
COMPACT

**State of Nebraska
Department of Revenue
and
Omaha Tribe of Nebraska**

December 4, 1990

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This Compact is made and entered into as of the 4th day of December 1990, by and between the State of Nebraska (Nebraska), acting by and through the Nebraska State Tax Commissioner John M. Boehm, and the Omaha Tribe of Nebraska (Omaha Tribe), acting by and through its Chairman, the Honorable Doran L. Morris, Sr.

RECITALS

This Compact is made with reference to and in compliance with the Indian Gaming Regulatory Act, P.L. 100-497 (The Act), codified as 25 U.S.C. §§ 2701 et. seq., and sets forth the procedure and requirements for investigation, licensing and regulating Class III Gaming on Indian Lands.

This Compact is intended to enhance tourism and the economic development of the Omaha Tribe, provide employment to its citizens, and maintain public confidence and trust that gaming by the Omaha Tribe is conducted honestly, competitively, and free from criminal and corrupt influences.

The purposes of this Compact are:

- (1) to assure that the Omaha Tribe is the primary beneficiary of the gaming operation;
- (2) to protect the health, welfare, and safety of the public;
- (3) to assure that the profits derived from Class III Gaming are accurately reported, are transferred to the rightful parties and are used for the purposes intended;
- (4) to assure that Expenses of Class III Gaming are legitimately incurred and accurately reflect the value of the property obtained or the services rendered;
- (5) to assure honesty and financial integrity of all activities conducted;
- (6) to assure that Class III Gaming is completely and fairly regulated on an on-going basis;
- (7) to deter any criminality, or the potential for any criminality to occur and to shield any such gaming activity from any involvement by organized crime or other corrupting influences;

- (8) to protect, preserve, and enhance the economic and general welfare of the public and the citizens of both the Omaha Tribe and Nebraska;
- (9) to develop and implement an effective regulatory scheme for the conduct of Class III Gaming on Indian Lands to assure that such gaming is clean, well-run, and provides safe and fair entertainment to the customers as well as profits to the Omaha Tribe and employment for its citizens; and
- (10) to enhance and further develop the official government-to-government relationship between the sovereign Indian Nation of the Omaha Tribe of Nebraska and the sovereign State of Nebraska and to mutually recognize and re-emphasize the governmental powers of each of them.

Now, therefore, in consideration of the foregoing, and other good and valuable considerations as hereinafter described, the parties hereto do promise, covenant, and agree as follows:

1. **Definitions Incorporated By Reference.** Nebraska and the Omaha Tribe agree that this Compact shall be made subject to all of the definitions contained in the Act.

2. **Definitions.** For the purposes of this Compact, each of the following terms shall have the following meaning unless a different meaning clearly appears from the context.

A. **Act** shall mean the Indian Gaming Regulatory Act, Public Law 100-497 codified at 25 U.S.C. §§ 2701 et. seq.

B. **Applicant** shall mean a person or business entity who applies for a license of any type under the terms of this Compact.

C. **Big Six** shall refer to a game played with the following equipment in the following manner:

Equipment. A wheel of variable size. Around the rim of the wheel's surface are sections, each of which shows one side of three dice bearing different combinations of the numbers 1 through 6. The wheel has a corresponding layout.

The play. A player places his wager on one or more numbers on the layout, and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination. If the player places his wager on the number 1 and the wheel stops at 1-2-3, the payoff odds are 1-to-1 since the number 1 showed once. This holds true for all the numbers; e.g., if the player places his wager on number 5 and the wheel stops on 4-5-6, the payoff odds are 1-to-1. If it stops at 5-5-5, the payoff odds are 3-to-1.

D. Big Nine shall refer to a game played with the following equipment in the following manner:

Equipment. A wheel of variable size. The rim of the wheel is divided into sections, each of which bear different combinations of numbers 1 through 9. Other sections display a picture of a diamond, star or eagle. The wheel has a corresponding layout.

The play. A player places his wager on one or more numbers or symbols on the layout, and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination. If the player places his wager on the number 1 and the wheel stops at 1-1-9-9-9, the payoff odds are 2-to-1 since the number 1 showed twice. If the wheel stops at 1-1-1-4-4, the payoff odds are 3-to-1 since the number 1 showed three times. This holds true for all the numbers; e.g., if the player places his wager on number 5 and the wheel stops on 2-2-5-5-5, the payoff odds are 3-to-1. If it stops at 5-5-5-5-5, the payoff odds are 5-to-1. If the wheel stops on the diamond, star or eagle, the payoff odds are 10-to-1.

E. Cancel shall mean to discontinue all rights and privileges to hold a license for up to three years.

F. Card Wheel shall refer to a game played with the following equipment in the following manner:

Equipment. A wheel of variable size. Around the rim of the wheel's surface are sections, each of which shows the faces of three playing cards bearing different combinations of the cards 9 through ace. The wheel has a corresponding layout.

The play. A player places his wager on one or more betting spaces on the layout, and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination. If the player places his wager on the ace and the wheel stops at nine-ace-king, the payoff odds are 1-to-1 since the ace showed

once. This holds true for all the card faces; e.g., if the player places his wager on the king and the wheel stops on king-nine-ace, the payoff odds are 1-to-1. If it stops at king-king-king, the payoff odds are 3-to-1.

G. Chuck-A-Luck shall refer to a game played with the following equipment in the following manner:

Equipment. A cage or chute. Three dice. A table layout bearing the numbers 1, 2, 3, 4, 5, 6.

The play and odds. The dice are tumbled in the cage or chute. Players place their wagers on one or more of the layout numbers. After the dice come to rest, if a player's number appears on the die the payoff odds are 1-to-1; if his number appears on two dice, the payoff odds are 2-to-1; and if all three bear his number, the payoff odds are 3-to-1.

H. Class III Gaming Equipment shall mean all proprietary devices, machines, and parts used in the manufacture or maintenance of equipment which are used in and are an integral part of the conduct of any Class III Gaming activity authorized pursuant to this Compact.

I. Class III Gaming Supplies shall mean all tickets, cards, boards, sheets, or other supplies which are used in and are an integral part of the conduct of any Class III Gaming activity authorized or regulated under this Compact.

J. Color Wheel shall refer to a game played with the following equipment in the following manner:

Equipment. A wheel of variable size. The rim of the wheel is divided into sections, each of which shows one color. The wheel has a corresponding layout.

The play. A player places his wager on one or more colors on the layout, and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination. The payoff odds shall be conspicuously displayed on the layout.

K. Expenses shall mean:

(i) all costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed in the Class III Gaming activity,

- (ii) all office or clerical expenses in connection with the Class III Gaming activity,
- (iii) all promotional expenses for the Class III Gaming activity,
- (iv) all salaries of persons employed to operate, conduct, or supervise the Class III Gaming activity,
- (v) any rental or lease expense related to the Class III Gaming activity,
- (vi) any fee or commission paid to any person associated with the Class III Gaming activity, and
- (vii) all costs associated with the conduct of the Class III Gaming activity.

Expenses shall not include any payment pursuant to this Compact of actual costs by the Omaha Tribe to Nebraska for costs incurred by Nebraska, monetary prizes awarded to participants, the fair market value of merchandise prizes awarded to participants, security costs, investigation fees or costs, accounting or bookkeeping costs, data processing costs, audit costs, legal expenses, license fees or regulatory costs paid to Nebraska or the Omaha Tribe, audits conducted under the Single Audit Act and costs for testing or regulation of Class III Gaming imposed by the Omaha Tribe or Nebraska under this Compact, and taxes imposed by the Omaha Tribe, which relate directly to the operation and conduct of such Class III Gaming.

L. Fruit Wheel shall refer to a game played with the following equipment in the following manner:

Equipment. A wheel of variable size. The rim of the wheel is divided into sections, each of which shows three symbols bearing different combinations of six different types of fruit or similar objects. The wheel has a corresponding layout.

The play. A player places his wager on one or more colors on the layout, and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination. The payoff odds shall be conspicuously displayed on the layout.

M. Gaming Operator shall mean any individual, sole proprietorship, partnership, or corporation which operates a Class III Gaming activity on behalf of the Omaha

Tribe pursuant to a management contract approved by the Bureau of Indian Affairs, the Chairman of the National Indian Gaming Commission, or such other federal agency exercising the appropriate jurisdiction under the Act.

N. Gross Proceeds shall mean the total aggregate amount of wagers received by the Omaha Tribe from the conduct of Class III Gaming without any reduction for prizes, discounts, taxes, or Expenses and shall include receipts from admission costs, any consideration necessary for participation, and the value of any free games or plays used.

O. Horse Race Wheel shall refer to a game played with the following equipment in the following manner:

Equipment. A wheel of variable size. The surface of the wheel is divided into sections and each section has a number corresponding to a pictorial horse or name of horse. The rim of each numbered section is divided into smaller numbered sections, which indicate the odds at which the winner is to be paid. The wheel has a corresponding layout.

The play. A player places his wager on one or more numbers on the layout, and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests indicates the winning number and the odds to be paid.

P. Indian Lands shall mean:

(i) All lands within the limits of the reservation of the Omaha Tribe of Nebraska, together with all accretions thereto, which lands must be located within the State of Nebraska;

(ii) Any lands title to which is either held in trust by the United States for the benefit of the Omaha Tribe or individual, or held by the Omaha Tribe or individual subject to restriction by the United States against alienation and over which the Omaha Tribe exercises governmental power; and

(iii) All lands within the State of Nebraska which may be acquired by the Omaha Tribe in the future and which meet the requirements of Section 20 of the Act, 25 U.S.C. § 2719.

Q. Keno shall mean a gambling scheme in which:

(i) A player or players agree to pay something of value for an opportunity to win;

(ii) Playing opportunities are represented by tickets;

(iii) Winners are solely determined by a method in which a player selects up to 25 numbers from a total of 80 numbers on a ticket and a computer, other electronic selection device, or electrically operated blower machine, none of which is player activated, randomly selects up to 25 numbers from the same pool of 80 numbers and the winning players are determined by the correct matching of the numbers selected by the players with the numbers randomly selected by the computer, other electronic selection device, or electrically operated blower machine;

(iv) The holders of the winning tickets are to receive cash, prizes redeemable for cash, or merchandise; and

(v) Selection of a winner or winners shall be predicated solely on chance.

R. Key Employee shall mean a person who is a manager, assistant manager, shift supervisor, department head, such as the chief of security, the Keno department manager, and table game manager as well as count room personnel and bookkeepers or accountants.

S. Lottery Ticket Drawing shall mean a gambling scheme in which:

(i) Participants pay or agree to pay something of value for an opportunity to win;

(ii) Winning opportunities are represented by tickets differentiated by sequential enumeration; and

(iii) Winners are determined by a random drawing of the tickets.

(iv) Each ticket or stub shall have an equal chance of being chosen in the drawing.

T. Manufacturer-Distributor shall mean any individual, sole proprietorship, partnership or corporation which assembles, produces, makes, prints, or supplies Class III Gaming Equipment or Supplies for sale, lease, use, or distribution to the Omaha Tribe or a licensed Gaming Operator for a Class III Gaming activity conducted pursuant to this Compact.

- U. Money Wheel** shall mean a gambling scheme in which:
- (i) Players pay cash in order to place bets on the outcome of a nonplayer spinning a wheel placed in a vertical position which is divided into segments represented by numbers or symbols or any configuration thereof.
 - (ii) Cash prizes are paid according to the odds set forth on the surface of the playing table, to players who placed a bet in an area on the playing table prior to the wheel being spun, that matches the particular segment of the wheel that is designated to be at the top position of the wheel when the wheel stops rotating.
 - (iii) Selection of a winner or winners shall be predicated solely on chance.
- V. Nebraska** shall mean the State of Nebraska.
- W. Omaha Tribe** shall mean the Omaha Tribe of Nebraska.
- X. Parties-In-Interest** when used in reference to a Gaming Operator shall include all partners of a partnership and spouses of such partners, whether the partnership is a limited partnership or a general partnership, the members of an association and spouses of such members and, in the case of corporations, those individuals who are members of the board of directors or officers of such corporation and spouses of such members of the board or officers and each of its stockholders and spouses of such stockholders who hold, directly or indirectly applying the attribution rules of Section 318 of the Internal Revenue Code (1986), ten percent (10%) or more of its issued and outstanding stock and such other entities having a direct financial interest in, or management responsibility for a management contract for a Class III Gaming facility, and if any stockholder owning more than ten percent (10%) of the stock of a corporate Gaming Operator is a corporation or partnership, every partner of such partnership and spouses of such partners or stockholder and spouses of such stockholders owning more than ten percent (10%) of the stock of such corporation as well as members of the board of directors of such corporation and spouses of such officers or members shall also be considered a Party-in-Interest to the Gaming Operator.

In the event that a proposed Gaming Operator is a publicly held corporation or partnership, whether general or limited, Parties in Interest shall mean all general partners and any limited partners holding greater than thirty percent (30%) of the issued and outstanding partnership units of any class and, with respect to a publicly held corporation, the officers and directors plus any person holding greater than thirty percent (30%) of the issued outstanding stock of any class as well as the spouses of such officers, members of the board of directors, and partners, whether general or limited.

Y. Relevant Information shall mean a sworn statement of Applicants and shall include:

- (i) Name;
- (ii) Date and place of birth;
- (iii) Physical description and pictures;
- (iv) Residence since age 18;
- (v) Employment history since age 18;
- (vi) Criminal history (other than misdemeanor traffic offenses) including:
 - (a) arrests, including date, place, details surrounding any arrest or charges,
 - (b) whether taken into custody and details surrounding same,
 - (c) whether the prospective employee was held for questioning and details surrounding same,
 - (d) whether the Applicant has been charged any law enforcement authority and details surrounding same,
 - (e) disposition of any charges;
- (vii) Two sets of fingerprints on forms from the Federal Bureau of Investigation or the Nebraska State Patrol;
- (viii) History of mental illness and addiction to or dependence upon alcohol or a controlled substance;
- (ix) Side and front view photographs;
- (xi) A history of involvement in gaming activities and licenses granted to such person by governmental authorities, including license numbers;

- (xi) Social Security number;
- (xii) Whether the Applicant has held a professional or occupational license issued by any state, the type of license, the license number, the details surrounding any suspension, revocation, or other disciplinary action based on the license, and if the license is not current, the reason it is not current; and whether the Applicant has ever applied for such a license and been denied the license;
- (xiii) Whether the Applicant has held a gambling related license issued by any state or Indian tribe, the jurisdiction in which the license was issued, the type of license, the license number, the details surrounding any suspension, revocation, or other disciplinary action based on the license, and if the license is not current, the reason it is not current; and whether the Applicant has ever applied for such a license and been denied the license;
- (xiv) Whether the Applicant has ever had any experience related to or any agreement with any gaming operation, the exact nature of the Applicant's role in the operation, the name, address and telephone number of all parties to the agreement, the place the agreement was performed, and the dates covered by the agreement;
- (xv) Whether the Applicant has ever been an investor in any gaming operation, the exact nature of the investment, the name, address, and telephone number of all other investors holding an interest of ten percent (10%) or more in the gaming operation, either directly or indirectly applying the attribution rules of I.R.C. § 318, and the name and address of the gaming operation;
- (xvi) The Applicant's commitment to provide any additional information as may be required by the Omaha Tribe or Nebraska; and
- (xvii) A written release of liability and grant of authority to disclose information to investigators.

Z. **Revoke** shall mean to permanently void and recall all rights and privileges to obtain or hold a license.

AA. **Roulette** shall mean a gambling scheme in which:

- (i) Players pay cash in order to place bets on the outcome of a nonplayer rolling a small ball around a shallow bowl within an inner disc (roulette wheel) revolving in the opposite direction.

(ii) The disc shall be divided into numbered, alternatively red and black compartments, with two green compartments also on the disc.

(iii) Cash prizes are paid according to the odds set forth on the surface of the playing table, to players who placed a bet in an area on the playing table prior to the wheel being spun, that matches the outcome of the segment of the roulette wheel into which the ball finally comes to rest when the roulette wheel stops rotating.

(iv) Selection of a winner or winners shall be predicated solely on chance.

BB. Rules Or Regulations approved pursuant to this Compact shall refer to those Rules or Regulations submitted by the Omaha Tribe and approved by Nebraska in accordance with §6(B)(x) of this Compact.

CC. Sic Bo shall mean a gambling scheme in which:

(i) Players pay cash in order to place bets on the outcome of the face value of one, two or three dice which are shaken.

(ii) Cash prizes are paid according to the odds set forth on the surface of a playing table to players who placed a bet in an area on the playing table prior to the dice being shaken, that matches the outcome of the face value of the dice shaken.

(iii) Selection of a winner or winners shall be predicated solely on chance.

DD. Suspend shall mean to cause a temporary interruption of all rights and privileges of a license.

3. Effective Date Of Compact. This Compact shall be effective after approval by the Omaha Tribe, Nebraska and the Secretary of the Department of Interior or the National Indian Gaming Commission and publication of that approval in the Federal Register pursuant to the provisions of the Act.

4. Persons Bound.

A. Nebraska. Where the name Nebraska is used in this Compact as a part thereof, such name shall be construed to include all the individuals, corporations, partnerships, enterprises, associations, districts, administrative departments, bureaus,

political subdivisions, agencies, persons, permittees, and all others using, claiming or in any manner asserting any right or power under the authority of Nebraska.

B. Omaha Tribe. Where the name Omaha Tribe is used in this Compact as a part thereof, such names shall be construed to include all the individuals, corporations, partnerships, enterprises, associations, districts, administrative departments, bureaus, political subdivisions, agencies, persons, permittees, and all others using, claiming, or in any manner asserting any right or power under the authority of the Omaha Tribe.

5. **Retention Of Rights**. Nothing in this Compact shall be construed:

A. To affect any rights, powers, duties or abilities of the Omaha Tribe or those acting by or under its authority, in, over and to Indian Lands; nor to impair or affect the capacity of the Omaha Tribe or those acting by or under its authority to govern its internal economic affairs and the rights and obligations of its citizens;

B. To subject any property of the Omaha Tribe, its agencies or instrumentalities to taxation by Nebraska; or political subdivision thereof, nor to create any tax obligation on the part of the Omaha Tribe, its agencies or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, or to make any payments to Nebraska or political subdivision thereof, State agency, municipality, or entity whatsoever in reimbursement or for charge for loss of taxes;

C. To subject any property of the Omaha Tribe, its agencies or instrumentalities, to the laws of Nebraska to any other extent than the extent that such laws apply pursuant to the terms of this Compact.

6. **Powers, Functions, And Duties**.

A. Powers, Functions, And Duties Of Omaha Tribe And Nebraska. The Omaha Tribe and Nebraska shall have the following powers, functions, and duties with regard to the conduct of Class III gaming activities authorized by this Compact:

- (i) To issue regular and probationary licenses for Gaming Operators, Key Employees and Manufacturer-Distributors;
- (ii) To deny any license application for cause. Cause for denial of an application shall include instances in which the Applicant or any person with a substantial interest therein;
 - (a) Willfully or knowingly violated the provisions, requirements, conditions, limitations, or duties imposed by this Compact or any rules or regulations approved pursuant to this Compact;
 - (b) Willfully or knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of this Compact or any rules or regulations approved pursuant to this Compact;
 - (c) Has made a false statement of a material fact on the application;
 - (d) Has been convicted of, forfeited bond upon or entered a plea of guilty or no contest to a felony, any gambling-related offense or fraud or misrepresentation or a crime involving moral turpitude, or willful failure to make required payments or reports to a governmental agency at any level, whether felony or misdemeanor;
 - (e) Whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Class III Gaming;
 - (f) Denied the Omaha Tribe, Nebraska or their authorized representatives, access to any place where activity required to be licensed under this Compact is being conducted or failed to produce for inspection or audit any book, record, document, or other item required by this Compact, or any rules or regulations approved pursuant to his Compact;
 - (g) Failed to prove by a preponderance of the evidence his, her, or its qualifications to be licensed in accordance with this Compact;

- (h) Failed to pay any taxes and additions to taxes, including penalty and interest lawfully required by Nebraska or the Omaha Tribe;
- (i) Failed to pay an administrative fine imposed pursuant to this Compact;
- (j) Has been found guilty of any violation or attempt or conspiracy to violate any law, rule or regulation of gaming in any jurisdiction for which suspension or termination of employment or license might be imposed in such jurisdiction;
- (k) Has previously been found unfit for licensing by Nebraska, Nevada, New Jersey, or South Dakota Lottery Commission;
- (l) Is a person who is a Key Employee of a Gaming Operator and if such person is also a member of the Tribal Council of the Omaha Tribe or a spouse or relative of the first degree of a member of the Omaha Tribal Council;
- (m) Failed to provide information, documentation, or assurances required or requested by the State, or the failure of the Applicant to reveal any material fact as to qualification, or the supplying of information which is untrue or misleading as to any material fact pertaining to such qualification criteria;
- (n) Has been suspended from operating a game of chance or a gambling operation in another jurisdiction or had a license to conduct gaming cancelled, revoked, suspended or limited for any reason;
- (o) Failed to demonstrate financial responsibility sufficient to meet his, her, or its requirements under the license;
- (p) Has not disclosed the true ownership of the enterprise proposed;
- (q) Has no demonstrated contacts, association or business enterprises with individuals associated with or identified as organized crime;

(r) Has not loaned money or other property of value to others for the purpose of permitting a wager on any game of chance unless permitted in that jurisdiction; or

(s) Has no material investigation or prosecution pending in any jurisdiction in which the Applicant or any person who is required to be qualified under this Compact as a condition for license.

(iii) To revoke, cancel, or suspend for cause, any license. Cause for revocation, cancellation, or suspension of a license shall include instances in which a licensee or any person with a substantial interest therein:

(a) Willfully or knowingly violated the provisions, requirements, conditions, limitations, or duties imposed by this Compact or any rules or regulations approved pursuant to this Compact;

(b) Knowingly caused, aided, abetted, or conspired with another to cause any person to violate any provisions of this Compact, or any rules or regulations approved pursuant to this Compact;

(c) Obtained a license pursuant to this Compact by fraud, misrepresentation, or concealment of a material fact;

(d) Has been convicted of, forfeited bond upon or entered a plea of guilty or no contest to a felony, any gambling-related offense or fraud or misrepresentation or a crime involving moral turpitude, or willful failure to make required payments or reports to a governmental agency at any level, whether felony or misdemeanor;

(e) Denied Nebraska, the Omaha Tribe or their authorized representatives, access to any place where activity required to be licensed under this Compact is being conducted or failed to produce for inspection or audit any book, record, document, or other item required by this Compact, or any Rule or Regulation approved pursuant to this Compact;

(f) Failed to pay any taxes and additions to taxes, including penalties and interest, required by Nebraska or the Omaha Tribe; or

(g) Failed to pay an administrative fine imposed pursuant to this Compact.

B. Additional Powers, Functions, And Duties Of Nebraska. Additionally, Nebraska shall have the following powers, functions, and duties with regard to the conduct of Class III Gaming activities authorized by this Compact:

(i) To issue and cause to be served upon the holder of a license issued by it an order requiring the license holder to cease and desist from violations of this Compact or any Rule or Regulation approved pursuant to this Compact. The order shall give reasonable notice of the rights of the license holder to request an administrative hearing before the State Tax Commissioner and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by Nebraska, and within 20 days after the date of the hearing, the State Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent, as the facts require. License holders shall be entitled to a single continuation of not more than five (5) days upon good cause shown. All hearings shall be held in accordance with Rules or Regulations approved pursuant to this Compact. If the license holder to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the license holder shall be deemed in default and the proceeding may be determined against the license holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

(ii) To impose or levy an administrative fine of not more than \$1,000.00 on a licensee for cause. For purposes of this subdivision, cause shall include instances in which the licensee willfully or knowingly violated the provisions, requirements, conditions, limitations, or duties imposed by this Compact or any Rule or Regulations approved pursuant thereto. In determining whether to levy an administrative fine and the amount of the fine, if any such fine is levied, Nebraska shall take into consideration the seriousness of the violation and the extent to which the licensee derived financial gain as a result of the violation. If an administrative fine is levied, such fine shall be remitted by the licensee to Nebraska within thirty (30) days from the date of the order issued by Nebraska imposing such fine. Any unpaid administrative fine shall constitute a debt to

Nebraska which may be sued for and recovered in any proper form of action in the name of Nebraska in the United States District Court and in the event such court does not have subject matter jurisdiction, in any court of competent jurisdiction;

(iii) To enter and examine at any time upon any premises where a Class III Gaming activity is being conducted pursuant to this Compact during ordinary business hours and at other times as agreed upon to determine whether any provisions of the Compact or any rules or regulations approved hereto have been or are being violated at such time; provided, however, that all such visitations shall be conducted in a manner not unreasonably disruptive of normal business operations;

(iv) To require periodic reports of Class III Gaming activity from the Omaha Tribe, any Manufacturer-Distributor, and any Gaming Operator and any other persons, organizations, or corporations as Nebraska, with the consent of the Omaha Tribe, deems necessary to carry out the provisions of this Compact;

(v) To audit, examine, or cause to have examined, by any agent or representative designated by Nebraska for such purpose, any books, papers, records, bills, timesheets, receipts, vouchers or memoranda relating to the conduct of any Class III Gaming activity. Nebraska shall provide the Omaha Tribe with a copy of the results of all audits conducted by Nebraska within thirty (30) days following the completion of such audit, unless Nebraska withholds any such audit so as not to compromise its law enforcement responsibilities under this Compact. Following fulfillment of its law enforcement responsibilities under this Compact, Nebraska shall send a copy of such audit to the Omaha Tribe;

(vi) To compute, determine, assess, and collect accurate amounts required to be paid to Nebraska as are necessary to defray the costs incurred by Nebraska of regulating Class III Gaming activity conducted by the Omaha Tribe or any Gaming Operator conducting Class III Gaming activity on behalf of the Omaha Tribe;

(vii) To confiscate and seize Class III Gaming Equipment or Supplies pursuant to this Compact;

(viii) To investigate the activities of any person relating to the conduct of any Class III Gaming activity;

(ix) To compel the attendance of witnesses or the production of any books, papers, correspondence, memoranda, documents,

agreements, or other records, and to compel the attendance of witnesses, which Nebraska deems relevant or material to an investigation by order of the State Tax Commissioner;

(x) To approve such Rules or Regulations and to prescribe all forms as are necessary to carry out the provisions of this Compact. Rules or Regulations may be submitted by the Omaha Tribe to Nebraska for approval. Approval of such Rules or Regulations shall be made by Nebraska provided that such Rules or Regulations fulfill the purposes of this Compact as set forth in the Recitals; and

(xi) With the approval of the Omaha Tribe, Nebraska shall have such other powers and authority as may be necessary to fulfill its obligations under this Compact.

C. Additional Powers, Functions, And Duties Of Omaha Tribe. Additionally, the Omaha Tribe shall have the following powers, functions, and duties with regard to the conduct of Class III Gaming activities authorized by this Compact:

(i) The Omaha Tribe shall not hire, employ, or enter into a contract for management services with a Gaming Operator relating to Class III Gaming with a person or entity which employs a person pursuant to this Compact:

(a) Who is under the age of nineteen (19);

(b) Who has been convicted of, forfeited bond upon or entered a plea of guilty or no contest to a felony, any gambling-related offense or fraud or misrepresentation or a crime involving moral turpitude, whether felony or misdemeanor, unless the person has been pardoned by the Omaha Tribe and it is determined, with the concurrence of Nebraska that such person's offense will not jeopardize the integrity of the Omaha Tribe's gaming operation;

(c) Whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of Class III Gaming; or

(d) Who is a person ineligible to hold a license as a Key Employee or a Gaming Operator.

(ii) The Omaha Tribe or its Gaming Operator, as the case may be, shall maintain records in accordance with generally accepted accounting principles relating to the following:

- (a) Revenues, Expenses, assets, liabilities and equity for each location at which any component of Class III Gaming, including tickets sales, is conducted;
- (b) Daily cash transactions for each game at each location at which Class III Gaming is conducted, including but not limited to transactions relating to each gaming table bank, drop box and room bank;
- (c) All returned checks, hold checks, or other similar credit instruments;
- (d) Contracts, correspondence and other transaction documents relating to all Manufacturer-Distributors of Class III Gaming Equipment or Supplies;
- (e) All Tribal enforcement activities;
- (f) All audits prepared by or on behalf of the Omaha Tribe or its Gaming Operator; and
- (g) Personnel information on all Class III Gaming employees or agents, including rotation sheets, hours worked, employee profiles, background checks and salaries.

A hard copy of all source documents and access to supporting data must be available at the site at which the Class III Gaming activity is conducted.

(iii) No person under the age of nineteen (19) on the date of gaming shall be permitted to play any Class III game of chance. If any person below the age of nineteen (19) plays and otherwise qualifies to win any such game, the prize shall not be paid, and the estimated amount wagered during the course of the game shall be returned to the minor. One or more signs restricting the participation of persons under the age of nineteen (19) shall be prominently displayed in each playing area.

(iv) No person under the age of nineteen (19) shall be permitted on that portion of the premises where Class III Gaming is conducted; provided, however, that this subsection shall not apply to locations at

which ticket sales are the only component of Class III Gaming being conducted.

(v) All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming conducted within the Reservation, and no Gaming Operator shall permit any person or organization to offer such credit for a fee. This subsection shall not restrict the right of the Omaha Tribe or any other person to offer check cashing, or to install an automated teller machine or accept bank credit card or credit card transactions in the same manner as would be normally permitted at any retail business. All winnings shall be paid in cash or prizes. All cash winnings over \$1,500.00 or upon request of the winning player(s) shall be paid by check. Merchandise and non-cash prizes shall be valued at their fair market retail value. Unless the option is previously disclosed in advertising or at the location where the prize is won, no merchandise or non-cash prize shall be redeemable or convertible into cash directly or indirectly. All prizes must be made available to the winner within 24 hours of winning such prize.

(vi) Not less than sixty-five percent (65%) of the aggregate Gross Proceeds of Class III Gaming during an annual period from October 1 to September 30 of each year shall be used for the awarding of prizes. In the event the Omaha Tribe fails to meet the minimum prize limitations set forth in this subsection, it shall, within fifteen (15) days following the receipt of such information, so notify Nebraska and adjust its prizes to increase its payouts and such adjustment shall remain in effect for ninety days or until that portion of the hold which was in excess of the minimum prize limitations is refunded to the public, whichever is earlier.

(vii) Commencing the date a Class III Gaming facility is open to the public, not more than twenty-five percent (25%) of the aggregate Gross Proceeds of Class III Gaming during the annual period beginning October 1, through September 30 of each year and in the case of initial operation, the period between the date a Class III Gaming facility is open to the public, through September 30, shall be used to pay the Expenses of operating the Class III Gaming activity. For the second year of operation and subsequent years the expense limitations shall be twenty percent (20%). Expenses attributable to both Class III Gaming and any other class of gaming shall be fairly apportioned between such gaming activities on a fair and equitable basis. Expenses and costs for assets which would be subject to depreciation under the Internal Revenue Code, if such code would

otherwise be applicable, shall be amortized as an expense over the depreciable life of such assets under the Internal Revenue Code and where assets are leased, the Expenses relating to the lease of the asset shall be amortized over the asset's life under the Internal Revenue Code or the lease, whichever is shorter. The parties contemplate that some assets, such as buildings, will be amortized as an expense over a period of time in excess of the length of a management contract with a Gaming Operator. Commencing the first year that a Class III Gaming facility is open to the public, the expense limitation, as contained herein, shall be calculated on the remainder of that year prior to October 1 of the year and annually thereafter as provided herein, notwithstanding a change in the management of a Class III Gaming facility, the identity of a Gaming Operator, or other change in management. In the event that either party determines that it wishes to renegotiate the expense limitation as contained herein to reflect economic reality, it shall so notify the other party but not before two years after a Class III Gaming facility is opened to the public, or two fiscal years have passed, whichever is earlier, and following a reasonable time after the receipt of such notice, the parties shall meet, and negotiate in good faith to agree upon a new expense limitation which reflects economic reality.

(viii) No Class III Gaming activity shall be conducted between the hours of 4:00 a.m. and 9:00 a.m., Monday through Thursday and between the hours of 6:00 a.m. and 9:00 a.m. Friday through Sunday, provided, however, that there shall be no limitation on hours of operation during a tribal holiday, pow-wow or other tribal celebration or festival or any Friday, Saturday or Sunday preceding a federal holiday that falls on a Monday or any other Nebraska or federal holiday.

(ix) No person shall use, or possess with the intent to use, any calculator, mechanical computer or other electronic or electromechanical device at any table or wheel game on or any premises at which Class III Gaming is conducted that:

- (a) Assists in projecting the outcome of a game;
- (b) Keeps track of changing probabilities; or
- (c) Keeps track of playing strategies being utilized.

(x) The Omaha Tribe shall adopt a system of taxation for Class III Gaming which is not owned or operated by the Omaha Tribe and is conducted on Indian Lands that is at least as stringent as the system of taxation adopted by Nebraska and imposed upon licensees of

gaming activities pursuant to Chapter 9, Article 6, of the Revised Statutes of Nebraska as it now exists or may hereinafter be amended. Notwithstanding the foregoing, the Omaha Tribe reserves unto itself the full right to adopt and impose a scheme of taxation relating to its reservation which is different, separate and distinct from those taxes specified in Chapter 9, Article 6, of the Revised Statutes of Nebraska.

(xi) The following additional regulatory requirements shall be applicable to the conduct of any Class III Gaming activity authorized by this Compact. The Omaha Tribe shall:

(a) Not employ or pay any person to participate in any game, including but not limited to any skill or proposition players;

(b) Maintain at each table a gaming table bank, which shall be used exclusively for the making of change and handling player buy-ins;

(c) Maintain at each table a game drop box, which shall be used exclusively for rake-offs or other compensation received by the Omaha Tribe for maintaining the game. A separate game drop box shall be used for each work shift of employees;

(d) Post the rules of each game in a conspicuous location visible from each table or have such information available in pamphlet form designating:

(1) The maximum rake-off percentage, time buy-in or other fee charged;

(2) The number of raises allowed;

(3) The monetary limit of each raise;

(4) The amount of ante; and

(5) Other rules as may be necessary.

(e) Prohibit any person licensed to assist in the management of any game permitted under this Compact who is a top management official, a Gaming Operator or top management official thereof to participate as a player at any Class III Gaming facility on Indian Lands;

(f) Comply with and make provisions for compliance with all federal, Tribal laws and rules, and Nebraska law made applicable hereto pertaining to the operation

of Class III Gaming including payment of license fees, withholding and payroll taxes and violations of alcoholic beverage laws or regulations;

(g) Not knowingly possess or permit to remain in or upon any premises at which Class III Gaming is conducted any associated gambling equipment or supplies (primarily, but not limited to dice) which may have been in any manner marked, tampered with or otherwise placed in a condition or operated in a manner which might affect the game and its payouts;

(h) Not knowingly permit, any cheating whatsoever;

(i) Not knowingly and intentionally possess or permit to remain in or upon the premises where Class III Gaming is conducted any cheating device whatsoever, or conduct, carry on, operate or deal any cheating or thieving game or device;

(j) Not knowingly and intentionally possess or permit to remain in or upon the premises where Class III Gaming is conducted any gambling device which tends to alter the normal random selection of criteria which determines the results of the game or deceives the public in any way;

(k) Conduct advertising, public relations activities, and gaming operations in accordance with proper standards of custom, dignity, decorum and decency, honesty and good taste;

(l) Not permit any type of conduct in the Class III Gaming facility which reflects negatively on the reputation of the Omaha Tribe or Nebraska, or acts as a detriment to the gaming industry;

(m) Not deny the Tax Commissioner or his/her authorized employees access to, for inspection purposes, any portion of a facility where Class III Gaming is conducted pursuant to this Compact.

(n) Not deny the Tax Commissioner or his/her authorized employees information concerning any aspect of the operation of the Class III Gaming facility.

7. Laws, Rules, And Regulations To Govern Class III Gaming On Indian Lands. Prior to engaging in any Class III Gaming activity, the Omaha Tribe must enact laws which satisfy the standards set forth in this Compact and Section 11(b) of the Act, 25 U.S.C. § 2710(b) and are approved by the Chairman of the National Indian Gaming Commission.

8. Enforcement Of Omaha Tribal Laws, Rules Or Regulations. The enforcement of the laws, Rules or Regulations of the Omaha Tribe for the conduct of Class III Gaming on Indian Lands shall primarily be the responsibility of the Omaha Tribe with monitoring of such regulation by Nebraska as set forth herein, and, where applicable, the Federal Government pursuant to the terms of the Act or other provisions of law provided, however, that Nebraska agrees to cooperate in the enforcement of such laws, Rules or Regulations upon request from the Omaha Tribe. Nebraska, through the Department of Revenue, Division of Charitable Gaming, shall have the right to monitor the Omaha Tribe's Class III Gaming regulations and enforcement activities to ensure that the Omaha Tribe is administering and enforcing its regulatory requirements.

9. Licenses; Application Forms. Application forms for licenses relating to Class III Games shall be prescribed by Nebraska with the advice and consent of the Omaha Tribe. Such application forms shall be obtained by Applicants from the Omaha Tribe and submitted, together with such supplemental information as is necessary, in completed form to the Omaha Tribe in duplicate. The original copy shall be retained by the Omaha Tribe, and one duplicate original shall be submitted to Nebraska for processing.

10. Licensing.

A. Omaha Tribe. Prior to conducting any Class III Gaming activity, the Omaha Tribe shall supply the following information to Nebraska on a form prescribed by Nebraska:

- (i) A written statement describing each type of Class III Gaming activity to be conducted by the Omaha Tribe or any Gaming Operator conducting such activity on the Omaha Tribe's behalf; and

(ii) If the Omaha Tribe enters into a written agreement with a Gaming Operator, a copy of the management contract between the Omaha Tribe and the individual, sole proprietorship, partnership, or corporation planning to operate such Class III Gaming activity.

B. Gaming Operator. No Gaming Operator shall conduct a Class III Gaming activity on behalf of the Omaha Tribe without first having been issued a license by Nebraska and the Omaha Tribe. Each Nebraska application by any Gaming Operator shall include:

(i) The name, address, date of birth and social security number of every person who is a sole proprietor, corporate officer, or employee of the Gaming Operator, who will work at a facility where Class III Gaming is or will be conducted pursuant to this Compact;

(ii) A statement signed by an authorized representative of the Omaha Tribe signifying that the Omaha Tribe approves the Applicant to act as a Gaming Operator on behalf of the Omaha Tribe; and

(iii) Any other information which Nebraska, with the consent of the Omaha Tribe, deems necessary.

C. Key Employee. No Key Employee of the Omaha Tribe or Gaming Operator shall be involved with the conduct of a Class III Gaming activity authorized by this Compact without first having been issued a license by Nebraska and the Omaha Tribe.

D. Update Of Application Information. The information required by this section shall be kept current. The Omaha Tribe or a Gaming Operator shall notify Nebraska 30 days following any changes in the information originally submitted to Nebraska.

E. Time For Issuance Of Licenses; Extensions. By no later than the date that is one hundred twenty (120) days in the case of an application by a Gaming Operator and forty-five (45) days in the case of an application by either a Key Employee or a Manufacturer-Distributor, following the date on which the application for license is complete and the results of a fingerprint check by the Federal Bureau of Investigation have been received by Nebraska, Nebraska shall

either issue a license or its notice of intent to deny the issuance of a license as described in Section 19 hereof. Nebraska may extend the aforementioned periods for the issuance of licenses by not more than an equal number of days if Nebraska notifies the Applicant and the Omaha Tribe in writing of the reason for the extension.

11. License Year, Fees.

A. License Year. All licenses issued to any Gaming Operator and Key Employee shall expire on September 30 of every odd-numbered year.

B. License Fees. A biennial license fee of \$500.00 shall be charged for each license issued to a Gaming Operator and shall not be prorated. A biennial license fee of \$100.00 shall be charged for each license issued to a Key Employee and shall not be prorated.

12. Licensing Background Checks. Any person applying for or holding a license as a Gaming Operator, Key Employee or Manufacturer-Distributor pursuant to this Compact shall be subject to a background investigation based upon application forms prescribed by Nebraska, including but not limited to the Relevant Information for such Applicant or license, fingerprinting and a check of his or her criminal history record from information maintained by the Identification Division of the Federal Bureau of Investigation.

A. Investigation And Review By Nebraska. Nebraska shall investigate and review the application and information provided by the Applicant for the purpose of determining whether Nebraska has a basis to deny the license application or to suspend, cancel, or revoke the person's license. It is hereby agreed that Nebraska shall have the right to limit, condition or restrict any license or withhold a finding of suitability for approval based upon any of the causes as herein set out. The Applicant shall produce such information, documentation and assurances as may be required to establish by preponderance of the evidence the financial stability, integrity and responsibility of the Applicant including, but not limited to, bank

references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, business entity and personal accounting and check records and ledgers in addition to authorizing the examination of bank accounts and other such records as may be deemed necessary by Nebraska. Each such Applicant shall produce such information that will demonstrate clearly the Applicant's qualifications, demonstrating suitability for the license requested.

B. Probationary Licenses. If an Applicant for a Gaming Operator, Key Employee or Manufacturer-Distributor's license holds a current license of a similar type issued by either the states of Nevada, New Jersey, or the South Dakota Lottery Commission and such license is not under a pending current investigation, then such Applicant may receive a probationary license, subject to cancellation at any time, upon fulfilling the applicable requirements set forth in paragraphs 10, 11, 12, 13, and 15 of this Compact. Any probationary license issued by Nebraska under Section 12 hereof shall be valid for a period of not less than the time for Nebraska to issue licenses under this Section, together with any extensions thereof, unless such probationary license is earlier suspended, altered, cancelled or modified in accordance with this Compact.

C. Corporations, Partnerships. If the Applicant or licensee is a corporation, the persons subject to such requirement shall include any officer or director of the corporation, his or her spouse, and any stockholder owning in the aggregate more than ten percent of the stock of the corporation. If any stockholder owning more than ten percent of the stock of the Applicant or licensee corporation is a corporation or partnership, every partner of such partnership or stockholder owning more than ten percent of the stock of such corporation shall also be subject to the background, fingerprinting and criminal history requirements imposed above.

However, in the event that a proposed Gaming Operator is a publicly held corporation or partnership, whether general or limited, only the Parties in Interest

as defined in §2(X) shall be subject to the background, fingerprint, and criminal history requirements imposed above.

Similarly, if the Applicant or licensee is a partnership, the persons subject to such requirement shall include all such partners and their spouses.

D. Investigation And Review By Omaha Tribe. In addition to the requirements set out above, the Omaha Tribe shall submit Relevant Information to the Bureau of Indian Affairs for background checks with the Federal Bureau of Investigation on those individuals who will be licensed solely by the Omaha Tribe. The Omaha Tribe may utilize the Omaha Tribal Police to provide such background investigations and criminal history checks. The Omaha Tribe shall undertake such other investigations as shall be necessary to deter infiltration by or control of gaming activities by criminal elements.

E. Payment Of Cost Of Background Investigation. The Applicant or licensee shall pay the actual cost incurred by Nebraska and the Omaha Tribe resulting from the investigation of the Applicant's background, fingerprinting or check of his or her criminal history record. A minimum balance referred to below shall be paid prior to the commencement of the necessary investigation and shall be deposited in an interest bearing escrow account with the Omaha Tribe:

Manufacturer - Distributor - \$5,000.00; Gaming Operator - \$30,000.00; and Key Employee - \$300.00.

If such monies deposited are not sufficient to pay the actual cost of investigation by Nebraska or the Omaha Tribe, the Applicant or licensee, upon written notification by Nebraska or the Omaha Tribe, shall continue to remit the balances set forth above until such investigation is complete. Payments for cost of investigation shall be transferred from the escrow account to Nebraska or the Omaha Tribe in an amount necessary to conduct such investigation. At the conclusion of any investigation, any money remaining in such escrow account shall be refunded to the Applicant or licensee.

13. Manufacturer-Distributor License.

A. License Required For Manufacture, Sale, Lease, Printing Or Distribution Of Class III Gaming Equipment Or Supplies. No individual, sole proprietorship, partnership, or corporation shall manufacture, sell, lease, print, or distribute Class III Gaming Equipment or Supplies for use or play within Indian Lands without having first been issued a Manufacturer-Distributor license by Nebraska.

B. License Fee. Nebraska shall charge a biennial license fee of \$1,525.00 for the issuance of a Manufacturer-Distributor license which shall not be prorated. Nebraska may waive the license fee if the Applicant is currently licensed as a Manufacturer-Distributor under the Nebraska County and City Lottery Act. The biennial expiration date shall be September 30 of every odd-numbered year.

C. Application Form. An Applicant for issuance or renewal of a Manufacturer-Distributor license shall apply for a license on a form prescribed by Nebraska. The application form shall include:

(i) The name and address of the Applicant and the name and address of each of its separate locations for manufacturing or distributing Class III Gaming Equipment or Supplies;

(ii) The name and address of all owners of the Manufacturer-Distributor business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(iii) If the Applicant is a foreign Manufacturer-Distributor, the full name, business address, and home address of an agent who is a resident of this state; and

(iv) Such other information as Nebraska reasonably deems necessary.

D. Changes In Applicant Information. The Applicant shall notify Nebraska within 30 days of any change in the information submitted on or with the application form. The Applicant shall comply with all applicable laws of the

United States, Nebraska, and all applicable Rules or Regulations approved pursuant to this Compact.

14. No Manufacturer-Distributor Shall Be Licensed As A Gaming Operator. No Manufacturer-Distributor or employee, spouse, or agent of any Manufacturer-Distributor shall participate in the conduct or operation of any Class III Gaming activity conducted pursuant to this Compact.

15. Designation Of Resident Agent. Each Manufacturer-Distributor selling or leasing Class III Gaming Equipment or Supplies in this state that is not a resident of the state or is not a corporation shall designate a natural person who is a resident of and living in this state and is 19 years of age or older as a resident agent for the purposes of receipt and acceptance of service of process and other communications on behalf of the Manufacturer-Distributor. The name and business address where service of process and delivery of mail can be made, and home address of such agent shall be filed with Nebraska.

16. Purchase From Licensed Manufacturer-Distributor. The Omaha Tribe or a Gaming Operator licensed pursuant to this Compact shall purchase or lease Class III Gaming Equipment or Supplies only from a Manufacturer-Distributor licensed by Nebraska pursuant to this Compact.

**17. Manufacturer-Distributor, Gaming Operator, Tribal Council;
Restrictions.**

A. No individual, partner in a partnership, or officer or director of a corporation applying for a Gaming Operator license shall be connected with or interested in, directly or indirectly, any person, partnership, firm, or corporation, or other party licensed as a Manufacturer-Distributor.

B. No member of the Tribal Council of the Omaha Tribe shall be connected with or interested in, directly or indirectly, any Gaming Operator with whom the Omaha Tribe contracts to conduct any Class III Gaming activity or any Manufacturer-Distributor.

18. Manufacturer-Distributor Records; Reports.

A. Manufacturer-Distributor Records. Every licensed Manufacturer-Distributor shall keep and maintain a complete set of records which shall include all details of all activities of the licensee related to the conduct of the licensed activity as may be required by Nebraska, including the total quantity and types of Class III Gaming Equipment or Supplies sold or leased to the Omaha Tribe, to any Gaming Operator licensed pursuant to this Compact and to other licensed Manufacturer-Distributors for resale or redistribution to any of the foregoing. Such records shall be available for inspection by Nebraska. The records shall be maintained for a period of not less than three years from the date of the end of the licensee's fiscal year.

B. Manufacturer-Distributor Quarterly Reports. Each Manufacturer-Distributor shall, not later than 30 days after the last day of each calendar quarter, report to Nebraska in a manner prescribed by Nebraska the following information in regard to their activities in Nebraska:

- (i). The name of each purchaser or lessee of Class III Gaming Equipment or Supplies;
- (ii). Relative to each sale or lease, the quantity and type of Class III Gaming Equipment or Supplies sold or leased; and
- (iii). A copy of all invoices showing the items shipped and a copy of the bill of lading. The shipment of Class III gambling devices and associated equipment or supplies may be made directly to the Omaha Tribe.
- (iv). Any other information concerning Class III Gaming Equipment or Supplies sold or leased which Nebraska deems necessary.

19. Appeal Of Nebraska License Denials.

A. Notice Of Denial. Before any license application is denied pursuant to this Compact, Nebraska shall notify the Applicant in writing of Nebraska's intention to deny the application and the reasons for the denial. Such notice shall inform the Applicant of his or her right to request an administrative hearing before the State

Tax Commissioner for the purpose of reconsideration of the intended denial of the application.

B. Request For Hearing. A request for hearing by an Applicant shall be in writing and shall be filed with the Nebraska Department of Revenue within 30 days of the notice in the United States mail, certified mail, postage prepaid, to the Applicant of Nebraska's intended denial of the application. If a request for hearing is not filed within the 30-day period, the application denial shall become final at the expiration of such period.

C. Hearing Procedure. If a request for hearing is filed within the 30-day period, Nebraska shall grant the Applicant a hearing and shall, at least ten days before the hearing, serve notice upon the Applicant by certified mail, return receipt requested, of the time, date, and place of the hearing. Such proceedings shall be considered contested cases pursuant to the Administrative Procedure Act of Chapter 84, Article 9, of the Revised Statutes of Nebraska.

20. Administrative Hearing Procedure. Before the suspension, revocation, or cancellation of any Nebraska license pursuant to this Compact, or the imposition of any administrative fine pursuant to this Compact, Nebraska shall set the matter for hearing. Such suspension, revocation, or cancellation proceedings or proceedings to impose an administrative fine shall be contested cases pursuant to the Administrative Procedure Act of Chapter 84, Article 9, of the Revised Statutes of Nebraska. At least ten days before the hearing, Nebraska shall serve notice upon the licensee by certified mail, return receipt requested, of the time, date, and place of hearing.

21. Class III Gaming Activities.

A. Lawful Class III Gaming. The Omaha Tribe or Gaming Operator licensed by Nebraska may engage in Class III Gaming on Indian Lands if such gaming is lawful under the Act and conducted in accordance with the requirements of this Compact.

B. Keno, Lottery Ticket Drawings. As of the date of execution hereof, permissible Class III Gaming pursuant to the Act and §21(A) includes Keno and Lottery Ticket Drawings. The Omaha Tribe reserves its right to institute and maintain a judicial proceeding to determine whether a particular game falls within the definition of Class II or Class III Gaming under the Act.

C. Additional Games. In addition to the games specified in §21(B), the parties agree that as of the date hereof, certain games are permitted by Neb.Rev.Stat. §9-607 (1990 Cum.Supp.). Therefore, the Omaha Tribe or a Gaming Operator licensed by Nebraska may, so long as the following games may be lawfully conducted pursuant to the Act, engage in the following games on Indian Lands:

- (i) Big Six, Big Nine, Card Wheel, Color Wheel, Fruit Wheel, Horse Race Wheel, Money Wheel.
- (ii) Roulette;
- (iii) Chuck-A-Luck, Sic Bo.

D. Approval Of Additional Class III Gaming Activities. In the event that the Omaha Tribe wishes to conduct a Class III Game or Gaming activity which is not specifically approved in §21(B), it shall send a written notice to Nebraska describing the game it wishes to conduct and the facts upon which the Omaha Tribe bases its claim that such game may be legally conducted pursuant to the Act and this Compact, attaching thereto supporting documentation including proposed rules, cash control and game procedures for the conduct of such game. Within fifteen (15) days of the receipt of such notice, Nebraska and the Omaha Tribe shall meet to discuss the conduct of such new Class III Game and whether such game is a game described in subsection 21(A), supra. Within thirty (30) days following the date of such meeting, Nebraska shall notify the Omaha Tribe in writing of its opinion as to whether the Omaha Tribe may conduct such game as Class III Gaming under the Act. The opinion of Nebraska shall set forth with particularity and detail, all the facts upon which it relies and attach thereto all supporting documentation. In the event Nebraska agrees that such game is lawful under the

Act, the parties shall meet within fifteen (15) days thereafter to finalize the proposed rules, cash control and game procedures for such game. In the event Nebraska's opinion is not received by the Omaha Tribe within thirty (30) days following the meeting referred to herein, then, in that event, the Omaha Tribe shall be free to conduct such game pursuant to the rules and cash control procedures previously submitted by the Omaha Tribe. In the event that Nebraska is of the opinion that the Omaha Tribe has no right under the Act to conduct such game, the Omaha Tribe may either accept Nebraska's determination or proceed to invoke the dispute resolution mechanism set forth in Section 33.

E. Termination Of Class III Gaming Activity. In the event that the Omaha Tribe or its Gaming Operator discontinues the conduct of a Class III Gaming activity, written notice of such event shall be given to Nebraska within seven (7) days following such discontinuance.

22. Class III Gaming Supplies.

A. All Class III Gaming Supplies shall be constructed to conform in all other respects to the provisions and specifications imposed by this Compact and any Rules or Regulations approved pursuant to this Compact as to the manufacture, assembly, printing, and packaging of Class III Gaming Supplies.

B. Any Class III Gaming Supplies which do not conform in all respects to the requirements of this Compact and any other specifications imposed by Rule or Regulation approved pursuant to this Compact shall be contraband goods.

23. Approval Of Gaming Supplies. Each Manufacturer-Distributor shall receive approval from Nebraska prior to selling, leasing, or distributing in this state any type of Class III Gaming Supplies for use in a Class III Gaming activity conducted pursuant to this Compact. Approval by Nebraska shall be based upon, but not limited to, conformity to specifications imposed by Nebraska with the consent of the Omaha Tribe regarding the manufacture, assembly, and packaging of Class III Gaming Supplies, the provisions of this

Compact, and any other specifications imposed by rule or regulation approved pursuant to this Compact.

24. Approval Of Gaming Equipment.

A. Nebraska Approval Required. Each Manufacturer-Distributor shall receive approval from Nebraska of any Class III Gaming Equipment prior to selling, leasing, or distributing in the state any type of Class III Gaming Equipment for use in a Class III Gaming activity conducted pursuant to this Compact. Approval of Nebraska shall be based upon, but not be limited to, conformity with the provisions of this Compact and any other specifications imposed by rule or regulation approved pursuant to this Compact.

B. Manufacturer-Distributor License Required. Class III Gaming Equipment shall not be submitted for approval by Nebraska until the Manufacturer-Distributor has obtained a license as required pursuant to this Compact.

C. Manufacturer-Distributor To Pay Costs Of Equipment Examination. Nebraska may require a Manufacturer-Distributor seeking approval of any Class III Gaming Equipment to pay the anticipated actual costs of the examination of the equipment by Nebraska. If required, such costs shall be paid in advance by the Manufacturer-Distributor. After completion of the examination, Nebraska shall refund overpayments or charge and collect amounts sufficient to reimburse Nebraska for underpayments of actual costs.

D. Nonconforming Equipment Is Contraband. Class III Gaming Equipment which does not conform in all respects to the requirements of this Compact and any other specifications imposed by Nebraska with the consent of the Omaha Tribe by rule and regulation shall be contraband goods for purposes of this Compact.

25. Management Contracts. Authorized Class III Gaming conducted pursuant to the terms of this Compact shall be owned solely by the Omaha Tribe, but may be operated and managed by a Gaming Operator pursuant to a management contract which meets the requirements of the Act and this Compact.

A. Management Contracts With Gaming Operator. In accordance with the provisions of the Act and this Compact, the Omaha Tribe shall be entitled to enter into management contracts with Gaming Operators for the operation and management of gaming facilities and activities authorized by this Compact. Gaming Operators shall be licensed by the Omaha Tribe under Tribal law and by Nebraska pursuant to this Compact and approved by the United States under Federal law. Key Employees of Gaming Operators shall be licensed by the Omaha Tribe under Tribal law and by Nebraska pursuant to this Compact. The Omaha Tribe shall license all other employees.

B. Persons Ineligible To Enter Into Management Contracts. No management contract shall be entered into with any Gaming Operator or Party-in-Interest thereof who is a person or employs a person who works at a facility owned by the Omaha Tribe who would otherwise be ineligible to receive a license pursuant to this Compact or those who are prohibited under Federal law from entering into such management contracts.

C. Nebraska To Be Provided With Copy Of Management Contract, Other Information. Contemporaneous with the submission for approval of a management contract to the Bureau of Indian Affairs or the Chairman of the National Indian Gaming Commission or such other Federal agency or authority having the power to approve a management contract for Class III Gaming, the Omaha Tribe shall provide the Department of Revenue, Charitable Gaming Division with a copy of the management contract and with the information described in 25 U.S.C. §2711(a)(1), together with the Relevant Information for all Parties-In-Interest thereof. Nebraska may advise the Omaha Tribe or the Chairman of the National Indian Gaming Commission (or other appropriate authority) of any concerns about the proposed Gaming Operator or Parties-In-Interest thereof, and the Omaha Tribe may take such action as it may deem appropriate in response to these concerns.

D. Financial Statements. The financial statements required under 25 U.S.C. §2711(a)(1) shall be updated by October 1 of each year by the Gaming Operator and submitted to the Omaha Tribe and Nebraska.

26. Internal Cash Management And Audit Standards.

A. AICPA Standards For Audits. All audits must be conducted in accordance with the AICPA Standards for Audits of Casinos and generally accepted accounting principles.

B. Omaha Tribe To Provide Audit Results. Within ten (10) days following receipt, the Omaha Tribe shall provide Nebraska with copies of an audit of the Class III Gaming operations prepared on an semi-annual basis by an independent, certified public accountant. Such audit reports shall include an audit of all books, records, contracts and procedures pertinent to the conduct of Class III Gaming as otherwise required by the Act and federal law concerning audit of Tribal enterprises.

C. Cash Control Procedures. Prior to engaging in Class III Gaming, the Omaha Tribe, in conjunction with a certified public accounting firm with experience in cash control management procedures, shall develop and implement cash control management procedures designed to safeguard monies or other receipts from skimming, money laundering, embezzlement or other criminal activity which cash control procedures shall be amended from time-to-time as necessary. This Compact contemplates that the Omaha Tribe will review and revise its cash control management procedures from time-to-time as may be necessary or desirable, with consultation and advice from Nebraska. The Omaha Tribe shall maintain separate books of accounting such that the Gross Proceeds of any Class III Gaming activity, less the amounts awarded in prizes, shall be separated from such proceeds and expenses relating to any other gaming activity. The Omaha Tribe shall maintain and retain such separate records for a minimum of three (3) years.

27. **Separate Records.** The Gross Proceeds of any Class III Gaming activity, less the amount awarded in prizes, shall be segregated from other revenue of the Omaha Tribe and placed in a separate account until such time as all related Expenses have been paid. Such funds may then be commingled with other funds of the Omaha Tribe on monthly basis. Separate records shall be maintained by the Omaha Tribe. The records required by this Compact shall be preserved for at least three years. Nebraska shall have the authority to investigate the records relating to any Class III Gaming activity and Gross Proceeds from such Class III Gaming activity at any time during business hours. The Omaha Tribe or any Gaming Operator, upon proper written request, shall deliver copies of all such records to Nebraska for investigation.

28. **Compensation To Be Paid Nebraska; Adjustment Of Amount Of Compensation.**

A. Compensation To Be Paid Nebraska. As compensation to Nebraska for assuming the regulatory responsibilities herein provided, the Tribe agrees to pay Nebraska all reasonable costs incurred by Nebraska for investigating, licensing, auditing and regulating Class III Gaming on Indian Lands.

(i) The reasonable compensation for costs shall include the wages of employees of Nebraska and reimbursable employee business expenses for travel and sustenance incurred by Nebraska in connection with the performance of its obligations under this Compact, including but not limited to unreimbursed costs incurred by Nebraska for licensure and investigation, but shall not include costs, expenses or other charges of any nature relating to or arising from:

(a) Legal fees, costs, or other expense associated with the preparation and approval of Rules or Regulations approved pursuant to this Compact, any dispute, resolution or litigation under the Act, this Compact, or prosecutions or civil suits seeking enforcement of applicable law.

(b) Negotiation of modifications to this Compact between the Omaha Tribe and Nebraska.

(ii) Costs for wages of all Nebraska employees shall be based upon actual wages and benefits paid by Nebraska and timesheets prepared

by the employees which shall reflect the actual time spent by such employee in connection with the performance of the duties of Nebraska under this Compact. Reimbursement for expenses for travel and sustenance shall be based upon Nebraska policies, as may be in effect from time-to-time; provided, however, that changes in such policies shall be effective thirty (30) days following receipt of notification of such changes to the Omaha Tribe.

B. Adjustment Of Compensation. Nebraska has estimated that the costs which will be incurred by it in connection with the regulation of Class III Gaming on Indian Lands and which will be reimbursed by the Omaha Tribe to it will total approximately \$50,000.00 annually, or \$12,500.00 quarterly, based upon projections and estimates and not upon actual experience. In order to assist the Tribe in its obligation to budget for the payment of the regulatory costs to be reimbursed to Nebraska, the parties have agreed upon a "cap" of forty percent (40%) increase upon the estimated quarterly regulatory costs of \$12,500.00 such that the amount due in any particular quarter would not exceed the quarterly estimated cost of \$12,500.00 plus an additional amount of forty percent (40%) thereof for a total of \$17,500.00 due in any particular quarter. In the event the actual regulatory costs experienced by Nebraska exceeds the sum of \$17,500.00 in any given quarter, that amount in excess thereof, shall be carried over to the next quarter that the aggregate unpaid regulatory costs are not in excess of \$17,500.00 and paid by the Tribe on the due date of the next quarter's payment; provided, however, the actual regulatory costs as experienced by Nebraska during the fiscal year of the Tribe's gaming facility shall be paid in full at the end of the first quarter following such fiscal year. In the event that Nebraska has reason to believe that the regulatory costs incurred by it and reimbursable to it by the Omaha Tribe will exceed the amount of \$12,500.00 per quarter, it shall so notify the Tribe as soon as reasonably practicable so that the appropriate budgetary changes can be implemented. In the event that the amount of regulatory costs due in any particular quarter do not exceed the sum of \$12,500.00 in that quarter, the difference between the amount

of such costs and the sum of \$12,500.00 shall be carried over to the succeeding quarters and added to the \$12,500.00 due in any subsequent quarter to increase the amount of regulatory costs payable to Nebraska in such quarters. This provision shall not be construed as a limitation upon the Tribe's obligation to reimburse Nebraska, pursuant to the terms of this Compact, for regulatory costs incurred by Nebraska in conjunction with the regulation of Class III Gaming on Indian Lands.

29. Place And Manner Of Payment. All amounts payable to Nebraska pursuant to this Compact shall be made in lawful money of the United States of America and in immediately available funds. Within twenty (20) days following the close of a calendar month, Nebraska shall calculate the proposed amount, excluding any administrative fine levied by Nebraska, in a sworn statement and attach thereto copies of any and all timesheets, vouchers, bills and receipts. The sworn statement of contracted services, together with all exhibits, shall be forwarded to the Omaha Tribe within twenty-five (25) days following the close of a calendar month and shall be paid in United States dollars within thirty (30) days from the date of receipt thereof. All payments shall be made to the Nebraska Department of Revenue's Charitable Gaming Division at P.O. Box 94818, 301 Centennial Mall South, Lincoln, Nebraska 68509-4818, and deposited in the Charitable Gaming Operations Fund pursuant to Neb.Rev.Stat. § 9-1,101 (Reissue 1987).

30. Supplementation Of Compact. Nebraska and the Omaha Tribe shall, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such supplements hereto and such further instruments as may be reasonably required for carrying out the intention or facilitating the performance of this Compact.

31. Indemnification. The respective parties to this Compact initially agree to indemnify, protect, defend, and save harmless one another from any and all loss, damage, liability, cost or expense arising for the negligence, breach of duty or wrongful misconduct of their respective employees, servants or agents resulting from the performance of this Compact, subject to all statutory immunities and limitations upon damage awards

applicable to the Omaha Tribe pursuant to the provisions of Tribal and Federal law and the Charitable Gaming Division of the Nebraska Department of Revenue pursuant to the provisions of Nebraska law. In any action commenced against the Omaha Tribe in respect to which indemnity may be sought against Nebraska, the Omaha Tribe shall promptly notify Nebraska in writing and Nebraska shall assume defense thereof, including the employment of counsel selected by the Attorney General of Nebraska, the payment of all costs and Expenses, and the right to negotiate and consent to settlement. Upon reasonable determination made by the Omaha Tribe, the Omaha Tribe shall have the right to employ separate counsel in any such action and to participate in the defense thereof, at the Omaha Tribe's sole cost and expense. Nebraska shall not be liable for any settlement of any such action effected without its consent; but if settled with Nebraska's consent, or if there be a final judgment for the claimant in any such action, Nebraska agrees to indemnify and save harmless the Omaha Tribe from and against any loss or liability by reason of such settlement or judgment to the extent provided by this section. In any action commenced against Nebraska in respect to which indemnity may be sought against the Omaha Tribe, Nebraska shall promptly notify the Omaha Tribe in writing, and the Omaha Tribe shall assume defense thereof, including the employment of counsel selected by the Omaha Tribal Council, the payment of all costs and Expenses, and the right to negotiate and consent to settlement. Upon reasonable determination made by Nebraska, Nebraska shall have the right to employ separate counsel in any such action and to participate in the defense thereof at Nebraska's sole cost and expense. The Omaha Tribe shall not be liable for any settlement of any such action effected without its consent; but if settled with the Omaha Tribe's consent, or if there be a final judgment for the claimant in any such action, the Omaha Tribe agrees to indemnify and save harmless Nebraska from and against any loss or liability by reason of such settlement or judgment to the extent provided by this section. The provisions of this section shall survive the termination of this Compact only as to matters arising prior to the termination of this Compact.

32. General Conditions. The following conditions shall be applicable throughout the term of this Compact:

A. Notices. Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto may desire and may be required to give the other party hereto, shall be in writing and shall be personally delivered or sent by telegram, telefax or first class certified or registered United States mail, postage prepaid, return receipt requested, and sent to the other party at its address appearing below or such other address as any party shall hereinafter inform the other party hereto by written notice given as aforesaid:

If to Nebraska: State Tax Commissioner
Nebraska Department of Revenue
P.O. Box 94818
Lincoln, Nebraska 68509-4818
Fax No. (402) 471-5608

With a copy to: Nebraska Attorney General
Nebraska Department of Justice
2115 State Capitol
Lincoln, Nebraska 68509
Fax No. (402) 471-3591

If to the Tribe: Omaha Tribe of Nebraska
ATTN: Chairman
P.O. Box 366
Macy, Nebraska 68039
Fax No. (402) 837-5308

With a copy to: Domina & Copple, P.C.
10810 Harney Street
Suite 103
Omaha, Nebraska 68154
Fax No. (402) 330-9983

All notices, payments, requests, reports, information or demand so given shall be deemed effective upon receipt or if mailed upon receipt or the expiration of the third day following the day of mailing, whichever occurs first, except that any notice of change of address shall be effective only upon receipt by the parties to whom said notice is addressed. In computing any period of time prescribed or allowed

by this Compact or any rules or regulations approved pursuant hereto, the day of the act, event or default from which the designated period of time to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under Omaha Tribal law, Nebraska law, or Federal law, or when the act to be done is the filing of or providing access to any report or document, a day in which the weather or other conditions have made the offices in which the report or document is filed inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays under Tribal law, Nebraska law, or Federal law, shall be excluded in the computation.

B. Modification In Writing. This Compact is the entire agreement between the parties and supercedes all prior agreements whether written or oral, with respect to the subject matter hereof. Neither this Compact nor any provision herein may be changed, waived, discharged, or terminated orally, but only by an instrument in writing adopted and approved.

C. Counterpart. This Compact may be executed by the parties hereto in any number of separate counterparts with the same effect as if the signatures hereto and hereby were upon the same instrument. All such counterparts shall together constitute but one and the same document.

D. Assignment Of Compact By Nebraska Or The Omaha Tribe. Nebraska and/or the Omaha Tribe may not assign any of its respective rights, title or interest in the Compact, nor may Nebraska and/or the Omaha Tribe delegate any of its respective obligations and duties under this Compact, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

E. Governing Law. This Compact is, in all respects, to be governed by the laws of the United States of America and the State of Nebraska, and if any action is

taken to enforce the terms of this Compact, such action shall be commenced and maintained in the U.S. District Court for the District of Nebraska.

F. Third Party Beneficiaries: No Joint Enterprise. This Compact is not intended to create any third party beneficiaries and is entered into solely for the benefit of the Omaha Tribe and Nebraska. By the execution or performance hereof, no relationship of dual partnership or joint venture or other joint enterprise shall be deemed to be now or hereinafter created between Nebraska and the Omaha Tribe.

33. Remedies For Breach Of Compact; Dispute Resolution.

A. Dispute Resolution; Breach Of Compact; Notices; Procedure: In the event that there is a dispute between the parties as to the meaning of this Compact, compliance with its terms or applicable law which cannot be resolved by good faith negotiation or either Nebraska or the Omaha Tribe are engaging in any practice which the other party believes to be in violation of any provision of this Compact, either party may, in good faith, invoke the following procedure:

(i) The party asserting the dispute or non-compliance shall serve written notice on the other party. Such notice shall identify the dispute or Compact provision alleged to have been violated or breached and specify with particularity and detail, the facts upon which such breach or dispute is premised, attaching thereto copies of any supporting documentation. The parties shall meet within seven (7) days following the receipt of such notice in an effort to negotiate in good faith with the intent to reach a resolution of the dispute or breach.

(ii) In the event that the parties are unable to negotiate a dispute within thirty (30) days from the date of the notice set forth in subsection 33(A)(i) then the parties may elect to engage in a nonjudicial form of dispute resolution such as arbitration, mediation, or judicial resolution firms. Such alternative dispute mechanisms may be either binding, or non-binding, as the parties may elect. In the event the parties wish to proceed before a panel of arbitrators, each party shall appoint an arbitrator who is an attorney at law and experienced in Indian gaming matters under the Act and the arbitrators so appointed shall in turn select a similarly qualified

arbitrator such that there will be three members of the arbitration panel. In the event that the arbitrators initially chosen by the parties cannot agree upon the identity of a third arbitrator, each shall submit a list of three similarly qualified arbitrators and the third arbitrator shall be randomly chosen from the list of names submitted. Each party shall be responsible for the costs, fees, expenses of its own arbitrator and the cost for the third arbitrator shall be borne equally between the parties. All proceedings before an arbitration panel shall be conducted to expedite the proceedings and minimize the cost to the participants.

(iii) In the event the parties do not elect an alternative dispute resolution mechanism pursuant to subsection 33(A)(ii), then, in that event, the parties may proceed before the United States District Court for the District of Nebraska in an action seeking injunctive, or declaratory relief, or other appropriate remedy. The choice of forum and venue under this Compact is exclusive, and the parties expressly waive the right to institute an action in another court of competent jurisdiction.

B. Sovereign Immunity From Action; Limited Waiver. As sovereigns, Nebraska and the Omaha Tribe hereby waive both jurisdictional and liability immunity to any action which may be brought to enforce and interpret the terms of this Compact or to remedy breaches of any of its terms; provided, however, that these waivers are limited to such purposes and do not extend to any other suit or action of any other purpose and further provided, however, that the Omaha Tribe may enforce its civil and criminal laws against its citizens in the Omaha Tribal Court, and Nebraska may enforce its civil and criminal laws against individuals, firms and corporations who are not citizens of the Omaha Tribe or Indians generally in the Nebraska state court system.

34. Open Records Law. Disclosure of information by Nebraska shall be governed by Neb.Rev.Stat. §§ 84-712 to 84-712.09 (Reissue 1987). The Omaha Tribe shall have the burden of informing Nebraska if any information submitted to it is a trade secret or proprietary information if the Omaha Tribe designates such information as not otherwise accessible to the public pursuant to Nebraska law and the burden of

substantiating such a claim. Nebraska shall maintain the confidentiality of any information obtained from the Omaha Tribe which the Omaha Tribe specifies and substantiates is not subject to disclosure pursuant to Neb.Rev.Stat. §84-712.05 (Reissue 1987) or equivalent provision of law as amended from time to time.

35. Right Of Nebraska To Seize Contraband Goods.

A. Seizure Of Contraband Goods. Nebraska, its agents or employees may seize, without a warrant, the following contraband goods found in any place on Indian Lands:

(i) Any Class III Gaming Equipment or Supplies which do not conform in all respects to the requirements of this Compact or any other specifications imposed by Rules or Regulations approved pursuant to this Compact;

(ii) Any Class III Gaming Equipment or Supplies that are being sold or leased without the proper license;

(iii) Any Class III Gaming Equipment or Supplies that have been sold or leased in violation of this Compact or any Rules or Regulations approved pursuant to this Compact; or

(iv) Any Class III Gaming Equipment or Supplies used in connection with any Class III Gaming activity that has been or is being conducted in violation of this Compact or any Rules or Regulations approved pursuant to the Compact.

B. Return Of Seized Property. Nebraska may, upon satisfactory proof, direct the return of any seized Class III Gaming Equipment or Supplies when Nebraska has reason to believe that the owner or lessee of such property has not willfully or intentionally failed to comply with the Compact.

C. Confiscation Of Property; Property To Escheat To Omaha Tribe. Nebraska may, upon finding that an owner or lessee of contraband goods has willfully or intentionally failed to comply with the Compact, confiscate such goods. Any Class III Gaming Equipment or Supplies confiscated shall escheat to the Omaha Tribe after they have been released from use as evidence at any judicial or administrative proceeding.

D. Confiscation; Fine, Penalties For Violations. The seizure or confiscation of contraband goods under this section shall not relieve any person from a fine or other penalty for violation of this Compact or applicable state statute, tribal ordinance or federal law.

E. Negligence; No Liability Of Nebraska. Nebraska, its agents or employees, when directed to do so by Nebraska, shall not be responsible for negligence in any court for the seizure or confiscation of any Class III Gaming Equipment or Supplies pursuant to this provision.

36. Extension Of Obligations. The expiration or termination of this Compact shall not relieve either Nebraska or the Omaha Tribe of any obligation which arose under this Compact during the period in which it was in effect.

37. Compact Renegotiation. In the event another Indian tribe executes a Compact with Nebraska for the conduct of Class III Gaming, Nebraska shall provide a copy thereof to the Omaha Tribe within ten (10) business days following execution thereof. The Omaha Tribe shall specify in writing those additional terms and conditions as contained in such Compact that the Omaha Tribe wishes to include in this Compact, and the parties shall meet within fifteen (15) days following the date of receipt of such notice by Nebraska to negotiate in good faith pursuant to the terms of the Act to reach an agreement concerning the incorporation of those additional terms and conditions herein. Renegotiation of the provisions hereof and negotiations to conduct individual Class III games which are not specifically provided for herein shall be conducted in good faith pursuant to the Act and this Compact.

38. Severability. Each clause, provision, section, and subsection of this Compact shall stand separate and independent of every other provision, section, or subsection. In the event that a court of competent jurisdiction shall find any clause, provision, section, or subsection of this Compact to be invalid or unenforceable, such holding shall not invalidate or render unenforceable any of the remaining provisions, sections, or subsections of the Compact which shall remain in full force and effect.

In witness whereof the parties hereto have caused this Compact to be executed as of the day and year first above written.

THE OMAHA TRIBE OF NEBRASKA,

BY: Doran L. Morris, Sr.
The Honorable Doran L. Morris, Sr.
Tribal Chairman

and

THE STATE OF NEBRASKA,

BY: John M. Boehm
The Honorable John M. Boehm
State Tax Commissioner

COMPACT

DATED: 12/31/90

Wm D. Bettelberg
Assistant Secretary - Indian Affairs