

# COMPREHENSIVE GAMING COMPACT

## TABLE OF CONTENTS

Introduction .....	<a href="#">iii</a>
COMPREHENSIVE GAMING COMPACT	
WITH AMENDMENTS .....	<a href="#">1</a>
I.    TITLE .....	<a href="#">2</a>
II.   DECLARATION OF POLICIES AND PURPOSES .....	<a href="#">2</a>
III.  DEFINITIONS .....	<a href="#">2</a>
IV.  AUTHORIZED CLASS III GAMING .....	<a href="#">4</a>
V.   CONDUCT OF GAMES; GENERALLY .....	<a href="#">6</a>
VI.  PROPRIETARY INTEREST .....	<a href="#">8</a>
VII.  GAMING-RELATED CONTRACTOR; CONTRACTOR TO HOLD STATE CERTIFICATE .....	<a href="#">8</a>
VIII. MANAGEMENT CONTRACTS .....	<a href="#">13</a>
IX.  CRIMINAL AND BACKGROUND RESTRICTIONS .....	<a href="#">14</a>
X.   RECORDS .....	<a href="#">15</a>
XI.  CONFLICTS OF INTEREST PROHIBITED .....	<a href="#">16</a>
XII. AUDITS .....	<a href="#">16</a>
XIII. WITHHOLDING WISCONSIN INCOME TAX .....	<a href="#">18</a>
XIV. PUBLIC HEALTH AND SAFETY .....	<a href="#">18</a>
XV.  ELECTRONIC GAMES OF CHANCE .....	<a href="#">19</a>
XVI. BLACKJACK, REGULATION AND PLAY OF .....	<a href="#">30</a>
XVII. PULL-TABS OR BREAK-OPEN TICKETS .....	<a href="#">41</a>
XVIII. ALLOCATION OF JURISDICTION .....	<a href="#">42</a>
XIX. LIABILITY FOR DAMAGE TO PERSONS AND PROPERTY .....	<a href="#">42</a>
XX.  ENFORCEMENT .....	<a href="#">43</a>
XXI. INCORPORATION .....	<a href="#">44</a>
XXII. DISPUTE RESOLUTION .....	<a href="#">44</a>
XXIII. SOVEREIGN IMMUNITY; COMPACT ENFORCEMENT .....	<a href="#">47</a>
XXIV. REIMBURSEMENT OF STATE COSTS .....	<a href="#">49</a>
XXV. DURATION .....	<a href="#">50</a>
XXVI. TRIBAL GAMING ORDINANCES AND STATE LAW .....	<a href="#">51</a>
XXVII.    RIGHTS UNDER THE ACT .....	<a href="#">51</a>
XXVIII.    NOTICES .....	<a href="#">51</a>
XXIX. AGREEMENT DATE .....	<a href="#">52</a>
XXX.  AMENDMENT .....	<a href="#">52</a>
XXXII.    PAYMENT TO THE STATE .....	<a href="#">52</a>
XXXIII.    ADDITIONAL BENEFITS TO NATION .....	<a href="#">57</a>
XXXIV. <u>TRANSITION.</u> .....	<a href="#">58</a>

XXXV.	<b><u>PROCEDURES FOR RULES OF PLAY AND MINIMUM INTERNAL CONTROL STANDARDS.</u></b> .....	<u>59</u>
XXXVI.	<b>DATA REPORTING</b> .....	<u>63</u>
XXXVII.	<b>SEVERABILITY.</b> .....	<u>65</u>

**LANGUAGE IN AMENDMENTS**

	<b>NOT SPECIFICALLY LINKED TO COMPACT LANGUAGE</b> .....	<u>66</u>
	Revenue Sharing with other Wisconsin Tribes .....	<u>66</u>
	Inclusion of Two Additional Agreements .....	<u>66</u>
	MOU Regarding Government to Government Matters .....	<u>66</u>
	MOU Regarding Technical Matters .....	<u>66</u>

## INTRODUCTION

This document combines the following documents:

### Oneida Tribe of Indians of Wisconsin and State of Wisconsin Gaming Compact of 1991

Signed by Tribe and State:	November 8, 1991
Approved by Assistant Secretary, Indian Affairs:	January 24, 1992
Published in Federal Register	January 30, 1992

### First Amendment to Gaming Compact

Signed by Tribe and State:	May 8, 1998
Approved by Assistant Secretary, Indian Affairs:	August 7, 1998
Published in Federal Register:	August 21, 1998

### Memorandum of Understanding Regarding Government to Government Matters

Signed by Tribe and State:	May 8, 1998
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### Memorandum of Understanding Regarding Technical Matters

Signed by Tribe and State:	May 8, 1998
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### Second Amendment to Gaming Compact

Signed by Tribe:	April 24, 2003
Signed by State:	April 25, 2003
Approved by Acting Deputy Assistant Secretary, Indian Affairs:	July 10, 2003
Published in Federal Register:	July 22, 2003

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First Amendment language is shown with the following attributes:

*Italics*

Second Amendment language is shown with the following attributes:

**Bold and Underline**

Hypertext links are included in this document and will either open the original document or jump to the page (in Table of Contents) when mouse clicked. (Available only for Law Office Staff)

Hypertext links are shown with the following attributes:

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**COMPREHENSIVE GAMING COMPACT  
WITH AMENDMENTS**

This TRIBAL/STATE COMPACT is made and entered into this 8th day of November, 1991, by and between the ONEIDA TRIBE OF INDIANS OF WISCONSIN, a federally acknowledged Indian Tribe acting through the Honorable Richard G. Hill, Tribal Chairman, and the STATE OF WISCONSIN, acting through its Governor, the Honorable Tommy G. Thompson:

WHEREAS, the Oneida Tribe of Indians of Wisconsin is a sovereign government possessed of all sovereign powers and rights thereto pertaining; and

WHEREAS, the [Constitution of the Oneida Tribe of Indians of Wisconsin](#) authorizes the Oneida Business Committee to negotiate agreements with the State of Wisconsin on behalf of the Tribe; and

WHEREAS, the Chairman of the Oneida Tribe of Indians of Wisconsin is authorized, pursuant to the Tribal Constitution and the Oneida Business Committee Resolution attached hereto as Exhibit A<sup>1</sup>, to enter into this Compact on behalf of the Tribe; and

WHEREAS, the State of Wisconsin is a sovereign state of the United States with all the rights and powers thereto pertaining; and

WHEREAS, the Constitution and laws of the State of Wisconsin permit certain Class III gaming activities; and

WHEREAS, the Governor is authorized by s. 14.035, Wis. Stats., to enter into gaming compacts with the several Indian tribal governments within the State of Wisconsin; and

WHEREAS, the Congress of the United States has enacted into law the Indian Gaming Regulatory Act, P.L. 100-497, 25 U.S.C. sec. 2701, et seq., which provides in part that a tribal/state compact may be negotiated between a tribe and a state to set forth the rules, regulations and conditions under which a tribe may conduct Class III gaming, as defined in the Act, on Indian lands within a state permitting Class III gaming; and

WHEREAS, the Indian Gaming Regulatory Act provides that an Indian tribe has the right to regulate Class III gaming activities on its lands concurrently with the State pursuant to a compact with the State; and

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<sup>1</sup>This Exhibit has not been found.

WHEREAS, the Oneida Tribe of Indians of Wisconsin and the State of Wisconsin have mutually agreed that the conduct of Class III gaming under the terms and conditions set forth below will benefit the Tribe and protect the citizens of the Tribe and the citizens of the State of Wisconsin, consistent with the objectives of the Indian Gaming Regulatory Act; and

WHEREAS, the Oneida Tribe of Indians of Wisconsin and the State of Wisconsin have mutually agreed to the terms and conditions under which certain Class III gaming may be conducted on Tribal lands;

NOW, THEREFORE, THE ONEIDA TRIBE OF INDIANS OF WISCONSIN and THE STATE OF WISCONSIN do enter into this Tribal/State Compact.

- I. TITLE. This document shall be cited as "The Oneida Tribe of Indians of Wisconsin/State of Wisconsin Gaming Compact of 1991" (hereinafter, "Compact").
- II. DECLARATION OF POLICIES AND PURPOSES. The State and the Tribe agree that this Compact is entered for the following purposes and is to be construed and implemented to give effect to these policies:
  - A. To authorize the operation of certain Class III gaming by the Tribe on Tribal lands in the State of Wisconsin as a means of promoting Tribal economic development, self-sufficiency and strong Tribal government;
  - B. To assure that the Tribe's Class III games under this Compact are operated so as to protect against organized crime and other corrupt influences, and to assure that any Class III gaming is operated fairly and honestly by both the Tribe and by the players;
  - C. To assure effective concurrent Tribal and State regulation of gaming operated under this Compact as provided herein;
  - D. To fulfill the purpose and intent of the Indian Gaming Regulatory Act by providing for certain Class III gaming operated by the Tribe as a means of generating Tribal revenues to fund programs that provide vital services to members of the Tribe, including education, health and human resources, and economic development for the benefit of the Tribe.
- III. DEFINITIONS. For purposes of this Compact:
  - A. "Act" shall mean the Indian Gaming Regulatory Act, P.L. 100-497, 25 U.S.C. sec. 2701, et seq.

- B. "Department of Justice" means the Department of Justice of the State of Wisconsin, its authorized officials, agents and representatives.
- C. ~~"Lottery Board" means the Wisconsin Lottery Board, its authorized officials, agents and representatives.~~ **"Lottery Board" shall be deemed to refer to the State of Wisconsin Department of Administration, Division of Gaming ("Department"), its authorized officials, agents, and representatives.**
- D. "Management contract" means an agreement covering the overall management and operation of a Tribal game or gaming facility by an entity other than the Tribe or its employees, including all collateral agreements to such agreement that relate to gaming activity. The term does not include agreements for the procurement of particular services, materials or supplies related to the Tribe's operation of Class III gaming under this Compact, such as the supply of gaming aids, communications and other equipment, computers and software and instant scratch tickets.
- E. "Person" includes all partnerships (general and limited), associations and corporations.
- F. "State" means the State of Wisconsin, its authorized officials, agents and representatives.
- G. "Tribal lands" for purposes of this Compact has the following meaning:
1. All lands within the limits of the Oneida Tribe of Indians of Wisconsin reservation;
  2. All lands within the State of Wisconsin held in trust by the United States for the benefit of the Oneida Tribe of Indians of Wisconsin as of October 17, 1988; and
  3. All lands within the State of Wisconsin which may be acquired in trust by the United States for the benefit of the Oneida Tribe of Indians of Wisconsin after October 17, 1988, over which the Tribe exercises governmental power, and which meet the requirements of sec. 20 of the Act, 25 U.S.C. sec. 2719.
- H. "Tribe **or Nation**" means the Oneida Tribe of Indians of Wisconsin, its authorized officials, agents and representatives, including but not limited to the Oneida Gaming Commission.

I. "First Amendment" means the Amendments to the Oneida Tribe of Indians of Wisconsin and the State of Wisconsin Gaming Compact of 1991 executed on May 8, 1998.

J. "Second Amendment" means the Amendments to the Oneida Tribe of Indians of Wisconsin and the State of Wisconsin Gaming Compact of 1991 executed on April 25, 2003.

IV. AUTHORIZED CLASS III GAMING.

A. The Tribe shall have the right to operate the following Class III games ~~during the term of~~ **pursuant to** this Compact but only as provided in this Compact:

1. Electronic games of chance with video facsimile displays;

2. Electronic games of chance with mechanical displays;

3. Blackjack, ~~and~~ **and variations of Blackjack;**

4. Pull-tabs or break-open tickets when not played at the same location where bingo is being played;

**5. Poker and variations of poker;**

**6. Other card games, including banked and non-banked games;**

**7. Parimutuel wagering on live simulcast horse, harness, and dog racing events;**

**8. Keno and other forms of lotteries;**

**9. Craps and other dice games;**

**10. Roulette, big wheel, and other wheel games;**

**11. Electronic and video facsimile versions of any authorized game; and**

**12. Any other game involving prize, chance, and consideration that is played on tables or electronic or mechanical devices, except sports book. For purposes of this Subsection, "sports book" means a betting, gambling, or wagering scheme in which the outcome is determined by an event which occurs outside of the gaming facility at which the wagers are placed, but shall not include parimutuel racing.**

- B. ~~The Tribe may not operate any Class III gaming not expressly enumerated in this section of this Compact unless this Compact is amended pursuant to section XXX.~~ **The Nation may not operate any Class III games pursuant to this Compact unless such games are authorized under this Article.**
- C. Except as provided in par. XV.D.17. of this Compact, the Tribe shall not conduct or permit any Class III gaming or any component thereof outside Tribal lands, including use of common carriers (such as telecommunications, postal or delivery services) for the purpose of sale of a ticket or playing card to, or placement of a wager by, a person who is not physically present on Tribal lands to purchase the ticket or card or place the wager. **The Nation shall establish the number of games which may be operated on Tribal lands, the hours and locations of operation, and the limits on wagers or pot sizes as may be deemed appropriate in the sole discretion of the Nation.**
- D. In the event that the State, after the date on which this Compact becomes binding on the parties, commences actual operation, or licenses or permits the operation, of games not specifically enumerated under subsec. A., this Compact may be reopened upon written request from the Tribe, for the specific purposes of including such games in subsec A. and of negotiating amendments establishing the concurrent Tribal and State regulatory requirements for such games. **The Nation shall not conduct any Class III gaming or component thereof pursuant to this Compact outside of Tribal lands, including the use of common carriers (such as telecommunications, postal or delivery services) for the purpose of sale of a ticket or playing card to, or placement of a wager by, a person who is not physically present on Tribal lands; however, in the event that federal law permits the use of common carriers for Class III gaming conducted pursuant to this Compact, upon request of the Nation, the State shall in good faith negotiate an amendment to this Compact to allow the Nation to use common carriers for gaming conducted pursuant to this Compact. Nothing herein shall be construed as prohibiting the Nation from offering wide area progressive games as part of a network with an aggregate prize or prizes, or as prohibiting the Nation from utilizing common carriers for parimutuel wagering or for the conduct of gaming as may be authorized by state or federal law.**
- E. ~~Should the State, after this Compact becomes binding on the parties, agree to include any additional game in a tribal/state gaming compact, other than as a substitute for one or more of the games listed in paragraphs A.1. through A.3., above, and other than games presently operated or licensed by the State, this Compact shall be reopened on the written request of the Tribe, for the specific purposes of including such game(s) in subsec. A. and of negotiating~~

concurrent Tribal and State regulatory requirements for such game(s). In the event that the State operates, licenses, permits, or enters a Tribal-State gaming compact which allows the operation of any games not included in Section (A) above, or in the event that any games excepted from Section (A) above are included in procedures prescribed for another Wisconsin Indian Tribe by the Secretary of the United States Department of the Interior pursuant to Section 11(d)(7)(B)(vii) of the Act, Section (A) above shall be deemed to include such games, and the Nation may operate such games under rules of play adopted pursuant to Article XXXV.

- ~~F. In the event that game(s) not included in pars. A.1. through A.3., above, are included in procedures prescribed for another Wisconsin Indian tribe by the Secretary of the Interior pursuant to section 11 (d)(7)(B)(vii) of the Act, then this Compact may be reopened upon the request of the Tribe, but only after the State and the other tribe have exhausted their remedies under the federal administrative procedure act, and only for the specific purposes of including such game(s) in subsection A., above, and of negotiating concurrent Tribal and State regulatory requirements for such game(s).~~
- ~~G. The Tribe and the State acknowledge a dispute exists and is in litigation concerning two games that the Tribe wishes to offer. The Tribe maintains these games are Class II while the State maintains they are Class III. The parties agree that if the courts ultimately determine the games to be Class III games, the parties will reopen this Compact within 30 days of the final court order. This reopening shall be for the specific purposes of including such games in subsec. A., above, and of negotiating concurrent Tribal and State regulatory requirements for such games.~~

V. CONDUCT OF GAMES; GENERALLY.

- A. No person under ~~18~~21 years of age may play, or be permitted by the Tribe to play, any game authorized by this Compact. If any person below the age of ~~18~~ 21 plays and otherwise qualifies for a prize or winnings, the prize or winnings shall not be paid, and the estimated amount wagered during the course of the game shall be returned to the ~~minor~~**person**. *No person under the age of 21 shall be permitted access to any portion of any facility in which any Class III game is conducted.*<sup>2</sup>
- B. No person under 18 years of age may be employed in the conduct of gaming under this Compact.

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<sup>2</sup>The amendments to Section V.A. shall take effect on January 1, 1999.

- C. No person who is visibly intoxicated shall be permitted to play any game authorized by this Compact.
- D. All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by any tribal gaming facility, nor shall the Tribe permit any other person to offer such credit for a fee. This section shall not restrict the right of the Tribe to install or accept bank card or credit card transactions in the same manner as would normally be permitted at any retail business within the State.
- E. The Tribe shall provide and publish procedures for impartial resolution of a player dispute concerning the conduct of a game which shall be made available to customers upon request.
- F. Alcohol beverages may be served at locations where games authorized under this Compact are conducted only during the hours prescribed in sec. 125.32(3), Wis. Stats. Alcohol beverages may not be sold for the purpose of off-premises consumption at locations where games authorized under this Compact are conducted, **except that such prohibition shall not extend to the Nation's One Stop convenience stores.**

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**G. The Nation shall maintain a list of persons barred from its gaming facilities (List of Excluded Persons). The Nation shall, upon request, send a copy of its List of Excluded Persons to the State. Upon the State's compilation or update of a list of excluded persons, the State shall provide notice to the Nation of the State's list. Such notice shall include the identity of the person, the nature and scope of the circumstances or reasons that such person should be placed on the Nation's List of Excluded Persons, names of potential witnesses, and a recommendation as to whether the Nation should include such person on its List of Excluded Persons and whether the inclusion should be permanent. The Nation shall not knowingly allow any person whose name appears on the Nation's List of Excluded Persons to gamble at or enter the Nation's gaming facilities. In determining whether a person should be placed on the Nation's List of Excluded Persons, the Nation shall consider whether the person has engaged in any of the following activities:**

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**1. While in a Class III gaming facility possessed, for the purpose of obtaining an unfair advantage, a device to:**

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**a. Assist in projecting the outcome of the game;**

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**b. Assist in keeping track of the cards played;**

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**c. Assist in analyzing the probability of the occurrence of an event relating to a Class III game;**

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**d. For purposes of this Subsection, the term "device" does not include commercial publications, materials distributed by the casino to patrons, or printed materials created by patrons, which assist in the understanding or playing of a game or in the formulation of strategy, but do not manipulate the play of the game, probabilities or payout;**

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**2. Altered the selection of criteria which determines the result of a Class III game or the amount or frequency of payment in a Class III game;**

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**3. Placed a wager after acquiring knowledge, not available to all players, of the outcome of the Class III game which is the subject of the wager;**

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**4. Claimed, collected, taken, or attempted to claim, collect or take, money or anything of value in or from a Class III game, with intent to defraud, without having made a wager contingent on winning the Class III game, or claimed, collected or taken, with intent to defraud, an amount of money or thing of value of greater value than the amount won; or**

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**5. Attempted any of the foregoing, or aided another in committing or attempting to commit any of the foregoing.**

VI. PROPRIETARY INTEREST. The Tribe shall have the sole proprietary interest in all Class III gaming activities operated under this Compact and shall not authorize, permit, or license the operation of any Class III gaming activity under this Compact by any other person.

VII. GAMING-RELATED CONTRACTOR; CONTRACTOR TO HOLD STATE CERTIFICATE.

A. "Gaming-related Contract" means any agreement under which the Tribe procures for Class III gaming materials, supplies, equipment or services which are unique to the operation of gaming and not common to ordinary Tribal operations (such as accounting or legal services); the term includes, but is not limited to:

1. Management consultation services regarding the administration, supervision, or training of one or more functions related to gaming management or operations under this Compact.

2. Contract security services.

3. Prize payout agreements or annuity contracts.
  4. Procurement (including lease) of materials, supplies, equipment or services involving marketing, maintenance or repair of gaming-related equipment, tickets and other gaming supplies or materials, the receiving or recording of a player's gaming selections or wagers, and the determination of winners.
  5. Financing of facilities in which gaming under this Compact is operated, except financing by a state or federally chartered financial institution.
- B. The Tribe shall not enter or maintain a gaming-related contract involving total consideration exceeding ~~\$10,000~~**\$50,000** in any year with any person unless that person holds a Certificate issued by the Lottery Board under this section. **In the event that the Nation no longer conducts background investigations on vendors entering into gaming-related contracts with the Nation pursuant to the Nation's gaming ordinance, the Nation and the State shall in good faith negotiate an amendment to this provision to provide for background investigations of vendors.**
- C. No person may enter or maintain a gaming-related contract with the Tribe involving total consideration exceeding ~~\$10,000~~**\$50,000** in any year unless the person holds a Certificate issued by the Lottery Board under this section. **In the event that the Nation no longer conducts background investigations on vendors entering into gaming-related contracts with the Nation pursuant to the Nation's gaming ordinance, the Nation and the State shall in good faith negotiate an amendment to this provision to provide for background investigations of vendors.**
- D. Certificate issued by Lottery Board.
1. A Certificate shall be issued to a person, and the person may continue to hold a Certificate, unless the person:
    - a. Has been convicted of, or entered a plea of guilty or no contest to, any of the following during the immediately preceding 10 years, unless the person has been pardoned:
      - (1) A felony.
      - (2) Any gambling-related offense.
      - (3) Fraud or misrepresentation in any connection.

(4) A violation of any provision of chs. 562 or 565, Wis. Stats., a rule promulgated by the Lottery Board or Wisconsin Racing Board, or a Tribal ordinance regulating or prohibiting gaming.

b. Is determined by the Lottery Board to be a person whose prior activities, criminal record if any, or reputation, habits, and associations (including employees and agents in relation to a gaming-related contract) pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto; provided, however, that the fact that a person provided materials, supplies, equipment or services to the Tribe in relation to Class III gaming prior to the date on which this Compact becomes binding on the parties shall not be considered in making determinations under this subdivision.

c. Is determined by the Lottery Board to have knowingly and wilfully provided materially important false information to the Lottery Board or to the Tribe, or has refused to respond to questions propounded pursuant to subdiv. D.3.a.

d. Determinations of the Lottery Board under subdiv. a., b., and c. are subject to judicial review as provided in sec. 227.52, Wis. Stats.

e. Except as provided in subdiv. f. , if the person is--

(1) A partnership, then subdiv. a. applies to the partnership and each general and limited partner of the partnership.

(2) An association, then subdiv. a. applies to the association and each officer and director of the association.

(3) A corporation, then subdiv. a. applies to the corporation, each officer or director of the corporation and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. In the case of owners of publicly held securities of a publicly traded corporation, subdiv. a. applies only to those persons who are beneficial owners of 5% or more of the publicly held securities.

f. The restrictions under subdiv. a. do not apply to the partnership, association or corporation if the Lottery Board determines that the partnership, association or corporation has terminated its relationship with the partner, officer, director or owner who was convicted or entered the plea or with the partner, officer, director, owner or other individual whose actions directly

contributed to the partnership's, association's or corporation's conviction or entry of plea.

g. Any conviction, guilty plea or plea of no contest of any partnership, limited partnership, association or corporation shall be imputed to any individual who, though not convicted, directly contributed to the transaction giving rise to the conviction, guilty plea or plea of no contest.

2. Investigations necessary for the determinations under this section shall be conducted by the Lottery Board with the assistance of the Department of Justice. Persons holding Certificates under this section shall be subject to periodic review in order to determine continuing compliance with the requirements of this section.

3. Any person applying for or holding a Certificate under this section shall--

a. Respond, under oath, to such written or oral questions that the Lottery Board may propound in the performance of its responsibilities under this section.

b. Pay to the State the amount of the State's actual costs in conducting investigations and making determinations under this section.

c. Be fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints. The Department of Justice may submit the fingerprint cards to the Federal Bureau of Investigation for the purpose of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions.

d. Submit to the Lottery Board a list of all states in which the person has done business within the last three years. The list shall include license or permit numbers (if issued) and the operative dates of the license(s) or permit(s).

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**4. Temporary Certification. The Department may, in its sole discretion, grant a temporary Certificate to an applicant for a Certificate if the following criteria are met: a complete application has been filed with the Department; the Nation has filed a written request with the Department to grant the applicant a temporary Certificate; and the applicant holds a current gaming license for a position substantially similar to the proposed activities in Wisconsin, issued by one of the States of Nevada, New Jersey, or such other jurisdiction determined by the Department to conduct background investigations of applicants which are substantially similar in scope to those conducted by the Department. The temporary Certificate shall allow the**

**applicant to provide gaming related goods or services to the Nation until such time as the Department may suspend or revoke the temporary Certificate pursuant to Subsection (5), or the Department denies the application for a Certificate. If, after receiving temporary certification, the Department finds cause to deny the contractor a Certificate, or suspend or revoke the temporary Certificate, any contract entered into by the contractor and the Nation shall be considered null and void, and all consideration received by the contractor while holding a temporary Certificate shall be returned to the Nation.**

**5. Suspension or Revocation of a Certificate.**

**a. The Department may suspend or revoke a Certificate:**

**(1) Upon a determination pursuant to Subsection (D)(1)(a), (b), or (c); or**

**(2) If the Certificate holder has committed multiple violations of the Compact, or demonstrated an unreasonable disregard for the provisions of the Compact;**

**b. Before suspending or revoking a Certificate, the Department shall inform the Nation of the proposed suspension or revocation, unless the State determines immediate action is necessary to protect the public health, safety or welfare or the integrity of Class III gaming. Prior to the suspension or revocation of a Certificate, the Certificate holder shall have a right to a hearing before the Department. The provisions of Chapter 227 of the Wisconsin Statutes shall govern the conduct of such hearings.**

**E. Tribal and State Cooperation and Consultation.**

1. Upon receipt of an application for a certificate under this section, the state will promptly:

a. Submit to the Tribe a copy of the application with its supporting documentation;

b. Invite the Tribe to provide information concerning the fitness and eligibility of the applicant for a certificate under this section; and

c. Invite the Tribe's recommendation as to whether a certificate should issue and the Tribe's reasons therefor.

2. Where the Tribe has elected to consult with the State under par. 1., above, and in the event it appears that a certificate should not be issued to the applicant:

a. The Executive Director of the Lottery Board shall, before making a determination under this section, offer to consult with the Tribe concerning the factual basis and reasons for the proposed denial; and

b. If, after consultation under subpar. a., the Executive Director determines that a certificate should not issue to the applicant, the Tribe shall have the right to appeal the matter to the Lottery Board and be heard thereon. Any decision of the Lottery Board shall designate the Tribe as an interested party for purposes of judicial review under ch. 227, Stats.

F. The Tribe shall include the following provisions in any gaming-related contract:

1. The contract shall be terminated if, during the term of the contract or any extension thereof, the person's Certificate under this section is revoked by the Lottery Board.

2. The contract is subject to the provisions of this Compact.

3. A Certificate issued under this section of the Compact shall not constitute a property interest under state or federal law.

G. Transitional provision. Subsections B. and C., above, notwithstanding, a person who has a gaming-related contract in effect with the Tribe on the date this Compact becomes binding on the parties may continue to perform under such contract pending final decision on issuance of a Certificate under this section to such person; provided that:

1. Within ten days after this Compact becomes binding on the parties, the Tribe provides to the Lottery Board a list of all such persons, with their addresses and a specification of the materials, supplies, equipment or services under contract; and

2. Within ten days after this Compact becomes binding on the parties, such person included in the list applies to the Lottery Board for a Certificate under this section.

VIII. **MANAGEMENT CONTRACTS.** The Tribe hereby agrees not to enter into management contracts **for gaming activity conducted pursuant to this Compact** during the term of this Compact.

IX. CRIMINAL AND BACKGROUND RESTRICTIONS.

- A. The Tribe agrees that no person may be employed in the operation or conduct of gaming under this Compact, and the Tribe shall not permit a gaming related contractor to employ any person in the course of performance under the contract, if that person:
  - 1. Has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:
    - a. A felony, other than a felony conviction for an offense under subdiv. b., c. or d., during the immediately preceding 10 years.
    - b. Any gambling-related offense.
    - c. Fraud or misrepresentation in any connection.
    - d. A violation of any provision of chs. 562 or 565, Wis. Stats., a rule promulgated by the Lottery Board or Wisconsin Racing Board, or a Tribal ordinance regulating or prohibiting gaming.
  - 2. Has been determined by the Tribe to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.
- B. The restriction in par. A.1. shall not disqualify an applicant or employee if the Oneida Business Committee waives such restriction by legislative resolution after the applicant or employee has demonstrated to the Council evidence of sufficient rehabilitation and present fitness.
- C. The Tribe shall have primary responsibility for the investigations and determinations under this section, and shall retain for a period of at least 7 years, all records relating to such investigations and determinations.
- D. Persons subject to this section shall be periodically reviewed (at least every two years) to determine whether they continue to meet the requirements and limitations of this section.
- E. Criminal history data compiled by the Department of Justice on any person subject to subsection A. shall, subject to applicable federal or state law, be

released to the Tribe as part of its report regarding each person, and the Tribe shall reimburse the State for the Department's actual costs of compiling the data.

X. RECORDS.

- A. In addition to records specifically required under other provisions of this Compact, the Tribe shall also maintain, and the State shall have the right to inspect and copy, the following records related to Class III gaming for at least seven years after the record is created:
1. All accounting records, which shall be kept on a double entry system of accounting, including detailed, supporting and subsidiary records.
  2. Revenues, expenses, assets, liabilities and equity by game at each location where any component of Class III gaming, including ticket sales, is conducted.
  3. Daily cash transactions for each game at each location at which any component of Class III gaming is conducted, including but not limited to transactions relating to each gaming table bank, game drop box and gaming room bank.
  4. For electronic games of chance, analytic reports which, by each machine, compare actual hold percentages to theoretical hold percentages.
  5. Contracts, correspondence and other transaction documents relating to all vendors and contractors.
  6. Records of all Tribal enforcement activities relating to gaming operated under this Compact.
  7. All audits prepared by or on behalf of the Tribe.
  8. Personnel information on all Class III gaming employees or agents, including complete sets of each employee's fingerprints, employee photographs, and employee profiles and background investigations, except that employee work schedules shall be maintained for a period of at least 2 years. This provision shall not include personnel records of tribal members as to matters that are not related to gaming.
  9. Records of background investigations and determinations under section IX. of this Compact.

B. Confidentiality of Tribal gaming records.

1. The Tribe requires that its gaming records be confidential. The State and the Tribe agree that the State does not otherwise have a right to inspect or copy tribal gaming records. However, in order to enable the State to perform its oversight and enforcement functions and responsibilities under this Compact, the Tribe required that the State pledge, and the State does so pledge, that any tribal records or documents submitted to the State, or of which the State has retained copies in the course of its gaming oversight and enforcement, will not be disclosed to any member of the public except as needed in a judicial proceeding to interpret or enforce the terms of this Compact. In return, the Tribe has granted the State the right to inspect and copy the Tribal records as provided in this Compact.

2. This Compact is provided for by federal law and therefore supersedes state records law to the contrary.

C. The Tribe shall have the right to inspect and copy all State records concerning the Tribe's Class III gaming; provided, that the State may withhold access to records as permitted under the state public records law, sec. 19.35, et seq. , Wis. Stats.

XI. CONFLICTS OF INTEREST PROHIBITED.

A. The Tribe shall adopt within its Gaming Code provisions restricting the conduct of gaming by persons employed by the Tribe.

B. No person employed by the Tribe in the conduct of gaming under this Compact may have a direct or indirect interest in, or be employed by, any person who has entered a gaming-related contract with the Tribe.

XII. AUDITS.

A. Financial Audit. At the close of each fiscal year(commencing with the current tribal fiscal year) , the Tribe shall engage an independent certified public accountant to audit the books and records of all gaming operations conducted under this Compact. The audit shall be completed within 120 days after the close of the fiscal year. Upon completion of the audit the Tribe shall forward copies of any audit reports and management letters to the Wisconsin State Auditor (hereafter, "State Auditor") and to the Lottery Board and shall make copies of all current internal accounting and audit procedures available to the State upon request.

B. Security Audit. Commencing with the current tribal fiscal year and at least once every two years thereafter, the Tribe shall engage a qualified independent auditor to conduct a security audit. The audit shall be completed within ninety days, and the Tribe shall forward copies of any audit reports and management letters to the State Auditor and the Lottery Board. The purpose of the security audit shall be to review and evaluate the effectiveness, adequacy and enforcement of at least the following:

1. Physical systems and administrative policies and procedures controlling access to non-public offices, warehouses, and computer rooms relating to the conduct of gaming under this Compact.

2. Physical systems and administrative policies and procedures for handling cash and for redemption of winning tickets or credit statements issued by electronic games of chance from their receipt by the Tribe to payment of the player, including procedures for receiving and routing incoming prize claims.

3. Policies, procedures and practices to prevent theft, loss or destruction of materials, equipment, or supplies associated with any of the games authorized by this Compact, including records required to be created and maintained by this Compact.

4. Policies, procedures and practices to ensure the randomness, accuracy, integrity and reliability of games operated pursuant to this Compact.

5. Fitness and integrity of computer software utilized for financial accounting and conduct of gaming under this Compact.

C. Engagement of Auditors.

1. The Tribe shall engage auditors experienced in auditing gaming who shall perform the audit in conformity with the most current edition of "Accounting and Audit Guide--Casinos" published by the American Institute of Certified Public Accountants.

2. The Tribe shall give the State Auditor and Lottery Board 30 days' written notice of its intent to engage an auditor under this section, and with the notice shall also forward a draft of the proposed engagement letter and audit procedures. The State Auditor or the Lottery Board may submit written comments or objections concerning the engagement to the Tribe.

3. The Tribe shall permit the State Auditor or the Lottery Board to consult with the auditors before or after any audits or periodic checks on procedures that

may be conducted by the auditors; shall, upon written request, make the auditors' work papers available for review at the office of the accountant or the Tribe; and shall allow the State Auditor or Lottery Board to submit written comments or suggestions for improvements regarding the accounting and audit procedures. Within 30 days of receipt of any written comments or suggestions, the Tribe shall respond in writing to the comments or suggestions.

XIII. WITHHOLDING WISCONSIN INCOME TAX.

- A. The Tribe shall withhold Wisconsin income tax from any payment of a prize or winnings from which it must also withhold federal taxes under the Internal Revenue Code or Regulations, except that the Tribe shall not be required to withhold Wisconsin income tax from payments to:
  - 1. Enrolled members of the Tribe who reside on the Tribal reservation; or
  - 2. Individuals who certify to the Tribe that they are not legal residents of the State of Wisconsin, unless such individuals are subject to Wisconsin income tax on such winnings under ch. 71, Wis. Stats., for the calendar year in which the payment is made.
- B. The amount to be withheld under subsec. A. shall be determined by multiplying the amount of the payment by the greater of 6.93% (.0693), or the highest Wisconsin income tax rate applicable to individuals under s. 71.06 (1), Wis. Stats., for the calendar year in which the payment is made.
- C. During the term of this Compact, the Tribe shall be registered with the Wisconsin Department of Revenue for withholding tax purposes and have a Wisconsin employer identification number. Wisconsin income tax withheld under subsec. A. shall be deposited on the same basis as taxes withheld from wages of employees are deposited by employers. Amounts withheld under subsec. A. shall be combined with amounts withheld from the wages of Tribal employees and a single deposit filed for the resulting total.

XIV. PUBLIC HEALTH AND SAFETY.

- A. In regard to any facilities utilized for Class III gaming under this Compact, the Tribe shall enact ordinances setting forth public health and safety standards for public buildings, electrical wiring, fire prevention, plumbing and sanitation that are at least as restrictive as those standards set forth in chapter 101 of the Wisconsin Statutes and the administrative rules adopted thereunder including, but not limited to chs. ILHR. 14 (Fire Prevention), 16 (Electrical Wiring), 28 (Smoke Detectors), 160 (Existing Buildings), 162 (Theaters and Assembly

Halls), and 81-86 (Plumbing), Wis. Adm. Code. The Tribe shall periodically update its public health and safety ordinances in accord with changes in this law and the administrative rules.

- B. The Tribe shall engage a state certified inspector to conduct inspections of all facilities for Class III gaming under this Compact on a periodic basis, but not less than annually, and shall promptly repair or correct any and all instances of non-compliance with the requirements of this section. An inspection report shall be prepared by the Tribe in connection with each inspection and copies of said reports shall be forwarded to the Lottery Board.

XV. ELECTRONIC GAMES OF CHANCE.

- A. Definitions. For the purposes of this section:

- 1. "Credit" means the smallest unit of value that may be used to play a game on an electronic game of chance or that may be redeemed in currency.

- 2. "Distributor" means a person who obtains an electronic game of chance from a manufacturer and who intends to furnish it to the tribe.

- 3. "Manufacturer" means a person who manufactures, produces, or assembles an electronic game of chance, and who intends to furnish it to a distributor or the tribe.

- 4. "Electronic Game of Chance" means a microprocessor-controlled electronic device which allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a coin or currency, or by the use of a credit, and which awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements are redeemable for cash.

- a. Game play may be displayed by:

- (1) Video facsimile; or

- (2) Mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and pay out, if any.

- b. The term "electronic game of chance" does not include, and this Compact expressly prohibits, the operation and play of devices. which utilize mechanical or optical sensors to evaluate reel positions when they come to rest after being spun for game play.

B. Testing of Electronic Games of Chance.

1. Testing and Approval of Electronic Games of Chance. No electronic games of chance may be operated by the Tribe unless: (1) the electronic game of chance is obtained from a manufacturer or distributor that holds a Certificate issued under section VII. of this Compact to sell, lease, or distribute electronic games of chance; and (2) the electronic game of chance, or a prototype thereof, has been tested, approved or certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a gaming test laboratory is a laboratory agreed to and designated in writing by the Lottery Board and the Tribe as competent and qualified to conduct scientific tests and evaluations of electronic games of chance and related equipment. A laboratory operated by or under contract with the states of Minnesota, New Jersey, or South Dakota constitutes a designated gaming test laboratory.

2. Application for Approval of Prototype Electronic Games of Chance. The Tribe shall provide or require that the manufacturer provide to the gaming test laboratory two copies of electronic game of chance illustrations, schematics, block diagrams, circuit analyses, technical and operation manuals, program object and source codes, hexadecimal dumps (the compiled computer program represented in base-16 format), and any other information requested by the gaming test laboratory.

3. Testing of Electronic Games of Chance. If required by the gaming test laboratory, the Tribe shall require the manufacturer to transport not more than two working models of the electronic games of chance and related equipment to a location designated by the laboratory for testing, examination, and analysis. The Tribe shall require the manufacturer to pay for any and all costs for the transportation, testing, examination, and analysis. The testing, examination, and analysis may include the entire dismantling of the electronic games of chance and related equipment and some tests may result in damage or destruction to one or more electronic components of the devices. If required by the laboratory, the Tribe must require the manufacturer to provide specialized equipment or the services of an independent technical expert to assist the testing, examination, and analysis.

4. Report of Test Results. At the conclusion of each test, the laboratory shall provide to the Lottery Board and the Tribe a report that contains findings, conclusions, and a determination that the electronic game of chance and related equipment conforms or fails to conform to the hardware and software requirements of this Compact. If modifications can be made which would bring the electronic game of chance or related equipment into compliance, the report may contain recommendations for such modifications.

5. Modifications of Approved Electronic Games of Chance. No modification to the assembly or operational functions of any electronic game of chance or related equipment may be made after testing and installation unless a gaming test laboratory certifies to the Lottery Board and the Tribe that the modified electronic game of chance conforms to the standards of this Compact. Any proposed modifications shall be subject to the requirements of pars. 1. through 4. above, before the modification may be implemented, and shall be reported as required under par. C1., below.

6. Conformity to Technical Standards. The Tribe shall require the manufacturer or distributor to certify, in writing, to the Tribe and the Lottery Board that, upon installation, each electronic game of chance placed in a Tribal gaming facility:

- a. Conforms precisely to the exact specifications of the electronic game of chance prototype tested and approved by the gaming test laboratory; and
- b. Operates and plays in accordance with the technical standards prescribed in this section.

7. Machine Identification. A non-removable plate shall be affixed to each electronic game of chance. This plate shall have written upon it the machine's serial number, manufacturer, unique identification number assigned by the Tribe for purposes of reporting under Section C., and the date the unique identification number was assigned.

C. Tribal Reports to Lottery Board.

1. Installation and Operation. At least 10 days prior to installation of an electronic game of chance, the Tribe shall report to the Lottery Board, on a form prescribed by the Board, the following information for each electronic game of chance, including, but not limited to:

- a. The type of electronic game of chance;
- b. The game's serial number;
- c. The game's manufacturer;
- d. The person from whom the game was acquired; the means by which the game was transported into the State and the name and street address of any common carrier or other person transporting the game;

- e. The certification required under par. B.6., above;
- f. The unique identification number assigned by the Tribe under par. B.7, above;
- g. The EPROM chip's identification number;
- h. The location in which the game will be placed, and
- i. The date of installation.

2. Removal from play. Upon removal of an electronic game of chance from a tribal gaming facility, the Tribe shall provide to the Lottery Board the information required by par. 1, a. through g., along with a specification of:

- a. The date on which it was removed;
- b. The game's destination; and
- c. The name of the person to whom the equipment is to be transferred, including the person's street address, business and home telephone numbers; the means by which the game is to be transported and the name and street address of any common carrier or other person transporting the game.

3. Existing games. The Tribe shall provide, within 10 days after this Compact becomes binding on the parties, a listing of all electronic, electro-mechanical, and mechanical games installed, in service, or operated by the Tribe on or before the date of execution of this Compact. The Tribe warrants and represents that this listing, which shall be identified as Exhibit B to this Compact and incorporated herein by reference, shall be full and complete. The form of the Exhibit shall include:

- a. The type of electronic game of chance;
- b. The game's serial number;
- c. The game's manufacturer;
- d. The person from whom the game was acquired;
- e. The EPROM chip's identification number; and
- f. The game's location.

D. Hardware Requirements for Electronic Games of Chance.

1. Physical Hazard. Electrical and mechanical parts and design principles of the electronic games of chance may not subject a player to physical hazards.

2. Surge Protector. A surge protector must be installed on the line that feeds power to the electronic game of chance.

3. Battery Backup. A battery backup or an equivalent shall be installed on the electronic game of chance for the electronic meters and must be capable of maintaining the accuracy of all information required by this Compact for 180 days after power is discontinued from the machine. The backup device shall be kept within the locked microprocessor compartment.

4. On/Off Switch. An on/off switch that controls the electrical current used in the operation of a electronic game of chance and any associated equipment must be located in a place which is readily accessible within the interior of the machine.

5. Static Discharge. The operation of each electronic game of chance must not be adversely affected by static discharge or other electromagnetic interference.

6. Approved Coin and Bill Acceptors. At least one electronic coin acceptor must be installed in or on each electronic game of chance. The devices may also contain bill acceptors for denominations determined by the Tribe. Prior to operation, all models of coin and bill acceptors installed must have been tested and approved in writing by a gaming test laboratory as provided in subsec. B.

7. Cabinet Security.

a. The cabinet or interior area of the electronic game of chance shall be locked and not readily accessible.

b. The electronic game of chance shall have a single printing mechanism which must be capable of printing an original audit ticket and retaining an exact legible copy, either within the game or in an on-line electronic game management system approved by the independent gaming test laboratory, that provides permanent sequential tracking, and which permits monitoring of error conditions on a printed medium for future use, and which records the following information:

- (1) Amount deposited in the machine through coin collectors and bill acceptors;
- (2) Number of credits paid;

- (3) Value of the credits paid in dollars and cents displayed in numeric form;
- (4) Amount of net revenue to the machine;
- (5) Time of day in twenty-four hour format showing hours and minutes;
- (6) Date;
- (7) Machine serial number or unique asset number assigned by the Tribe;
- (8) Terminal number;
- (9) Number of times the microprocessor compartment has been opened;
- (10) Number of times the cash compartment has been opened; and
- (11) The number of times the cabinet has been opened.

c. Electronic games of chance utilizing coin drop hoppers are permitted, provided they are monitored by an on-line electronic game management/reporting system which has been approved by the independent gaming test laboratory.

d. The term "error conditions" as used in this subdivision includes:

- (1) Cabinet door open and cash compartment door open.
- (2) Coin-in tilt and reverse coin-in tilt.
- (3) Hopper empty, hopper jam, or hopper runaway/malfunction.

8. Repairs and Service. An authorized agent or employee of the Tribe may open the gaming cabinet to effect repairs and service, but shall do so only in the presence of another Tribal agent or employee.

9. Microprocessor Compartment. The compartment containing the microprocessor-controlled device within the cabinet of the electronic game of chance must be locked and sealed, and unlocked by a different key than the key which unlocks the cabinet or cash compartment. The compartment may only be opened in the presence of a tribal official. The key to the microprocessor compartment shall be kept by the Tribe in a secure place.

10. Secure Electronic Components.

a. Logic Boards and software Erasable Programmable Read Only Memory (EPROM) chips and other logic control components shall be located in a separate compartment within the electronic game of chance and that compartment shall be sealed and locked with a different key or combination than that used for the main cabinet door, and cash compartment.

b. Upon installation, the Tribe shall affix or cause to be affixed to the EPROM chip(s) of each electronic game of chance a strip of security tape, capable of evidencing the removal of an EPROM chip if the EPROM chip is removed from the circuit board. The security tape shall be secured and available only to the authorized personnel of the Tribe. The Tribe shall maintain accurate and complete records of the identification number of each EPROM chip installed in each electronic game of chance.

11. Secure Cash Compartment. The coins and currency compartment shall be locked separately from the main cabinet area, and secured with a different key or combination than used for the main cabinet door, except that a separate cash compartment shall not be required for coins necessary to pay prizes in a machine which pays prizes through a drop hopper as permitted in this section. Cash compartment keys must be kept in a secure location. Except as provided in this section, the compartment in which the inserted coins and bills are deposited shall be locked at all times. An employee or official of the Tribe may open the cash compartment in the gaming cabinet for the purpose of collecting the accumulated cash. The person collecting the accumulated cash shall record the amount collected.

12. Hardware Switches Prohibited. No hardware switches may be installed on an electronic game of chance or on any associated equipment which may alter the pay tables or payout percentages in the operation of the gaming device. Hardware switches may be installed to control the machine's sound.

13. Printing of Written Statement of Credits. Each electronic game of chance which awards credits or replays but not coins or tokens shall allow the player to request a written statement upon completing play. Upon printing a written statement, the printer must retain an exact, legible copy of the written statement within the machine.

~~14. Maximum Wagers. An electronic game of chance shall not allow any player to wager more than \$5 during a game.<sup>3</sup>~~

15. Minimum Age Warning. The minimum legal age requirement in subsec. V.A. of this Compact for a person to play an electronic game of chance must be displayed on the machine face under glass or on an unremovable plate on the front exterior of the game.

16. No Credit Cards Permitted. No electronic game of chance may be equipped with a device which permits the player to use a credit card rather than currency or coin to activate the game.

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<sup>3</sup>Deleted in 2<sup>nd</sup> amendment

17. Operation as Part of a Network. The hardware requirements of this subsection shall not be construed to prevent the operation of the electronic game of chance as part of a network with an aggregate prize or prizes; provided:

a. An electronic game of chance capable of bidirectional communication with external associated equipment must utilize communication protocol which insures that erroneous data or signals will not adversely affect the operation of the game. The operation of the local network must be approved by the independent gaming test laboratory; and

b. Where the network links the Tribe's electronic games of chance to tribal games of chance on other Indian reservations, each Tribe participating in the network shall have in force a Class III gaming compact authorizing such gaming as part of a network and all segments of the network shall utilize security standards agreed between the Tribe and the Executive Director of the Lottery Board which are at least as restrictive as those used by the Wisconsin Lottery for its on-line games.

E. Software Requirements for Electronic Games of Chance.

1. Randomness Testing. Each electronic game of chance must have a true random number generator that will determine the occurrence of a specific card, symbol, number, or stop position to be displayed on the electronic screen or by the mechanical rotating reels. A selection process will be considered random if it meets all of the following requirements:

a. Chi-Square Analysis. Each card, symbol, number, or stop position which is wholly or partially determinative of the outcome of a game satisfies the 99 percent confidence limit using the standard chi-square analysis.

b. Runs Test. Each card, symbol, number, or stop position does not as a significant statistic produce predictable patterns of game elements or occurrences. Each card, symbol, number, or stop position will be considered random if it meets the 99 percent confidence level with regard to the "runs test" or any generally accepted pattern testing statistic.

c. Correlation Analysis. Each pair of cards, symbols, numbers, or stop positions is independently chosen without regard to any other card, symbol, number or stop position, drawn within that game play. Each pair of cards, symbols, numbers, or stop positions is considered random if it meets the 99 percent confidence level using standard correlation analysis.

d. Serial Correlation Analysis. Each card, symbol, number, or stop position is independently chosen without reference to the same card, number, or stop position in the previous game. Each card, number, or stop position is considered random if it meets the 99 percent confidence level using standard serial correlation analysis.

e. Live Game Correlation. Electronic games of chance that are representative of live gambling games must fairly and accurately depict the play of the live game.

2. Software Requirements for Percentage Payout. Each electronic game of chance must meet the following maximum and minimum theoretical percentage payout during the expected lifetime of the game:

a. Electronic games that are not affected by player skill shall pay out a minimum of 80 percent and no more than 100.0 percent of the amount wagered-; **provided, however, that such games may pay out in excess of 100.0 percent when used in a slot tournament.** The theoretical payout percentage will be determined using standard methods of probability theory;

b. Electronic games that are affected by player skill, such as electronic draw poker and blackjack, shall pay out a minimum of 83 percent and no more than 100.0 percent of the amount wagered-; **provided, however, that such games may pay out in excess of 100.0 percent when used in a slot tournament.** This standard is met when using a method of play that will provide the greatest return to the player over a period of continuous play.

3. Minimum Probability Standard for Maximum Payout. Each electronic game of chance must have a probability of obtaining the maximum payout which is greater than 1 in 17,000,000 for each play.

4. Software Requirements for Continuation of Game After Malfunction. Each game must be capable of continuing the current game with all current game features after a game malfunction is cleared. This provision does not apply if a game is rendered totally inoperable; however, the current wager and all player credits prior to the malfunction must be returned to the player.

5. Software Requirements for Play Transaction Records. Each game must maintain electronic accounting meters at all times, regardless of whether the machine is being supplied with power. Each meter must be capable of maintaining totals no less than six digits in length for the information required in subdiv a. through d., inclusive. The electronic meters must record the following-information:

- a. Total number of coins inserted. The meter must count the total number of coins that are inserted by the player or the coin equivalent if a bill acceptor is being used;
- b. Number of credits wagered;
- c. Number of credits won;
- d. Credits paid out by a printed written statement;
- e. Number of times the logic area was accessed;
- f. Number of times the cash compartment was accessed;
- g. Number of coins or credits wagered in the current game;
- h. Number of coins or credits won in the last complete, valid game, commonly referred to as the credit meter; and
- i. Number of cumulative credits representing money inserted by a player and credits for games won but not collected, commonly referred to as the credit meter.

6. No Automatic Clearing of Accounting Meters. No game may have a mechanism by which an error will cause the electronic accounting meters to automatically clear. All meter readings must be recorded and dated in the presence of a tribal official both before and after the electronic accounting meter is cleared.

7. Display of Information. The display information required in par. 8. shall be kept under glass or another transparent substance and at no time may stickers or other removable devices be placed on the machine face.

8. Rules Display. The software shall display:

- a. The rules of the game prior to each game being played;
- b. The maximum and minimum wagers, the amount of credits which may be won for each winning hand or combination of numbers or symbols; and,
- c. The credits the player has accumulated; Provided, however, in the case of an electronic game of chance with a mechanical display, the

information required by subdiv. a. and b. shall be permanently affixed on the game in a location which is conspicuous to the player during play.

- F. Transitional provision. Electronic, electromechanical, and mechanical games of chance enumerated in Exhibit B, attached hereto, must be tested and approved by a gaming test laboratory as required under subsec. B., and reported to the Lottery Board under subsec. C., within 60 days of the Tribe's execution of this Compact. Notwithstanding the foregoing, if these games cannot comply with the technical standards of this Compact within the 60-day period due to circumstances beyond the control of the Tribe, these games shall be brought into compliance or replaced with complying equipment at the earliest date possible, but in no instance later than 360 days after the Tribe's execution of this Compact.
- G. Non-complying games.
  - 1. The following are declared to be non-complying games:
    - a. All electronic, electromechanical and mechanical games of chance to which the Department of Justice or the Lottery Board have been denied access for inspection purposes;
    - b. All electronic games of chance operated in violation of this Compact;
    - c. All electronic, electromechanical, or mechanical games not reported as required under par. C. or Exhibit B to this Compact.
  - 2. Demand for Remedies for Non-Complying Games. Electronic games of chance believed to be non-complying shall be so designated, in writing, by the Lottery Board. Within 5 days of receipt of such written designation, the Tribe shall either:
    - a. Accept the finding of non-compliance, remove the games from play, and take appropriate action to ensure that the Tribe, the manufacturer, distributor or other responsible person cures the problem; or
    - b. Contest the finding of non-compliance by so notifying the Lottery Board in writing, and arrange for the inspection of the contested equipment, or single example thereof, by an independent gaming test laboratory as provided in subsec. B. within three days of the receipt of the finding of non-compliance. If the independent laboratory finds that the game or related equipment is non-complying, the non-complying game and related equipment

shall be permanently removed from play unless modified to meet the requirements of this Compact. Games and related equipment removed from play under this paragraph may be returned to play only after tested, approved or certified as provided under subsec. B. and reported to the Lottery Board as provided under subsec. C.

- H. Game locations. Games authorized and operated under this section shall be located on tribally-owned land or land held in trust by the United States on behalf of the Tribe, but only on such lands within the exterior boundaries of the tribal reservation.
- I. ~~The Nation shall limit use of electronic games of chance at its One Stop convenience store enterprises to no more than four (4) locations. The number of electronic games of chance permitted at these four (4) locations shall be limited to the number of electronic games of chance in operation at those four (4) locations on the date of this agreement. The records of the Department of Administration, Division of Gaming shall be the final authority for determining the number of electronic games of chance in operation at the Nation's One Stop convenience store locations on the date of this agreement.~~ **The Nation shall operate its One-Stop convenience stores located at W180 Highway 54 on a site comprising approximately .5 acres, 790 County Road EE on a site comprising approximately 1.4 acres, Highway 29 and County Road U on a site comprising approximately 1.5 acres, and 2730 West Mason Street on a site comprising approximately 1.5 acres, as dual purpose facilities if the Nation conducts Class III gaming at such facilities. For purposes of this Section, "dual purpose facility" means a facility which is operated for retail or other commercial purposes in addition to Class III gaming.**

XVI. BLACKJACK, REGULATION AND PLAY OF.

- A. Definitions. The following terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:
1. "Blackjack" or "Twenty-one (21)" (hereinafter "Blackjack") means a card game in which each player opposes the dealer and the dealer opposes each player on behalf of the Tribe; it is played with a single deck or multiple decks of cards from which each player and a dealer are dealt two cards and may draw additional cards; wherein the object is to accumulate a total of twenty-one points or a total closer to twenty-one points than that of the opposing hand, without exceeding twenty-one points.

2. A "Blackjack" means the combination of an Ace and any card having a point value of ten dealt as the initial two cards to a player or a dealer, except that a blackjack is not the combination of an Ace and a ten value card drawn after splitting a pair of Aces or tens.

3. "Chip" means a non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a gaming entity, for use in gaming other than in electronic gaming devices.

4. "Circle" means one of several areas of the Blackjack table marked-off in front of each player into which the players' hands are dealt and from which their hands are played.

5. "Dealer" means the person responsible for dealing the cards, taking wagers, and paying winnings.

6. "Double Down" means a wager made by a player who doubles the amount of his or her original wager after the first two cards of the player's hand have been dealt or who places such an additional wager on any first two cards of any split pair; provided however, that a player making such a wager may only draw one card.

7. "Hand" means either one game in a series, one deal of the cards, or the cards played by the dealer or a player.

8. "Hard Total" means the total point count of a hand which contains no aces or which contains aces that are each counted as one point in value.

9. "Hole" means one of several areas of the Blackjack table marked-off in front of each player into which the players' chips are placed.

10. "Insurance" means the election of a player to wager that the dealer does have a blackjack when the dealer has one card down and one card showing which is an ace.

11. "Payout" means the winnings earned on a wager.

12. "Player" means one person to whom a hand has been dealt.

13. "Propositional Wager" or "Proposition Bet" means any wager which is not specifically permitted under this section.

14. "Push" or "Standoff" (hereafter "push") means the circumstance in which a player and dealer have the same point total of twenty-one or less, resulting in a tie

and cancellation of the player's wager; except that a push is not the circumstance in which both a player and the dealer have 21 points but only one of these opponents has a blackjack.

15. "Shoe" means the container from which one or more decks of cards are dealt that is designed to prevent dealer sleights of hand.

16. "Soft Total" means the total point value of a hand containing an ace when the ace is counted as eleven points in value.

17. "Split" means the election of a player who has been dealt two cards identical in value to split the single hand into two separate hands and concomitantly make a wager on the separately formed second hand which is equal in value to the original wager.

18. "Surrender" means the election of a player to discontinue play on that player's hand for that round by giving over to the Tribe one half of player's wager after the first two cards are dealt to the player and the player's point total is announced; except that where the dealer has Blackjack with an Ace showing, no surrender is permitted.

19. "Wager" means a sum of money, represented in Blackjack by a chip, that is risked.

B. ~~Game Locations and Times.~~ **Blackjack authorized and operated under this Section shall be conducted on tribally-owned land or land held in trust by the United States on behalf the Nation, but only on such lands within the exterior boundaries of the Nation's Reservation.**

~~1. Blackjack games authorized and operated under this section shall be located at not more than two facilities on tribally-owned land or land held in trust by the United States on behalf of the Tribe, but only on such lands within the exterior boundaries of the tribal reservation, unless the State by amendment to this Compact consents to additional locations.~~

~~2. Blackjack may not be conducted at any location for more than 18 hours in any day.~~

C. Game regulations. The game of Blackjack shall be played as provided in these regulations:

1. Regulation of Players, Nonplayers, and Consultations Between Them.

a. No more than seven players shall be allowed to play Blackjack at any single Blackjack table for any given hand;

b. No more than seven persons, exclusive of casino personnel, shall be seated at any single Blackjack table for any given hand;

c. At the discretion of the Tribe, the number of nonplayers in proximity to the Blackjack tables may be limited at any time during the play of Blackjack provided that one non-player shall be permitted to remain for each player who requests such permission;

d. Players may consult with nonplayers before making an election pursuant to these regulations; however, the Tribe shall respond only to an election communicated by a player.

2. Cards: Number of Decks: Value of Cards.

a. Blackjack shall be played with one or more 52-card decks and one colored cutting card. Before being put into play, the cards shall arrive at the Blackjack table unused and still sealed within the cellophane wrapping originally applied by the card manufacturer.

b. The Value of the Cards contained in each deck shall be as follows:

(1) Any card from the 2 to the 10 shall have its face value;

(2) Any Jack, Queen or King shall have a value of ten;

(3) An Ace shall have a value of eleven unless that would give a player or the dealer a score in excess of twenty-one, in which case, it shall have a value of one.

3. Wagers.

a. Only players may wager in the game of Blackjack.

b. No more than seven players shall be allowed to make wagers at any single gaming table for any given hand.

c. Prior to the first card being dealt for each round of play, each player at the game of Blackjack shall make a wager against the dealer.

d. A player's wager shall win if:

(1) The score of the player is 21 or less and the score of the dealer is in excess of 21;

(2) The score of the player exceeds that of the dealer without either opponent exceeding 21; or

(3) Both the player and dealer have achieved a score of 21; however, the player has a blackjack and the dealer does not.

e. A player's wager shall lose if:

(1) No matter what the score of the dealer, the score of the player is in excess of 21;

(2) The score of the dealer exceeds that of the player without either opponent exceeding 21; or

(3) Both the dealer and player have achieved a score of 21; however, the dealer has a blackjack and the player does not;

f. A player's wager shall be canceled in the event of a push.

g. Except as otherwise provided in these regulations, no wager shall be made, increased or withdrawn after the first card of the respective round has been dealt.

h. Wagers shall be represented by gaming chips and by no other means including, but not limited to, United States and foreign currencies, promissory notes, and securities.

i. A player shall make a wager by placing gaming chips in the appropriate hole.

j. ~~The maximum wager on any hand shall be \$200 before double-downs or splits.~~<sup>4</sup> Minimum and maximum wagers shall be conspicuously posted at each table.

k. Except for a blackjack, any winning wagers within the wager limit set in subdiv. j., and made in accordance with this paragraph shall be paid at odds of 1 to 1. At the Tribe's discretion, a blackjack may be paid at minimum odds of 3 to 2, and maximum odds of 2 to 1. The odds for the payment of a blackjack shall be conspicuously posted at each gaming table.

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<sup>4</sup>Deleted in Second Amendment

l. The dealer shall announce any blackjack obtained by a player or the dealer and pay off or collect as provided in these regulations either immediately or at the hand's conclusion.

m. Once the first card of any hand has been dealt by the dealer, no player shall handle, remove, or add any chips, or otherwise alter any wager, unless the floor supervisor or pit boss approves of such alteration in accordance with these regulations.

n. Once a wager on insurance, wager to double down, or wager to split pairs has been made and confirmed by the dealer, no player shall handle, remove, or add any chips, or otherwise alter any wager, unless the floor supervisor or pit boss approves of such alteration in accordance with these regulations.

o. The Tribe may preclude a person who has not made a wager on the first round of play from entering the game on a subsequent round of play prior to a reshuffle of the cards occurring. Any person permitted by the Tribe to enter the game after the first round of cards has been dealt may be limited by the Tribe to a wager of the minimum limit posted at the table until the cards are reshuffled and a new deal is commenced.

p. Any player who, after placing a wager on any given round of play, declines to place a wager on any subsequent round of play may be precluded by the Tribe from placing any further wagers until the dealer's shoe of 'Cards is completed and a new shoe is commenced.

q. In the event a player is precluded from play under subdiv. o. or p., above, the Tribe may at its discretion request that the player leave the Blackjack table, provided that the player is allowed to join or rejoin that or any other game subject only to the conditions imposed on all players by the game regulations described in this compact.

r. Propositional wagers in the game of Blackjack are prohibited.

#### 4. Opening of Table for Gaming

a. After receiving the one or more decks of cards at the Blackjack table, the dealer shall sort and inspect the cards and the floor person assigned to the table shall verify the inspection.

b. After the cards are inspected, the cards shall be spread out face upwards on the table for visual inspection by the first player or players to

arrive at the table. The cards shall be spread out in a horizontal fan shaped by columns by deck according to suit and in sequence.

5. Shuffle and Cut of the Cards.

a. Immediately prior to commencement of play and after any round as may be determined by the Tribe, the dealer shall shuffle the cards so that they are randomly intermixed.

b. After the cards have been shuffled, the dealer shall offer the stacks of cards with backs facing away from the dealer, to the players to be cut.

c. The player designated by subdiv. d., below, or the dealer as designated by subdiv. e., below, shall cut the cards by placing the cutting card in the stack at least 10 cards in from either end.

d. The player to cut the cards shall be:

- (1) The first player to the table if the game is just beginning;
- (2) The player on whose circle the cutting card appeared during the last round of play;
- (3) The player at the farthest point to the right of the dealer if the cutting card appeared on the dealer's hand during the last round of play;
- (4) The player at the farthest point to the right of the dealer if the reshuffle was initiated at the discretion of the Tribe.

e. If the player designated in subdiv. d., above, refuses the cut, the cards shall be offered to each other player moving clockwise around the table until a player accepts the cut. If no player accepts the cut, the dealer shall cut the cards.

6. Dealing from the Hands. Dealing from one or more decks of cards held in the hands of the dealer is prohibited in the game of Blackjack by this Compact.

7. Dealing from a Shoe.

a. All cards used to game at Blackjack shall be dealt from-a multi-deck dealing shoe specifically designed for such purpose and located on the Blackjack table to the left of the dealer.

b. Each dealer shall remove the cards from the shoe with the left hand, turn the cards face upwards, and then with the right hand, place the cards on

the appropriate area of the layout, except that the dealer has the option to deal hit cards to the first two circles with the left hand.

c. After each full set of cards is placed in the shoe, the dealer shall remove the first card therefrom face downwards and place it on the discard rack which shall be located on the table immediately to the right of the dealer. Each new dealer who comes to the table shall follow the same procedures as described in this subdivision before the new dealer deals any new cards to the players. The first card which has been placed face down in the discard rack, otherwise known as the "burn card," shall be disclosed if requested by a player.

d. At the commencement of each round of play, the dealer shall, starting on the dealer's left and continuing around the table to the right, deal the cards in the following order:

- (1) One card face upwards to each of the players' circles;
- (2) One card face down to the dealer;
- (3) A second card face upwards to each of the players' circles;
- (4) A second card face down to the dealer, and then turning the dealer's first card face up.

e. After two cards have been dealt to each player and the dealer, the dealer shall, beginning on the dealer's left, indicate each player's turn to act. Such player shall indicate to the dealer whether he wishes to stand, draw, or make any other election as permitted by these regulations.

f. As each player makes an election, the dealer shall deal face upwards whatever additional cards are necessary to effectuate such election consistent with these regulations.

g. At the conclusion of a round of play, all cards still remaining on the layout shall be picked up by the dealer in order and in such a way that they can be readily arranged to indicate each player's hand in case of questions or dispute. The dealer shall pick up the cards beginning with those of the player to the far right of the dealer and moving counter-clockwise around the table. After all the players' cards have been collected the dealer shall pick up his cards and place them in the discard rack-on top of the players' cards.

h. Whenever the cutting card is reached in the deal of the cards, the dealer shall continue dealing the cards until that round of play is completed after which he shall reshuffle the cards. If at the beginning of a new round, the

first card to be dealt is the cutting card, the dealing stops and the dealer shuffles the cards.

i. At no time shall a player or non-player be allowed to handle, alter or remove any cards used to game at Blackjack except as explicitly permitted in this section.

j. Each player at the table shall be responsible for correctly computing the point counts of his/her hand, and no player shall rely on any point counts announced by the dealer.

k. Whenever all players leave a table, the dealer ~~must~~may repeat the procedures contained in paragraphs 4 and 5, above.

8. Payment of a Blackjack.

a. If the first face up card dealt to the dealer is 2,3,4,5,6,7,8, or 9 and a player has Blackjack, the dealer shall announce and pay the winner at odds in play at that table, either immediately or at the hand's conclusion.

b. If the first face up card dealt to the dealer is an Ace, King, Queen, Jack or Ten and a player has a Blackjack, the dealer shall announce the Blackjack but shall make no payment nor remove any cards until all other cards are dealt to the players and the dealer receives a second card. If, in such circumstances, the dealer's second card does not give the dealer a Blackjack, the player having a Blackjack shall be paid at odds in play at that table. If, however, the dealer's second card gives him a Blackjack, the wager of the player having a Blackjack shall constitute a tie or a push.

9. Surrender. The Tribe may allow all players to surrender or may prohibit them from surrendering. The game regulation regarding surrender shall be conspicuously posted at the location where blackjack is played.

10. Insurance. The Tribe may allow all players to make insurance wagers, or may prohibit them from so wagering. The game regulation regarding insurance shall be conspicuously posted at the location where Blackjack is played.

11. Doubling Down. The Tribe may allow all players to double down, or may prohibit them from doubling down. The game regulation regarding doubling down shall be conspicuously posted at the location where Blackjack is played.

12. Splitting-Pairs. The Tribe may allow all players to split, or may prohibit them from splitting. The game regulation regarding splitting pairs shall be conspicuously posted at the location where Blackjack is being played.

13. Push. Other provisions of this section notwithstanding, the Tribe may deem to be a push the circumstance in which the player has a simple 21 and the dealer a blackjack. The game regulation regarding a push shall be conspicuously posted at the location where Blackjack is played.

14. "Double Pitch" variant. The Tribe may offer this variant of Blackjack as provided below:

a. Tables at which this variant is played shall be conspicuously posted "Double Pitch."

~~b. This variant may be conducted at not more than one-third of the Blackjack tables in a gaming facility.<sup>5</sup>~~

c. Par. C.6. notwithstanding, dealing from the hands shall be permitted using one, but not more than two, complete decks of cards.

d. Subdiv. C.7.d. notwithstanding, this variant may be conducted with one or both of the players, cards dealt face down.

e. Subdiv. C.7.i. notwithstanding, a player may be permitted to hold cards dealt to that player.

f. Each table at which this variant is being conducted shall be subject to the continuous surveillance prescribed in par. D.2. at all times during play.

15. Drawing of Additional Cards by Players and Dealers.

a. A player may elect to draw additional cards whenever that player's point count total is less than 21 except that:

(1) A player having a blackjack or a hard total of 21 may not draw additional cards;

(2) A player electing to double down may draw up to the posted limit; and

(3) A player splitting Aces shall only have one card dealt to each Ace and may not elect to receive additional cards.

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<sup>5</sup>Deleted in 2<sup>nd</sup> amendment.

b. Except as provided in subdiv. c., below, the dealer shall draw additional cards until the dealer accumulates the total posted on the layout, at which point no additional cards shall be drawn.

c. A dealer shall draw no additional cards, regardless of the point count, if all players have made their elections on their respective hands and the point count of the dealer's hand will have no effect on the outcome of the round of play.

16. A Player Wagering on More Than One Circle. The Tribe may permit a player to wager on more than one circle at the Blackjack table provided, however, that the Tribe shall have the authority and discretion to prohibit this during hours when there are insufficient seats at the location where Blackjack is played to accommodate patron demand.

17. Distribution of Blackjack Tips. All tip bets won by a dealer and all other tips shall be paid in chips, deposited in a locking tip box in the dealer's pit area, pooled with all other tips and tip bets accumulated by all other dealers, and divided daily between dealers and supervisory management personnel as defined by the Tribe upon a formula established by the Tribe. Cash tipping shall be prohibited.

18. Blackjack Tournament. The Tribe may allow the play of Blackjack tournaments where, in addition to the wager, players may win other prizes as provided for in the regulations of that particular tournament. Any such Blackjack tournament must otherwise be played as provided in this section.

19. Availability of Blackjack Rule. The regulations of Blackjack or of a Blackjack tournament must be made readily available in writing to players or potential players on request.

20. House Count and Inspection of Cards Upon Closing.

a. Upon closing of the location where Blackjack is played all cards utilized in games of Blackjack shall be re-grouped into complete 52-card decks

b. A dealer who dealt cards from a shoe may not regroup the cards from that shoe.

c. Any irregularities discovered as a result of regrouping cards, such as missing or marked cards, shall be reported to the casino manager first and then to security personnel for investigation and resolution.

D. Staffing and Surveillance Requirements. The following staffing and surveillance requirements shall apply to the game of Blackjack:

1. At all times during the conduct of Blackjack games the following staff must be present:

- a. At least one cashier;
- b. One dealer per table; and
- c. At least one pit boss or floor person for each ~~four~~six tables or fraction thereof.

2. At all times during the conduct of Blackjack games the following surveillance shall be required:

- a. Video cameras capable of providing pan, tilt and zoom surveillance of the tables at which Blackjack is being played;
- b. Domes that completely enclose each video camera required under this paragraph and conceal such cameras' actions yet accommodate clear, unobstructed camera views;
- c. At least one employee or management official monitoring the video surveillance feed on closed circuit video monitors; and
- d. Video recordings of video surveillance camera feed.

3. Where the limits at a table are greater than \$200 after double-down or splitting, there must be surveillance as required under par. 2. above.

4. Video recordings of video surveillance feed gathered under par. 2., above, shall be preserved and stored for a period of 30 days and shall not be erased, recorded-over, nor otherwise altered during that time.

## XVII. PULL-TABS OR BREAK-OPEN TICKETS.

A. Standards. Pull-tab or break-open ticket games, when conducted as Class III gaming pursuant to this Compact, shall be conducted in accord with the ~~most recent published standards of the North American Gaming Regulators Association~~ **Nation's internal gaming regulations.**

- B. Game locations. Games authorized and operated under this section shall be located on tribally-owned land or land held in trust by the United States on behalf of the Tribe, but only on such lands within the exterior boundaries of the tribal reservation.

XVIII. ALLOCATION OF JURISDICTION.

- A. Civil jurisdiction. This Compact does not change the allocation of civil jurisdiction among federal, state, and tribal courts, unless specifically provided otherwise in this Compact.

- B. Criminal jurisdiction.

1. The State, except as provided in par. B.2. and sec. XXIII, shall have jurisdiction to prosecute such criminal violations of its gambling laws, including amendments thereto, as may occur on tribal lands. This jurisdiction may be exercised in a similar manner as the State exercises general criminal jurisdiction pursuant to Public Law 280, 18 U.S.C. section 1162. Consent of the Attorney General of Wisconsin shall be a condition precedent to commencement of any prosecution. This provision shall not survive the term and termination of this Compact.

2. The State shall not initiate criminal prosecution against any individual authorized by the Tribe to, on behalf of the Tribe, engage in Class III activities authorized by this Compact or against any individual authorized by the Tribe to engage in Class I or Class II activities under the Act. Any dispute as to the authority of the Tribe relating to such authorization shall be resolved through the Dispute Resolution procedures set forth within this Compact.

3. Except as specifically set forth in this subsection, this Compact does not change the allocation of criminal jurisdiction among federal, state and tribal authorities.

XIX. LIABILITY FOR DAMAGE TO PERSONS AND PROPERTY.

- A. During the term of this Compact, the Tribe shall maintain public liability insurance with limits of not less than \$250,000 for any one person and \$4,000,000 for one occurrence for personal injury, and \$2,000,000 for any one occurrence for property damage.

- B. The Tribe's insurance policy shall include an endorsement providing that the insurer may not invoke tribal sovereign immunity up to the limits of the policy required under subsec. A.

- C. The Tribe shall indemnify, defend and hold harmless the State, its officers, directors, employees and agents from and against any claims, damages, losses or expenses asserted against or suffered or incurred by the State or its officers, directors, employees and agents based upon or arising out of any bodily injury or property damage resulting or claimed to result in whole or in part from any act or omission of the Tribe relating to the inspection of any gaming or gaming related facilities, or any rectification thereof, pursuant to this Compact or tribal ordinances regarding public health, safety and welfare.

XX. ENFORCEMENT.

- A. The Lottery Board and the Department of Justice shall have the right to monitor the Tribe's Class III gaming to ensure Tribal compliance with the provisions of this Compact. Authorized agents of the Lottery Board and the Division of Criminal Investigation of the Department of Justice shall, upon the presentation of appropriate identification, have the right to gain access with notice only to the Tribe's Chief of Public Safety who shall not disclose such notice to any other person, and without warrant, to all facilities used for the operation or conduct of Class III gaming or the storage of equipment and records related thereto, and may inspect all premises, equipment, records, documents or items related to the operation or conduct of Class III gaming in order to verify compliance with the provisions of this Compact. Inspections pursuant to this section shall be conducted in the company of a tribal official as designated by the Oneida Business Committee or Chairman and shall not be conducted in a manner which disrupts normal business operations.
- B. If either party believes that the other party has, in respect to the subject matter of this Compact, failed to prosecute any offender under its criminal laws or code, it may invoke the Dispute Resolution procedures in section XXII.
- C. If any party to this Compact has reason to believe that the other party is not complying with the provisions of this Compact, it may invoke the Dispute Resolution procedures in section XXII.
- D. In order to administer and enforce state laws, the Department of Justice and the Lottery Board may investigate the activities of the Tribal officers, employees, contractors, or gaming participants who may affect the operation or administration of Tribal gaming, and shall report suspected violations of state or federal laws, or tribal ordinances to the appropriate prosecution authorities, and suspected violations of this Compact to the Lottery Board. Pursuant to such investigation, the Lottery Board or the Wisconsin Attorney General may issue a subpoena, in accordance with state law, to compel the production of any books, papers, correspondence, memoranda, agreements, or

other documents or records which the State reasonably deems relevant or material to the investigation. Section 885.12, Wis. Stats., shall apply to a failure to obey a subpoena under this subsection.

- E. The Wisconsin Attorney General shall have jurisdiction to commence prosecutions relating to Class III gaming for violations of any applicable state civil or criminal law, or provision of this Compact.

XXI. INCORPORATION. The Gaming Code of the Tribe, as it may be from time-to-time amended, is incorporated by reference into this Compact.

XXII. DISPUTE RESOLUTION.

- A. ~~If either party believes that the other party has failed to comply with any requirement of this Compact, it shall invoke the following procedure:~~  
**Negotiation. If either the Nation or the State believes the other has failed to comply with the requirements of this Compact, or if a dispute arises over the proper interpretation of any provision of this Compact, then either may initiate negotiation by serving a written notice on the other identifying the specific provision or provisions of the Compact in dispute and specifying in detail the factual basis for any alleged non-compliance or the interpretation of the provision of the Compact. Within twenty (20) days of service of such notice, representatives designated by the Governor of Wisconsin and the Chairperson of the Nation shall meet in an effort to resolve the dispute through negotiation.**

~~1. The party asserting the noncompliance shall serve written notice on the other party. The notice shall identify the specific statutory, regulatory or Compact provision alleged to have been violated and shall specify the factual basis for the alleged noncompliance. The State and Tribe shall thereafter meet within thirty days in an effort to resolve the dispute.~~

~~2. If the dispute is not resolved to the satisfaction of the parties within ninety days after service of the notice set forth in par. 1., either party may pursue any remedy which is otherwise available to that party to enforce or resolve disputes concerning the provisions of this Compact.~~

- B. ~~Nothing in this section shall be construed to preclude, limit or restrict the ability of the parties to pursue, by mutual agreement, alternative methods of dispute resolution, including but not limited to mediation or arbitration; provided that neither party is under any obligation to agree to such alternative method of dispute resolution.~~  
**Mediation. If either the Nation or the State believes the other has failed to comply with the requirements set forth in**

this Compact, or if there is a dispute over the proper interpretation of any provision of this Compact, the Nation and the State may agree in writing to settle the dispute by non-binding mediation.

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**C. Arbitration.** Arbitration pursuant to this Section shall be the sole mechanism for resolving disputes arising under Articles V, VII, VIII, IX, XI, XII, XIII, XIV, XIX, and XXX of this Compact, unless the Nation and the State agree in writing to another form of dispute resolution. Disputes arising under Articles IV, XXIII, and XXXII of this Compact shall not be subject to arbitration, except for disputes regarding claims for monies owed by the State to the Nation under Article XXXII which shall be subject to arbitration upon written demand for arbitration by the Nation. Proposed amendments to this Compact shall not be subject to arbitration.

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If a dispute is not resolved within thirty (30) days of service of notice as provided for in Section (A) above, either the Nation or the State may serve on the other a written demand for arbitration, and the dispute shall thereafter be resolved by arbitration which shall be conducted in conformance with the rules set forth below and such other rules as the Nation and the State may in writing agree. The term "parties," as used in this Section, refers to the Nation and the State collectively.

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**1. Arbitration Panel.** Each party shall appoint one arbitrator. The two party-appointed arbitrators shall then appoint a third arbitrator, and the three arbitrators shall constitute the panel. Unless the parties agree otherwise, at least one of the arbitrators shall be an attorney or former judge knowledgeable about the Act, federal Indian law, gaming industry regulation, and jurisdiction within Indian country. If the parties do not appoint an arbitrator with those qualifications, the party-appointed arbitrators shall appoint an arbitrator with those qualifications.

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**2. Cost of Arbitration.** The cost of arbitration shall be borne equally by the parties, with one-half (½) of the cost charged to the Nation and one-half (½) of the cost charged to the State, and each shall bear its own expenses.

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**3. Pre-hearing Conference.** The panel shall hold an initial pre-hearing conference no later than thirty (30) days following the selection of the members of the panel and may permit discovery. Unless the parties agree otherwise, or unless the panel determines that compelling circumstances exist which demand otherwise, the arbitration shall be completed within one hundred and eighty (180) days of the initial pre-hearing conference.

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**4. Last, Best Offer Format. If the parties agree, the arbitrators shall conduct arbitration proceedings using the “last, best offer” format in accordance with the following:**

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**a. No later than forty (40) days before the arbitration hearing (or forty (40) days before the date the dispute is to be submitted to the panel for decision if oral hearings have been waived), each party shall submit to the other party a last, best offer for those issues that will be decided using the last, best offer format.**

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**b. No later than ten (10) days after the conclusion of the arbitration hearing (or ten (10) days before the date the dispute is to be submitted to the panel for decision if oral hearings have been waived), a party or the parties may request permission to submit additional last, best offers. The arbitrators may grant such requests if, in their opinion, such additional last, best offers will promote the resolution of the dispute.**

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**c. For each issue to be decided using the last, best offer format, the panel shall, for its decision on the issue, adopt one of the last, best offers submitted under this Subsection and no other remedy. If the panel expressly determines that a last, best offer submitted by a party with respect to an issue or issues is not consistent with or does not comply with the Act or the Compact, as they may be amended and as they are interpreted by courts of competent jurisdiction, then the panel shall reject that last, best offer and shall not consider it in rendering its decision. If the panel expressly determines that all the last, best offers submitted by the parties with respect to an issue or issues are not consistent with or do not comply with the Act or the Compact, as they may be amended and as they are interpreted by courts of competent jurisdiction, then the panel shall reject all the last, best offers and shall allow both parties an opportunity to resubmit last, best offers. If the panel determines that the resubmitted last, best offers should both be rejected, then the panel shall decide the issue or issues as if the parties had elected to have the issue or those issues decided without using the “last, best offer” format.**

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**5. Location. Arbitration shall be conducted at a neutral location or locations within the State of Wisconsin.**

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**6. Stay of Proceedings. Arbitration proceedings shall be stayed during the pendency of any court action or proceeding between the parties involving the same subject matter as the arbitration proceedings.**

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**7. Decision of the Panel. In reaching a decision, the panel shall consider all relevant information, including but not limited to the following factors: (i) the financial cost to the Nation or the State relative to the matter under consideration, (ii) standards applicable to other Wisconsin Indian Tribes that operate comparable facilities, and (iii) relevant industry standards. If the "last, best offer" format is not utilized, or if the panel determines that all last, best offers are not consistent with or do not comply with the Act or the Compact, the decision of the panel shall set forth detailed findings of fact and conclusions of law and a statement regarding the reasons for the panel's determination. The written decision of the panel shall be made promptly and, unless otherwise agreed to by the parties, no later than forty (40) days from the date of the closing of the hearing or, if oral hearings have been waived, no later than forty (40) days from the date the dispute is submitted to the panel for decision. The panel may take additional time to render its decision if the panel determines that compelling circumstances require additional time. Under no circumstances shall the panel have the authority to issue monetary awards, and no decision of the panel shall operate as a waiver of the sovereign immunity of the Nation or the State.**

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**8. The arbitration procedures of this Compact and arbitration awards rendered pursuant to such procedures shall be enforceable under, and otherwise subject to, the provisions of the Federal Arbitration Act (FAA), 9 U.S.C. Section 1, et seq.; provided, however, that no provision of the FAA shall be interpreted or construed as effectuating a waiver of the sovereign immunity of the Nation by reason of any reference to the FAA herein.**

XXIII. SOVEREIGN IMMUNITY; COMPACT ENFORCEMENT.

- A. ~~Except as expressly provided in section XIX., neither the State nor the Tribe waive their sovereign immunity, under either state or federal law, by entering into this Compact and no provision of this Compact is intended to constitute a waiver of State or Tribal sovereign immunity.~~ **Except as expressly provided in Section XIX(B) and Section (B) below, nothing contained in this Compact is intended as, or shall be deemed or construed to be, a waiver of the sovereign immunity of the Nation.**
- B. ~~This Compact does not alter any waiver of either State or Tribal immunity which may have been effectuated by Congress in passing the Act. This Compact in no way limits the application of 25 U.S.C. sec. 2710(d)(7)(A) [1991] which the parties believe provides an enforcement mechanism for violation of this Compact.~~ **The Nation grants to the State a limited waiver of sovereign immunity and hereby consents to suit in federal court solely with respect to the following claims:**

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**1. Claims for monies which may be due and owing to the State under the terms of this Compact; provided, however, that this waiver shall only be effective for so long as and to the extent that sections 16.007 and 775.01 of the Wisconsin Statutes, or any successor or similar provisions of state law, remain in effect and provide an effective waiver of the State's sovereign immunity which enables the Nation to maintain a suit against the State for any monies which may be due and owing to the Nation under the terms of this Compact. Any waiver of the Nation's sovereign immunity which may become inoperable pursuant to this provision shall be reinstated if, and for so long as, the State thereafter effectively waives its sovereign immunity in a manner which enables the Nation to maintain a suit against the State for any monies which may be due and owing to the Nation under the terms of the Compact.**

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**2. Claims for declaratory relief and injunctive relief, including injunctive relief pending the outcome of arbitration proceedings; provided, however, that in the event that the Nation seeks declaratory relief or injunctive relief against the State, and the Nation is unable to obtain declaratory relief or injunctive relief due to the sovereign immunity of the State, the Nation's waiver of sovereign immunity pursuant to this Subsection shall be null and void. Any waiver of the Nation's sovereign immunity which may become inoperable pursuant to this provision shall be reinstated if, and for so long as, the State thereafter effectively waives its sovereign immunity in a manner which enables the Nation to maintain a suit against the State for injunctive relief to enforce the terms of the Compact.**

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**3. Claims for judicial resolution of disputes regarding arbitration pursuant to Subsection XXII(C)(8) of this Compact; provided, however, that in the event that the Nation seeks judicial resolution of a dispute regarding arbitration pursuant to Subsection XXII(C)(8), and the Nation is unable to obtain judicial resolution of the dispute due to the sovereign immunity of the State, the Nation's waiver of sovereign immunity pursuant to this Subsection shall be null and void. Any waiver of the Nation's sovereign immunity which may become inoperable pursuant to this provision shall be reinstated if, and for so long as, the State thereafter effectively waives its sovereign immunity in a manner which enables the Nation to maintain a suit against the State for judicial resolution of disputes regarding arbitration pursuant to Subsection XXII(C)(8).**

C. In addition to the enforcement mechanism under subsec. B., both the State and the Tribe agree that suit to enforce any provision of this Compact may be brought in federal court by either the State or the Tribe against any official or employee of either the State or the Tribe. Said suit may be brought for any violation of the terms of this Compact or violation of any applicable state or

~~federal law. Relief in said suit shall be limited to prospective declaratory or injunctive relief. An allegation that an official or employee violated this Compact shall be deemed as an allegation that said official or employee is acting in excess of his/her authority for purposes of jurisdiction only. The State and the Tribe will bear their own costs of litigation for any action to enforce this Compact, including but not limited to, attorneys' fees.~~**The waiver of the Nation's sovereign immunity provided for in this Article does not extend to any claims brought to enforce obligations which do not arise under the terms of the Compact or to any claims brought by persons or entities other than the State.**

D. ~~These enforcement provisions are an essential part of this Compact, and if they are found to violate the sovereign immunity of either the State or the Tribe or should the courts otherwise determine they lack jurisdiction to enforce the Compact, the parties will immediately resume negotiations to create a new enforcement mechanism.~~**Either the Nation or the State may pursue any remedy which it believes is available to it under the law or the Act, including suits against officers or employees of the other for actions taken outside the scope of their authority, subject to any defenses which may be available with respect to such remedies or suits.**

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**E. If a court determines that the enforcement provisions of this Article are unenforceable against the Nation or the State, the Nation and the State shall immediately enter into negotiations regarding alternative enforcement mechanisms.**

#### XXIV. REIMBURSEMENT OF STATE COSTS.

A. Until such time as all tribes within the State that have requested negotiation of Class III gaming compacts have concluded compacts with the State, the Tribe shall pay to the State, as reimbursement for State costs of regulation under this Compact, the sum of \$25,000 for each State fiscal year (ending June 30), or part thereof, that this Compact is in force. Payments under this subsection shall be made on or before the end of each fiscal year.

B. As soon as all tribes within the State that have requested negotiation of Class III gaming compacts have concluded compacts with the State, the Tribe shall pay to the State, as reimbursement for State costs of regulation under this Compact, an annual amount for each State fiscal year computed as follows: the share of \$350,000 determined by multiplying that amount by a fraction whose denominator is the sum of the gross annual Class III gaming handle of those tribes for the previous fiscal year, and whose numerator is the Tribe's

gross annual Class III gaming handle for that same fiscal year. Payments shall be made within 30 days after the Tribe receives a statement from the State setting forth the amount to be paid by the Tribe under this section.

- C. Payments under subsecs. A. and B., shall be made payable to the State of Wisconsin and sent to:

Secretary  
Department of Administration  
State of Wisconsin  
Post Office Box 7864  
Madison, WI 53707-7864

- D. The Tribe shall also directly reimburse the Department of Justice and the Lottery Board for their actual and necessary costs of providing services and assistance at the request of the Tribe.
- E. For purposes of this section, 'gross gaming handle' means total amount wagered.

XXV. DURATION.

- A. ~~This Compact shall be in effect for a term of seven years after it becomes binding on the parties.~~ **The Second Amendment is binding on the Nation and the State upon signature by the Chairperson of the Nation and the Governor of the State.**
- B. ~~The duration of this Compact shall thereafter be automatically extended for terms of five years, unless either party serves written notice of non-renewal on the other party not less than one hundred eighty days prior to the expiration of the original term of this Compact or any extension thereof.~~  
~~*The term of the Compact shall, pursuant to Section XXV.B. be renewed for a term of five (5) years, from November 8, 1998 to November 8, 2003, subject to further extensions as provided therein.*~~ **This Compact shall continue in effect, notwithstanding any other provision of this Compact, unless terminated by mutual agreement of the Nation and the State, or unless the Nation duly adopts a resolution revoking Tribal authority to conduct Class III gaming on Tribal lands in accordance with the Act.**
- C. ~~In the event written notice of non-renewal is given by either party as set forth in this section, the Tribe shall cease all Class III gaming under this Compact upon its expiration date or upon the date the procedures in subsec. E. are concluded and a successor compact, if any, is in effect.~~ **If the provisions of**

**Section (B) above are determined to be invalid or unlawful by a court of competent jurisdiction, the term of this Compact shall expire April 25, 2102.**

D. ~~The Tribe may operate Class III gaming only while this Compact, or any extension thereof under this section, is in effect.~~ **Authority.**

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**1. The Nation and the State voluntarily enter into this Compact pursuant to Section 11(d)(3)(B) of the Act.**

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**2. By signing this Compact or Amendments to this Compact, the Governor of Wisconsin and the Chairperson of the Nation represent that they are authorized to execute the Compact or Amendments on behalf of the State and the Nation, respectively.**

E. ~~In the event that written notice of non-renewal of this Compact is given by one of the parties under subsec. B., above, the Tribe may, pursuant to the procedures of the Act, request the State to enter into negotiations for a successor compact governing the conduct of Class III gaming activities to become effective following the expiration of this Compact. Thereafter the State shall negotiate with the Tribe in good faith concerning the terms of a successor compact (see sec. 11 (d)(3)(A) of the Act). If a successor compact is not concluded by the expiration date of this Compact, or any extension thereof under subsec. B., the Tribe shall do one of the following:~~

~~1. Immediately cease all Class III gaming upon the expiration of this Compact, or any extension thereof under subsec. B.; or~~

~~2. Commence action in the United States District Court pursuant to section 11 (d)(7) of the Act, in which event this Compact shall remain in effect until the procedures set forth in section 11 (d)(7) of the Act are exhausted.~~

XXVI. TRIBAL GAMING ORDINANCES AND STATE LAW. To the extent that State law or Tribal ordinances, or any amendments thereto, are inconsistent with any provision of this Compact, this Compact shall control.

XXVII. RIGHTS UNDER THE ACT. Nothing in this Compact shall be construed to limit the rights or remedies available to the parties under the Act, except as specifically provided herein.

XXVIII. NOTICES. All notices required or authorized to be served shall be served by first class mail at the following addresses:

Tribal Chairman  
Oneida Tribe of Indians of Wisconsin  
N7210 Seminary Road  
Oneida, WI 54155

Governor  
115 East, State Capitol  
Post Office Box 7863  
Madison, WI 53707

XXIX. AGREEMENT DATE. This Compact shall become binding on the Tribe and the State upon signature by the Chairman of the Oneida Tribe of Indians of Wisconsin and by the Governor of the State of Wisconsin. This Compact shall cease to be binding upon the parties in the event it is not approved by the Secretary of the United States Department of the Interior.

XXX. AMENDMENT. ~~This Compact shall not be modified, amended or otherwise altered without the prior written agreement of both the State and the Tribe.~~

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**A. This Compact shall not be modified, amended or otherwise altered without the prior written agreement of both the State and the Nation. Modifications, amendments, and alterations of this Compact shall only become effective as provided in the Act.**

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**B. Periodic Amendment Process.**

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**1. Within the thirty (30) days preceding each fifth (5th) annual anniversary of July 1, 2004, the State or the Nation may propose amendments to the regulatory provisions of the Compact. The Nation and the State shall enter into good faith negotiations regarding the proposed amendments. Disputes over the obligation to negotiate in good faith under this provision may be resolved under the provisions of Article XXII.**

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**2. Within the thirty (30) days preceding each twenty-fifth (25th) annual anniversary of July 1, 2004, the Governor as directed by an enactment of a session law by the Wisconsin Legislature, or the Nation may propose amendments to any provision of the Compact. The Nation and the Governor shall enter into good faith negotiations regarding the proposed amendments. Disputes over the obligation to negotiate in good faith under this provision may be resolved under the provisions of Article XXII.**

XXXII.<sup>6</sup> PAYMENT TO THE STATE.

~~A. The Tribe shall make an annual payment to the State for each one (1) year period beginning November 8, 1998 through November 8, 2003, in the amount of \$5,400,000. For each payment required by this section, the Nation shall~~

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<sup>6</sup>There is no Article XXXI

~~reduce the payment by \$550,000 in direct recognition of existing municipal service agreements. The Governor shall undertake to use his best efforts within the scope of his authority to assure payments received by the State pursuant to this section are spent in accordance with the May 8, 1998, Memorandum of Understanding Regarding Government to Government Matters.~~<sup>7</sup> **On or before June 30, 2004, the Nation shall make a payment to the State in the amount of \$20,000,000 (Twenty Million Dollars) ("First Installment Payment"). On or before June 30, 2005, the Nation shall make a payment to the State in the amount of \$20,000,000 (Twenty Million Dollars) ("Second Installment Payment"). On or before June 30, 2006, and on or before June 30 of each succeeding year, the Nation shall make a payment to the State ("Annual Payment") which shall constitute a percentage of the net win from Class III gaming conducted pursuant to this Compact and shall be determined in accordance with the following schedule:**

<b>Year</b>	<b>Amount of Annual Payment</b>
<b>2006</b>	<b>6% of net win for the previous fiscal year</b>
<b>2007</b>	<b>5% of net win for the previous fiscal year</b>
<b>2008</b>	<b>4% of net win for the previous fiscal year</b>
<b>2009</b>	<b>5% of net win for the previous fiscal year</b>
<b>2010</b>	<b>4% of net win for the previous fiscal year</b>
<b>2011</b>	<b>5% of net win for the previous fiscal year</b>
<b>2012 and thereafter</b>	<b>4.5% of net win for the previous fiscal year</b>

**If in any fiscal year the Nation's net win from gaming conducted pursuant to this Compact exceeds \$350,000,000 (Three Hundred Fifty Million Dollars), the amount of the Annual Payment calculated with reference to that fiscal year shall be 5.5% of the net win.**

**For purposes of this Section, "fiscal year" shall be defined as the period beginning October 1 of a given year and ending September 30 of the following year. In addition, "net win" shall be defined as the amount**

<sup>7</sup>NOW THEREFORE IT IS AGREED that the Governor shall undertake his best efforts within the scope of his authority to assure that monies paid to the STATE hereunder shall be expended upon:

- 1) Economic development initiatives to benefit Tribes and/or American Indians within Wisconsin,
- 2) Economic development initiatives in regions around casinos,
- 3) Promotion of tourism within the State of Wisconsin, and
- 4) Support of programs and services of the County in which the Tribe is located.

IT IS FURTHER AGREED that the STATE and the TRIBE shall establish a schedule of regular meetings to address government to government issues of mutual concern. One such meeting per year shall contain an accounting of the funds expended in accordance with this agreement. (*Memorandum of Understanding Regarding Government to Government Matters* executed May 8, 1998)

wagered in Class III gaming, less fills and the amount paid out in jackpots and prizes, including the actual cost to the Nation of any noncash prize which is distributed to a patron as the result of a specific, legitimate wager.

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Beginning in 2008 and in each year thereafter, the Annual Payment shall be reduced by the amount paid by the Nation in the immediately preceding calendar year to local units of government pursuant to service agreements, and by the amount of any unused credit for previous years, up to a maximum reduction of \$1,500,000 (One Million Five Hundred Thousand Dollars) per year. If in any fiscal year the Nation's net win from gaming conducted pursuant to this Compact exceeds \$350,000,000 (Three Hundred Fifty Million Dollars), and the amount of the Annual Payment increases to 5.5% of net win as provided for above, the maximum amount of reduction shall be \$2,000,000 (Two Million Dollars) for such year and the following year, and shall thereafter be \$2,500,000 (Two Million Five Hundred Thousand Dollars). The Nation shall be entitled to a credit in the amount of \$1,500,000 (One Million Five Hundred Thousand Dollars) per year for payments made by the Nation in the years 2003 through 2007 to local units of government pursuant to service agreements entered into by the Nation with such local units of government. Such credit may only be applied against the payment to the State as provided for above.

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The Governor shall use his best efforts within the scope of his authority to ensure payments received by the State pursuant to this Section are allocated and expended in accordance with the May 8, 1998 [Memorandum of Understanding Regarding Government to Government Matters](#).

- B. In the event a change in State law is enacted to permit the operation of electronic games of chance, or other Class III games, as defined in and authorized by this Compact, by any person other than a federally recognized Tribe under the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et. seq., or the State Lottery as authorized by Ch. 565 Wis. Stats., the Nation shall be relieved of its obligations to pay these amounts. If a subsequent agreement regarding Class III gaming substantially and adversely affects the Nation's Class III gaming revenues, the State and the Nation shall meet to discuss a reduction of the amount required pursuant to Section ~~XXXII.A.~~Exclusivity.*

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1. Upon the passage of any State law which permits the operation of any games, which would be Class III games if conducted by an Indian Tribe

pursuant to the Act, by any person or other entity other than a federally recognized Wisconsin Indian Tribe under the provisions of the Act, and other than the State Lottery, parimutuel racing, and charitable gaming as authorized by State law and operated as of January 1, 2003, the Nation's obligation to make payments to the State pursuant to Section (A) above shall terminate upon the date of passage of such law and all Installment Payments previously made by the Nation shall be immediately refunded by the State to the Nation.

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2. Upon final approval of any amendment to the Wisconsin Constitution that authorizes any person or entity, other than a federally recognized Wisconsin Indian Tribe under the provisions of the Act, to engage in gaming, except as authorized by the 1993 Amendment to the Wisconsin Constitution, the Nation's obligation to make payments to the State pursuant to Section (A) above shall terminate upon the date of final approval of such amendment and all Installment Payments previously made by the Nation shall be immediately refunded by the State to the Nation.

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3. In the event that the State executes a Tribal-State gaming compact, or executes an amendment to an existing Tribal-State gaming compact, and such compact or amendment provides for any form of protection from or consideration for competition from gaming conducted by another Indian Tribe pursuant to section 20 of the Act, or any similar or successor provision of law, and such compact or amendment is approved by the Secretary of the United States Department of the Interior or otherwise becomes effective by operation of law, upon the Nation's request, the State shall in good faith negotiate an amendment to this Compact for the purpose of incorporating provisions in this Compact under which the Nation's obligation to make payments pursuant to Section (A) above shall terminate and the State shall be required to refund to the Nation all Installment Payments previously made by the Nation upon the date on which the State enters into an agreement for or otherwise approves the operation of a gaming facility by another Indian Tribe under section 20 of the Act or any successor provision of law within fifty (50) miles of the exterior boundaries of the Nation's Reservation.

*C. Method of Payment. The Nation shall make the first payment required by Subsection A on or before December 30, 1999, and each subsequent payment on December 30, 2000, December 30, 2001, December 30, 2002 and December 30, 2003 respectively.*Suspended operations.

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1. If the Nation is unable to operate Class III games authorized by this Compact for a period of twenty-one (21) consecutive days or more for any reason beyond the control of the Nation, including any adverse court decisions, rulings, or orders, the payments required under Section (A) above for the year

in which such inability to operate Class III games first occurs shall be reduced by a percentage which is equal to the number of days the Nation is unable to operate such games divided by 365. In the event the Nation is unable to operate Class III games for more than 365 consecutive days, the Nation's obligation to make payments under Section (A) above shall be suspended until such time as the Nation is again able to operate Class III games. The preceding formula shall then be applied to determine the reduction of the payment, if any, for the year in which the Nation resumes operation of Class III games. If the Nation has made full payment for any year in which a reduction is applicable, the State shall refund the amount of the reduction to the Nation. In the alternative, the Nation may elect to deduct the amount of any such reduction from future payments.

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2. If the Nation is unable to operate Class III games authorized by this Compact, other than blackjack or electronic games of chance, for a period of twenty-one (21) consecutive days or more for any reason beyond the control of the Nation, including any adverse court decisions, rulings, or orders, the payments required under Section (A) above for the year in which such inability to operate such games first occurs shall be reduced by a percentage which is equal to:  $(\text{number of days Nation is unable to operate such games} \div 365) \times 40\%$ . In the event the Nation is unable to operate such games for more than 365 consecutive days, the preceding formula shall be applied to the next 365 day period. If the Nation has made full payment for any year in which a reduction is applicable, the State shall refund the amount of the reduction to the Nation. In the alternative, the Nation may elect to deduct the amount of any such reduction from future payments.

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3. If the Nation is unable to operate 25% or more of its electronic games of chance for a period of twenty-one (21) consecutive days or more for any reason beyond the control of the Nation, including any adverse court decisions, rulings, or orders, the payments required under Section (A) above for the year in which such inability to operate such games first occurs shall be reduced by a percentage which is equal to:  $(\text{number of days Nation is unable to operate such games} \div 365) \times \text{actual percentage of such games which the Nation is unable to operate}$ . If the Nation has made full payment for any year in which a reduction is applicable, the State shall refund the amount of the reduction to the Nation. In the alternative, the Nation may elect to deduct the amount of any such reduction from future payments.

*D. ~~The parties may modify this obligation to pay pursuant to a subsequent agreement.~~ If at any time the State is authorized to impose any tax, fee, assessment, or other charge directly on the Nation's Class III gaming revenues, other than as expressly contemplated in this Compact, upon the*

**date of passage of any law imposing such tax, fee, assessment, or charge, or upon the date of passage of any law imposing a tax exclusively on patrons' winnings generated at the Class III gaming facilities, the Nation shall be relieved of the obligation to make any payments provided for in Section (A) above. Nothing in this Subsection shall be construed to prevent the application of the Wisconsin Income Tax to income derived from patrons' winnings generated at the Class III gaming facilities.**

*E. In the event that a natural or man-made disaster renders impossible the operation of fifty (50) percent or more of the electronic games of chance operated by the Nation under this compact for a period of fourteen (14) consecutive days or more, the payment required under this section for the year in which the disaster occurs shall be reduced by a percentage equal to the percentage decrease in the net win (total amount wagered less winnings paid) for the calendar year in which the natural disaster occurred compared with the net win for the previous calendar year, and the State and Nation shall meet to discuss additional assistance.* **If for any reason the Nation's obligation to make any payments under Section (A) above shall terminate, or such payments shall be reduced, such termination or reduction shall not adversely affect the validity of this Compact. In addition, if the Nation is entitled to a refund of any payments made under this Article, then the State shall be indebted to the Nation in that amount, and the Nation may recover such amount from the State under any procedures provided by the laws of the State of Wisconsin for the recovery of unpaid debts of the State, including sections 16.007 and 775.01, Wis. Stats.**

*F. In the event that, after the effective date of this amendment, the State enacts any law which imposes a new tax, fee, assessment, or other charge which is assessed directly on the Nation's Class III gaming revenues, or a tax exclusively on winnings generated at the Class III gaming facilities, the State and Nation shall meet to discuss a modification to Section XXXII. of this Compact.*

*XXXIII. ADDITIONAL BENEFITS TO NATION. Should the State and any other compacting Tribe within Wisconsin amend a current gaming compact or adopt a new gaming compact with terms that are more favorable to the compacting Tribe or to the State than are the terms of this Compact, upon request by Nation, the parties shall meet to negotiate the incorporation of substantially similar provisions into the Compact and, if applicable and agreeable to the parties, substantially similar provisions shall be incorporated into the Compact.*

**If the State and a Wisconsin Indian Tribe amend a current gaming compact or adopt a new gaming compact establishing regulatory provisions for a comparable Class III gaming facility that contain more favorable terms than those provided in this Compact, upon request by the Nation, the State shall in good faith negotiate the incorporation of substantially similar provisions into this Compact.**

XXXIV.

**TRANSITION.**

- A. *In the event that the amendments contained herein are disapproved, in whole or in part, by the Secretary of the Interior, either party may serve on the other a demand for renegotiation of such portion of the Compact amendments of May 1998 as are impacted. The parties shall meet to negotiate revisions to address such objections as may be raised. If a mutually satisfactory solution is not achieved within thirty (30) days of the Secretary's action, either party may during the sixty (60) day period thereafter serve upon the other a notice of nonrenewal of Compact. The Compact shall then expire 180 days after service of a notice of nonrenewal of Compact pursuant to this section.* **In the event that Sections XXV(B) and (C) of the Second Amendment are disapproved in their entirety by the Secretary of the United States Department of the Interior or are found unenforceable or invalid in their entirety by a court of competent jurisdiction, the Nation's obligation to make payments to the State pursuant to Section XXXII(A) above shall terminate upon the date of such disapproval or finding and all Installment Payments previously made by the Nation shall be immediately refunded by the State to the Nation. Thereafter the State and the Nation shall negotiate in good faith to reach agreement on substitute provisions for Articles XXV(B) and XXXII(A). Disputes regarding the obligation to negotiate in good faith under this provision may be resolved pursuant to the provisions of Article XXII.**
- B. *In the event that a court of competent jurisdiction holds any or all of the amendments to the Compact contained herein to be unenforceable or invalid within six (6) months of the execution of said amendments, either party may serve on the other a demand for renegotiation of such portion of the Compact amendments of May 1998 as are impacted. The parties shall meet to negotiate revisions to address such objection as may be raised. If a mutually satisfactory solution is not achieved within thirty (30) days of the court's holding, either party may during the sixty (60) day period thereafter serve upon the other notice of nonrenewal of Compact. The Compact shall then expire 180 days after service of a notice of nonrenewal of Compact pursuant to this section.* **In the event that any portion of the Second Amendment other than Section XXV(B) is disapproved, in whole or in part, by the Secretary of the United States Department of the Interior, or is found**

**unenforceable or invalid by a court of competent jurisdiction, either the Nation or the State may serve on the other a demand for renegotiation of such portions of the Compact that are affected. The State and the Nation shall thereafter negotiate in good faith to reach agreement on substitute provisions. Disputes regarding the obligation to negotiate in good faith under this provision may be resolved pursuant to the provisions of Article XXII.**

- C. ~~In the event that a court of competent jurisdiction holds any or all of the amendments to the Compact contained herein to be unenforceable or invalid later than six (6) months after the execution of these Compact amendments, the parties shall meet to negotiate terms to replace those affected by the decision of the court.~~**In the event that the Second Amendment is disapproved in its entirety by the Secretary of the United States Department of the Interior or is found unenforceable or invalid in its entirety by a court of competent jurisdiction, the State and the Nation acknowledge their intent that the terms of the Compact, as amended on May 8, 1998, shall remain in effect and shall govern the conduct of Class III gaming on Tribal lands for its full term. In addition, the State and the Nation agree that the Compact, as amended May 8, 1998, shall be deemed to have automatically renewed for an additional term of five (5) years commencing on November 8, 2003, pursuant to Section XXV(B) of the Compact.**

XXXV.

**PROCEDURES FOR RULES OF PLAY AND MINIMUM INTERNAL CONTROL STANDARDS.**

~~The Nation agrees to renew all existing service agreement with local units of government under the current terms and conditions of those agreements. The Nation shall take reasonable action to enter into service agreements with Brown County, Outagamie County, the Town of Hobart and the Town of Oneida substantially similar to the Nation's existing service agreements with the Village of Ashwaubenon, the City of Green Bay and the City of DePere. Nothing in this Compact shall prevent the Nation and any governmental entity from reaching a mutually acceptable service agreement with terms different from the terms contained in any existing service agreement listed above.~~

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- A. **The Nation shall promulgate rules of play and minimum internal control standards for all Class III games conducted by the Nation pursuant to this Compact. Such rules and standards shall set forth an accurate payout ratio for each game, reasonably ensure the fairness of the playing of the game, reasonably ensure that revenue is adequately counted and accounted for in accordance with generally accepted accounting principles for casinos, provide a system of internal controls and**

procedures for game play that are consistent with industry standards and practices, and ensure compliance with the Compact. The Nation shall comply with rules of play and minimum internal control standards established pursuant to this Article. Until minimum internal control standards are established addressing the hardware, software, and other substantive requirements currently governed by Articles XV, XVI, and XVII of this Compact, the Nation may continue to conduct gaming under Articles XV, XVI, and XVII and under the minimum internal control standards in effect on the date of the [Second Amendment](#). Minimum internal control standards addressing the hardware, software, and other substantive requirements currently governed by Articles XV, XVI, and XVII shall supersede those provisions upon promulgation pursuant to this Article. Those matters committed to the discretion of the Nation pursuant to Section IV(B) of this Compact are specifically excluded from the requirements of this Article.

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**B. Rules of Play.** Prior to operating any game for which rules of play have not been established under this Compact, the Nation shall adopt rules of play for such game and provide a copy of such rules to the Department. The Nation may operate such game pursuant to such rules fourteen (14) days after the Nation provides a copy of the rules to the Department, provided that such rules are substantially similar to rules in effect in another gaming jurisdiction within the United States. Within ninety (90) days of receipt of the rules, the Department shall submit any objection it may have to any rule or rules by serving a written notice of objection on the Nation. All such objections shall be based upon the criteria set forth in Subsection (D)(3) below. The notice of objection shall state with specificity the reasons therefor with reference to such criteria, and shall propose an alternative rule for each rule which is the subject of an objection. Within thirty (30) days of submission of any objection, the Department and the Nation shall meet in an attempt to resolve the objection. If the objection is not resolved within twenty (20) days of such meeting, either the Nation or the Department may serve upon the other a demand for arbitration pursuant to Section (D) below. The Nation may continue to utilize any rule subject to an objection by the Department while the procedures set forth in Section (D) below are completed, unless the objection is based, in whole or in part, upon the fact that the rule substantially and materially deviates from rules in effect in gaming jurisdictions within the United States.

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**C. Minimum Internal Control Standards.** Within ninety (90) days of the effective date of the [Second Amendment](#), the Nation shall submit to the Department a copy of all minimum internal control standards in use at each Class III gaming facility of the Nation. Such standards shall be at

least as stringent as the minimum internal control standards established by the National Indian Gaming Commission. Within ninety (90) days of receipt of such standards, the Department shall submit any objection it may have to any standard or standards by serving a written notice of objection on the Nation. All such objections shall be based upon the criteria set forth in Subsection (D)(3) below. The notice of objection shall state with specificity the reasons therefor with reference to such criteria, and shall propose an alternative standard for each standard which is the subject of an objection. Within thirty (30) days of submission of any objection, the Department and the Nation shall meet in an attempt to resolve the objection. If the objection is not resolved within twenty (20) days of such meeting, either the Nation or the Department may serve upon the other a demand for arbitration pursuant to Section (D) below. The Nation may continue to utilize any standard subject to objection while the procedures set forth in Section (D) below are completed.

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**D. Arbitration pursuant to this Section shall be conducted in accordance with the following rules and such other rules as the Nation and the Department may in writing agree.**

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**1. The panel shall consist of three members. The Nation and the Department shall each appoint one arbitrator. The two party-appointed arbitrators shall appoint a third arbitrator. Such third arbitrator shall either be a certified public accountant or have substantial experience with regulatory compliance issues relevant to gaming. No person who has performed services or whose firm has performed services for either the State or the Nation in the preceding twelve (12) months may serve on the panel.**

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**2. The cost of arbitration shall be borne equally by the parties, with one-half (1/2) of the cost charged to the Nation and one-half (1/2) of the cost charged to the Department, and each shall bear its own expenses.**

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**3. Decision of the Panel**

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**a. If, as appropriate and relevant to its subject matter, a rule or standard adopted by the Nation sets forth an accurate payout ratio, reasonably ensures the fairness of game play, reasonably ensures that revenue is adequately counted and accounted for in accordance with generally accepted accounting principles for casinos, and is consistent with the terms of the Compact, the panel shall approve such rule or standard unless it determines that an alternative rule or standard offered by the Department would:**

- 
- i. Materially decrease the risk of diversion of revenue, and the benefit is not outweighed by the cost of compliance;**
  - ii. Materially increase the ability to safeguard assets, and the benefit is not outweighed by the cost of compliance;**
  - iii. Materially increase the ability to preserve reliable records, accounts and reports of transactions, and the benefit is not outweighed by the cost of compliance; or**
  - iv. Materially increase the integrity or fairness of the conduct of games, and the benefit is not outweighed by the cost of compliance.**

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**b. If the panel determines that a rule or standard proposed by the Nation or an alternative rule or standard proposed by the Department is not consistent with industry standards or practices, but meets the criteria set forth in Subsection (a) above, the panel may approve such rule or standard but shall make specific findings regarding how the proposed rule or standard is better suited to its purposes than industry standards or practices.**

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**4. To the extent practicable, the Nation and the Department shall stipulate to all facts not reasonably in dispute. At the request of either the Nation or the Department, the panel may take testimony from witnesses if it feels that such procedures are necessary for an informed resolution of the controversy. The formal rules of evidence shall not apply to witness testimony, and the panel shall determine the permissible scope and extent of any proffered testimony, but the panel shall observe basic principles of relevancy, materiality and probative value. Any and all proceedings may be conducted telephonically. The Nation and the Department shall simultaneously submit, at a time determined by the panel after the factual record is finalized, a written statement in support of its position. The panel shall decide the matter within thirty (30) days of receipt of the written submissions. The decision of the panel shall be final and non-appealable. No decision of the panel shall operate as a waiver of the sovereign immunity of the Nation or the State.**

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**E. Amendment. The Nation shall submit a copy of any amendments to the rules of play or minimum internal control standards to the Department within fourteen (14) days of adoption. Within thirty (30) days of receipt of such amendment, the Department shall submit any objection it may have to such amendment to the Nation by serving a written notice of objection on the Nation. All such objections shall be based upon the criteria set forth in Subsection (D)(3) above, and the notice of objection shall state with specificity the reasons therefor with reference to such criteria. The Nation may continue to utilize any amended rule or standard subject to objection by the Department while the procedures set forth in Section (D) above are completed. The State may propose new**

areas to be subject to the minimum internal control standards. Such proposals shall specify the justification for the extension or the minimum internal control standards, and proposed minimum internal control standards which address the issues raised in the statement of justification. Such proposals shall be subject to the provisions of this Article, including the timeframes for response and consultation pursuant to Section (C), and the arbitration procedures pursuant to Section (D).

**XXXVI. DATA REPORTING.<sup>8</sup>**

- A. The Nation shall submit information from its slot accounting systems to the Data Collection System ("DCS") maintained by the State, utilizing the hardware, software, reporting requirements and formats for the specified information in use on the date of the [Second Amendment](#). The Nation and the State acknowledge that DCS is intended to be a uniform state-wide system applicable to all Wisconsin Indian Tribes.**
- B. The Nation shall submit to the Department on a monthly basis, in an electronic format determined in the reasonable discretion of the Nation, the following daily revenue information for table games: type of table game, table number, shift, opening inventory, fills, credits, adjustments, closing inventory, drop, and win/loss. The Nation shall submit such information not later than fourteen (14) days after the conclusion of each calendar month.**
- C. All information submitted by the Nation pursuant to Sections (A) and (B) above shall be confidential, and shall not be disclosed by the State. In order to protect and preserve the confidentiality of this information, the State shall, with respect to all information submitted by the Nation, maintain and enforce the minimum internal control standards of the Department in effect on the date of the [Second Amendment](#).**
- D. Either the Nation or the Department may propose amendments to the hardware, software and reporting requirements that affect the manner in which the Nation reports information under Section (A) above. In addition, either the Nation or the Department may propose amendments to the minimum internal control standards maintained by the State pursuant to Section (C) above. If the Nation and the Department do not agree upon a proposed amendment within sixty (60) days of the date on which such amendment is proposed, either the Nation or the Department**

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<sup>8</sup>This section replaces the [Memorandum of Understanding Regarding Technical Matters](#) executed May 8, 1998.

may serve on the other a demand for last, best offer arbitration, and the matter shall be resolved by arbitration in accordance with the rules set forth below and such other rules as the Nation and the Department may in writing agree.

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1. The panel shall consist of three members. Within ten (10) days of service of a demand for arbitration, the Nation and the Department shall each appoint one arbitrator. The two party-appointed arbitrators shall appoint a third arbitrator. Such third arbitrator shall have substantial experience with regulatory compliance issues relevant to gaming. No person who has performed services or whose firm has performed services for either the State or the Nation in the preceding twelve (12) months may serve on the panel.

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2. The cost of arbitration shall be borne equally by the parties, with one-half (½) of the cost charged to the Nation and one-half (½) of the cost charged to the Department, and each shall bear its own expenses.

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3. Within thirty (30) days of selection of the panel, the Nation and the State shall each submit to the panel a last, best offer with respect to the proposed amendment. Unless the panel determines that a longer period of time is necessary, within thirty (30) days of submission of such last, best offers, the panel shall select one of the last, best offers in accordance with the following:

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a. With respect to proposed amendments to the hardware, software, and reporting requirements under Section (A) above, the panel shall select the last, best offer submitted by the Department if the panel determines that such last, best offer: (i) is reasonably necessary to allow the Department to maintain electronic monitoring under Section (A) above, (ii) is not unduly burdensome on the Nation, and (iii) does not compromise the confidentiality of the information submitted by the Nation. In no event shall the panel select a last, best offer which requires the Nation to allow access to computer systems or networks maintained by the Nation other than a stand alone computer node upon which information is uploaded by the Nation, unless the panel specifically determines and makes written findings that an alternative offered by the State or the Nation provides the same or greater security for the information submitted by the Nation and the Nation's computer systems and networks than a stand alone computer node.

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b. With respect to proposed amendments to the minimum internal control standards maintained by the State under Section (C) above, the panel shall select the last, best offer which provides greater security for and protection of the information submitted by the Nation unless the

**panel determines that the cost of compliance with such last, best offer outweighs the benefit to be derived. In no event shall the panel select a last, best offer which presents an unreasonable risk to the security for and confidentiality of the information submitted by the Nation.**

**4. To the extent practicable, the Nation and the Department shall stipulate to all facts not reasonably in dispute. At the request of either the Nation or the Department, the panel may take testimony from witnesses if it feels that such procedures are necessary for an informed resolution of the controversy. The formal rules of evidence shall not apply to witness testimony, and the panel shall determine the permissible scope and extent of any proffered testimony, but the panel shall observe basic principles of relevancy, materiality and probative value. Any and all proceedings may be conducted telephonically. The decision of the panel shall be final and non-appealable. No decision of the panel shall operate as a waiver of the sovereign immunity of the Nation or the State.**

**XXXVII. SEVERABILITY. Should any provision of this Compact, or part thereof, be held under any circumstances in any jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision of this Compact or any other part of such provision, except as expressly provided in this Compact.**

IN WITNESS WHEREOF, The Oneida Tribe of Indians of Wisconsin and the State of Wisconsin have hereunto set their hands and seals.

ONEIDA TRIBE OF INDIANS OF  
WISCONSIN

STATE OF WISCONSIN

/s/  
\_\_\_\_\_  
Deborah Doxtator  
Tribal Chairwoman

/s/  
\_\_\_\_\_  
Tommy G. Thompson  
Governor

Approved this 24th day of January, 1992.

/s/  
\_\_\_\_\_  
Assistant Secretary - Indian Affairs  
United States Department of the Interior

**LANGUAGE IN AMENDMENTS  
NOT SPECIFICALLY LINKED TO COMPACT LANGUAGE**

**Revenue Sharing with other Wisconsin Tribes:**

7. *The Nation, along with other Wisconsin Indian Tribes, agrees to propose the development of a plan by February 1999 for the creation of a revenue sharing system among the Tribes so that monies would be directed by the Tribes within Wisconsin having the greatest gaming revenues to the Tribes having the least gaming revenues. The Nation agrees to make its best efforts to develop such a plan in consultation with other Wisconsin Indian Tribes by February 1999.*

**Inclusion of Two Additional Agreements**

9. *The State and Nation agree to execute contemporaneous with the execution of these compact amendments documents entitled [Memorandum of Understanding Regarding Technical Matters](#), and [Memorandum of Understanding Regarding Government to Government Matters](#)<sup>9</sup>, which documents are incorporated herein by reference.*

**MOU Regarding Government to Government Matters**

NOW THEREFORE IT IS AGREED that the Governor shall undertake his best efforts within the scope of his authority to assure that monies paid to the STATE hereunder shall be expended upon:

- 1) Economic development initiatives to benefit Tribes and/or American Indians within Wisconsin,
- 2) Economic development initiatives in regions around casinos,
- 3) Promotion of tourism within the State of Wisconsin, and
- 4) Support of programs and services of the County in which the Tribe is located.

IT IS FURTHER AGREED that the STATE and the TRIBE shall establish a schedule of regular meetings to address government to government issues of mutual concern. One such meeting per year shall contain an accounting of the funds expended in accordance with this agreement.

**MOU Regarding Technical Matters**<sup>10</sup>

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<sup>9</sup>See Section XXXII. Payment to the State, Footnote #3

<sup>10</sup>The [Memorandum of Understanding Regarding Technical Matters](#) dated May 8, 1998 was “deleted in its entirety and replaced” with Section XXXVI. DATA REPORTING.

*The parties hereby agree that the following terms and provisions are incorporated by reference into the Amendments to the Oneida Tribe of Indians of Wisconsin and the State of Wisconsin Gaming Compact of 1991.*

~~1. The Tribe shall utilize in its Class III gaming operations minimum internal control standards at least as restrictive as those adopted by the National Indian Gaming Association. In the event any provision of the minimum internal control standards conflicts with the provisions of this Compact, the terms of the Compact shall control. If a conflict occurs due to technical changes or other advances in the industry, and the Department of Administration, Division of Gaming hereafter referred to as Department disagrees with the proposed change in the minimal internal control standards, the Nation and the Department agree to form a technical task force to resolve the issue. The Department and the Nation may designate, in writing, minimum internal control standards which conflict with the Compact as acceptable for use in the Nation's Class III gaming facilities. In the event the Department enters into such written designation, the written designation shall constitute a waiver, for duration specified in the written designation, of the State's ability to allege compliance with the designated minimum internal control standard as a violation of the Compact.~~

~~2. In order to more efficiently provide the Department with access to the Nation's slot accounting data generated by the slot accounting system described at Section XV.D.7. of the Compact, the Nation agrees to provide dial-in access to computer files, which shall allow the Department read-only access to all metered activity generated or monitored by the slot accounting system. This information shall be provided in batch format. The Nation shall deposit on a biweekly basis, all reconciliation reports regarding the data provided. In the event additional data is requested said request shall be in writing and submitted to the Oneida Gaming Commission Chairperson pursuant to Section XX.~~

~~Access to the above information shall be by means of a dial-up basis and shall require dial back mechanisms restricted to a dedicated phone line as well as passwords, which are changed intermittently. A twenty-four (24) hour advance notice shall be submitted to the Department in writing for purposes of maintenance and upgrading. The Nation and Department may agree to implement alternative electronic mechanisms for the submission of the above mentioned data in writing.~~

~~All data provided, pursuant to this section, shall be treated as confidential pursuant to Section X.B. of the Compact and such data shall not be disclosed in the form of statewide aggregate totals without permission of the Nation.<sup>11</sup>~~

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<sup>11</sup>[Memorandum of Understanding Regarding Technical Matters](#) (May 8, 1998)