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United States Department of the Interior

TAKE PRIDE IN AMERICA

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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MAY 1 2001

MAY 2001 GOVERNORS OFFICE Pierre, SD

Honorable William J. Janklow
Governor, State of South Dakota
Pierre, South Dakota 57501

Dear Governor Janklow:

On March 19, 2001, we received the Amended Gaming Compact between the Yankton Sioux Tribe (Tribe) and the State of South Dakota (State), dated March 5, 2001. We have completed our review of this Amendment and conclude that it does not violate the Indian Gaming Regulatory Act of 1988 (IGRA), Federal law, or our trust responsibility. We understand that the authority of the Chairman to approve the compact on behalf of the Tribe is being challenged in tribal court. However, until a final tribal court determination has been made on this matter, we will defer to the General Council's interpretation of tribal law, and therefore, pursuant to delegated authority and Section 11 of IGRA, we approve the Amendment. The Amendment shall take effect when the notice of our approval, pursuant to Section 11 (d)(3)(B) of IGRA, 25 U.S.C. § 2710(d)(3)(B), is published in the FEDERAL REGISTER.

We wish the Tribe and the State success in their economic venture.

Sincerely,

James H. McDivitt
Deputy Assistant Secretary - Indian Affairs
(Management)

Enclosure

Similar Letter Sent to: Honorable Madonna Archambeau
Chairman, Yankton Sioux Tribe
P.O. Box 77
Pickstown, South Dakota 57367

Filed this 24th day of July, 2001

Joyce Hazeltine
SECRETARY OF STATE

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Amendment to a Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Deputy Assistant Secretary—Indian Affairs (Management), Department of the Interior, through his delegated authority, has approved the Amendment between the Yankton Sioux Tribe and the State of South Dakota, which was executed on March 5, 2001.

DATES: This action is effective May 4, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: May 1, 2001.

James H. McDivitt,

Deputy Assistant Secretary—Indian Affairs (Management).

[FR Doc. 01–11419 Filed 5–3–01; 8:45 am]

BILLING CODE 4310–02–M

AMENDED GAMING COMPACT

YANKTON SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

This amended Agreement is made and entered into as of the 5th day of March, 2001, by and between the Yankton Sioux Tribe (Tribe), and the State of South Dakota (State).

WHEREAS: The Tribe is a federally recognized Indian Tribe in southeastern South Dakota; and

WHEREAS: The constitution of the Tribe provides adequate authority for negotiations and agreements with the State government; and

WHEREAS: The State has, through constitutional provisions and legislative acts authorized limited gaming activities to be conducted in Deadwood, South Dakota; and

WHEREAS: The Congress of the United States has enacted the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. 2701, et seq. (1988), which permits Indian Tribes to operate Class III gaming activities on Indian reservations pursuant to a Tribal-State compact entered into for that purpose; and

WHEREAS: The Tribe intends to operate gaming activities at an establishment specifically identified in paragraph 8.5 of this Compact; and

WHEREAS: The Tribe and the State desire to negotiate a Tribal-State Compact to permit the operation of such gaming activities; and

NOW THEREFORE, in consideration of the foregoing, the Tribe and the State hereto do promise, covenant, and agree as follows:

1. Declaration of Policy.

In the spirit of cooperation, the Tribe and the State hereby set forth in joint effort to implement the terms of the Indian Gaming Regulatory Act (IGRA). The State recognizes the positive economic benefits that gaming may provide to the Tribe. The Tribe and the State recognize the need to ensure that the health, safety and welfare of the public and the integrity of the gaming industry in South Dakota are protected.

2. Purpose and Scope of Compact.

This Compact and the Tribe's gaming regulations and ordinances shall govern the regulation and operation conducted under the authority of the Yankton Sioux Tribe. The purpose of this Compact is to provide the Tribe with the opportunity to operate gaming activities in a manner that will benefit the Tribe economically, that will ensure fair operation of the games, and that will minimize the possibility of corruption.

3. Type of Gaming Permitted.

3.1 The Tribe shall operate blackjack and slot machines pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances.

For the purposes of this Compact, the terms "blackjack" and "slot machines" are defined in the South Codified Laws 42-7B-4(3), (18), (21), respectively, except that the term "slot machines" does not include "video lottery machines" as defined by the SDCL 42-7A-1(13).

Slot machines operated by the Tribe pursuant to this Compact may be linked or connected by means of telecommunications, satellite or technologic or computer enhancement to slot machines or video lottery machines operated by another Tribe or Tribes on "Indian lands" as that term is currently defined in the IGRA, 25 U.S.C. 2703 (4) pursuant to the terms of a Tribal-State Compact, approved by the Secretary of Interior pursuant to 25 U.S.C. 2710, authorizing such other Tribe or Tribes to similarly operate slot machines or video lottery machines through linkages or connection with the slot machines or video lottery machines operated by other Tribes.

3.2 The Tribe shall operate pari-mutual wagering on horses and dogs pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances. The Tribe may operate pari-mutual wagering on horse and dog races occurring within or without the United States.

3.3 The Tribe shall be permitted to operate such other gaming as may be authorized by State law, upon written amendment of this agreement.

4. Operation of Slot Machines and Pari-mutual Wager Wagering on Horses and Dogs

4.1 The Tribe shall operate its gaming activities pursuant to this Compact and the ordinances and regulations enacted by the Tribe's General Council and Gaming Commission which ordinance and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL 42-7B and ARSD 20:18, et seq. All such ordinances and regulations shall be made available to the State.

4.1.1 No runners may place bets on behalf of any other person(s).

4.2 The Tribe shall operate its pari-mutual wagering on horses and dogs gaming activities pursuant to this Compact and the ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL 42-7-56 and ARSD 20:04:15, racing and in SDCL 42-7-56 and ARSD 20:04:30, et seq., for horse racing.

4.3 The Tribe shall elect a Tribal Gaming Commission which shall supervise the gaming activities, issue licenses as provided herein, inspect all premises where gaming is conducted and otherwise be responsible for enforcing the Tribe's Gaming ordinances and regulations. The Commission shall consist of a chairman, secretary, and three members who shall be elected by the General Council.

The Tribal Gaming Commission shall have primary responsibility for the supervision and regulation of gaming conducted under the authority of this Compact. This shall include, but not be limited to, the licensing of gaming employees and the inspection and regulation of all gaming devices and pari-mutual operations. Any discrepancies in the operation and any violation of Tribal Gaming Commission regulations and rules or this Compact shall be immediately reported to the Tribal Gaming Commission and the South Dakota Commission on Gaming for appropriate action by the Tribal Gaming Commission pursuant to the terms of this Compact.

4.4 Disciplinary Action for Misconduct by Licensees

Any suspected violation of any law or rule, adopted in this compact, shall be reported to the Tribal Gaming Commission and the South Dakota Gaming Commission. If either the State or the Tribe concludes that a violation has occurred, the violation will be addressed by the Tribe

within (5) days. If, after consultation with the Tribal Gaming Commission and after efforts to resolve any difference of opinion reflecting an appropriate penalty for such violation have been made, the executive director of the South Dakota Commission on Gaming concludes that the disciplinary action undertaken by the Tribal Gaming Commission is inadequate, a more severe penalty shall be imposed by the Tribal Gaming Commission as requested by the executive director of the South Dakota Commission on Gaming.

5. Law Enforcement

5.1 Criminal Jurisdiction

All criminal matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State, or Federal law. Nothing in this Compact shall deprive the courts of the Tribe, the United States, or the State of South Dakota of such criminal jurisdiction as each may enjoy under applicable law.

It is understood by the parties that the provisions of this paragraph are limited to criminal cases arising from transaction related to, or arising from, gaming conducted at the establishment referred to in paragraph 8.5.

5.2 The Tribe has adopted, and agrees to adopt, gaming ordinances and regulations to regulate gaming which ordinances and regulations are at least as stringent as those statutes and administrative rules adopted by the State of South Dakota to regulate gambling in Deadwood, South Dakota.

The Tribe shall furnish the State with copies of such ordinances and regulations and shall advise the State of any amendment, revision or rescission of the gaming regulations. The Tribe agrees that in no event shall it amend, revise or rescind any gaming regulations which would result in the tribal regulations being less stringent than the statutes and rules adopted by the State of South Dakota.

6. Civil Jurisdiction (other than appeals from the commission)

All civil matters arising from or related to Class III gaming shall be dealt with according to applicable Tribal, State or Federal law. Nothing in this Compact shall deprive the Courts of the Tribe, the United States, or the State of South Dakota of such civil jurisdiction as each may enjoy under applicable law. Nothing in this provision shall be construed to be a waiver of the sovereign immunity of the Yankton Sioux Tribe.

7. Licensing of Gaming Operators and Employees

All individuals who operate or manage a gaming operation at the establishment referred to in paragraph 8.5 shall be licensed by the Tribal Gaming Commission. All individuals employed to work directly with the gaming operation shall be licensed by the commission.

The Tribal Gaming Commission shall have primary responsibility for the licensing of individuals who operate or manage a gaming operation, or who are employed in the tribal gaming operation. Any person seeking to be licensed hereunder shall first submit an application to the Tribal Gaming Commission, which application shall include a written release by the applicant authorizing the State to conduct a background investigation of the applicant on behalf of the Tribal Gaming Commission. The State shall agree to conduct an investigation of the applicant on behalf of the Commission, upon receipt of the executed release and payment of the fee as provided in the South Dakota Commission on Gaming's rules and regulations for such investigations. The State shall provide the Commission with a written report regarding each

applicant within 30 days of the receipt of the request and fee or as soon thereafter as practical.

The Commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who is determined suitable by the Tribal Gaming Commission according to the tribal ordinance and by the South Dakota Commission on Gaming pursuant to SDCL Ch. 42-7B and the South Dakota Commission on Gaming's rules and regulations.

7.1 Arbitration procedures

Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure:

The dispute shall be determined by binding arbitration conducted under the rules of the American Arbitration Association then existing. The arbitrator shall determine whether the applicant(s) is deemed suitable, taking into consideration the ordinances and regulations adopted by the Tribal Gaming Commission and the statutes and rules adopted by the State of South Dakota. The arbitrator shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the decision of the arbitrator to federal court. Nothing contained in this provision shall be construed as a waiver of the Tribe's or State's sovereign immunity.

8. Regulatory Standards to Gaming

In recognition of the valid public policy interests of the State, which similarly appreciated as desirable by the Tribe, the following regulatory standards are established for gaming operated and played at the establishment referred to in Paragraph 8.5.

8.1 No Credit Extended

All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated under this agreement, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business within the State.

8.2 Minimum Age for Players

No person under the age of 21 shall be permitted to play the gaming devices, and no person under the age of 21 shall be permitted on the premises where gaming is conducted pursuant to this Compact, except for the space allocated for the hotel, the restaurant, the bingo hall and areas required for passage to such spaces; provided however, that persons over the age of 18 and under the age of 21 if employed in the casino in any capacity may be permitted on the premises where gaming is conducted during hours scheduled to work.

8.3 Technical Standards for Gaming Devices

All gaming machines operated and played pursuant to this Compact shall meet or exceed the hardware and software specifications set forth by the South Dakota Commission on Gaming and SDCL 42-7B-43 prior to play. Gaming machine prototypes will be tested and approved prior to play by the State according to State procedures and by the Tribe according to Tribal procedures.

8.4 Approval of Gaming Device

No gaming device shall be operated at the establishment referred to in paragraph 8.5 unless:

1) The gaming device is purchased, leased or acquired from a manufactory or distributor licensed to sell, lease or distribute gaming devices by the State, pursuant to SDCL ch. 422-7B and ARSD 20:18; and

2) The gaming device, or a prototype thereof, has been tested, approved and certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For the purpose of this Compact, a gaming test laboratory shall be a laboratory agreed to, and designated in writing by, the South Dakota Commission on Gaming and the Tribal Gaming Commission.

8.5 Number of Gaming Devices

The Tribe shall be authorized to operate in the Tribal gaming establishment on trust land located as follows: The West 1500 feet of the South 530 feet of the South half (1/2) of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West of the fifth Principal Meridian, excepting there from 4.14 acres commencing at a point 750 feet East of the Southwest corner of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West; thence North 530 feet to a point; thence East 340 feet to a point; then South 530 feet to a point; thence West to the point of beginning. Said tract of land contains 14. 21 acres, more or less, of trust land. At said description, the Tribe shall be authorized to operate the number of gaming devices as provided for in this compact.

The number of slot machines permitted to be operated under this Compact shall be limited to 250. There shall be no limits placed on the number of blackjack tables and poker tables that may be operated.

It is acknowledged between the parties hereto that the gaming device number limit is based upon limits set by state law pursuant to a formula agreed to by the parties. If the gaming device limits set by state law shall increase, the Tribe may request an increase in the numbers allowed to it and the State and the Tribe shall be required to negotiate in good faith with regard to that request. The parties acknowledge that a request to renegotiate the number of gaming devices under this Section will allow the State and Tribe to raise any gaming matter which it deems appropriate and which could be raised in a negotiating session under the terms of the Federal Indian Gaming Regulatory Act.

The Tribe shall be entitled to have up to ten gaming devices to be used to replace gaming devices which are out of service as a result of mechanical problems. These additional devices are only to be used in such event and shall not be operated in addition to the maximum number of devices authorized by this provision. Further, these additional devices shall meet the requirements of paragraph 8.3 of this Compact.

8.6 Inspection Procedure

South Dakota Commission on Gaming agents shall be authorized to inspect (not to include audits) the tribal gaming establishment in accordance with the laws and rules adopted in the Compact. Any periodic inspection of gaming machines shall only occur if the State inspector is accompanied by a member of the Tribal Gaming Commission, the executive secretary of the Tribal Gaming Commission or a designee. Any such testing shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming

Commission and the South Dakota Commission on Gaming shall be notified of all such testing and the results of such testing.

In addition to the gaming machine inspections authorized above, any inspections of other gaming devices and the tribal gaming establishment by the State inspectors shall be limited to a maximum of 100 hours per year plus travel. These inspections are specifically authorized to be unannounced and maybe in the nature of an undercover inspection. The Tribal Gaming Commission and the South Dakota Commission on Gaming shall be notified of the results of such inspections. Any violations detected pursuant to this paragraph shall be enforced consistent with the procedure contained in the above section entitled Disciplinary Action for Misconduct by Licensees.

8.7 Remedies for Non-complying Gaming Devices

Upon inspection, pursuant to paragraph 8.6, the State may designate gaming devices which it believes do not comply with tribal gaming laws. The machine shall immediately be removed temporarily from play or sealed. Within five days of receipt of such written designation, the Tribe shall either:

1) Accept the finding of noncompliance, remove the gaming devices from play and take appropriate action to ensure that the Tribe, manufacturer, distributor or other responsible party cures the problem; and

2) Contest the finding of noncompliance pursuant to the matter described in paragraph 7.1 above. In the event the American Arbitration Association decision finds that the gaming device is non-complying, such device shall be removed from play. Gaming devices removed from play pursuant to this section may be returned to play only after such gaming device comes into compliance with the provisions of 8.4 herein.

Nothing in this section shall limit the rights or remedies available to the parties under any provision of this Compact or under the IGRA.

8.8 Approval and Inspection of Pari-Mutual Wagering Equipment

All equipment used by the Tribe, including electrical or mechanical total board devices, in conducting pari-mutual wagering shall be of a type and meet the standards for size and information display set forth by the South Dakota Gaming Commission.

The South Dakota Gaming Commission agents shall be authorized to inspect (not to include audits) the equipment used by the Tribe in conducting pari-mutual wagering to determine that it is in accordance with the laws and rules adopted in this Compact. Any periodic inspection of pari-mutual wagering equipment shall only occur if the State inspector is accompanied by a member of the Tribal Gaming Commission, or a designee. Any such inspection shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and South Dakota Gaming Commission shall be notified of all such inspection and the results of such inspections. If the results of any such inspection reveal that the equipment fails to meet applicable standards, the Tribe will not use such equipment meets the applicable standards.

8.9 Limit on Wagers

Gaming operations at the establishment identified in paragraph 8.5 may offer such bet limits as are consistent with the acts of the South Dakota legislature, and rules promulgated by the South Dakota Commission on Gaming and Tribal Gaming Commission.

There shall be no wager limitation on pari-mutual wagers placed on horse and dog races authorized under this Compact.

9. Accounting and Audit Procedures

The Tribe shall adopt accounting standards which meet or exceed those standards established in Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming.

The Tribe shall conduct independent audits of the gaming operation and provide copies to the State. At the request of the Tribe and at the Tribe's expense, the State may at its discretion audit the tribal operation.

The Tribe shall engage an independent certified public accountant to audit the books and records of all gaming operations conducted pursuant to this Compact and shall make copies of the audit and all current internal accounting and audit procedures available to the State upon written request. The Tribe shall permit the State to consult with the auditors before or after and audits or periodic checks on procedures which may be contacted by the auditors, and shall allow the State to submit written or oral comments or suggestions or improvements regarding the accounting and audit procedures. Within 30 days of receipt of any written or oral comments, the Tribe shall (a) Accept the comments and modify the procedures accordingly; or (b) respond to the comments with counter proposals or amendments.

10. Contribution of Gaming Proceeds

The Tribe may, in its discretion, contribute a sum to be used to provide public services for the citizens of the area. Such contributions shall be made without consultation with the State, and the State shall bear no obligation or liability for such contributions.

11 Use of Gaming Proceeds

The Tribe hereto agrees that none of the funds generated by gaming conducted under this Compact shall be used by the Tribe or its agents to influence the outcome of any local, state or federal election conducted within the State of South Dakota.

12. Duration

This compact shall become effective upon execution by the Governor of the State and the Tribal Chairperson and Secretary of the Tribe, approval by the Secretary of the Interior, and publication of that approval in the Federal Register pursuant to the IGRA.

The terms of this Compact shall be subject to review at four-year (4) intervals, dating from the effective date of this Compact. One hundred eighty (180) days prior to the expiration of the four-year (4) period, either party to the Compact may give notice to the other party of provisions they believe require review or amendment. Such notice shall be in writing and shall be sent certified mail to the Governor of the State or Chairperson of the Tribe at the appropriate government office.

Upon receipt of such notice, the parties shall engage in good faith efforts to resolve the issues identified in the notice. The parties shall have one hundred eighty days to negotiate and all further procedures and remedies available under the Indian Gaming Regulatory Act shall apply. The State and the Tribe may agree to extend the one hundred eighty-day period without prejudice to the rights of either party.

In the event the parties are unable to resolve the issues identified in the notice within the 180-day period, upon the expiration of the 180 days unless extended by the parties hereto, this Compact shall terminate and the parties shall be subject to the procedures provided for in the IGRA.

Either party may terminate this Compact upon substantial breach by the other party regardless of any other provision of this Compact. Upon identification of what either party believes to be a substantial breach of the terms of this compact, such party shall notify the other party in writing, via certified mail, return receipt requested, as to the nature of the substantial breach. The party issuing the notice of noncompliance shall refrain from terminating this compact until 30 days have elapsed from receipt of notice of noncompliance by the party.

13. General Provisions

The following conditions shall be applicable throughout the term of this agreement:

13.1 The parties hereto agree that in the event that a dispute arises as to an interpretation of the provisions of this Compact, in any of the rights, responsibilities or obligations attaching to the parties hereto, either party may commence an action in federal district court for the purpose of resolving such dispute.

13.2 The parties hereto agree that the Tribe will be responsible for the costs incurred by the State and associated with the State's performance of its responsibilities as provided for herein. The intent of this Compact is to provide for the reimbursement of the cost and expenses of the State in performing its responsibilities as provided herein. Attached hereto is a schedule of costs marked Appendix A which is incorporated herein by reference as though fully set forth.

13.3 Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto shall be in writing and shall be personally delivered or sent by telegram 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.

Notice to the Tribe shall be sent to:

Chairman's Office
Yankton Sioux Tribe
PO Box 248
Marty, SD 57361-0248

Notice to the State shall be sent to:

Governor's Office
500 East Capitol
Pierre, SD 57501-5070

All notices, payments, requests, reports, information or demand so given shall be deemed effective upon receipt or if mailed, upon receipt or 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 party to whom said notice is addressed.

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

13.5 This agreement 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 documents.

13.6 The State and/or Tribe may not assign any of its respective right, title, or interest in this agreement, nor may the State and/or the Tribe delegate any of its respective obligations and duties under this agreement, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

13.7 Nothing in this compact shall be construed to limit the rights or remedies available to the parties hereto under the Indian Gaming Regulatory Act except that the Tribe agrees not to bring suit under the Federal Indian Gaming Act during the life of his compact for failure of the State to compact for gaming other than that specified in this Compact.

13.8 This compact shall not be construed to waive or diminish the sovereignty of the Tribe or the State of South Dakota, except as specifically provided by the terms of the Compact set forth above.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the day and year first written.

YANKTON SIOUX TRIBE

Date: 2-27-01 By: Madonna Archambeau
Chairman

Date: 2-27-01 By: Ben Jungalo
Secretary

STATE OF SOUTH DAKOTA

Date: 3-5-01 By: [illegible]
Governor

THE UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR

James H. McDowell
BY: Deputy Assistant Secretary - Indian Affairs
(Management)

APPENDIX A

The hourly rate to be paid to the State for its services pursuant to paragraph 13.2 of the attached Compact is fifty dollars ($50.00). Travel, per diem, and other expenses shall be paid to the State at the rates set out in South Dakota Administrative Rules, ARSD 05:01:02. Should the rates set out in the Administrative Rules be changed during the time of this Compact, the rates to be paid to the State shall likewise be altered.

AMENDED GAMING COMPACT

YANKTON SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

This amended Agreement is made and entered into as of the 20th day of December, 1993, by and between the Yankton Sioux Tribe (Tribe), and the State of South Dakota (State).

WHEREAS, The Tribe is a federally recognized Indian Tribe in southeastern South Dakota; and,

WHEREAS, The constitution of the Tribe provides adequate authority for negotiations and agreements with State government; and,

WHEREAS, The State has, through constitutional provisions and legislative acts, authorized limited gaming activities to be conducted in Deadwood, South Dakota; and,

WHEREAS, The Congress of the United States has enacted the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §2701, et seq. (1988), which permits Indian Tribes to operate Class III gaming activities on Indian reservations pursuant to a Tribal-State Compact entered into for that purpose; and,

WHEREAS, The Tribe intends to operate gaming activities at an establishment specifically identified in paragraph 8.5 of this Compact; and,

WHEREAS, The Tribe and the State desire to negotiate a Tribal-State Compact to permit the operation of such gaming activities:

NOW, THEREFORE, in consideration of the foregoing, the Tribe and the State hereto do promise, covenant, and agree as follows:

1. Declaration of Policy

In the spirit of cooperation, the Tribe and the State hereby set forth in joint effort to implement the terms of the Indian Gaming Regulatory Act (IGRA). The State recognizes the positive economic benefits that gaming may provide to the Tribe. The Tribe and the State recognize the need to ensure that the health, safety and welfare of the public and the integrity of the gaming industry in South Dakota are protected.

2. Purpose and Scope of Compact

This Compact and the Tribe's gaming regulations and ordinances shall govern the regulation and operation of gaming conducted under authority of the Yankton Sioux Tribe. The purpose of this Compact is to provide the Tribe with the opportunity to operate gaming

activities in a manner that will benefit the Tribe economically, that will ensure fair operation of the games, and that will minimize the possibility of corruption.

3. Type of Gaming Permitted

3.1 The Tribe shall operate blackjack, poker and slot machines pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances.

For the purposes of this Compact, the terms "blackjack," "poker," and "slot machines" are defined in South Dakota Codified Laws 42-7B-4(3), (18), (21), respectively, except that the term "slot machines" does not include "video lottery machines" as defined by SDCL 42-7A-1(13).

Slot machines operated by the Tribe pursuant to this Compact may be linked or connected by means of telecommunications, satellite or technologic or computer enhancement to slot machines or video lottery machines operated by another Tribe or Tribes on "Indian lands" as that term is currently defined in the IGRA, 25 U.S.C. §2703(4) pursuant to the terms of a Tribal-State Compact, approved by the Secretary of the Interior pursuant to 25 U.S.C. §2710, authorizing such other Tribe or Tribes to similarly operate slot machines or video lottery machines through linkages or connections with the slot machines or video lottery machines operated by other Tribes.

3.2 The Tribe shall operate pari-mutuel wagering on horses and dogs pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances. The Tribe may operate pari-mutuel wagering on horse and dog races occurring within or without the United States.

3.3. The Tribe shall be permitted to operate such other gaming as may be authorized by State law, upon written amendment of this agreement.

4. Operation of Slot Machines and Pari-Mutuel Wagering on Horses and Dogs

4.1 The Tribe shall operate its gaming activities pursuant to this Compact and the ordinances and regulation enacted by the Tribe's General Council and Gaming Commission which ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL 42-7B and ARSD 20:18, et seq. All such ordinances and regulations shall be made available to the State.

4.2 The Tribe shall operate its pari-mutuel wagering on horses and dogs gaming activities pursuant to this Compact and the ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL 42-7-56 and ARSD 20:04:15, racing and in SDCL 42-7-56 and ARSD 20:04:30, et seq., for horse racing.

4.3 The Tribe shall elect a Tribal Gaming Commission which shall supervise the gaming activities, issue licenses as provided herein, inspect all premises where gaming is conducted and otherwise be responsible for enforcing the Tribe's Gaming Act and regulations. The Commission shall consist of a chairman, secretary and three members who shall be elected by the General Council.

The Tribal Gaming Commission shall have primary responsibility for the supervision and regulation of gaming conducted under the authority of this Compact. This shall include, but not be limited to, the licensing of gaming employees and the inspection and regulation of all gaming devices and pari-mutuel operations. Any discrepancies in the gaming operation and any violation of Tribal Gaming Commission regulations and rules or this Compact shall be immediately reported to the Tribal Gaming Commission and the South Dakota Commission on Gaming for appropriate action by the Tribal Gaming Commission pursuant to the terms of this Compact.

4.4 Disciplinary Action for Misconduct by Licensees

Any suspected violation of any law or rule, adopted in this Compact, shall be reported to the Tribal Gaming Commission and the South Dakota Gaming Commission. If either the State or the Tribe concludes that a violation has occurred, the violation will be addressed by the Tribe within five (5) days. If, after consultation with the Tribal Gaming Commission and after efforts to resolve any difference of opinion reflecting an appropriate penalty for such violation have been made, the executive director of the South Dakota Gaming commission concludes that the disciplinary action undertaken by the Tribal Gaming Commission is inadequate, a more severe penalty shall be imposed by the Tribal Gaming Commission as requested by the executive director of the South Dakota Gaming Commission.

5. Law Enforcement

5.1 Criminal proceedings against defendants who are members of the Yankton Sioux Tribe shall occur in tribal court. Criminal proceedings against defendants who are nonmembers shall occur in South Dakota State court except as consistent with State v. Larson, 1990. Nothing contained in this provision shall deprive the federal courts of any jurisdiction which they might otherwise have.

It is understood by the parties that the provisions of this paragraph are limited to criminal cases arising from transactions related to, or arising from, gaming conducted at the establishment referred to in paragraph 8.5.

5.2 The Tribe has adopted, and agrees to adopt, gaming ordinances and regulations to regulate gaming which ordinances and regulations are at least as stringent as those statutes and administrative rules adopted by the State of South Dakota to regulate gambling in Deadwood, South Dakota.

The Tribe shall furnish the State with copies of such ordinances and regulations and shall advise the State of any amendment, revision or rescission of the gaming regulations. The Tribe agrees that in no event shall it amend, revise or rescind any gaming regulations which would result in the tribal regulations being less stringent than the statutes and rule adopted by the State of South Dakota.

6. Civil Jurisdiction (other than appeals from the commission)

Cases involving only tribal members shall be heard in tribal court. Cases involving one or more persons who are not tribal members shall be heard in State court, unless all parties stipulate the action shall be heard in tribal court.

It is understood by the parties that the provisions of this paragraph are limited to civil cases arising from transactions related to, or arising from, gaming conducted pursuant to this Compact. This provision shall not be construed to be a waiver of the sovereign immunity of the Tribe.

7. Licensing of Gaming Operators and Employees

All individuals who operate or manage a gaming operation at the establishment referred to in paragraph 8.5 shall be licensed by the commission. All individuals employed to work directly with he gaming operation shall be licensed by the commission.

The Tribal Gaming Commission shall have primary responsibility for the licensing of individuals who operate or manage a gaming operation, or who are employed in the tribal gaming operation, or who are employed in the Tribal gaming operation. Any person seeking to be licensed hereunder shall first submit an application to the Tribal Commission, which application shall include a written release by the applicant authorizing the State to conduct a background investigation of the applicant on behalf of the Tribal Gaming Commission. The State shall agree to conduct an investigation of the applicant on behalf of the commission, upon receipt of the executed release and payment of the fee as provided in the South Dakota Commission on Gaming's rules and regulations for such investigations. The State shall provide the commission with a written report regarding each applicant within 30 days of the receipt of the request and fee or as soon thereafter as practical.

The commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who is determined suitable by the Tribal Gaming Commission according to tribal ordinance and by the South Dakota Gaming Commission pursuant to SDCL ch. 42-7B and the South Dakota Gaming Commission's rules and regulations.

Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure:

The dispute shall be determined by a three-person binding Arbitration Board. One member of the board shall be selected by the Tribal Gaming Commission, one member shall be selected by the State Gaming Commission, and one member shall be jointly selected by

the State's Gaming Commission and the Tribal Gaming Commission. Within thirty (30) days of the signing of this agreement, the parties hereto shall appoint the members to the Arbitration Board for a three-year term. In the event of death, resignation, or expiration of a term, new members shall be appointed on the same basis as the original members. The Arbitration Board shall determine whether the applicant is deemed suitable, taking into consideration the ordinance and regulations adopted by the Tribal Gaming Commission and the statutes and rules adopted by the State of South Dakota. The Arbitration Board shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the arbitration decision to federal district court.

8. Regulatory Standards to Gaming

In recognition of the valid public policy interests of the State, which are similarly appreciated as desirable by the Tribe, the following regulatory standards are established for gaming operated and played at the establishment referred to in Paragraph 8.5.

8.1 No Credit Extended

All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated under this agreement, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business within the State.

8.2 Minimum Age for Players

No person under the age of 21 shall be permitted to play the gaming devices, and no person under the age of 21 shall be permitted on the premises where gaming is conducted pursuant to this Compact, except for the space allocated for the hotel, the restaurant, the bingo hall and areas required for passage to such spaces.

8.3 Technical Standards for Gaming Devices

All gaming machines operated and played pursuant to this Compact shall meet or exceed the hardware and software specifications set forth by the South Dakota Gaming Commission and SDCL 42-7B-43 prior to play. Gaming machine prototypes will be tested and approved prior to play by the State according to State procedures and by the Tribe according to Tribal procedures.

8.4 Approval of Gaming Device

No gaming device shall be operated at the establishment referred to in paragraph 8.5 unless:

1) The gaming device is purchased, leased or acquired from a manufacturer or distributor licensed to sell, lease or distribute gaming devices by the State, pursuant to SDCL ch. 42-7B and ARSD 20:18; and,

2) the gaming device, or a prototype thereof, has been tested, approved and certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a gaming test laboratory shall be a laboratory agreed to, and designated in writing by, the South Dakota Gaming Commission and the Tribal Gaming Commission.

8.5 Number of Gaming Devices

The Tribe shall be authorized to operate in the Tribal gaming establishment on trust land located as follows: The West 1500 feet of the South 530 feet of the South half (1/2) of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West of the fifth Principal Meridian, excepting therefrom 4.14 acres commencing at a point 750 feet East of the Southwest corner of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West; thence North 530 feet to a point; thence East 340 feet to a point; thence South 530 feet to a point; thence West to the point of beginning. Said tract of land contains 14.21 acres, more or less, of trust land. At said description, the Tribe shall be authorized to operate the number of gaming devices as provided for in this compact. It is understood by the parties that the Tribe is currently authorized to operate 180 gaming devices which constitutes two times the number of gaming devices permitted per individual under State law. Any increase or decrease of these gaming device limitations contained in State law will automatically result in a proportional increase or decrease in the gaming device limitation set forth in this agreement.

It is further understood and agreed that 70 additional gaming devices are authorized in the tribal gaming establishment because the Tribe previously met the conditions precedent in paragraph 8.5 (a) and (b) in the first compact between the Tribe and the state of South Dakota.

The Tribe shall be entitled to have up to ten gaming devices to be used to replace gaming devices which are out of service as a result of mechanical problems. These additional devices are only to be used in such event and shall not be operated in addition to the maximum number of devices authorized by this provision. Further, these additional devices shall meet the requirements of paragraph 8.3 of this Compact.

8.6 Inspection Procedure

South Dakota Gaming Commission agents shall be authorized to inspect (not to include audits) the tribal gaming establishment in accordance with the laws and rules adopted in the Compact. Any periodic inspection of gaming machines shall only occur if the State inspector is accompanied by a member of the tribal gaming commission, the executive secretary of the Tribal Gaming Commission, or a designee. Any such

testing shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of all such testing and the results of such testing.

In addition to the gaming machine inspections authorized above, any inspections of other gaming devices and the tribal gaming establishment by State inspectors shall be limited to a maximum of 100 hours per year plus travel. These inspections are specifically authorized to be unannounced and may be in the nature of an undercover inspection. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of the results of such inspections. Any violations detected pursuant to this paragraph shall be enforced consistent with the procedure contained in the above section entitled Disciplinary Action for Misconduct by Licensees.

8.7 Remedies for Noncomplying Gaming Devices

Upon inspection, pursuant to paragraph 8.6, the State may designate gaming devices which it believes do not comply with tribal gaming laws. The machine shall immediately be removed temporarily from play or sealed. Within five days of receipt of such written designation, the Tribe shall either:

1) Accept the finding of noncompliance, remove the gaming devices from play, and take appropriate action to ensure that the Tribe, manufacturer, distributor or other responsible party cures the problem; or

2) contest the finding of noncompliance before the Arbitration Board as provided in paragraph 7 above. In the event the Arbitration Board finds that the gaming device is noncomplying, such device shall be removed from play. Gaming devices removed from play pursuant to this section may be returned to play only after such gaming device comes into compliance with the provisions of 8.4 herein.

Nothing in this section shall limit the rights or remedies available to the parties under any provision of this Compact or under the IGRA.

8.8 Approval and Inspection of Pari-Mutuel Wagering Equipment

All equipment used by the Tribe, including electrical or mechanical total board devices, in conducting pari-mutuel wagering shall be of a type and meet the standards for size and information display set forth by the South Dakota Gaming Commission.

The South Dakota Gaming Commission agents shall be authorized to inspect (not to include audits) the equipment used by the Tribe in conducting pari-mutuel wagering to determine that it is in accordance with the laws and rules adopted in this Compact.

Any periodic inspection of pari-mutuel wagering equipment shall only occur if the State inspector is accompanied by a member of the Tribal Gaming Commission, or a designee. Any such inspection shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of all such inspection and the results of such inspections. If the results of any such inspection reveal that the equipment fails to meet applicable standards, the Tribe will not use such equipment until the equipment meets the applicable standards.

8.9 Limit on Wagers

Gaming operations at the establishment identified in paragraph 8.5 may offer such bet limit as are consistent with the acts of the South Dakota legislature.

There shall be no wager limitation on pari-mutuel wagers placed on horse and dog races authorized under this Compact.

9. Accounting and Audit Procedures

The Tribe shall adopt accounting standards which meet or exceed those standards established in Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming.

The Tribe shall conduct independent audits of the gaming operation and provide copies to the State. At the request of the Tribe and at the Tribe's expense, the State may at its discretion audit the tribal operation.

The Tribe shall engage an independent certified public accountant to audit the books and records of all gaming operations conducted pursuant to this Compact and shall make copies of the audit and all current internal accounting and audit procedures available to the State upon written request. The Tribe shall permit the State to consult with the auditors before or after and audits or periodic checks on procedures which may be contacted by the auditors, and shall allow the State to submit written or oral comments or suggestions or improvements regarding the accounting and audit procedures. Within 30 days of receipt of any written or oral comments, the Tribe shall (a) Accept the comments and modify the procedures accordingly; or, (b) respond to the comments with counterproposals or amendments.

10. Contribution of Gaming Proceeds

The Tribe may, in its discretion, contribute a sum to be used to provide public services for the citizens of the area. Such contributions shall be made without consultation with the State, and the State shall bear no obligation or liability for such contributions.

11. Gaming on Other Lands

The Tribe agrees not to have in place, enact, or enforce any law, ordinance, regulation or other provision to control Class II or III gaming when the Class II or III

gaming occurs on lands other than the trust lands of the Tribe or the trust lands of an individual member of the Yankton Sioux Tribe.

12. Duration

This Compact shall become effective upon execution by the Governor of the State and the President of the Tribe, approval by the Secretary of the Interior, and publication of that approval in the Federal Register pursuant to the IGRA.

This agreement shall expire two years after the date of its execution by the parties unless renewed according to the following procedure: One hundred eighty days prior to the expiration of the two-year period, either party to the Compact may give notice to the other party that it wishes the agreement to be renewed, or that certain provisions exist in the agreement they believe require review or amendment. Such notice shall be in writing and shall be sent by certified mail to the Governor of the State or President of the Tribe at the appropriate government office.

Upon receipt of such notice, the parties shall engage in good faith efforts to resolve the issues identified in the notice. The parties shall have one hundred eighty days to negotiate and all further procedures and remedies available under the Indian Gaming Regulatory Act shall apply. The State and the Tribe may agree to extend the one hundred eighty day period without prejudice to the rights of either party.

In the event the parties are unable to resolve the issues identified in the notice within the 180-day period, upon the expiration of the 180 days unless extended by the parties hereto, this Compact shall terminate and the parties shall be subject to the procedures provided for in the IGRA.

Either party may terminate this Compact upon substantial breach by the other party regardless of any other provision of this Compact. Upon identification of what either party believes to be a substantial breach of the terms of this Compact, such party shall notify the other party in writing, via certified mail, return receipt requested, as to the nature of the substantial breach. The party issuing the notice of noncompliance shall refrain from terminating this Compact until 30 days have elapsed from receipt of notice of noncompliance by the other party.

13. General Provisions

The following conditions shall be applicable throughout the term of this agreement:

13.1 The parties hereto agree that in the event that a dispute arises as to an interpretation of the provisions of this Compact, in any of the rights, responsibilities or obligations attaching to the parties hereto, either party may commence an action in federal district court for the purpose of resolving such dispute.

13.2 The parties hereto agree that the Tribe will be responsible for the costs incurred by the State and associated with the State's performance of its responsibilities as provided for herein. The intent of this Compact is to provide for the reimbursement of the

costs and expenses of the State in performing its responsibilities as provided herein. Attached hereto is a schedule of costs marked Appendix A which is incorporated herein by reference as though fully set forth.

13.3 Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto may desire or may be required to give to the other party hereto shall be in writing and shall be personally delivered or sent by telegram 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.

Notice to the Tribe shall be sent to:

Chairman's Office
Yankton Sioux Tribe
P.O. Box 248
Marty, SD 57361-0248

Notice to the State shall be sent to:

Governor's Office
500 East Capitol
Pierre, SD 57501-5070

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 party to whom said notice is addressed.

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

13.5 This agreement 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 documents.

13.6 The State and/or Tribe may not assign any of its respective right, title, or interest in this agreement, nor may the State and/or the Tribe delegate any of its respective obligations and duties under this agreement, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

13.7 Nothing in this Compact shall be construed to limit the rights or remedies available to the parties hereto under the Indian Gaming Regulatory Act except that the Tribe agrees not to bring suit under the Federal Indian Gaming Act during the life of this Compact for failure of the State to Compact for gaming other than that specified in this Compact.

13.8 This Compact shall not be construed to waive or diminish the sovereignty of the Tribe or the State of South Dakota, except as specifically provided by the terms of the Compact set forth above.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the day and year first written.

YANKTON SIOUX TRIBE

Date: 12/20/93 By: Darrell Drapeau
Darrell E. Drapeau, Chairman

Date: 12/20/93 By: Jolene Arrow
Jolene Arrow, Secretary

STATE OF SOUTH DAKOTA

Date: 3/2/94 By: Walter D. Miller
Walter Dale Miller, Governor

s:\clientsj\compact.5
Draft 1/26/94

APPENDIX A

The hourly rate to be paid to the State for its services pursuant to paragraph 13.2 of the attached Compact is thirty dollars ($30). Travel, per diem, and other expenses shall be paid to the State at the rates set out in South Dakota Administrative Rules, ARSD 05:01:02. Should the rates set out in the Administrative Rules be changed during the time of this Compact, the rates to be paid to the State shall likewise be altered.

ABOUREZK LAW OFFICES
A PROFESSIONAL CORPORATION
816 ST. JOSEPH STREET
RAPID CITY, SD 57701

090239

*JAMES G. ABOUREZK
CHARLES ABOUREZK

*ALSO LICENSED IN THE DISTRICT OF COLUMBIA

(605) 342-0097
FAX: (605) 342-5170

AUG 1993
RECEIVED
Governor's Office
Pierre, SD

August 17, 1993

Mr. Grant Gormley
Office of the Governor
State Capitol
500 E. Capitol
Pierre, SD 57501

RE: Yankton Sioux Tribe Gaming Compact

Dear Grant:

I am enclosing an executed original of the Gaming Compact between the Yankton Sioux Tribe and the State of South Dakota. Because the secretary to the Tribe attested on the 4th of August, I have entered the 4th of August as the date of the making of the agreement.

I have also asked the Tribe to begin the procedure for secretarial approval as well as for publication in the *Federal Register*.

Sincerely,

James G. Abourezk

JGA/bjj
enclosures

GAMING COMPACT

YANKTON SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

This Agreement is made and entered into as of the 4th day of August, 1993, by and between the Yankton Sioux Tribe (Tribe), and the State of South Dakota (State).

WHEREAS, the Tribe is a federally recognized Indian Tribe in southeastern South Dakota; and,

WHEREAS, the constitution of the Tribe provides adequate authority for negotiations and agreements with State government; and,

WHEREAS, the State has, through constitutional provisions and legislative acts, authorized limited gaming activities to be conducted in Deadwood, South Dakota; and,

WHEREAS, the Congress of the United states has enacted the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. §2701, et seq. (1988), which permits Indian Tribes to operate Class III gaming activities on Indian reservations pursuant to a Tribal-State Compact entered into for that purpose; and,

WHEREAS, the Tribe intends to operate gaming activities at an establishment specifically identified in paragraph 8.5 of this compact; and,

WHEREAS, the Tribe and the State desire to negotiate a Tribal-State compact to permit the operation of such gaming activities:

NOW, THEREFORE, in consideration of the foregoing, the Tribe and the State hereto do promise, covenant, and agree as follows:

1. Declaration of Policy

In the spirit of cooperation, the Tribe and the State hereby set forth in joint effort to implement the terms of the Indian Gaming Regulatory Act (IGRA). The State recognizes the positive economic benefits that gaming may provide to the Tribe. The Tribe and the State recognize the need to ensure that the health, safety and welfare of the public and the integrity of the gaming industry in South Dakota are protected.

2. Purpose and Scope of Compact

This compact and the Tribe's gaming regulations and ordinances shall govern the regulation and operation of gaming conducted under authority of the Yankton Sioux Tribe. The purpose of this Compact is to provide the Tribe with the opportunity to operate gaming activities in a manner that will benefit the Tribe economically, that will ensure fair operation of the games, and that will minimize the possibility of corruption.

3. Type of Gaming Permitted

The Tribe shall operate blackjack, poker and slot machines pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances. The Tribe shall be permitted to operate such other gaming as may be authorized by state law after the date of the signing of this Compact, upon written amendment of this agreement.

For the purposes of this Compact, the terms "blackjack," "poker" and "slot machines" are defined in South Dakota Codified Laws 42-7B-4(3), (18), (21), respectively, except that the term "slot machines" does not include "video lottery machines" as defined by SDCL 42-7A-1~13).

4. Operation of Gaming

4.1 The Tribe shall operate its gaming activities pursuant to this Compact and the ordinances and regulations enacted by the Tribe's Executive Committee, which ordinances and regulations shall be at least as stringent as those adopted by the state of South Dakota in SDCL Ch. 42-7B and ARSD 20:18, et seq. All such ordinances and regulations shall be made available to the State.

4.2 The Tribe shall elect a Tribal Gaming Commission which shall supervise the gaming activities, issue licenses as provided herein, inspect all premises where gaming is conducted and otherwise be responsible for enforcing the Tribe's Gaming Act and regulations. This Commission shall consist of a chairman, secretary and three members who shall be elected by the Tribal Executive Committee.

The Tribal Gaming Commission shall have primary responsibility for the supervision and regulation of gaming conducted at the establishment referred to in paragraph 8.5. This shall include, but not be limited to, the licensing of gaming employees and the inspection and regulation of all gaming devices. Any discrepancies in the gaming operation and any violation of Tribal Gaming Commission regulations and rules or this Compact shall be immediately reported to the Tribal Gaming Commission and the South Dakota Commission on Gaming for appropriate action by the Tribal Gaming Commission pursuant to the terms of this Compact.

4.3 Disciplinary action for misconduct by licensees

Any suspected violation of any law or rule, adopted in the State/Tribal Compact, shall be reported to the Tribal Gaming Commission and the South Dakota Gaming Commission. If either the State or the Tribe concludes that a violation has occurred, the violation will be addressed by the Tribe within five (5) days. If the executive director of the South Dakota Gaming Commission concludes that the disciplinary action undertaken by the Tribal Gaming Commission is inadequate, a more severe penalty shall be imposed by the Tribal Gaming Commission as requested by the executive director of the South Dakota Gaming Commission.

5. Law Enforcement

5.1 Criminal proceedings against defendants who are members of the Yankton Sioux Tribe shall occur in tribal court. Criminal proceedings against defendants who are nonmembers shall occur in South Dakota state court except as consistent with State v. Larson, (1990). Nothing contained in this provision shall deprive the federal courts of any jurisdiction which they might otherwise have.

It is understood by the parties that the provisions of this paragraph are limited to criminal cases arising from transactions related to, or arising from, gaming conducted at the establishment referred to in paragraph 8.5.

5.2 The Tribe has adopted, and agrees to adopt, gaming ordinances and regulations to regulate gaming which ordinances and regulations are at least as stringent as those statutes and administrative rules adopted by the state of South Dakota to regulate gambling in Deadwood, South Dakota. The Tribe shall furnish the State with copies of such ordinances and regulations and shall advise the State of any amendment, revision or rescission of the gaming regulations. The Tribe agrees that in no event shall it amend, revise or rescind any gaming regulations which would result in the tribal regulations being less stringent than the statutes and rule adopted by the State of South Dakota.

6. Civil Jurisdiction (other than appeals from the commission)

Cases involving only tribal members shall be heard in tribal court. Cases involving one or more persons who are not tribal members shall be heard in state court, unless all parties stipulate the action shall be heard in tribal court.

It is understood by the parties that the provisions of this paragraph are limited to civil cases arising from transactions related to, or arising from, gaming conducted pursuant to this compact. This provision shall not be construed to be a waiver of the sovereign immunity of the Tribe.

7. Licensing of Gaming Operators and Employees

All individuals who operate or manage a gaming operation at the establishment referred to in paragraph 8.5 shall be licensed by the commission. All individuals employed to work directly with the gaming operation shall be licensed by the commission.

The Tribal Gaming Commission shall have primary responsibility for the licensing of individuals who operate or manage a gaming operation or who are employed in the tribal gaming operation. Any person seeking to be licensed hereunder shall first submit an application to the Tribal Commission, which application shall include a written release by the applicant authorizing the State to conduct a background investigation of the applicant on behalf of the Tribal Gaming Commission. The State shall agree to conduct an investigation of the applicant on behalf of the commission, upon receipt of the executed release and payment of the fee as provided in the South Dakota Commission on Gaming's rules and regulations for such investigations. The State shall provide the commission with a written report regarding each applicant within 30 days of the receipt of the request and fee or as soon thereafter as practical.

The Commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who is determined suitable by the Tribal Gaming Commission according to tribal ordinance and by the South Dakota Gaming Commission pursuant to SDCL ch. 42-7B and the South Dakota Gaming Commission's rules and regulations.

Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure:

The dispute shall be determined by a three-person binding Arbitration Board. One member of the board shall be selected by the Tribal Gaming Commission, one member shall be selected by the state's Gaming Commission, and one member shall be jointly selected by the state's Gaming Commission and the Tribal Gaming Commission. Within thirty (30) days of the signing of this agreement, the parties hereto shall appoint the members to the Arbitration Board for a three-year term. In the event of death, resignation, or expiration of a term, new members shall be appointed on the same basis as the original members. The Arbitration Board shall determine whether the applicant is deemed suitable, taking into consideration the ordinance and regulations adopted by the Tribal Gaming Commission and the statutes and rules adopted by the state of South Dakota. The Arbitration Board shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the arbitration decision to federal district court.

8. Regulatory Standards to Gaming

In recognition of the valid public policy interests of the State, which are similarly appreciated as desirable by the Tribe, the following regulatory standards are established for gaming operated and played at the establishment referred to in paragraph 8.5.

8.1 No Credit Extended

All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated under this agreement, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business with the State.

8.2 Minimum Age for Players

No person under the age of 21 shall be permitted on the premises where gaming is conducted pursuant to this compact.

8.3 Technical Standards for Gaming Devices

All gaming machines operated and played pursuant to this Compact shall meet or exceed the hardware and software specifications set forth by the South Dakota Gaming Commission and SDCL 42-7B-43 prior to play. Gaming machine prototypes will be tested and approved prior to play by the State according to State procedures and by the Tribe according to Tribal procedures.

8.4 Approval of Gaming Device

No gaming device shall be operated at the establishment referred to in paragraph 8.5 unless:

1) The gaming device is purchased, leased or acquired from a manufacturer or distributor licensed to sell, lease or distribute gaming devices by the State, pursuant to SDCL ch. 42-7B and ARSD 20:18; and,

2) the gaming device, or a prototype thereof, has been tested, approved and certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a gaming test laboratory shall be a laboratory agreed to, and designated in writing by, the South Dakota Gaming Commission and the Tribal Gaming Commission.

8.5 Number of Gaming Devices

The Tribe shall be authorized to operate in the Tribal gaming establishment on trust land located as follows: The West 1500 feet of the South 530 feet of the South half (1/2) of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West of the Fifth Principal Meridian, excepting therefrom 4.14 acres commencing at a point 750 feet East of the Southwest corner of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West; thence North 530 feet to a point; thence East 340 feet to a point; thence South 530 feet to a point; thence West to the point of beginning. Said tract of land contains 14.21 acres, more or less, of trust land. At said description, the Tribe shall be authorized to operate the number of gaming devices as provided for in South Dakota law in general, and specifically as provided for in SB 12 and SB 121, passed and signed into law in South Dakota's 68th legislative session of 1993, in the event SB 121 and SB 12 become effective state law. It is understood by the parties that the Tribe has heretofore been authorized to operate 180 gaming devices which constitutes two times the number of gaming devices heretofore permitted per individual under state law. In the event SB 121 becomes effective state law, then the Tribe shall be authorized to operate 240 gaming devices, which is a continuation of double the numbers of gaming devices allowed for individuals under state law. In the event SB 12 becomes effective state law, then the Tribe shall be authorized to operate two times the number of gaming devices authorized for establishments which meet the criteria under said SB 12, provided that the Tribe meets the same criteria as do individual establishments under SB 12. Any increase or decrease of these gaming device limitations contained in State law will automatically result in a proportional increase or decrease in the gaming device limitation set forth in this agreement.

It is further understood and agreed that 70 additional gaming devices shall be authorized in the tribal gaming establishment provided the following conditions are met:

a) At least nine months have elapsed following the date this agreement becomes effective; and

b) that within the last 60 consecutive business days from the date of determining whether these conditions have been met, 75 percent of the projected adjusted gross revenue (as defined by the South Dakota Commission on Gaming rules and regulations) per device per day has been realized on the average on all authorized devices provided for by law. The projected adjusted gross revenue, for purposes of this calculation, shall be $85.00 per device per day.

The Tribe shall be entitled to have up to ten gaming devices to be used to replace gaming devices which are out of service as a result of mechanical problems. These additional devices are only to be used in such event and shall not be operated in addition to the maximum number of devices authorized by this provision. Further, these additional devices shall meet the requirements of paragraph 8.3 of this Compact.

8.6 Inspection Procedure

South Dakota Gaming Commission agents shall be authorized to inspect (not to include audits) the tribal gaming establishment in accordance with the laws and rules adopted in the Compact. Any periodic inspection of gaming machines shall only occur if the state inspector is accompanied by a member of the tribal gaming commission, the executive secretary of the Tribal Gaming Commission, or a designee. Any such testing shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of all such testing and the results of such testing.

In addition to the gaming machine inspections authorized above, any inspections of other gaming devices and the tribal gaming establishment by state inspectors shall be limited to a maximum of 100 hours per year plus travel. These inspections are specifically authorized to be unannounced and may be in the nature of an undercover inspection. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of the results of such inspections. Any violations detected pursuant to this paragraph shall be enforced consistent with the procedure contained in the above section entitled Disciplinary Action for Misconduct by Licensees.

8.7 Remedies for Noncomplying Gaming Devices

Upon inspection, pursuant to paragraph 8.6, the State may designate gaming devices which it believes do not comply with tribal gaming laws. The machine shall immediately be removed temporarily from play or sealed. Within five days of receipt of such written designation, the Tribe shall either:

1) Accept the finding of noncompliance, remove the gaming devices from play, and take appropriate action to ensure that the Tribe, manufacturer, distributor or other responsible party cures the problem; or

2) contest the finding of noncompliance before the Arbitration Board as provided in paragraph 7 above. In the event the Arbitration Board finds that the gaming device is noncomplying, such device shall be removed from play. Gaming devices removed from play pursuant to this section may be returned to play only after such gaming device comes into compliance with the provisions of 8.4 herein.

Nothing in this section shall limit the rights or remedies available to the parties under any other provision of this Compact or under the IGRA.

8.8 Limit on Wagers

Gaming operations at the establishment identified in paragraph 8.5 may offer such bet limits as are consistent with the acts of the South Dakota legislature; specifically, the amendments contained in SB 12 passed by the 68th legislative session of 1993, and signed into law by the the Governor in the same year, the South Dakota Commission on Gaming and authorized by the Tribal Gaming Commission.

9. Accounting and Audit Procedures

The Tribe shall adopt accounting standards which meet or exceed those standards established in Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming.

The Tribe shall conduct independent audits of the gaming operation and provide copies to the State. At the request of the Tribe and at the Tribe's expense, the State may at its discretion audit the tribal operation .

The Tribe shall engage an independent certified public accountant to audit the books and records of all gaming operations conducted pursuant to this Compact and shall make copies of the audit and all current internal accounting and audit procedures available to the State upon written request. The Tribe shall permit the State to consult with the auditors before or after and audits or periodic checks on procedures which may be contacted by the auditors, and shall allow the State to submit written or oral comments or suggestions for improvements regarding the accounting and audit procedures. Within 30 days of receipt of any written or oral comments, the Tribe shall: (a) Accept the comments and modify the procedures accordingly; or, (b) respond to the comments with counterproposals or amendments.

10. Contribution of Gaming Proceeds

The Tribe may, in its discretion, contribute a sum to be used to provide public services for the citizens of the area. Such contributions shall be made without consultation with the State, and the State shall bear no obligation or liability for such contributions.

11. Gaming on Other Lands

The Tribe agrees not to have in place, enact, of enforce any law, ordinance, regulation or other provision to control Class II or III gaming when the Class II or III gaming occurs on lands other than the trust lands of the Tribe or the trust lands of an individual member of the Yankton Sioux Tribe.

12. Duration

This Compact shall become effective upon execution by the Governor of the State and the President of the Tribe, approval by the Secretary of the Interior, and publication of that approval in the Federal Register pursuant to the IGRA.

This agreement shall expire two years after the date of its execution by the parties unless renewed according to the following procedure: One hundred eighty days prior to the expiration of the two-year period, either party to the Compact may give notice to the other party that it wishes the agreement to be renewed, or that certain provisions exist in the agreement they believe require review or amendment. Such notice shall be in writing and shall be sent by certified mail to the Governor of the State or President of the Tribe at the appropriate government office.

Upon receipt of such notice, the parties shall engage in good faith efforts to resolve the issues identified in the notice. The parties shall have one hundred eighty days to negotiate and all further procedures and remedies available under the Indian Gaming Regulatory Act shall apply. The State and the Tribe may agree to extend the one hundred eighty day period without prejudice to the rights of either party.

In the event the parties are unable to resolve the issues identified in the notice within the 180-day period, upon the expiration of the 180 days unless extended by the parties hereto, this compact shall terminate and the parties shall be subject to the procedures provided for in the IGRA.

Either party may terminate this Compact upon substantial breach by the other party regardless of any other provision of this compact. Upon identification of what either party believes to be a substantial breach of the terms of this Compact, such party shall notify the other party in writing, via certified mail, return receipt requested, as to the nature of the substantial breach. The party issuing the notice of noncompliance shall refrain from terminating this Compact until 30 days have elapsed from receipt of notice of noncompliance by the other party.

13. General Provisions

The following conditions shall be applicable throughout the term of this agreement:

13.1 The parties hereto agree that in the event that a dispute arises as to an interpretation of the provisions of this Compact, in any of the rights, responsibilities or obligations attaching to the parties hereto, either party may commence an action in federal district court for the purpose of resolving such dispute.

13.2 The parties hereto agree that the Tribe will be responsible for the costs incurred by the State and associated with the State's performance of its responsibilities as provided for

herein. The intent of this Compact is to provide for the reimbursement of the costs and expenses of the State in performing its responsibilities as provided herein. Attached hereto is a schedule of costs marked Appendix A which is incorporated herein by reference as though fully set forth.

13.3 Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto may desire or may be required to give to the other party hereto shall be in writing and shall be personally delivered or sent by telegram 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:

Notice to the Tribe shall be sent to:

Chairman's Office
Yankton Sioux Tribe
P.O. Box 248
Marty, SD 57361-0248

Notice to the State shall be sent to:

Governor's Office
500 East Capitol Avenue
Pierre, SD 57501-5070

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 party to whom said notice is addressed.

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

13.5 This agreement 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 documents.

13.6 The State and/or the Tribe may not assign any of its respective right, title, or interest in this agreement, nor may the State and/or the Tribe delegate any of its respective obligations and duties under this agreement, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

13.7 Nothing in this Compact shall be construed to limit the rights or remedies available to the parties hereto under the Indian Gaming Regulatory Act except that the Tribe agrees not to bring suit under the Federal Indian Gaming Act during the life of this Compact for failure of the State to compact for gaming other than that specified in this Compact.

13.8 This Compact shall not be construed to waive or diminish the sovereignty of the Tribe or the State of South Dakota, except as specifically provided by the terms of the Compact set forth above.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the day and year first written.

YANKTON SIOUX TRIBE

8-2-93
(Date)

By: _____
Chairman

YANKTON SIOUX TRIBE

8-4-93
(Date)

By: _____
Secretary

STATE OF SOUTH DAKOTA

7/26/93
(Date)

By: _____
Governor

APPENDIX A

The hourly rate to be paid to the State for its services pursuant to paragraph 13.2 of the attached Compact is thirty dollars ($30). Travel, per diem, and other expenses shall be paid to the State at the rates set out in South Dakota Administrative Rules, ARSD 05:01:02. Should the rates set out in the Administrative Rules be changed during the time of this Compact, the rates to be paid to the State shall likewise be altered.

AMENDED GAMING COMPACT
BETWEEN THE
YANKTON SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

This amended agreement is made and entered into as of the _____ day of _____, 1992, by and between the Yankton Sioux Tribe (Tribe), and the State of South Dakota (State).

WHEREAS, the Tribe is a federally recognized Indian Tribe in southeastern South Dakota; and

WHEREAS, the Constitution of the Tribe provides adequate authority for negotiations and agreements with State government; and

WHEREAS, the Congress of the United States has enacted the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. Sections 2701, et seq. (1988) which permits Indian tribes, to operate Class III gaming activities on Indian reservations pursuant to a Tribal-State Compact entered into for that purpose; and

WHEREAS, the Tribe operates gaming activities at an establishment specifically identified in paragraph 8.5 of this Compact; and

WHEREAS, the Tribe and the State desire to negotiate a Tribal-State Compact to permit the operation of such gaming activities;

NOW, THEREFORE, in consideration of the foregoing, the Tribe and the State hereto do promise, covenant, and agree as follows:

1. Declaration of Policy

In the spirit of cooperation, the Tribe and the State hereby set forth in joint effort to implement the terms of the Indian Gaming Regulatory Act. The State recognizes the positive economic benefits that gaming may provide to the Tribe. The Tribe and the State recognize the need to insure that the health, safety and welfare of the public and the integrity of the gaming industry in South Dakota is protected.

2. Purpose and Scope of Compact

This Compact and the Tribe's gaming regulations and ordinances shall govern the regulation and operation of gaming conducted under authority of the Yankton Sioux Tribe. The purpose of this Compact is to provide the Tribe with the opportunity to operate gaming activities in a manner that will benefit the Tribe economically, that will insure fair operation of the games, and that will minimize the possibility of corruption.

3. Type of Gaming Permitted

The Tribe shall operate blackjack, poker and slot machines pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances. The Tribe shall be permitted to operate such other gaming as may be authorized by state law after the date of the signing of this Compact, upon written amendment of this agreement.

For the purposes of this Compact, the terms "blackjack," "poker" and "slot machines" are defined in respectively, except that the term "slot machines" as defined by SDCL 42-7A-1 (13).

4. Operation of Gaming

4.1 The Tribe shall operate its gaming activities pursuant to this Compact and the ordinances and regulations enacted by the Tribe's Executive Committee which ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL ch. 42-7B and ARSA 20:18, et seq. All such ordinances and regulations shall be made available to the State.

4.2 The Tribe shall elect a Tribal Gaming Commission which shall supervise the gaming activities, issue licenses as provided herein, inspect all premises where gaming is conducted and otherwise be responsible for enforcing the Tribe's Gaming Act and regulations. This Commission shall consist of a Chairman, Secretary, and three members who shall be elected by the Tribal Council.

The Tribal Gaming Commission shall have primary responsibility for the supervision and regulation of gaming conducted at the establishment referred to in paragraph 8.5. This shall include, but not be limited to, the licensing of gaming employees and the inspection and regulation of all gaming devices. Any discrepancies in the gaming operation and any violation of Tribal Gaming Commission regulations and rules or this Compact shall be immediately reported to the Tribal Gaming Commission and the South Dakota Commission on Gaming for appropriate action by the Tribal Gaming Commission pursuant to the terms of this Compact.

4.3 Disciplinary action for misconduct by licensees

Any suspected violation of any law or rule, adopted in the State/Tribal Compact, shall be reported to the Tribal Gaming Commission and the South Dakota Gaming Commission. If either the State or the Tribe concludes that a violation has occurred, the violation will be addressed by the Tribe within five (5) days. If the executive director of the South Dakota Gaming Commission concludes that the disciplinary action undertaken by the Tribal Gaming Commission is inadequate, a more severe penalty shall be imposed by the Tribal Gaming Commission as requested by the executive director of the South Dakota Gaming Commission.

5. Law Enforcement

5.1 Criminal proceedings against defendants who are members of the Yankton Sioux Tribe shall occur in tribal court. Criminal proceedings against defendants who are nonmember shall occur in South Dakota state court except as consistent with State v. Larson, (1990). Nothing contained in this provision shall deprive the federal courts of any jurisdiction which they might otherwise have.

It is understood by the parties that the provisions of this paragraph are limited to criminal cases arising from transactions related to or arising from gaming conducted at the establishment referred to in paragraph 8.5.

5.2 The Tribe has adopted and agrees to adopt gaming ordinances and regulations to regulate gaming which ordinances and regulations are at least as stringent as those statutes and administrative rules adopted by the State of South Dakota to regulate gambling in Deadwood, South Dakota. The Tribe shall furnish the State with copies of such ordinances and regulations and shall advise the State of any amendment, revision or recission of the gaming regulations. The Tribe agrees that in no event shall it amend, revise or rescind any gaming regulations which would result in the tribal regulations being less stringent than the statutes and rules adopted by the State of South Dakota.

6. Civil Jurisdiction (other than appeals from the commission)

Cases involving only tribal members shall be heard in tribal court. Cases involving one or more persons who are not tribal members shall be heard in state court, unless all parties stipulate the action shall be heard in tribal court.

It is understood by the parties that the provisions of this paragraph are limited to civil cases arising from transactions related to or arising from gaming conducted pursuant to this Compact. This provision shall not be construed to be a waiver of the sovereign immunity of the Tribe.

7. Licensing of Gaming Operators and Employees

All individuals who operate or manage a gaming operation at the establishment referred to in paragraph 8.5 shall be licensed by the commission. All individuals employed to work directly with the gaming operation shall be licensed by the commission.

The Tribal Gaming Commission shall have primary responsibility for the licensing of individuals who operate or manage a gaming operation or who are employed in the tribal gaming operation. Any person seeking to be licensed hereunder shall

first submit an application to the Tribal Commission which application shall include a written release by the applicant authorizing the State to conduct a background investigation of the applicant on behalf of the Tribal Gaming Commission. The State shall agree to conduct an investigation of the applicant on behalf of the Commission, upon receipt of the executed release and payment of the fee as provided in the South Dakota Commission on Gaming rules and regulations for such investigations. The State shall provide the Commission with a written report regarding each applicant within 30 days of the receipt of the request and fee or as soon thereafter as practical.

The Commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who is determined suitable by the Tribal Gaming Commission according to tribal ordinance and by the South Dakota Gaming Commission pursuant to SDCL ch. 42-7B and the South Dakota Gaming Commission rules and regulations.

Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure:

The dispute shall be determined by a three-person binding Arbitration Board. One member of the Board shall be selected by the Tribal Gaming Commission, one member shall be selected by the State Gaming Commission, and one meber shall be jointly selected by the State Gaming Commission and the Tribal Gaming Commission. Within thirty (30) days of the signing of this Agreement, the parties hereto shall appoint the members to the Arbitration Board for a three-year term. In the event of death, resignation, or expiration of a term, new members shall be appointed on the same basis as the original members. The Arbitration Board shall determine whether the applicant is deemed suitable, taking into consideration the ordinance and regulations adopted by the Tribal Gaming Commission and the statutes and rules adopted by the State of South Dakota. The Arbitration Board shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the arbitration decision to federal district court.

8. Regulatory Standards for Gaming

In recognition of the valid public policy interests of the State, which are similarly appreciated as desirable by the Tribe, the following regulatory standards are established for gaming operated and played at the establishment referred to in paragraph 8.5.

8.1 No Credit Extended

All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated with the Reservation, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business with the State.

8.2 Minimum Age for Players

No person under the age of 21 shall be allowed to participate in any gaming on the premises, however:

(1) Persons under the age of twenty-one (21) years may be allowed to enter the Casino, but only for the purpose of passing through the Casino to and from the restaurant and hotel facilities of the Ft. Randall Casino.

(2) Persons between the ages of twenty-one (21) and eighteen (18) years may be employed by the Ft. Randall Casino, but only in the restaurant and hotel facilities and may not be employed in either the Casino or lounge.

8.3 Technical Standards for Gaming Devices

All gaming machines operated and played pursuant to this Compact shall meet or exceed the hardware and software specifications set forth by the South Dakota Gaming

Commission and SDCL 42-7B-43 prior to play. Gaming machine prototypes will be tested and approved prior to play by the State according to State procedures and by the Tribe according to Tribal procedures.

8.4 Approval of Gaming Devices

No gaming device shall be operated at the establishment referred to in paragraph 8.5 unless:

1) The gaming device is purchased, leased or acquired from a manufacturer or distributor licensed to sell, lease or distribute gaming devices by the State, pursuant to SDCL ch. 42-7B and ARSD 20:18, and

2) The gaming device or a prototype thereof, has been tested, approved and certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a gaming test laboratory shall be a laboratory agreed to and designated in writing by the South Dakota Gaming Commission and the Tribal Gaming Commission.

8.5 Number of Gaming Devices

The Tribe shall be authorized to operate 180 gaming devices in the tribal gaming establishment on trust land located as follows: The West 1500 feet of the South 530 feet of the South half (1/2) of the Southeast quarter (1/4)of Section 36, Township 96 North, Range 65 West of the Fifth Principal Meridian, excepting therefrom 4.14 acres commencing at a point 750 feet East of the Southwest corner of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West; thence North 530 feet to a point; thence East 340 feet to a point; thence South 530 feet to a point; thence West to the point of beginning. Said tract of land containing 14.21 acres, more or less of trust land. It is acknowledged between the parties hereto that the gaming device limitation of 180 constitutes two times the number of gaming devices permitted per individual in State law. Any increase or decrease of this gaming device limitation contained in State law will automatically result in a

proportional increase or decrease in the gaming device limitation of 180 set forth in this agreement.

It is further understood and agreed that 70 additional gaming devices shall be authorized in the tribal gaming establishment provided the following conditions are met:

a) At least nine months have elapsed since the tribal gaming establishment was open for business; and

b) That within the last 60 consecutive business days from the date of determining whether these conditions have been met, 75 percent of the projected adjusted gross revenue (as defined by the South Dakota Commission on Gaming rules and regulations) per device per day has been realized on the average on all 180 devices. The projected adjusted gross revenue, for purposes of this calculation, shall be $85.00 per device per day.

The Tribe shall be entitled to have up to five gaming devices to be used to replace gaming devices which are out of service as a result of mechanical problems. These additional devices are only to be used in such an event and shall not be operated in addition to the maximum number of devices authorized by this provision. Further, these additional devices shall meet the requirements of paragraph 8.3 of this Compact.

8.6 Inspection Procedure

South Dakota Gaming Commission agents shall be authorized to inspect (not to include audits) the tribal gaming establishment in accordance with the laws and rules adopted in the Compact.
Any periodic inspection of gaming machines shall only occur if the state inspector is accompanied by a member of the tribal gaming commission, the executive secretary of the Tribal Gaming Commission, or a designee. Any such testing shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of all such testing and the results of such testing.

In addition to the gaming inspections authorized above, any inspections of other gaming devices and the tribal gaming establishment by state inspectors shall be limited to a maximum of 100 hours per year plus travel. These inspections are specifically authorized to be unannounced and may be in the nature of an undercover inspection. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of the results of such inspections. Any violations detected pursuant to this paragraph shall be enforced consistent with the procedure contained in the above section entitled Disciplinary Action for Misconduct by Licensees.

8.7 Remedies for Non-Complying Gaming Devices

Upon inspection pursuant to paragraph 8.6, the State may designate gaming devices which it believes do not comply with tribal gaming laws. The machine shall immediately be removed temporarily from play or sealed. Within five days of receipt of such written designation, the Tribe shall either:

1) accept the finding of non-compliance, remove the gaming devices from play, and take appropriate action to ensure that the Tribe, manufacturer, distributor or other responsible party cures the problem; or

2) contest the finding of non-compliance before the Arbitration Board as provided in paragraph 7 above. In the event the Arbitration Board finds that the gaming device is noncomplying, such device shall be removed from play. Gaming devices removed from play pursuant to this section may be returned to play only after such gaming device comes into compliance with the provisions of 8.4 herein.
Nothing in this section shall limit the rights or remedies available to the parties under any other provision of this Compact or under the IGRA.

8.8 Limit on Wagers

The amount of a bet may not be more than five dollars on the initial bet or subsequent bet subject to rules promulgated by the Tribal Gaming Commission. Gaming operations at the establishment identified in paragraph

8.5 may offer such higher bet limits as are consistent with the acts of the South Dakota legislature and authorized by the Tribal Gaming Commission.

9. Accounting and Audit Procedures

The Tribe shall adopt accounting standards which meet or exceed those standards established in Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming.

The Tribe shall conduct independent audits of the gaming operation and provide copies to the State. At the request of the Tribe and at the Tribe's expense, the State may at its discretion audit the tribal operation.

The Tribe shall engage in an independent certified public accountant to audit the books and records of all gaming operations conducted pursuant to this Compact and shall make copies of the audit procedures available to the State upon written request. The Tribe shall permit the State to consult with the auditors before or after any audits or periodic checks on on procedures which may be conducted by the auditors, and shall allow the State to submit written or oral comments or suggestions for improvements regarding the accounting and audit procedures. Within 30 days of receipt of any written or oral comments, the Tribe shall: (a) accept the comments and modify the procedures accordingly; or (b) respond to the comments with counterproposals or amendments.

10. Contribution of Gaming Proceeds

The Tribe may, in its discretion, contribute a sum to be used to provide public services for the citizens of the area. Such contributions shall be made without consultation with the State and the State shall bear no obligation or liability for such contributions.

11. Gaming on Other Lands

The Tribe agrees not to have in place, enact, or enforce any law, ordinance, regulation or other provision to control Class II or Class III gaming when the Class II or III gaming occurs on lands other than the trust lands of the Tribe or the trust lands of an individual member of the Yankton Sioux Tribe.

12. Duration

This Compact shall become effective upon execution by the Governor of the State and the Chairman of the Tribe, approval by the Secretary of the Interior and publication of that approval in the Federal Register pursuant to the IGRA.

The terms of this Compact shall be subject to review at two year intervals dating from the date of execution of this Compact. One hundred eighty days prior to the expiration of the two year period, either party to the Compact may give notice to the other party of provisions they believe require review or amendment. Such notice shall be in writing and shall be sent by certified mail to the Governor of the State or Chairman of the Tribe at the appropriate governmental office.

Upon receipt of such notice, the parties shall engage in good faith efforts, to resolve the issues identified in the notice. The parties shall have one hundred eighty days to negotiate and all further procedures and remedies available under the Indian Gaming Regulatory Act shall apply. The State and the Tribe may agree to extend the one hundred eighty day period without prejudice to the rights of either party.

In the event the parties are unable to resolve the issues identified in the notice within the 180 day period, upon the expiration of the 180 days unless extended by the parties hereto, this Compact shall terminate and the parties shall be subject to the procedures provided for in the IGRA.

Either party may terminate this Compact upon a substantial breach by the other party regardless of any other provision of this Compact. Upon identification of what either party believes to be a substantial breach of the terms of this Compact, such party shall notify the other party in writing, via certified mail, return receipt requested, as to the nature of the substantial breach. The party issuing the notice of noncompliance shall refrain from terminating this Compact until 30 days have elapsed from receipt of notice of noncompliance by the other party.

13. General Provisions

The following conditions shall be applicable throughout the term of this Agreement:

13.1 The parties hereto agree that in the event that a dispute arises as to an interpretation of the provisions of this Compact, in any of the rights, responsibilities or obligations attaching to the parties hereto, either party may commence an action in federal district court for the purpose of resolving such dispute.

13.2 The parties hereto agree that the Tribe will be responsible for the costs incurred by the State and associated with the State's performance of its responsibilities as provided for herein. The intent of this Compact is to provide for the reimbursement of the costs and expenses of the State in performing its responsibilities as provided herein. Attached hereto is a schedule of costs marked Attachment A which is incorporated herein by reference as though fully set forth.

13.3 Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto may desire or may be required to give to the other party hereto, shall be in writing and shall be personally delivered or sent by telegram 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:

Notice to the Tribe shall be sent to:

Chairman's Office
Yankton Sioux Tribe
P.O. Box 248
Marty, South Dakota 57361

Notice to the State shall be sent to:

Governor's Office
700 Governor's Drive
Pierre, South Dakota 57501

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 party to whom said notice is addressed.

13.4 This Agreement is the entire Agreement between the parties and supersedes all prior agreements whether written or oral, with respect to the subject matter hereof. Neither this Agreement nor any provision herein may be changed, waived, discharged, or terminated orally, but only by an instrument in writing.

13.5 This Agreement may be executed by the parties hereto in any number of separate counterparts with the same effect as if the signature hereto and hereby were upon the same instrument. All such counterparts shall together constitute but one and the same documents.

13.6 The State and/or the Tribe may not assign any of its respective right, title, or interest in this Agreement, nor may the State and/or the Tribe delegate any of its respective obligations and duties under this Agreement, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

13.7 Nothing in this Compact shall be construed to limit the rights or remedies available to the parties hereto under the Indian Gaming Regulatory Act except that the Tribe agrees not to bring suit under the Federal Indian Gaming Act during the life of this Compact for failure of the State to compact for gaming other than that specified in this Compact.

13.8 This Compact shall not be construed to waive or diminish the sovereignty of the Tribe or the State of South Dakota, except as specifically provided by the terms of the Compact set forth above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

YANKTON SIOUX TRIBE

_____ (DATE)

BY: _____
Chairman

YANKTON SIOUX TRIBE

_____ (DATE)

BY: _____
Secretary

STATE OF SOUTH DAKOTA

6-17-92
(DATE)

BY: _____
Governor

APPENDIX A

The hourly rate to be paid to the State for its services pursuant to paragraph 13.2 of the attached Compact is thirty dollars ($30). Travel, per diem, and other expenses shall be paid to the State at the rates set out in South Dakota Administrative Rules, ARSD 05:01:02. Should the rates set out in the Administrative Rules be changed during the time of this Compact, the rates to be paid to the State shall likewise be altered.

YANKTON SIOUX TRIBE

Grant - handle

BOX 248
MARTY, SO. DAK., 57361
384-3804 / 384-3641
FAX # 384-5687

JUN 1992
RECEIVED
Governors Office
Pierre, SD

June 12, 1992

078736

Governor Mickelson
700 Governor's Drive
Pierre, South Dakota 57501

RE: **Amended Compact regarding age requirements of the Ft. Randall Casino.**

Dear Honorable Governor Mickelson:

Please find enclosed four original copies of the Amended Compact for your signature regarding the above indicated subject area.

On page 6, Section 8.2 (1) & (2) you will find the substantive provisions that comprise the proposed amendments to the Compact between the State of South Dakota and the Yankton Sioux Tribe. I would appreciate it if you would return three signed originals for our files.

Should you have any questions, please feel free to contact me at your convenience.

Very truly yours,

Stephen N. Cournoyer, Jr.
Chairman

Filed this 18th day of June, 1992

Joyce Hazeltine
SECRETARY OF STATE

OFFICERS:
STEPHEN COURNOYER, JR.
EVERDALE SONGHAWK
DARRELL DRAPEAU
HARLAN HORNED EAGLE

BUSINESS & CLAIMS COMMITTEE Y S T

LOUIE ARCHAMBEAU
WILLARD BRUGUIER
RAYMOND COURNOYER
KENNETH HONOMICHL
EDWARD ZEPHIER, JR

Grant-handle 68M

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

068074

JUN 13 1991

Honorable George Mickelson
Governor of South Dakota
700 Governor's Drive
Pierre, South Dakota 57501

Dear Governor Mickleson:

We are in receipt of the tribal-state compact concluded between the Yankton Sioux Tribe and the State of South Dakota, accompanied by the requisite tribal resolution authorizing the compact process.

Section 11(d) of the Indian Gaming Regulatory Act of 1988, (P.L. 100-497; 25 U.S.C. 2710 et seq.), requires that the Chairman of the National Indian Gaming Commission approve tribal resolutions authorizing Class III gaming. However, the Commission does not yet have final regulations governing such approvals.

Therefore, pursuant to my delegated authority and Section 11 of the Gaming Act, we approve the compact.

The compact shall take effect upon publication in the FEDERAL REGISTER of notice of our approval pursuant to Section 11(d)(3)(B).

We wish the Tribe and the State success in this economic endeavor.

Sincerely,

Eddie F. Brown
Assistant Secretary - Indian Affairs

Enclosure

GAMING COMPACT
BETWEEN THE
YANKTON SIOUX TRIBE
AND THE
STATE OF SOUTH DAKOTA

This Agreement is made and entered into as of the 29th day of April, 1991, by and between the Yankton Sioux Tribe (Tribe), and the State of South Dakota (State).

WHEREAS, the Tribe is a federally recognized Indian Tribe in southeastern South Dakota; and

WHEREAS, the Constitution of the Tribe provides adequate authority for negotiations and agreements with State government; and

WHEREAS, the State has, through constitutional provisions and legislative acts, authorized limited gaming activities to be conducted in Deadwood, South Dakota; and

WHEREAS, the Congress of the United States has enacted the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2426, 25 U.S.C. § 2701, et seq. (1988) which permits Indian tribes, to operate Class III gaming activities on Indian reservations pursuant to a Tribal-State Compact entered into for that purpose; and

WHEREAS, the Tribe intends to operate gaming activities at an establishment specifically identified in paragraph 8.5 of this Compact; and

WHEREAS, the Tribe and the State desire to negotiate a Tribal-State Compact to permit the operation of such gaming activities;

NOW, THEREFORE, in consideration of the foregoing, the Tribe and the State hereto do promise, covenant, and agree as follows:

1. Declaration of Policy

In the spirit of cooperation, the Tribe and the State hereby set forth in joint effort to implement the terms of the Indian Gaming Regulatory Act. The State recognizes the positive economic benefits that gaming may provide to the Tribe. The Tribe and the State recognize the need to insure that the health, safety and welfare of the public and the integrity of the gaming industry in South Dakota is protected.

2. Purpose and Scope of Compact

This Compact and the Tribe's gaming regulations and ordinances shall govern the regulation and operation of gaming conducted under authority of the Yankton Sioux Tribe. The purpose of this Compact is to provide the Tribe with the opportunity to operate gaming activities in a manner that will benefit the Tribe economically, that will insure fair operation of the games, and that will minimize the possibility of corruption.

3. Type of Gaming Permitted

The Tribe shall operate blackjack, poker and slot machines pursuant to the terms of this Compact and the Tribe's gaming regulations and ordinances. The Tribe shall be permitted to operate such other gaming as may be authorized by state law after the date of the signing of this Compact, upon written amendment of this agreement.

For the purposes of this Compact, the terms "blackjack," "poker" and "slot machines" are defined in South Dakota Codified Laws 42-7B-4(3), (18), (21), respectively, except that the term "slot machines" does not include "video lottery machines" as defined by SDCL 42-7A-1(13).

4. Operation of Gaming

4.1 The Tribe shall operate its gaming activities pursuant to this Compact and the ordinances and regulations enacted by the Tribe's Executive Committee which ordinances and regulations shall be at least as stringent as those adopted by the State of South Dakota in SDCL ch. 42-7B and ARSD 20:18, et seq. All such ordinances and regulations shall be made available to the State.

4.2 The Tribe shall elect a Tribal Gaming Commission which shall supervise the gaming activities, issue licenses as provided herein, inspect all premises where gaming is conducted and otherwise be responsible for enforcing the Tribe's Gaming Act and regulations. This Commission shall consist of a chairman, secretary and three members who shall be elected by the Tribal Executive Committee.

The Tribal Gaming Commission shall have primary responsibility for the supervision and regulation of gaming conducted at the establishment referred to in paragraph 8.5. This shall include, but not

be limited to, the licensing of gaming employees and the inspection and regulation of all gaming devices. Any discrepancies in the gaming operation and any violation of Tribal Gaming Commission regulations and rules or this Compact shall be immediately reported to the Tribal Gaming Commission and the South Dakota Commission on Gaming for appropriate action by the Tribal Gaming Commission pursuant to the terms of this Compact.

4.3 Disciplinary action for misconduct by licensees

Any suspected violation of any law or rule, adopted in the State/Tribal Compact, shall be reported to the Tribal Gaming Commission and the South Dakota Gaming Commission. If either the State or the Tribe concludes that a violation has occurred, the violation will be addressed by the Tribe within five (5) days. If the executive director of the South Dakota Gaming Commission concludes that the disciplinary action undertaken by the Tribal Gaming Commission is inadequate, a more severe penalty shall be imposed by the Tribal Gaming Commission as requested by the executive director of the South Dakota Gaming Commission.

5. Law Enforcement

5.1 Criminal proceedings against defendants who are members of the Yankton Sioux Tribe shall occur in tribal court. Criminal proceedings against defendants who are nonmember shall occur in South Dakota state court except as consistent with State v. Larson, (1990). Nothing contained in this provision shall deprive the federal courts of any jurisdiction which they might otherwise have.

It is understood by the parties that the provisions of this paragraph are limited to criminal cases arising from transactions related to or arising from gaming conducted at the establishment referred to in paragraph 8.5.

5.2 The Tribe has adopted and agrees to adopt gaming ordinances and regulations to regulate gaming which ordinances and regulations are at least as stringent as those statutes and administrative rules adopted by the State of South Dakota to regulate gambling in Deadwood, South Dakota. The Tribe shall furnish the State with copies of such ordinances and regulations and shall advise the State of any amendment, revision or rescission of

the gaming regulations. The Tribe agrees that in no event shall it amend, revise or rescind any gaming regulations which would result in the tribal regulations being less stringent than the statutes and rules adopted by the State of South Dakota.

6. Civil Jurisdiction (other than appeals from the commission)

Cases involving only tribal members shall be heard in tribal court. Cases involving one or more persons who are not tribal members shall be heard in state court, unless all parties stipulate the action shall be heard in tribal court.

It is understood by the parties that the provisions of this paragraph are limited to civil cases arising from transactions related to or arising from gaming conducted pursuant to this Compact. This provision shall not be construed to be a waiver of the sovereign immunity of the Tribe.

7. Licensing of Gaming Operators and Employees

All individuals who operate or manage a gaming operation at the establishment referred to in paragraph 8.5 shall be licensed by the commission. All individuals employed to work directly with the gaming operation shall be licensed by the commission.

The Tribal Gaming Commission shall have primary responsibility for the licensing of individuals who operate or manage a gaming operation or who are employed in the tribal gaming operation. Any person seeking to be licensed hereunder shall first submit an application to the Tribal Commission which application shall include a written release by the applicant authorizing the State to conduct a background investigation of the applicant on behalf of the Tribal Gaming Commission. The State shall agree to conduct an investigation of the applicant on behalf of the Commission, upon receipt of the executed release and payment of the fee as provided in the South Dakota Commission on Gaming rules and regulations for such investigations. The State shall provide the Commission with a written report regarding each applicant within 30 days of the receipt of the request and fee or as soon thereafter as practical.

The Commission shall not issue a license to any unsuitable applicant. A suitable applicant is one who

is determined suitable by the Tribal Gaming Commission according to tribal ordinance and by the South Dakota Gaming Commission pursuant to SDCL ch. 42-7B and the South Dakota Gaming Commission rules and regulations.

Should the Tribal Gaming Commission disagree with the State's determination on suitability, the Tribal Gaming Commission may invoke the following arbitration procedure:

The dispute shall be determined by a three-person binding Arbitration Board. One member of the Board shall be selected by the Tribal Gaming Commission, one member shall be selected by the State Gaming Commission, and one member shall be jointly selected by the State Gaming Commission and the Tribal Gaming Commission. Within thirty (30) days of the signing of this Agreement, the parties hereto shall appoint the members to the Arbitration Board for a three-year term. In the event of death, resignation, or expiration of a term, new members shall be appointed on the same basis as the original members. The Arbitration Board shall determine whether the applicant is deemed suitable, taking into consideration the ordinance and regulations adopted by the Tribal Gaming Commission and the statutes and rules adopted by the State of South Dakota. The Arbitration Board shall further decide the suitability issue in the best interest of the public. If permitted by law, either the State or the Tribe may appeal the arbitration decision to federal district court.

8. Regulatory Standards for Gaming

In recognition of the valid public policy interests of the State, which are similarly appreciated as desirable by the Tribe, the following regulatory standards are established for gaming operated and played at the establishment referred to in paragraph 8.5.

8.1 No Credit Extended

All gaming shall be conducted on a cash basis. Except as herein provided, no person shall be extended credit for gaming by the gaming facility operated with the Reservation, and no operation shall permit any person or organization to offer such credit for a fee. This restriction shall not apply to credits won by players who activate play on gaming machines after inserting coins or currency into the game, and shall not restrict the right of the Tribe or any other person to offer

check cashing or to install or accept bank card or credit card transactions in the same manner as would be normally permitted at any retail business with the State.

8.2 Minimum Age for Players

No person under the age of 21 shall be permitted on the premises where gaming is conducted pursuant to this Compact.

8.3 Technical Standards for Gaming Devices

All gaming machines operated and played pursuant to this Compact shall meet or exceed the hardware and software specifications set forth by the South Dakota Gaming Commission and SDCL 42-7B-43 prior to play. Gaming machine prototypes will be tested and approved prior to play by the State according to State procedures and by the Tribe according to Tribal procedures.

8.4 Approval of Gaming Devices

No gaming device shall be operated at the establishment referred to in paragraph 8.5 unless:

1) The gaming device is purchased, leased or acquired from a manufacturer or distributor licensed to sell, lease or distribute gaming devices by the State, pursuant to SDCL ch. 42-7B and ARSD 20:18, and

2) The gaming device or a prototype thereof, has been tested, approved and certified by a gaming test laboratory as meeting the requirements and standards of this Compact. For purposes of this Compact, a gaming test laboratory shall be a laboratory agreed to and designated in writing by the South Dakota Gaming Commission and the Tribal Gaming Commission.

8.5 Number of Gaming Devices

The Tribe shall be authorized to operate 180 gaming devices in the tribal gaming establishment on trust land located as follows: The West 1500 feet of the South 530 feet of the South half (1/2) of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West of the Fifth Principal Meridian, excepting therefrom 4.14 acres commencing at a point 750 feet East of the

Southwest corner of the Southeast quarter (1/4) of Section 36, Township 96 North, Range 65 West; thence North 530 feet to a point; thence East 340 feet to a point; thence South 530 feet to a point; thence West to the point of beginning. Said tract of land containing 14.21 acres, more or less of trust land. It is acknowledged between the parties hereto that the gaming device limitation of 180 constitutes two times the number of gaming devices permitted per individual in State law. Any increase or decrease of this gaming device limitation contained in State law will automatically result in a proportional increase or decrease in the gaming device limitation of 180 set forth in this agreement.

It is further understood and agreed that 70 additional gaming devices shall be authorized in the tribal gaming establishment provided the following conditions are met:

a) At least nine months have elapsed since the tribal gaming establishment was open for business; and

b) That within the last 60 consecutive business days from the date of determining whether these conditions have been met, 75 percent of the projected adjusted gross revenue (as defined by the South Dakota Commission on Gaming rules and regulations) per device per day has been realized on the average on all 180 devices. The projected adjusted gross revenue, for purposes of this calculation, shall be $85.00 per device per day.

The Tribe shall be entitled to have up to five gaming devices to be used to replace gaming devices which are out of service as a result of mechanical problems. These additional devices are only to be used in such an event and shall not be operated in addition to the maximum number of devices authorized by this provision. Further, these additional devices shall meet the requirements of paragraph 8.3 of this Compact.

8.6 <u>Inspection Procedure</u>

South Dakota Gaming Commission agents shall be authorized to inspect (not to include audits) the tribal gaming establishment in accordance with the laws and rules adopted in the Compact.
Any periodic inspection of gaming machines shall only occur if the state inspector is accompanied

by a member of the tribal gaming commission, the executive secretary of the Tribal Gaming Commission, or a designee. Any such testing shall be carried out in a manner and at a time which will cause minimal disruption of the gaming operation. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of all such testing and the results of such testing.

In addition to the gaming machine inspections authorized above, any inspections of other gaming devices and the tribal gaming establishment by state inspectors shall be limited to a maximum of 100 hours per year plus travel. These inspections are specifically authorized to be unannounced and may be in the nature of an undercover inspection. The Tribal Gaming Commission and the South Dakota Gaming Commission shall be notified of the results of such inspections. Any violations detected pursuant to this paragraph shall be enforced consistent with the procedure contained in the above section entitled Disciplinary Action for Misconduct by Licensees.

8.7 Remedies for Non-Complying Gaming Devices

Upon inspection pursuant to paragraph 8.6, the State may designate gaming devices which it believes do not comply with tribal gaming laws. The machine shall immediately be removed temporarily from play or sealed. Within five days of receipt of such written designation, the Tribe shall either:

1) accept the finding of non-compliance, remove the gaming devices from play, and take appropriate action to ensure that the Tribe, manufacturer, distributor or other responsible party cures the problem; or

2) contest the finding of non-compliance before the Arbitration Board as provided in paragraph 7 above. In the event the Arbitration Board finds that the gaming device is noncomplying, such device shall be removed from play. Gaming devices removed from play pursuant to this section may be returned to play only after such gaming device comes into compliance with the provisions of 8.4 herein.

Nothing in this section shall limit the rights or remedies available to the parties under any other provision of this Compact or under the IGRA.

8.8 Limit on Wagers

The amount of a bet may not be more than five dollars on the initial bet or subsequent bet subject to rules promulgated by the Tribal Gaming Commission. Gaming operations at the establishment identified in paragraph 8.5 may offer such higher bet limits as are consistent with the acts of the South Dakota legislature, the South Dakota Commission on Gaming and authorized by the Tribal Gaming Commission.

9. Accounting and Audit Procedures

The Tribe shall adopt accounting standards which meet or exceed those standards established in Chapter 20:18:22 of the South Dakota Rules and Regulations for Limited Gaming.

The Tribe shall conduct independent audits of the gaming operation and provide copies to the State. At the request of the Tribe and at the Tribe's expense, the State may at its discretion audit the tribal operation.

The Tribe shall engage in an independent certified public accountant to audit the books and records of all gaming operations conducted pursuant to this Compact and shall make copies of the audit and all current internal accounting and audit procedures available to the State upon written request. The Tribe shall permit the State to consult with the auditors before or after any audits or periodic checks on procedures which may be conducted by the auditors, and shall allow the State to submit written or oral comments or suggestions for improvements regarding the accounting and audit procedures. Within 30 days of receipt of any written or oral comments, the Tribe shall: (a) accept the comments and modify the procedures accordingly; or (b) respond to the comments with counterproposals or amendments.

10. Contribution of Gaming Proceeds

The Tribe may, in its discretion, contribute a sum to be used to provide public services for the citizens of the area. Such contributions shall be made without consultation with the State and the State shall bear no obligation or liability for such contributions.

11. Gaming on Other Lands

The Tribe agrees not to have in place, enact, or enforce any law, ordinance, regulation or other provision to control Class II or III gaming when the Class II or III gaming occurs on lands other than the trust lands of the Tribe or the trust lands of an individual member of the Yankton Sioux Tribe.

12. Duration

This Compact shall become effective upon execution by the Governor of the State and the President of the Tribe, approval by the Secretary of the Interior and publication of that approval in the Federal Register pursuant to the IGRA.

The terms of this Compact shall be subject to review at two year intervals dating from the date of execution of this Compact. One hundred eighty days prior to the expiration of the two-year period, either party to the Compact may give notice to the other party of provisions they believe require review or amendment. Such notice shall be in writing and shall be sent by certified mail to the Governor of the State or President of the Tribe at the appropriate governmental office.

Upon receipt of such notice, the parties shall engage in good faith efforts, to resolve the issues identified in the notice. The parties shall have one hundred eighty days to negotiate and all further procedures and remedies available under the Indian Gaming Regulatory Act shall apply. The State and the Tribe may agree to extend the one hundred eighty day period without prejudice to the rights of either party.

In the event the parties are unable to resolve the issues identified in the notice within the 180 day period, upon the expiration of the 180 days unless extended by the parties hereto, this Compact shall terminate and the parties shall be subject to the procedures provided for in the IGRA.

Either party may terminate this Compact upon a substantial breach by the other party regardless of any other provision of this Compact. Upon identificatio of what either party believes to be a substantia breach of the terms of this Compact, such party shal notify the other party in writing, via certified mai return receipt requested, as to the nature of t substantial breach. The party issuing the notice

noncompliance shall refrain from terminating this Compact until 30 days have elapsed from receipt of notice of noncompliance by the other party.

13. General Provisions

The following conditions shall be applicable throughout the term of this Agreement:

13.1 The parties hereto agree that in the event that a dispute arises as to an interpretation of the provisions of this Compact, in any of the rights, responsibilities or obligations attaching to the parties hereto, either party may commence an action in federal district court for the purpose of resolving such dispute.

13.2 The parties hereto agree that the Tribe will be responsible for the costs incurred by the State and associated with the State's performance of its responsibilities as provided for herein. The intent of this Compact is to provide for the reimbursement of the costs and expenses of the State in performing its responsibilities as provided herein. Attached hereto is a schedule of costs marked Attachment A which is incorporated herein by reference as though fully set forth.

13.3 Unless otherwise indicated differently, all notices, payments, requests, reports, information or demand which any party hereto may desire or may be required to give to the other party hereto, shall be in writing and shall be personally delivered or sent by telegram 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:

Notice to the Tribe shall be sent to:

Chairman's Office
Yankton Sioux Tribe
P.O. Box 248
Marty, SD 57361

Notice to the State shall be sent to:

Governor's Office
700 Governor's Drive
Pierre, SD 57501

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 party to whom said notice is addressed.

13.4 This agreement is the entire Agreement between the parties and supersedes all prior agreements whether written or oral, with respect to the subject matter hereof. Neither this Agreement nor any provision herein may be changed, waived, discharged, or terminated orally, but only by an instrument in writing.

13.5 This Agreement 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 documents.

13.6 The State and/or the Tribe may not assign any of its respective right, title, or interest in this Agreement, nor may the State and/or the Tribe delegate any of its respective obligations and duties under this Agreement, except as expressly provided herein. Any attempted assignment or delegation in contravention of the foregoing shall be null and void.

13.7 Nothing in this Compact shall be construed to limit the rights or remedies available to the parties hereto under the Indian Gaming Regulatory Act except that the Tribe agrees not to bring suit under the Federal Indian Gaming Act during the life of this Compact for failure of the State to compact for gaming other than that specified in this Compact.

13.8 This Compact shall not be construed to waive or diminish the sovereignty of the Tribe or the State of South Dakota, except as specifically provided by the terms of the Compact set forth above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

YANKTON SIOUX TRIBE

4-29-91
(DATE)

BY: _____
Chairman

YANKTON SIOUX TRIBE

4-29-91
(DATE)

BY: _____
Secretary

STATE OF SOUTH DAKOTA

4-29-91
(DATE)

BY: _____
GOVERNOR

jpg:do

BUREAU OF INDIAN AFFAIRS

JUN 13 1991
(DATE)

_____
ASSISTANT SECRETARY-INDIAN AFFAIRS

APPENDIX A

The hourly rate to be paid to the State for its services pursuant to paragraph 13.2 of the attached Compact is thirty dollars ($30). Travel, per diem, and other expenses shall be paid to the State at the rates set out in South Dakota Administrative Rules, ARSD 05:01:02. Should the rates set out in the Administrative Rules be changed during the time of this Compact, the rates to be paid to the State shall likewise be altered.

Filed this 17th day of August, 19 90

Joyce Hazeltine

SECRETARY OF STATE

INTERIM AGREEMENT

This Interim Agreement shall extend for a period of one year among the State of South Dakota, the United States of America and the Yankton Sioux Tribe, and is entered into for the purpose of settling on a temporary basis the differences of the parties with respect to hunting and fishing on the land and the waters thereon to which title is held in whole by the United States in trust for the Tribe or for any tribal member in Charles Mix County, South Dakota ("trust land").

WHEREAS, the parties, without conceding their respective legal positions regarding jurisdiction desire to cooperate for their mutual benefit with regard to wildlife management on trust land;

AND WHEREAS, it is in the best interests of the parties to the pending litigation that there be a temporary resolution to certain facets of the dispute in lieu of the necessity of seeking various preliminary orders;

NOW, THEREFORE, the parties agree as follows:

1. This Agreement is effective on the date of the last signature of the parties named herein and shall remain in effect until May 15, 1991, unless earlier terminated pursuant to paragraph 13.

2. The parties agree to continue to attempt to reach a longer term agreement on the issues raised in the litigation.

3. The State of South Dakota agrees not to impose its licensing and other wildlife related laws and regulations on any person hunting on trust land.

4. The Yankton Sioux Tribe agrees to impose the same seasons, hours, limits and restrictions on methods of hunting on nonmembers on trust land as are imposed by the State of South Dakota elsewhere, with the exceptions set forth in paragraphs 5 and 8 below.

5. The Yankton Sioux Tribe will hold an extended goose season for nonmembers to be held in the area and for the time period approved by the United States Fish and Wildlife Service.

6. It is further agreed that no more than a total of four hundred geese will be harvested by members and nonmembers during the entire Yankton Sioux Tribe season on trust land and that the Tribe will offer no more than two hundred waterfowl licenses to nonmembers.

7. The Yankton Sioux Tribe will sell no more than twenty-five deer licenses to nonmembers. The Tribe may, in its discretion, limit the harvest of deer to bucks, to does, to whitetail deer or to muledeer as appropriate.

8. The Yankton Sioux Tribe will hold a fall turkey season from October 15 to and including November 15 of 1990. No more than fifteen fall turkey licenses will be sold to nonmembers. The Tribe will sell no more than twenty-five spring turkey licenses to nonmembers.

9. The Tribe may establish up to two private shooting preserves during the period of this agreement, which preserves shall be operated in compliance with state laws and regulations governing private shooting preserves, with the exceptions that no

fees, licenses or bonds shall be required by the State of South Dakota for the operation of such preserves.

10. The State will not object to the enforcement of the tribal civil hunting code in a civil action in tribal court with regard to nonmembers hunting on trust lands. Nonmembers on trust lands in violation of the Tribe's hunting ordinances and codes may be subject to criminal prosecution only in United States district court. Any officer enforcing tribal game ordinances shall not detain any nonmember beyond license inspection, count of game, seizure of illegal game, and notice of violation. Any action for forfeiture, any action for a penalty or fine, whether denominated a "civil penalty" or "civil fine" or otherwise, in excess of the amount allowable under South Dakota law in an analogous case, or any action for trespass not involving an actual taking of game shall be heard in United States district court.

11. It is the intent of this agreement that the pending litigation shall be stayed until March 1, 1991, to permit the negotiation of a longer term settlement of the pending disputes. In the event that the parties determine that such negotiation is not possible and negotiations cease, the stay shall cease at an earlier date, mutually agreeable to the parties.

12. Notwithstanding the stay described in paragraph 11, the United States agrees to respond to the Interrogatories and Requests for Production of the State of South Dakota within forty (40) days from the date on which they were received.

13. The parties agree that in the event of a material

default of the performance of this agreement by any party hereto, the non-defaulting party may terminate this agreement only upon seven (7) days written notice to the other parties. Upon the expiration of such seven (7) day period, if the default has not been cured to the mutual satisfaction of the parties, this agreement shall be null and void and the parties shall resume their respective positions with regard to this litigation that they occupied upon the date of signing this agreement.

14. The parties shall file with the court a motion stating that an "interim agreement" has been reached and requesting a stay of the proceedings until further motion. The parties agree that because of the potential that this matter may be litigated in the future, that the agreement itself should not be filed with the court.

YANKTON SIOUX TRIBE

Stephen N. Cournoyer, Jr.
Tribal Chairman

Date: _____

U.S. DEPARTMENT OF JUSTICE

Philip N. Hogen
United States Attorney

Date: Aug 2, 1990

STATE OF SOUTH DAKOTA

Roger A. Tellinghuisen
Attorney General

Date: 8-15-90

Richard Beringson, Secretary
Department of Game, Fish and Parks

Date: 8-16-90