creditors.

9.3 Termination for Crime. Should Manager or any of its officers, or general manager, by trial court judgement in a State or Federal or Tribal court of competent jurisdiction be found guilty of theft or embezzlement of Project funds or property, then Tribe may terminate this Agreement and forfeit Manager's interest herein. It is expressly agreed that in the event an employee of Manager (other than Manager's general manager or partners) is found by such final judgement guilty of theft, embezzlement, or any crime involving gaming, it shall not be grounds for termination of this Agreement, provided, however, Manager shall submit a claim for such loss to Project's insurance company to obtain reimbursement to the Project of any funds lost thereby.

9.4 Termination for Interference with Tribal Governmental Affairs. The Tribe may terminate this Agreement in accordance with this Section 9.4 if Manager has interfered with, attempts or has attempted to influence in any manner, the internal and governing

affairs of the Tribe, its government, officers, members or the decisions of its government or any agency or instrumentality thereof. The Tribe will keep detailed records of all such matters so that it may determine if repeated instances of such conduct have occurred, which records will delineate each instance as to person involved, time and place of the instance, and the exact nature of the conduct regarded by the Tribe as willful interference or attempted interference and shall notify Manager of such instance, in writing, within fifteen (15) days of discovery thereof by Tribal Council. Such notice shall contain the complete detailed records of the instance. If so notified, Manager will take such steps as are necessary to inform, instruct, and prohibit its employees from further such actions, and shall notify the Tribe, in writing, of all actions taken. If, in the judgement of the Tribe, Manager has taken the necessary steps to mitigate the impact of the instance, the instance will be removed from the record by a notation on the Tribal records signed by Manager's and Tribe's designated representatives. No attempt to comply with this Agreement or reasonable attempt to obtain the Tribe's consent hereunder or participation by Tribal members who are Project employees or Managers in the governmental processes of the Tribe shall be deemed to be in violation of this section.

9.5 Mutual Agreement. This Agreement may be terminated by mutual agreement of Tribe and Manager

9.6 Waiver of Breach. Any waiver by the Tribe of any breach of any provision of this Agreement by Manager must be in writing

and shall be executed by the Tribe or its duly authorized representative to be in effect. Any such written waiver shall be effective only for the particular breach and for the specific period provided in the terms of the written waiver. Such written waiver shall not waive any additional breach of a different provision of this Agreement.

9.7 Notice of Default. In the event that either party believes that there has been a default or other breach of the provisions of this Agreement, it shall give the other party written notice stating with particularity, the specific nature of the default and the provisions of this Agreement alleged to have been breached. The party claimed to be in default shall have thirty (30) days thereafter to cure the default, provided that if it is not possible to cure the default within (30) days, the party claimed to be in default shall give notice to the other party of the period that it will take to cure the default with assurances to the non-defaulting party that the alleged defaulting party has the ability to cure the default within such period. If the default is not cured or if reasonable action is not taken within thirty (30) days thereafter by the defaulting party, the other party may elect to exercise its right to either terminate this Agreement and, in addition to termination or in lieu thereof, to proceed to arbitration as specified herein.

ARTICLE 10

EFFECT OF TERMINATION

10.1 Termination and Reservation of Certain Rights and

Obligations. Termination of this Agreement for any reason shall terminate all rights and obligations of the parties hereunder except as specifically provided otherwise in this Agreement, provided however, that unless specifically provided herein to the contrary, termination shall not affect any warranties or indemnities of the parties to each other, nor shall termination discharge, release or prejudice the rights, remedies, or liabilities of either party from, to or against the other with respect to any default under this Agreement or as to any rights, duties or obligations with respect to termination. Notwithstanding anything herein to the contrary, except as provided in Articles 11, 22 and 27, upon termination, the Tribe may operate gaming for its own account or through a management contractor without any obligations or liability to Manager.

10.2 Duty to Render Final Accounting. Upon termination, the Project Accountant shall render and deliver to the parties a final and accurate accounting of Project operations.

ARTICLE 11

PAYMENTS DUE UPON TERMINATION; PRIORITIES

11.1 Payments From Project Funds. Upon termination, all outstanding Operating Expenses and other Project costs, except the initial \$100,000 signing fee and cost of land and liabilities shall be paid from the Operating Accounts, any reserve accounts and any other Project funds then on hand, including casualty, condemnation, and business interruption insurance proceeds, reserve accounts and other Project funds, except that liabilities covered by Project

insurance shall be satisfied from the proceeds of such insurance. Subject to any other priority imposed by law, Operating Expenses and other Project costs and liabilities shall be paid and discharged upon termination in the following order:

(a) All amounts due to the Internal Revenue Service (and State Revenue Department, if any) in connection with payroll and other taxes;

(b) All other amounts payable to any federal, state or other non-Indian taxing agency;

(c) All amounts payable in connection with the Project and due to the National Indian Gaming Commission;

(d) All Operating Expenses and other amounts owing to Projects creditors;

(e) Any amounts due to the Manager for contributions to the Operating Expense Reserve that have not been repaid as provided in Section 6.4(c) (5);

(f) All Operating Expenses and other amounts owing to Tribe and Manager, other than Manager's Fee or Tribe's Share; and

(g) All Manager's Fees and Tribes Share remaining to be paid under this agreement, to be paid without preference or priority as between Tribe and Manager.

11.2 Payments from Tribal Funds Generated By The Project.

(a) Since the Tribe has the sole proprietary interest in the Project under Article 5, if the termination of this Agreement occurs for any reason prior to the end of the Term, all costs except the cost of the land and the initial \$100,000 signing fee,

which were incurred by Manager in the performance of this Agreement, and which have not been repaid as provided in Article 6.4(c)(7) shall be repaid to Manager as mutually agreed upon between the parties not to exceed 65% nor less than 35% of the Tribe's share of net profit derived from the Project in the future.

(b) If the Tribe attempts to terminate this contract for any reason not caused by Manager and caused by the Tribe prior to the expiration of the Term, Manager's remedy is to seek an injunction in the appropriate court to prevent termination. This does not prevent the parties from attempting to negotiate a buyout on terms mutually agreed upon. If such terms cannot be agreed upon, equitable relief by way of injunctive relief shall be the sole remedy.

(c) The parties agree that if this Agreement is terminated by any governmental agency or entity other than the Tribe without the fault of the Tribe during the term, that the only monetary payments due the Manager shall be the sums due the Manager under 6.4(c)(7) for property purchase expense, not including the cost of the land and the initial \$100,000 signing fee. The amounts shall be paid as mutually agreed upon not to exceed 65% nor less than 35% of the Tribe's share of the net profits derived from the Project in the future.

Nothing contained in this Article 11.2 shall require the Tribe to pay the Manager the Property Purchase Expense more than once.

ARTICLE 12.

MANAGER'S ACCESS TO BOOKS AND RECORDS AFTER TERMINATION

After termination of this Agreement prior to expiration of the Term or any extension, and for four (4) years thereafter, Manager shall have access, at reasonable times and places during ordinary business hours, to inspect and copy the books and records of the Project for all periods prior to termination, upon arrangement for such copying or inspection.

ARTICLE 13.

CONDITION PRECEDENT TO VALIDITY AND ENFORCE OF AGREEMENT

This Agreement, and except as otherwise specifically provided to the contrary, the obligations of Manager and the Tribe described herein, are expressly conditioned upon execution of this Agreement, and all related agreements and documents, by Tribe and Manager, and delivery of executed copies to the parties and any Governmental Agency required by law to review and approve same.

This agreement shall not be effective until approved by the Chairman of the National Indian Gaming Commission the dates of the signatures of the parties notwithstanding.

ARTICLE 14.

APPROVAL OF TRIBE

14.1 Written Request. Whenever a written request is made to the Tribe by the Manager, unless the tribe has expressly disapproved the thing or act for which approval is sought within thirty (30) days after receipt of the request for approval, the Tribe shall be deemed to have granted its approval.

ARTICLE 15

NON-INTERFERENCE WITH TRIBAL AFFAIRS

Manager agrees that it shall not interfere with or attempt to influence the internal affairs or governmental decisions of the Tribe, but no attempt to comply with this Agreement or reasonable attempt to obtain Tribe's consent hereunder or participation by Tribal members who are project employees or Managers in the governmental processes or of the Tribe shall be deemed to be in violation of this Article.

ARTICLE 16

FORCE MAJEURE

In the event of any party being rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, it is agreed that upon such parties giving notice and reasonably full particulars of such force majeure in writing within a reasonable time after the occurrence of the cause relied upon, the obligations of the party giving notice shall be suspended during the continuance of any disability so caused, and the period of such suspension shall extend the time period of any agreed upon and appropriate deadlines for a like period of time. The cause of the force majeure shall, so far as possible, be remedied with all reasonable dispatch by the claiming party. The term "force majeure" as employed herein shall include, without limitations, acts of God, strikes, lockouts, wars, governmental or judicial actions and other events not within the control of the parties.

ARTICLE 17

INVALID OR UNENFORCEABLE PROVISIONS

If any part or parts of this Agreement shall be deemed to be invalid or unenforceable for any reason by final judgement of a court of competent jurisdiction, this Agreement shall not be affected in its entirety, but shall be deemed amended or modified to accommodate said final judgement.

ARTICLE 18

CONFLICT OF INTEREST

18.1 No Payments to Tribal Council or a Member Thereof or a Relative of a Member Thereof. All parties hereto declare that no payments relative to obtaining this agreement have been made nor shall any payments be made to any elected member of the Tribal Council or any relative of such member for the purpose of obtaining or maintaining this Agreement or any other privilege for Manager or other Parties-In-Interest.

18.2 Parties-In-Interest. (Conflict of Interest). No elected member of the Tribal Government or member of the Tribal Gaming Commission or relative thereof who permanently resides in the same household with such individual may be an investor, including general and limited partners, corporate officer, director, or stockholder of Manager. Any person holding such an interest must divest himself or herself of any and all such interests in the event that such person becomes an elected member of the Tribal Government or a member of the Tribal Gaming Commission or a relative of such person who resides in such person's immediate

household. For the purpose of this Agreement, the term "relative" means an individual who permanently resides in the same household and is related to an elected member of the Tribal Government or a member of the Gaming Commission as a father, mother, son, or daughter. In the event that any party holding such an interest or the relative of any such party residing in his or her immediate household, becomes an elected member of the Tribal Government or a member of the Tribal Gaming Commission or is a relative residing in the immediate household of a person who is elected to Tribal Government or becomes a member of the Tribal Gaming Commission, Tribe and Manager agree to immediately terminate the employ of such person by the Project upon his election to Tribal Government or becoming a member of the Tribal Gaming Commission or the election of any of their relatives who resides in his immediate household to Tribal Government, or selection as member of the Tribal Gaming Commission.

ARTICLE 19.

INSPECTION

The Tribe, shall have the right, at any time during the Term of this Agreement, to enter the Project to inspect any aspect of the same and to make photocopies of any of its records or books, wherever the same may be located. Appropriate tribal officials

shall have the right to verify the daily gross revenues and income from the gaming operation and access to any other gaming related information the Tribe deems appropriate.

ARTICLE 20

MANAGER'S SALARY

BBC Entertainment, Inc., agrees to pay the salary of the General Manager from revenues derived from its negotiated 35% share of net revenues throughout the duration of this Management Agreement.

ARTICLE 21.

ACCESS TO THE COURTS

Should litigation be necessary to enforce the obligations of this agreement, the parties agree that such litigation shall not be brought in the courts of any state. Instead, access to the courts, shall be as follows:

(a) Any litigation relating to a dispute over the terms, rights or obligations set forth in this agreement shall first be initiated in Rosebud Sioux Tribal Court.

(b) The parties agree that in the event of a dispute requiring court intervention, either party may apply to the Tribal Court for appointment of a special judge to preside over any such disputes. The Tribal Court shall immediately appoint such special judge to preside over disputes involving this contract or the management of the project. The special judge must be approved by both parties to this agreement prior to presiding over the case or

parties hereto will share equally in any compensation to be paid to the special judge incurred in the course of his duties on the case.

(c) Should either party request the appointment of a special judge to hear a dispute or settle a controversy, said judge shall be agreed upon by both parties and selected and appointed within seven days of the application by either party. The parties may waive or extend the time limit included herein by mutual agreement.

(d) With the use of the special judge as provided herein, the Rosebud Sioux Tribal Court shall have initial jurisdiction over all disputes arising with respect to this contract, subject only to those exceptions as set forth in subparts (f) and (g) hereto.

(e) Regular appeals from the decisions of the special judge for the Rosebud Sioux Tribal Court shall be taken as provided in the Rosebud Sioux Tribal Rules of Appellate Procedure.

(f) The jurisdiction of the Rosebud Sioux Tribal Court system with respect to disputes related to this contract, shall extend through the Tribal Trial Court and Appellate Court level. Tribal Court remedies must be exhausted before any party may initiate suit in Federal Court (except as set forth herein and in Section (g) below). Once Tribal Court remedies have been exhausted, the jurisdiction of the Tribal Court shall cease, permitting any party to bring suit before the United States Federal District Court, and Tribal Court jurisdiction will terminate for purposes of allowing the Federal Court to entertain a de novo review of the case on its merits. The parties hereto expressly intend that the Federal Court shall not be limited to a review of Tribal Court jurisdiction, but

shall hear the case on its underlying merits on a de novo basis. The Federal Court may enter such relief on the merits of the controversy as it deems just and equitable, or as properly requested by either party. Upon adoption and execution of this contract, the provisions of this section shall be considered as an amendment to the tribal judicial code, applying solely to disputes arising under this contract and establishing the jurisdiction of the Rosebud Sioux Tribal Court as set forth herein with respect to disputes under this contract.

(g) The parties recognize that time is of the essence in resolving any disputes which might arise related to this contract. Therefore, the parties hereby establish the following exceptions to the requirement of exhaustion of tribal remedies:

(1) if no special Tribal Court Judge is appointed as provided by subparagraph (b) and (c) above, then the jurisdiction of the Tribal Court shall divest, and the parties may proceed to Federal Court for de novo review.

(2) After appointment of a special judge, in the event that the Tribal Court or Tribal Appellate Court fails to respond to any request for a restraining order or other injunctive relief within ten days, or to render a decision on any other matter which is submitted to it within 30 days, then jurisdiction of the Tribal Court shall divest and the parties may proceed to Federal Court for de novo review.

(3) If either party applies for a restraining order, and the Tribal Court either grants or denies such an order,

and either party can demonstrate to the Federal Court that irreparable harm will result if such restraining order or injunctive relief is not immediately reviewed and acted upon, then the parties agree that the matter may proceed to Federal Court and the Federal Court shall be afforded the consent of both parties hereto to hear the merits of the issues surrounding the request for a restraining order on a de novo basis, and enter such relief as is just and equitable.

(h) The Tribe warrants that it will include a provision in its gaming ordinance which outlines and adopts the terms of Section 22.1 (a) through (h) in its entirety.

ARTICLE 22.

NOTICES

22.1 Notices; Manner of Service. Any notices permitted or required to be given under this Agreement shall be sufficient if in writing and mailed (or sent by telecopier or telegram) to the person set forth below:

If to Tribe:

President

William Kindle, President
Rosebud Sioux Tribe
P.O. Box 430
Rosebud, SD 57570

Phone: (605) 747-2381

Fax: (605) 747-2243

If to Manager:

Charles Colombe, President
BBC Entertainment, Inc.
P.O. Box 21
Mission, SD 57555-0021

Phone: (605) 856-2143

Fax: (605) 856-4585

22.2 Notices; Change of Address. Upon any change of address, or person to whom notices should be directed, such party will notify all other parties hereto by mail. Thereafter, such new address or person will be deemed substituted for the above address or person.

22.3 Notices; Deemed Receipt. Notices under this Agreement shall be deemed served upon actual receipt by the party.

ARTICLE 24.

MISCELLANEOUS

24.1 Fire Protection. Fire protection for the project is supplied by the local department. The parties agree that existing fire protection and law enforcement are adequate to protect the Project and the parties' interests therein. If existing public services of any type or character are not adequate, the parties agree that the local agencies will be reimbursed for additional costs out of the project and as a project expense.

24.2 Recitals Deemed Material. The recitals to this Agreement shall be deemed to be representations and agreements of the parties and are in themselves a material part hereof. All recital, representations and warranties shall be deemed to be continuing and shall survive the execution hereof.

be deemed or is intended to render the relationship between the Tribe and Manager as partners or joint venturers, nor is Manager authorized to act on the Tribe's behalf except where specifically authorized to do so.

24.4 Entire Agreement; Incorporation of Exhibits. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be changed orally, but only by an instrument in writing signed by the party against whom enforcement is sought. Any such amendment as well as any assignment by Manager of this Agreement, or transfers of ownership in manager resulting in change in control, or subcontracts of manager's duties hereunder, whether voluntary, involuntary or by operation of law, in whole or in part whether absolute or for purposes of security, or otherwise, must be approved in advance and agreed upon and approved in writing by the Tribe and submitted by the Tribe to the same Governmental Agency required for the initial approval of this Agreement or such other person or entity as may then exercise its powers, for its written approval. The Tribe retains the absolute right to deny consent for any proposed transfer, assignment, subcontract, pledge, or encumbrance by Manager for any reason whatsoever or for no reason, notwithstanding anything herein to the contrary. All exhibits appended hereto shall be deemed incorporated herein by reference.

24.5 Waiver. This Agreement may not be amended, modified, superseded or canceled, nor may any of the terms, covenants, representations, warranties, or conditions be waived, except by

written instrument executed by the party against whom such amendment, modification, supersedure, cancellation or waiver is charged. The failure of any party at any time or times to require performance of any provisions hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of any conditions, or warranty contained herein, in any one or more instances, shall be deemed to be construed as a further or continuing waiver of any such condition or breach of waiver of any other condition or of any breach of any other term, covenant, representation or warranty.

24.6 Construction. The captions and heading contained herein are for convenient reference only, and shall not in any way affect the meaning or interpretation of this Agreement. Notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty in this Agreement shall not be construed against either party based upon authorship of any of the provision hereof. When this Agreement calls for the approval of any party hereto, such approval may not be unreasonably withheld. When appropriate, the use of the singular shall include the plural and the masculine shall include the feminine and vice versa.

24.7 Counterparts. The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

24.8 Further Documents. The parties each hereby consent and agree that, from time to time, after the date hereof, at the reasonable request of any party, and without further consideration,

they will execute and deliver such other documents and take such other action as may be reasonably required to carry out in all respects the transactions contemplated and intended by this Agreement.

24.9 Arbitration of Minor Disputes. Minor disputes (i.e., disputes not amounting to a material breach of this Agreement but creating an impasse) or if the Federal Court which is the exclusive forum for litigation of issues before the court determines that it does not have subject matter jurisdiction under applicable law in accordance with Article 21 hereof, or if the parties agree, any dispute shall be arbitrated with dispatch if no agreement can be reached after good faith efforts to resolve the issues have failed, by a person or persons the parties agree upon, but if they cannot agree within fifteen (15) days after the need for arbitration has been identified, then each party's nominee shall serve on a panel of three (3) arbitrators and the nominees shall name the third to serve with them. If they cannot agree, then the third shall be selected by the American Arbitration Association and the Arbitration Association for commercial arbitrations, to be held in Pierre, South Dakota, each party to bear its own attorney's fees, but other such costs to be an Operating Expense as defined in Article 6.4(c)(4). In the event that one of the parties refuses to participate in arbitration as provided for herein, attorneys fees and costs incurred by reason of such refusal may be awarded as additional damages. To the extent a limited waiver of Tribal immunity from suit is necessary to

enforce compliance with this paragraph and give meaning to the decision of the arbitrator, it is hereby granted for such purposes only, but only to the extent provided in Article 21 of this Agreement.

24.10 Parties-In-Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement upon any persons other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over or against any party to this Agreement.

24.11 Applicable Law. Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law, and wherever there is any conflict between any provision of this Agreement and the Compact or any relevant statute, law, ordinance or regulation, then the latter shall prevail; provided, however that in any such event the provisions of this Agreement so affected shall be curtailed and limited only to the extent necessary to bring them within applicable legal requirements.

24.12 Indemnification Procedure. In any action commenced against or any claim filed or made against the Tribe whether or not subject to the Tribe's jurisdictional or liability immunity which may be waived in any amount at the Tribe's sole option, in respect to which defense or indemnity may be sought against Manager

pursuant to Manager's obligation under this Agreement, the Tribe shall promptly notify Manager in writing, and Manager shall assume defense thereof, including the appointment of counsel selected by Manager, the payment of all costs, expenses, awards, judgments and other obligations and Tribe shall have the right to employ separate counsel in any such action and to participate in the defense thereof at the Tribe's sole cost and expense. Manager shall not be liable for any settlement of any such action affected without its consent; but if settled with Manager's consent, or if there be a final judgment for the claimant in any such action, Manager agrees to indemnify and save harmless the Tribe from and against any loss or liability by reason of such judgment or judgment to the extent provided by this Agreement.

In any action commenced against Manager in respect to which defense or indemnity is sought against the Tribe pursuant to the Tribe's obligations under this Agreement, Manager shall promptly notify the Tribe in writing and the Tribe shall assume defense thereof, including the employment of counsel selected by the Tribe, the payment of all costs, fees, expenses, awards, and judgment, and the right to negotiate and consent to settlement. Upon reasonable determination made by Manager, Manager shall have the right to employ separate counsel in any such action and to participate in the defense thereof at Manager's sole cost and expense. The Tribe shall not be liable for any settlement of any action affected without its consent; but if settled with the Tribe's consent, or if there be a final judgment for the claimant in any such action, the

Tribe agrees to indemnify and save harmless Manager from and against a loss or liability by reason of such settlement or judgment to the extent provided in this Agreement.

The provision of this Agreement relating to indemnity between the parties shall survive termination hereof, but only as to matter, acts, or omission, arising prior to the termination hereof and brought, instituted, demand made or if a claim of any kind or nature whatsoever is otherwise asserted in accordance with applicable law within the applicable statute of limitations for such claims, causes of action, demand, et. al.

If the party against whom indemnity is sought denies liability for such indemnity, such party shall not be liable as provided in this Section 24.12 until final adjudication that such party is liable for such indemnity.

24.13 No Alteration Except by Mutual Consent. The Manager and Tribe hereby specifically warrant and respect to each other that neither of them shall act in any manner which would cause this Agreement to be altered, amended, modified, canceled, terminated (except for cause), revoked or otherwise frustrated, without the prior written consent of the other party. The Tribe and Manager further covenant and agree to act in good faith in all aspects of the transaction contemplated hereby and will deal fairly with the other in all matters relating hereto.

24.14 Time of Essence. Time is of the essence in the performance of this Agreement and all activities contemplated hereby.

24.15 Tribal Resolution. The Resolution attached hereto as Exhibit "H" sets forth the scope of authority of the Tribal officials who have signed this Agreement on behalf of the Tribe and identifies the provision of the Tribal organic document which authorizes this Agreement and its execution.

24.16 No Present Lien or Lease. The parties agree and expressly warrant to each other that this Agreement is not a lease, and that it does not convey to the Manager any interest whatsoever in the real property on which the Project is located or any personal property or fixtures located therein.

24.17 NIGC Fees for Class II Gaming. Manager shall comply with 25 CFR 514.1 and issue appropriate quarterly reports to the Commission for purposes of determining assessable revenues upon which Class II fees shall be calculated, which fees shall be paid as a project expense at the effective rate.

ARTICLE 25.

INTERFERENCE BY THIRD PARTIES

The parties agree that if at any time during the Term of this contract individual Tribal members or any person, firm or corporation whatever should, by any court order, process issued by or on behalf of any court or otherwise attempt to interfere with the operation of this Agreement in accordance with its terms, that the Manager thereupon, and shall be entitled to operate the Project according to the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written at Rosebud, South

Dakota, this 14th day of June, 1994, respectively.

Tribe:

Rosebud Sioux Tribe,
a federally recognized Indian Tribe

By:

William Kindle
William Kindle, President
Tribal Council

Attest:

By:

[Signature]
Secretary of the Tribal Council

Manager:

SBC Entertainment, Inc.

By:

Charles Colombe
Charles Colombe, Its President

Attest:

By:

L. Wayne Boyd
L. Wayne Boyd, Its Secretary

Approved:

National Indian Gaming Commission

By:

Anthony Hope
Anthony Hope, Chairman

Dakota, this 16th day of May, 1994, respectively.

Tribe:

Rosebud Sioux Tribe,
a federally recognized Indian Tribe

By:

William Kindie
William Kindie, President
Tribal Council

Attest:

By:

[Signature]
Secretary of the Tribal Council

Manager:

BBC Entertainment, Inc.

By:

Charles Colombe, Its President

Attest:

By:

L. Wayne Boyd, Its Secretary