

HOUSE No. 4260

Message from His Excellency the Governor submitting the “Tribal State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts”. July 12, 2012.

The Commonwealth of Massachusetts



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GOVERNOR

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EXECUTIVE DEPARTMENT
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July 12, 2012.

To the Honorable Senate and House of Representatives:

I am submitting for your consideration the attached, “Tribal-State Compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts.” This Compact has been executed today with the federally-recognized sovereign Mashpee Wampanoag Tribe.

The Compact was negotiated pursuant to the federal Indian Gaming Regulatory Act (IGRA) and Section 91 of Chapter 194 of the Acts of 2011 (Expanded Gaming Act). The Compact establishes, as required under IGRA, the relationship between the Tribe and the Commonwealth for the operation of a tribal casino in Taunton and sets out, in detail, a structure for the operation of such a casino.

The Compact satisfies the requirements under IGRA while adhering to the public policy established by the Legislature in the Expanded Gaming Act. The principles in our statute—maximizing private investment and job creation, delivering economic development benefits to each region of the Commonwealth, giving local communities a voice in the process and funding public health, safety and community mitigation programs—are vital to the long-term success of tribal and commercial gaming in Massachusetts. This Compact appropriately integrates the tribal casino into the Commonwealth’s expanded gaming plans, and fairly allocates the gaming revenues between the Tribe and the Commonwealth.

The Compact, which would last 15 years with a mutual option for a second 15-year term, provides that 21.5% of the Tribe’s gross gaming revenue will be used to mitigate the impacts of the facility and as consideration to the Commonwealth for granting the Tribe exclusive casino-style gaming rights in Region C, as defined under the Expanded Gaming Act (southeastern

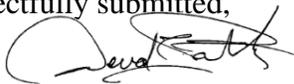
Massachusetts) and for advocating for the approval by the Secretary of the Interior of both the Compact and the Tribe's pending land in trust application, and other benefits to the Tribe. The Commonwealth's revenue allocation will be distributed according to the formula set out in the Expanded Gaming Act, meaning that local aid, transportation, infrastructure, education and other accounts will receive a percentage of funds to mitigate the impacts of the facility and support programs and services throughout the region and state. In addition, the Compact requires the Tribe to contribute a minimum of \$1.5 million annually to the Public Health Trust Fund established under the Expanded Gaming Act.

A Tribal Gaming Commission will oversee the facility's gaming operations, with concurrent oversight by the Massachusetts Gaming Commission (MGC) and the National Indian Gaming Commission, subjecting the facility to an even greater level of regulation than exists under the Expanded Gaming Act. The Compact also requires the Tribe to reimburse the MGC for the costs of its regulatory and oversight functions. Like any potential commercial facility in the Commonwealth, the Compact requires the facility to be non-smoking. The Compact also requires compliance with both federal and state construction standards and provides the same criminal jurisdiction, employee benefits, and patron and labor protections available under State law.

Finally, the Compact provides for mitigation to the host and surrounding communities through a federal Environmental Impact Statement (EIS). The EIS study, funded by the Tribe and providing for significant community involvement, includes a comprehensive analysis under federal law of the education, housing, public safety, infrastructure, transportation, traffic, air, land, water, wildlife, and all other social and physical considerations and the alternative proposals and costs to mitigate all impacts of the facility on the region. The EIS report will provide host and surrounding communities with the information they need to request mitigation payments from the Community Mitigation Fund administered by the MGC.

I urge your favorable consideration of this Compact

Respectfully submitted,



DEVAL L. PATRICK,
Governor.

**TRIBAL-STATE COMPACT
BETWEEN
THE MASHPEE WAMPANOAG TRIBE
AND
THE COMMONWEALTH OF MASSACHUSETTS**

This compact is made and entered into on July 12, 2012 by and between the **MASHPEE WAMPANOAG TRIBE**, a federally recognized Indian tribe (“Tribe”) and the **COMMONWEALTH OF MASSACHUSETTS** (“Commonwealth” or “State”), with respect to the operation of Gaming on the Tribe’s Indian lands pursuant to the Indian Gaming Regulatory Act, as amended, and codified at 25 U.S.C. §§ 2701 to 2721, inclusive, and 18 U.S.C. §§ 1166 to 1168, inclusive.

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Part 1. Title.

This document, as it may be amended or supplemented in accordance with its terms, shall be referred to as the “Mashpee Wampanoag Tribe-Commonwealth of Massachusetts Tribal-State Compact.” Unless otherwise defined herein, all capitalized terms in this Compact shall have the meaning ascribed to them in Part 3 below.

Part 2. Recitals.

2.1. The Tribe is a federally recognized Indian tribe located within the geographic borders of the Commonwealth and possessing sovereign powers and rights of self-government.

2.2. The Commonwealth is a state of the United States of America, possessing the sovereign powers and rights of a state government.

2.3. The Commonwealth has enacted the Expanded Gaming Act (“Act,” as defined in subpart 3.16), which authorizes expanded gaming in the Commonwealth. The Act reflects the public policies of the Commonwealth with regard to the operation and regulation of gaming, as well as the public benefits to the Commonwealth and its citizens that can result from a gaming project conducted in accordance with such policies, such as the creation of jobs, the generation of revenues for public purposes, and the increase of tourism and economic development within the Commonwealth.

2.4. The Act also recognizes the right of a federally recognized Indian tribe to seek to conduct tribal gaming in the Commonwealth under IGRA, through negotiation on a government-to-government basis with the Governor for a tribal-state gaming compact that is consistent with the Commonwealth’s and the Tribe’s policies on gaming and serves IGRA’s and the Tribe’s goal of supporting and strengthening Tribal governmental self-sufficiency.

2.5. Massachusetts General Laws Chapter 23K, Section 19, as added by Section 16 of the Act, authorizes the Commonwealth, through the MGC, to license three casinos within the Commonwealth, one each in three distinct geographic areas within the Commonwealth. Those regions are identified as Regions A, B and C. Section 19 anticipates that under IGRA a tribe may seek to conduct gaming in Region C. Region C is in Southeastern Massachusetts and is where the Tribe’s proposed casino would be located. Such a gaming project under IGRA would not require a license from the State in order to operate, but the Tribe would have to reach a tribal-state compact with the Commonwealth before any class III gaming, as defined in IGRA, could be operated. Federal law requires such compacts to be negotiated in good faith and does not permit the imposition of taxes as a condition of agreement.

2.6. Section 91 of the Act provides that if a compact negotiated by the Governor is approved by the General Court by July 31, 2012, the MGC will not issue a request for Category 1 License applications in Region C unless and until it determines that the Tribe will not have land taken into trust for it by the United States Secretary of the Interior. IGRA requires that a tribe’s

gaming must be conducted on Indian Lands, which includes land taken into trust by the United States.

2.7. By letter dated March 14, 2012, the Tribe requested that the Governor negotiate with it for a tribal-state gaming compact under IGRA and Section 91 of the Act and, upon reaching agreement, submit it to the General Court for approval. Section 91 provides that the Governor may only negotiate a compact if the Tribe has requested a referendum to seek the views of the community in which the proposed gaming operation is to be located. The Tribe has proposed Taunton, Massachusetts, where it has acquired rights to purchase land, to serve as the location of its IGRA gaming project. Taunton is within that part of the Commonwealth designated as Region C. At the Tribe's request, Taunton conducted a referendum in which the site of the Tribe's proposed gaming development was approved. The Tribe also requested that the United States Secretary of the Interior accept the Approved Gaming Site in trust for the Tribe as Indian Lands for gaming purposes under IGRA, which request is pending.

2.8. The Tribe has requested that the Governor negotiate and the General Court approve this Compact by July 31, 2012, which will provide exclusivity in Region C for the Tribe while depriving the Commonwealth of certain economic benefits that would be realized if a licensed commercial casino under the Act were authorized. In recognition of the benefit to it and the detriment to the Commonwealth, the Tribe has offered significant benefits to the Commonwealth for agreeing to expedite the negotiations in order to meet the exclusivity timelines in Section 91. Neither federal nor Commonwealth law requires the Governor to negotiate a compact that will provide exclusive gaming opportunities to a tribe, or to negotiate a compact with a tribe before it has land that is qualified under IGRA for gaming by the tribe.

2.9. This Compact is the product of arm's length negotiations between two sovereign governments and reflects mutual and valuable concessions that have been made and exchanged voluntarily beyond those ordinarily required in negotiations under IGRA, in order to achieve the parties' respective goals. If approved, this Compact will:

- (a) further the government-to-government relationship between the Tribe and the Commonwealth;
- (b) facilitate the Tribe's desire to qualify land under federal law in order to conduct gaming under IGRA;
- (c) offer the play of Compact Games, as defined herein, as a means of generating Tribal revenues for the purposes authorized by IGRA, including without limitation, the support of Tribal governmental programs, such as health care, housing, sewer and water projects, police, corrections, fire, judicial services, highway and bridge construction, general assistance for Tribal elders, day care for children, economic development, educational opportunities and other typical and valuable governmental services and programs for Enrolled Tribal Members;

- (d) enhance the revenues the Tribe will generate from gaming by obtaining the approvals necessary to secure the Tribe's opportunity to operate its casino within Region C on an exclusive basis;
- (e) promote economic development in Southeastern Massachusetts, both on and off the Tribe's lands as contemplated under the Act and IGRA, including the positive effects and benefits that will flow from the increased employment, tourism, local commerce and other economic benefits the gaming activities described herein will bring to the region;
- (f) address the issue of problem gambling;
- (g) ensure that the Facility in which Gaming is conducted is constructed and operated in a manner that will protect the health and safety of all who enter the Facility;
- (h) meet all federal, state and tribal requirements related to tribal gaming;
- (i) promote a positive working relationship with the Host Community, and address and mitigate any impacts on the Host Community and Surrounding Communities that will result from the presence of the Tribal Gaming Facility; and
- (j) ensure public confidence in the integrity of the gaming offered under this Compact and further the mutual interests of the Tribe and the Commonwealth in protecting their citizens from the possibility of criminal involvement in the gaming operations authorized under this Compact through rigorous Tribal and Commonwealth regulation.

2.10. As further demonstrations of the Tribe's interest in obtaining an expedited compact under Section 91 of the Act, the Tribe has addressed and reached agreement with the city of Taunton over the costs and mitigation of the impacts of the Facility, a copy of which agreement is attached in Appendix A.

2.11. In response to the Tribe's request for assistance, and as a further concession, the Governor and the Commonwealth have also agreed to support the Tribe's applications to have the land identified as the Approved Gaming Site in Taunton, Massachusetts accepted by the United States in trust for the Tribe as Indian Lands for gaming purposes under IGRA, and the land now owned by the Tribe in Mashpee, Massachusetts, which is the site of the Tribe's governmental, housing and economic development operations (described in Appendix B) ("Governmental Sites"), accepted by the United States in trust for the Tribe. Except for Community Gaming, no gaming will be conducted on the Governmental Sites. The Governor has agreed to use his best efforts to dedicate the resources of the Office of the Governor to urge the United States Secretary of the Interior to give the Tribe's applications early and expeditious approval.

2.12. As a further concession by the Commonwealth to the Tribe, the Commonwealth has agreed to use its best efforts to negotiate an agreement in 2012 with the Tribe with the mutual goal of facilitating the exercise by the Tribe and its individual members of aboriginal hunting

and fishing rights on certain lands in the Commonwealth, including public lands and Tribal lands; and to use its best efforts to negotiate an agreement in 2013 with the Tribe to resolve certain title claims asserted by the Tribe involving land and water in and around Mashpee, giving consideration to the conveyance to the Tribe of some such land and water now publicly held.

2.13. The Tribe acknowledges that it requested the concessions summarized in this Part 2, along with other concessions made by the Commonwealth throughout and in furtherance of this Compact, all of which concessions are hereby acknowledged by the Tribe to be extremely important and valuable to it, are not required to be given under IGRA or any other law, and are not attainable in any other way, in exchange for the Tribe's agreements herein, including but not limited to its agreement to make the payments set forth in Part 9.

Part 3. Definitions.

In addition to other terms defined in this Compact, the terms referenced in this Part 3 shall have the meanings described in this Part 3 for purposes of this Compact.

3.1. "Affiliate" means a Person who directly or indirectly controls, or is controlled by, or is under common control with, a specified Person.

3.2. "Applicant" means any Person that has applied for a license or registration as required under this Compact.

3.3. "Approved Gaming Site" or "Approved Site" means a single site on Indian Lands, as defined in IGRA, that is legally eligible under IGRA for the conduct of Compact Games thereon, located within Region C and identified with further specificity in Appendix C, as the same may be modified from time to time in accordance with subpart 5.2.

3.4. "Category 1 License" means a license issued by the MGC that permits the licensee to operate a gaming establishment with table games and slot machines; and "Category 1 Licensee" means the Person to whom a Category 1 License is issued.

3.5. "Category 2 License" means a license issued by the MGC that permits the licensee to operate a gaming establishment with no table games and not more than 1,250 slot machines.

3.6. "Certificate of Occupancy" means a certificate of occupancy equivalent to such certificates issued under the laws of the Commonwealth.

3.7. "Commonwealth" or "State" means the Commonwealth of Massachusetts.

3.8. "Community Gaming" means the game played on paper cards or sheets, commonly known as "bingo" or "beano," where players cover a pre-designated arrangement of letters and numbers as those letters and numbers are selected and called, provided the game is played in accordance with the requirements contained in Part 4.

3.9. “Compact” means this Mashpee Wampanoag Tribe - Commonwealth of Massachusetts Tribal-State Compact, as the same may be amended or supplemented in accordance with its terms.

3.10. “Compact Games” means, except to the extent excluded, limited or otherwise defined under the terms of this Compact, all forms of gaming defined as “class III gaming activities” under IGRA, provided such games are not criminally prohibited under the laws of the Commonwealth.

3.11. “Compact Game Employee” means any individual employed by or performing services for the Enterprise whose responsibilities include any activity related to the operation, maintenance or management of Compact Games. The term “Compact Game Employee” includes, but is not limited to, the following: Key Gaming Employees and Primary Management Officials; managers and assistant managers; accounting personnel; surveillance and security personnel; cashiers; supervisors; floor personnel; cage personnel; and any other person whose duties require or authorize access to the Gaming Area or any other area used for the maintenance or storage of Compact Games, Compact Game components, or Records relating to Compact Games. “Compact Game Employee” shall not include a person solely because he or she is an elected official of the Tribe.

3.12. “Documents” or “Records” means books, records, photographs, diagrams, maps, electronic, magnetic and computer media, and other writings and materials, and copies thereof, in any form or medium, tangible or intangible, whether now known or discovered or created in the future, and information contained therein.

3.13. “Effective Date” means the date on which the conditions set forth in Part 22 of this Compact have been met.

3.14. “Enrolled Tribal Member” means an individual who is enrolled as a member of the Tribe under its Constitution.

3.15. “Enterprise” means the Tribe, or any division, section, agency, or instrumentality thereof, whether or not legally organized or separate from the Tribe’s government, and any legal entity wholly-owned and controlled by the Tribe or any of the foregoing, which lawfully owns or operates the Gaming Operation on behalf of the Tribe. For purposes of enforcement of this Compact, and without relieving any person or entity encompassed by the definition of the term “Enterprise” from any duty, obligation or debt owing hereunder, the Tribe is deemed ultimately responsible for the activities of, and to have made all promises for, the Enterprise.

3.16. “Expanded Gaming Act” or “Act” means the law enacted as Chapter 194 of the Acts of 2011, and any amendments thereto.

3.17. “Facility” means a single building complex (including buildings not more than one hundred (100) yards apart and connected by an enclosed walkway), located on the Approved Gaming Site in which any Compact Game or other gambling games of any kind are offered, played, supported, served or operated. The parties acknowledge and agree that throughout the

term of this Compact and any renewal term, the precise location of the Facility on the Approved Gaming Site may be moved or the Facility may be reconstructed, but at no time shall the Approved Gaming Site contain more than one Facility.

3.18. “Financial Source” means any Person providing financing in connection with the Facility or the conduct of Gaming under this Compact.

3.19. “Gambling” or “Gaming” means the operation or conduct of a game or the playing of a game by a Patron of the Facility.

3.20. “Gaming Area” means any area in the Facility where any Gaming, other than the operation of an authorized Wireless Gaming System, is played or offered for play.

3.21. “Gaming Device” means an electronic, electrical or mechanical contrivance or machine used in the conduct of Gaming in the Facility.

3.22. “Gaming Enclosure” means the Facility and any other buildings or enclosures located on the Approved Gaming Site in which the Records of the Gaming Operation are maintained or stored or from which any service related to the Gaming Operation is directed, supervised, observed, monitored, or located, and any parking lots or structures, including hotels and other ancillary buildings, walkways, sidewalks, roadways, improvements, and common areas on or in proximity to the Approved Gaming Site which serve the Gaming Operation.

3.23. “Gaming Operation” means the conduct of Gaming on behalf of the Tribe, together with all management and supporting services, including accounting and the safeguarding of all funds derived from the conduct of such Gaming.

3.24. “Gaming Ordinance” means the Tribal Gaming Ordinance adopted by the Tribe and approved by the NIGC, and any regulations promulgated by the TGC pursuant to the Gaming Ordinance, as duly and lawfully amended.

3.25. “Gaming Test Laboratory” means an independent gaming test laboratory recognized in the gaming industry as competent and qualified to conduct scientific tests and evaluations of Gaming Devices.

3.26. “Gaming Vendor” means a Person, other than a Management Contractor, or Compact Game Employee, who sells, leases or otherwise provides goods or services to the Enterprise which are used by the Enterprise in the operation of Compact Games.

3.27. “General Court” means the legislature of the Commonwealth.

3.28. “Governor” means the governor of the Commonwealth.

3.29. “Gross Gaming Revenue” means the total of all sums generated from the operation of Compact Games and other Gambling games in the Facility, less the total paid out as winnings to Patrons from the operation of such games. Gross Gaming Revenue shall include all sums

generated from the operation of Internet Gaming to the same extent such revenues are included within Gross Gaming Revenue for Category 1 Licensees under the Act. Gross Gaming Revenue shall not include as sums generated the cash equivalent value of any merchandise or thing of value included in a jackpot or payout or any amount received by the Gaming Operation from credit extended or collected by the Enterprise for purposes other than the operation of gambling games. Gross Gaming Revenue shall also not include as sums generated by a Patron's wagering of any promotional gaming credit issued by the Gaming Operation.

3.31. "Host Community" means the municipality in which the Facility is located.

3.32. "IGRA" means the Indian Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C. Section 2701 *et seq.* and 18 U.S.C. Sections 1166 to 1168.

3.33. "Indian Lands" means those lands defined as such in IGRA, 25 U.S.C. Section 2703(4)(A) and (B).

3.34. "Institutional Investor" means any of the following entities: a corporation, bank, insurance company, pension fund or pension fund trust, retirement fund (including funds administered by a public agency), employees profit-sharing fund or employees profit-sharing trust, or an association engaged, as a substantial part of its business or operation, in purchasing or holding securities, or any trust in respect of which a bank is a trustee or co-trustee, an investment company registered under the federal Investment Company Act of 1940, a securities dealer registered pursuant to the Securities Exchange Act of 1934, a federally or state-regulated bank, savings and loan or other lending institution, a collective investment trust organized by banks under Part 9 of the Rules of the Comptroller of Currency, a closed end investment trust, a chartered or licensed life insurance company or property and casualty insurance company, an investment advisor registered under the federal Investment Advisers Act of 1940, and such other persons as the TGC may reasonably determine to qualify as an Institutional Investor for purposes of this Compact.

3.35. "Internet Gaming" means the placing or receiving of a Wager over the Internet.

3.36. "Key Gaming Employee" means any Person identified as such in 25 C.F.R. Part 502.14 and any other Person the Tribe designates as a Key Gaming Employee in its Gaming Ordinance.

3.37. "Lottery Game" means games offered by the Massachusetts State Lottery, including, but not limited to instant scratch ticket games, numbers or lotto games (including any game offered in conjunction with any multi-jurisdictional lottery) and keno games.

3.38. "Management Contract" means any contract, subcontract or collateral agreement, or combination thereof, between the Tribe and a third party if such contract or agreement provides for the management of all or a part of the Gaming Operation and has been approved by the NIGC Chairman.

3.39. "Management Contractor" means any Person that has entered into a Management Contract with the Tribe to manage all or a part of the Gaming Operation.

- 3.40. “Massachusetts Gaming Commission” or “MGC” means the gaming regulatory agency created by the Act, or any successor agency.
- 3.41. “NIGC” means the National Indian Gaming Commission, or any successor agency.
- 3.42. “Non-Gaming Supplier” means any Person, other than a Management Contractor or employee of the Enterprise, who sells, leases or provides goods or services to the Enterprise for the operation of the Facility, which are not used by the Enterprise in the operation of Compact Games.
- 3.43. “Patron” means, unless otherwise provided herein, any person who is on the premises of the Facility for the purpose of playing Compact Games or enjoying the other amenities of the Facility.
- 3.44. “Person” means any individual or entity.
- 3.45. “Primary Management Official” means any Person described in 25 C.F.R. Part 502.19 and any other Person the Tribe designates as a Primary Management Official in its Gaming Ordinance.
- 3.46. “Region C” as that term is defined in General Laws Chapter 23K, Section 19(a)(3), as added by Section 16 of the Act, means all areas within the boundaries of Bristol, Plymouth, Nantucket, Dukes and Barnstable counties in the Commonwealth.
- 3.47. “Surrounding Communities” means municipalities in proximity to a Host Community that experience, or are likely to experience, impacts from the development or operation of the Facility, including municipalities with transportation infrastructure providing ready access to the Facility.
- 3.48. “TGC Regulations” means the regulations promulgated or adopted by the Tribal Gaming Commission for implementation of this Compact, which regulations shall be subject to the requirements of this Compact and IGRA.
- 3.49. “Tribal Gaming Commission” or “TGC” means the tribal government agency designated by the Gaming Ordinance to have regulatory authority over the Gaming Operation.
- 3.50. “Tribe” means the Mashpee Wampanoag Tribe.
- 3.51. “Wager” means a sum of money or representative of value that is risked on an occurrence for which the outcome is uncertain.
- 3.52. “Wireless Gaming System” means a system used for the conduct of Gambling that is composed of one or more client terminals, one or more access points, a secure gateway/mobility controller and a secure authentication server in which the client terminals and the access point communicate wirelessly within the Facility over a private and secure, encrypted network. A

Wireless Gaming System may not use communications technology that is based on or includes the use of the Internet.

Part 4. Authorized Gaming.

4.1. Compact Games. The Tribe and Commonwealth agree that the Tribe is authorized to operate Compact Games only in accordance with this Compact, IGRA and the Tribal Gaming Ordinance and the Tribe shall only conduct such Gaming on Indian Lands as authorized under IGRA. The Tribe acknowledges that under IGRA it may not conduct any class III gaming activity not authorized by a tribal-state compact in effect under IGRA. During the term of this Compact and subject to its terms, the Tribe is authorized to conduct Compact Games as defined herein within no more than one Facility. The Tribe agrees that to the extent that it is permitted by law to conduct any other Gaming, such other Gaming shall be subject to the same level of regulatory standards and oversight by the Tribe to which the Compact Games are held herein. Except for Community Gaming, the Tribe agrees that no gaming shall be conducted on the Tribe's lands except in the Facility.

4.1.1. Compact Game Reports. Prior to commencing the operation of any Compact Games in the Facility, the TGC shall notify the MGC of the number and type of Compact Games which are anticipated to be played over the next thirty (30) days, and thereafter report to the MGC by the 5th day of each month any changes anticipated for the coming month, and any changes made in the previous month which were not on the report covering anticipated games for the previous month.

4.2. Automatic Amendment. If a Compact Game authorized under this Part is criminally prohibited by an amendment to or repeal of a Commonwealth statute or Constitution or any part thereof, or if a court of competent jurisdiction makes a final determination that a Compact Game authorized under this Part is criminally prohibited, this Compact shall no longer authorize the Tribe to engage in that Compact Game and the Tribe shall cease offering such Gaming immediately.

4.3. Limitations on Class III Gaming Activity. Notwithstanding any other provision of this Compact, the parties agree that the following class III gaming activity shall not be offered by the Tribe, except as expressly provided in this subpart 4.3.

4.3.1. Pari-mutuel Racing. Live horse racing and live dog racing shall not be offered by the Tribe.

4.3.2. Internet Gaming. The Tribe will not offer any form of Internet Gaming unless Internet Gaming is authorized under Commonwealth and federal law, and provided:

(a) If Internet Gaming is authorized by the Commonwealth, and only the Massachusetts State Lottery or any other governmental agency of the Commonwealth is permitted to conduct Internet Gaming, the parties agree that at the Tribe's request, they will negotiate in good faith for a tribal-state compact, or

amendment to this Compact, to permit the Tribe to conduct Internet Gaming. If agreement is reached on a tribal-state compact or amendment to this Compact, the Tribe may offer Internet Gaming only in accordance with such compact or amendment.

(b) If Internet Gaming is authorized by the Commonwealth and permitted to be conducted by any Category 1 Licensee or other commercial entity licensed by the Commonwealth, the Tribe may conduct Internet Gaming in the same manner and to the same extent that Internet Gaming is permitted to be conducted in the Commonwealth by any Category 1 Licensee or other licensed commercial entity, provided the Tribe first complies with subpart 4.4 of this Compact.

4.3.3. Lottery Games. The Tribe agrees it will not offer any game which is substantially similar to a Lottery Game operated by the Massachusetts State Lottery. Other than keno, nothing herein is intended to prohibit the Tribe from operating Compact Games typically offered at major casinos in the United States, such as Gaming Devices and table games. The Tribe and the Commonwealth may enter into an agreement separate and apart from this Compact to permit the Tribe to offer Lottery Games through the Massachusetts State Lottery, provided any such agreement complies with IGRA and Commonwealth law.

4.4. New Class III Gaming Activity. Except for Internet Gaming described in subpart 4.3.2(a) or Lottery Games the Tribe agrees it will not offer under subpart 4.3.3, any new class III gaming activity authorized by the Commonwealth to be conducted by any Category 1 Licensee for any purpose within the Commonwealth after the Effective Date of this Compact may be offered by the Tribe, provided that before offering any such Gaming activity the TGC shall provide at least forty-five (45) days advance written notice to the MGC of its intention to offer such class III gaming activity, and a description of the Gaming activity, the regulations governing the Gaming activity, and the manner in which the Gaming activity will be regulated under this Compact.

4.4.1. Within thirty (30) days of its receipt of a notice under this subpart 4.4, the MGC shall notify the TGC in writing of its objection, if any, to the proposed new Gaming activity or the manner in which the TGC proposes to regulate it.

4.4.2. If the MGC objects, the Tribe may not conduct the proposed Gaming activity unless and until the MGC withdraws its objection, approves the new Gaming activity, or does not prevail in a completed arbitration pursuant to the dispute resolution process set forth in Part 21. In the event the Tribe does not receive timely notice under subpart 4.4.1 of an objection by the MGC, such new Gaming activity shall be deemed approved.

4.4.3. The Tribe and the MGC shall work cooperatively to resolve any MGC objections to the proposed additional Gaming activity. Within fifteen (15) days of an MGC objection, the TGC and the MGC shall meet and attempt to resolve their differences informally. If the parties are unable to resolve their differences within thirty (30) days of their initial meeting, either party may invoke the dispute resolution process set forth in Part 21.

4.5. Class II Gaming. Nothing in this Compact shall limit the Tribe's right to operate any game that is within the definition of a class II game under IGRA, except that for as long as the Commonwealth does not authorize the conduct of Gaming under a Category 1 License in Region C, the Tribe agrees that the sole location where it may offer class II gaming, except for Community Gaming operated in accordance with subpart 4.6, is within the Facility upon the Approved Gaming Site. Revenues from all Gaming operated at the Facility shall be included within the Gross Gaming Revenues of such Facility.

4.6. Community Gaming. If the Tribe permits the conduct of Community Gaming on the Tribe's lands outside of the Facility, the Tribe agrees that the Community Gaming will be located on the Tribe's Governmental Sites, will not be conducted more than two (2) days per week and not more than five (5) hours per day, that no single prize will exceed one hundred dollars (\$100), and that all games will be played exclusively on paper cards or sheets which contain five (5) rows and five (5) columns with a free space and the letters BINGO or BEANO over the columns.

4.7. Wireless Gaming System. The TGC may designate certain areas within the Facility where an authorized Wireless Gaming System may be used. The operation of a Wireless Gaming System shall be considered new class III gaming activity and may only be offered in accordance with the procedures contained in subpart 4.4. The regulations governing Wireless Gaming Systems must include measures to ensure the devices are not used by persons under the age of twenty one (21).

4.8. Authorizations Specific to Gaming Devices. No Gaming Device may be offered for play by the Enterprise unless:

4.8.1. The manufacturer and distributor which sells, leases, distributes, services or repairs, or otherwise provides such Gaming Device for use in the Gaming Operation has been licensed by the TGC as a Gaming Vendor;

4.8.2. the software for the game authorized for play on the Gaming Device has been tested, approved and certified by a Gaming Test Laboratory as operating in accordance with any published standards for Gaming Devices by the NIGC, the published standards of Gaming Laboratories International, Inc. (known as GLI-11 and GLI-12), or such other comparable or more rigorous technical standards as the MGC and TGC shall agree upon, which agreement shall not be unreasonably withheld, and a copy of the certification is provided to the MGC;

4.8.3. such software is tested by the Gaming Test Laboratory to ensure that each game authorized for play on the Gaming Device has the correct electronic signature and has been installed and is operated in accordance with the manufacturer's specifications, and the Gaming Test Laboratory has so certified; provided that if the electronic signature is retained outside the gaming device, the server for the Gaming Device shall be located within the Facility. In such instance, the software shall be tested by the Gaming Test Laboratory, and the TGC shall verify that the same software tested is installed and

operated in accordance with the manufacturer's specifications and the Gaming Test Laboratory certification;

4.8.4. the hardware and associated equipment for each type of Gaming Device has been tested by the Gaming Test Laboratory to ensure operation in accordance with the manufacturer's specifications; and

4.8.5. the TGC determines that the requirements of this subpart 4.8 have been met and the Gaming Device is approved by the TGC.

4.9. Domestically Manufactured Devices. To the extent permitted by law, in purchasing or leasing Gaming Devices, the Tribe shall prefer machines manufactured in the United States.

Part 5. Construction, Maintenance and Operation of Facility.

5.1. Location. The Facility shall be located on the Approved Gaming Site.

5.2. Identification of Location. Subject to the following provisions of this subpart 5.2, the specific location of the Approved Gaming Site and the placement of the Facility thereon are described in Appendix C.

5.2.1. If the details of the specific location of the Facility upon the Approved Gaming Site have not been finalized by the time this Compact is executed, Appendix C shall describe as much of such information as is available at the time of execution.

Ratification of this Compact by the General Court shall provide authority for the Tribe to make subsequent and limited amendment to the description in Appendix C to provide more specific details of the location of the Facility on the Approved Gaming Site. The identification information shall describe with specificity the street-map location, the ownership interests of the land comprising the Approved Gaming Site over the past twenty (20) years, its assessed value, and whether it is presently publicly owned.

5.2.2. If it is not commercially feasible for the Tribe to acquire in trust the land described in Appendix C as the intended Approved Gaming Site for purposes of this Compact, or if the United States Secretary of the Interior fails to accept such land in trust, the Tribe may identify alternative land in Region C to be acquired in trust for Gaming under this Compact. The Tribe shall provide to the MGC a complete description of the alternative land and the proposed location of the Facility thereon, shall obtain a vote in the Host Community for approval of the proposed Gaming development on the alternative land, and shall enter into an inter-governmental agreement with the Host Community as provided in Part 12.1.1. The alternative land must meet the requirements for Indian Lands eligible for gaming under IGRA before the Tribe may offer Compact Games on the land. Subject to the foregoing conditions of this subpart 5.2.2, ratification of this Compact by the General Court shall provide authority for the Tribe to identify such alternative land for the Approved Gaming Site. Appendix C shall be modified to include a complete description of the alternative land and as long as the Tribe has fully

complied with the requirements of this subpart, it is the parties' intent that such modification shall not be considered an amendment or modification to this Compact under Part 23.

5.2.3. The final determination regarding the location of the Approved Gaming Site and the location of the Facility thereon must be consistent with the definition of "Approved Gaming Site." Nothing in subpart 5.2 shall be construed as expanding or otherwise altering the term Indian Lands, or as altering the federal process governing the acquisition by the Tribe of Indian Lands for gaming purposes.

5.3. Location of Gambling Games within the Facility. Except as expressly provided in this Compact, all Gambling of any type that may be lawfully offered by the Tribe or on the Tribe's Indian Lands shall only be conducted within the Gaming Area of the Facility.

5.4. Construction Standards.

5.4.1. In order to protect the health and safety of all persons entering the Facility, all Facility construction, expansion and modification work shall meet the building, fire, health and safety codes of the Tribe. The Tribe shall adopt an ordinance setting forth codes for building, fire, health and safety which are consistent with and no less stringent than the provisions of any and all such codes that would be otherwise applicable if the Facility were constructed on land subject to the civil jurisdiction of the Commonwealth in the same location. In all cases where these otherwise applicable codes would require a permit, the Tribe shall hire or retain inspectors who are architects, engineers or similar experts licensed by the Commonwealth. These inspectors shall have demonstrated experience with building, fire, health and safety codes in the context of commercial projects and shall review all plans and specifications for the Facility and shall certify to the MGC and the Tribe that both the design and the construction of the Facility meet the standards set forth in, and otherwise comply with, the building, fire, health and safety codes of the Tribe.

5.4.2. The Tribe shall require the inspectors to maintain contemporaneous Records of all inspections and report to it in writing any failure to comply with the Tribal building, fire, health and safety codes, and simultaneously provide a copy of each report to the MGC. The Tribal building, fire, health and safety codes may provide that in lieu of hiring experts and inspectors, the Tribe may contract with local or Commonwealth officials to perform the required inspections, however nothing in this subpart 5.4 shall be deemed to confer jurisdiction upon any local government or the Commonwealth with respect to any Tribal building, fire, health and safety codes. Any dispute between the Tribe and the Commonwealth relating to the enforcement of the Tribal building, fire, health and safety code shall be resolved pursuant to the dispute resolution process set forth in Part 21.

5.4.3 For all Facility construction, expansion or modification work, the Tribe shall use commercially reasonable efforts to advance the objective of utilizing sustainable development principles, including a goal of meeting construction standards equivalent to those in effect on January 1, 2012, or some later date chosen by the Tribe, for being

certified as gold or higher by the Leadership in Energy and Environmental Design (LEED) program created by the United States Green Building Council.

5.4.4. All development, construction, expansion or modification of the Facility shall comply with the standards of the federal Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. § 12101 *et seq.*; OSHA, 29 U.S.C. § 651 *et seq.*; and comparable Commonwealth law requirements. Nothing in this subpart 5.4.4 shall constitute a waiver of the Tribe's sovereign immunity from suit by third parties, including but not limited to third party claims alleging non-compliance or any failure by the Tribe to meet such standards.

5.4.5. Prior to commencement of any construction related to the Facility, the Tribe shall furnish to the MGC: (a) a copy of all available plans, specifications and designs for the proposed Facility, including plans for all infrastructure improvements and traffic mitigation measures on site and in the vicinity of the Facility, the names and addresses of the architects, engineers and designers, and information demonstrating that there are no design elements in the proposed Facility that are likely to impede the effective regulation of the Gaming Operation; (b) completed studies and reports required in connection with the Tribe's fee-to-trust application for the Approved Gaming Site which examine the Facility's local and regional social, environmental, traffic and infrastructure impacts, including but not limited to studies completed in fulfillment of the Tribe's obligations under the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 *et seq.*; the National Historic Preservation Act, 16 U.S.C. §§ 470 *et seq.*; and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*; and (c) a timeline for construction that includes the detailed stages of construction for the Facility, the deadline by which stages and overall construction and all infrastructure improvements and traffic mitigation measures will be completed, a good faith estimate of the number of construction hours that will be required to complete the project, the general hours of construction, and the efforts that will be made to minimize noise, dust and other impacts from the construction.

5.4.6. Prior to the commencement of Gaming at the Facility, the TGC will certify to the MGC, and provide documentation that supports the certification if requested by the MGC, that the Enterprise has: (a) developed adequate emergency egress and ingress plans, which include identification of the location of all appropriate fire alarm and fire suppression equipment; (b) installed appropriate hardware and other equipment to ensure the safe and secure movement of cash to and from the cage; (c) developed adequate sight lines for supervision and surveillance of the Gaming Operation and Compact Game Employees; (d) installed adequate monitoring and recording equipment that promotes the security of the Gaming Operation and meets or exceeds standards comparable to those applicable to Category 1 Licensees regulated by the MGC, including but not limited to a closed circuit television system that meets all specifications promulgated by the TGC, with access on the premises to the system or its signal provided to the MGC; and (e) made available rooms or locations approved by the TGC and the MGC for use by MGC agents and employees when in the Facility.

5.4.7. All design, development, construction, expansion or modification of the Facility and all infrastructure improvements related to the Facility shall be conducted in compliance with all applicable requirements of the National Environmental Policy Act and the Massachusetts Environmental Policy Act (“MEPA”), Massachusetts General Laws, Chapter 30, Section 61 *et seq.* The Commonwealth agrees that it will use its best efforts to expedite the MEPA process.

5.4.8. Upon completion of construction and receipt of a final inspection certification, and subject to the requirements of 5.4.9, 5.4.10 and 5.4.11, the Tribe shall issue a Certificate of Occupancy for the Facility. A current Certificate of Occupancy shall be a prerequisite to public occupancy of, and commercial activity within, the Facility. The Facility shall be inspected for continuing compliance with the Tribal building, fire, health and safety codes every two (2) years and if such compliance exists, the Certificate of Occupancy may be renewed. The review shall be based on inspections by qualified inspectors as described in subpart 5.4.1.

5.4.9. Prior to the issuance or renewal of a Certificate of Occupancy, the TGC shall forward the inspector’s certification to the MGC. If the MGC objects to that certification, the Tribe shall make a good faith effort to address the MGC’s concerns, but if the MGC does not withdraw its objection, the matter shall be resolved in accordance with the dispute resolution process in Part 21.

5.4.10. Failure by the Tribe to remedy within a reasonable period of time any material deficiency that poses a serious or significant risk to the health or safety of any Person shall be deemed a violation of this Compact and shall be grounds for the MGC to seek and obtain a court order pursuant to subpart 21.8 to prohibit occupancy of the affected portion of the Facility until the deficiency is corrected.

5.4.11. Not less than fifteen (15) days before the Facility is to open for business, the Tribe shall certify to the MGC, and provide such documentation to support the certification as the MGC requests, that: (a) the Gaming Area and other ancillary entertainment services and such non-gaming ancillary amenities the Tribe and the MGC shall agree upon have been built in accordance with the plans and specifications previously submitted to the MGC pursuant to subpart 5.4.5; and (b) the infrastructure improvements and traffic mitigation projects onsite and in the vicinity of the Facility are complete in accordance with the plans previously submitted to the MGC pursuant to subpart 5.4.5. Under no circumstances shall the Tribe permit the Facility to open for business unless the requirements of this subpart have been met. Failure by the Tribe to provide the certification or documentation required by this subpart shall be grounds for the MGC to seek and obtain a court order under subpart 21.8 to prohibit occupancy of the Facility until the requirements of this subpart have been met.

5.5. Basic Standard. Notwithstanding compliance with the requirements of this Part 5, the Tribe recognizes the importance of protecting the health and safety of all Patrons, Enterprise employees, and others who enter the Facility and all other structures and buildings on the Approved Gaming Site. The Tribe agrees that it will apply its building, fire, health and safety

codes to the construction, expansion and modification of each structure or building on the Approved Gaming Site and that it will not permit public occupancy of a building or structure on the Approved Gaming Site that is constructed or maintained in a manner that endangers the health or safety of its occupants or the integrity of the Gaming Operation.

5.6. Fire Suppression Services.

5.6.1. The Tribe shall take all necessary steps to ensure the ongoing availability of sufficient and qualified fire suppression services to the Facility. The Tribe shall adopt a Fire and Life Safety Code, which shall be similar to and no less stringent than the Fire and Life Safety Code of the Host Community.

5.6.2. Prior to the commencement of Gaming Operations in the Facility and not less than every two (2) years thereafter, and upon at least ten (10) days' notice to the MGC, the Facility shall be inspected, at the Tribe's expense, by a qualified Tribal official who shall be responsible for fire and life safety protection at the Facility, or by an independent expert if no such official has been engaged, for purposes of certifying that the Facility meets the Tribe's Fire and Life Safety Code.

5.6.3. Within fifteen (15) days of the inspection, the Tribal official or independent expert shall provide the Tribe and the MGC with a report identifying any deficiency in fire or life safety protection at the Facility or any inability of the Tribe to meet reasonably expected fire suppression needs at the Facility. Within fifteen (15) days after provision of the report, the Tribe shall prepare a specific plan for correcting the deficiencies, whether in fire or life safety at the Facility or in the Tribe's ability to meet the reasonably expected fire suppression needs of the Facility, including those identified by the State's representative(s). The plan shall also contain a date, within thirty (30) days, by which all identified deficiencies will be corrected. A copy of the plan shall be provided to the MGC within three (3) days of its completion. Immediately upon correction of all deficiencies identified in the report, the Tribal official or independent expert shall certify in writing to the Tribe and to the MGC that all previously identified deficiencies have been corrected. Any failure by the Tribe to follow the procedures set forth in this subpart 5.6.3 and to correct all deficiencies identified in the report within the timeframes identified in the plan may be deemed by the Commonwealth to be a violation of the Compact, and any failure by the Tribe to promptly correct a material deficiency that poses a serious or significant risk to the health or safety of any occupants shall be grounds for the Commonwealth to obtain a court order pursuant to subpart 21.8. to prohibit occupancy of the affected portion of the Facility until the deficiency is corrected.

5.7. Retention of Construction Records.

5.7.1. The Tribe shall require each Person with whom it contracts for the construction, expansion or modification of any portion of the Facility to maintain for inspection and copying by the TGC, and the MGC if the MGC so requests, the Documents set forth below:

- (a) the design and construction calculations, and plans and specifications that form the basis for the planned construction (the “Facility Design and Building Plans”);
- (b) all contract change orders, and other Documents that are related to any material changes to a structural detail of the Facility Design and Building Plans or any other changes in the Facility Design and Building Plans; and
- (c) all other contract change orders.

5.7.2. The Tribe shall maintain the Documents required by subpart 5.7.1 until the termination of this Compact or until expiration of twenty-four (24) months following permanent cessation of occupancy of the portion of the Facility to which such plans and other documents apply, whichever last occurs.

5.8. MGC Inspection Agent. The MGC may designate an agent or agents to be given reasonable advance notice by the Tribe of each inspection required under Part 5 and such agent(s) may accompany the Tribally appointed inspector on any such inspection. The MGC agents may identify any condition that should reasonably preclude certification of the Facility pursuant to Part 5.

5.9. Facility License. Separate and apart from its obligation to obtain a Certificate of Occupancy, the Facility shall be licensed by the TGC only upon certification by the Enterprise to the TGC that the Facility is in full compliance with the regulatory and other requirements of this Compact, the Gaming Ordinance, the Tribe’s codes for building, fire, health and life safety, and IGRA.

5.9.1. The Facility license shall be reviewed and renewed by the TGC, if appropriate, every two years after its initial issuance. Verification that an initial license has been granted and, thereafter, that a license has been reviewed and approved, shall be provided by the TGC to the MGC within ten (10) days of its issuance or renewal.

5.9.2. A current Facility license shall be posted in a conspicuous and public place in the Facility at all times along with a current Certificate of Occupancy issued by the Tribe in accordance with subpart 5.4.8.

Part 6. Gaming Regulatory Authorities.

6.1. Tribal Duty to Regulate. The Tribe shall have the duty and primary responsibility to operate and regulate, through the TGC, the Enterprise and the Gaming Operation in accordance with this Compact, the Gaming Ordinance and IGRA.

6.2 State Duty to Regulate. The Commonwealth shall have the authority and responsibility to regulate the Gaming Operation as provided in this Compact.

6.3. Tribal Gaming Commission. The Tribe shall form a Tribal Gaming Commission under Tribal law and pursuant to and in accordance with the Gaming Ordinance in order to carry out the Tribe's regulatory responsibilities under this Compact.

6.3.1. The Tribe shall determine the structure of the TGC and how its members and employees are appointed or elected, but at a minimum the TGC shall have no less than one (1) nor more than five (5) full-time commissioners who shall determine and direct policy for the TGC, approve its regulations, and carry out such other and further duties as prescribed by applicable law, the Gaming Ordinance, and this Compact.

6.3.2. The Tribe shall have the ultimate responsibility for ensuring that the TGC fulfills its responsibilities under this Compact and shall ensure that all TGC members and employees are qualified and receive ongoing training to obtain and maintain skills sufficient to carry out their responsibilities.

6.3.3. Each TGC commissioner and employee shall be subject to a background investigation at least as rigorous as that required for a Key Gaming Employee, and to licensure to the extent required by Tribal law, the Gaming Ordinance, IGRA and this Compact. Each such commissioner or employee shall swear or affirm that neither he or she, nor any person identified in the last sentence of this subpart 6.3.3, possess any interest in a management entity, Gaming Vendor or Non-Gaming Supplier or other entity licensed by the TGC. For purposes of this subpart 6.3.3, no person other than a spouse, grandparent, child, grandchild or person residing in the same household of a person holding such an interest: (a) shall be disqualified to serve as a TGC commissioner or employee, or (b) shall be deemed to have a financial interest in the licensed Facility solely because such person is a member of the Tribe eligible to receive services and benefits generally available to members of the Tribe.

6.3.4. No Compact Game Employee may be a member or employee of the TGC and no member or employee of the TGC shall be permitted to participate as a player in Gaming at the Facility.

6.4. Specific Duties of the TGC. The TGC shall, through the exercise of its regulatory powers, assure that the Tribe and the Enterprise will:

6.4.1. conduct the Gaming Operation in full compliance with this Compact, Tribal law, IGRA and other applicable law;

6.4.2. provide for the physical safety of all Persons in the Facility, including protection from illegal or corrupt activity;

6.4.3. provide for the safeguarding of revenue and assets in connection with the Gaming Operation, including those assets transported to and from the Gaming Area, the cashier's department, and any banking transportation service;

6.4.4. require licensing or registration of all Persons as required by this Compact, IGRA and the Gaming Ordinance;

6.4.5. institute appropriate and lawful methods for the temporary detention, to the extent permitted by law, of persons who may be involved in illegal acts, which detention shall be for the purpose of notifying law enforcement authorities and providing them with an opportunity to investigate, apprehend and prosecute such persons;

6.4.6. record and investigate any and all unusual occurrences related to the Enterprise, the Gaming Operation or the Facility;

6.4.7. require written internal controls that provide a level of control that equals or exceeds that set forth in the NIGC's Minimum Internal Control Standards in 25 C.F.R. Part 542 ("MICS") as published on June 27, 2002 and updated from time to time, or similar regulations promulgated by the MGC for general application to all Gaming activities within the Commonwealth. The internal controls and a complete description of the Facility's security systems shall be forwarded to the MGC for review and comment at least sixty (60) days prior to commencement of Compact Game operations. The TGC may grant a variance from the internal controls for technological and other advances that may not have been addressed in the MICS or the MGC's rules, or to meet extenuating financial circumstances in complying with such requirements. The TGC's process for the granting of variances shall be consistent with the minimum standards for the granting of variances as prescribed by the MGC or the NIGC, whichever standards are more rigorous, and provided the variance, and the reasons given therefore, are forwarded to the MGC for review and comment at least thirty (30) days prior to the effective date of the variance;

6.4.8. require such written controls as may be necessary to ensure that the financial books and Records of the Enterprise will be maintained in accordance with generally accepted accounting principles and auditing standards;

6.4.9. require that neither the Enterprise nor the Gaming Operation receive or utilize financing for any aspect of the Enterprise, the Gaming Operation or the Facility, including but not limited to purchase money financing, leasing, secured transactions, loans, and other sources of funds and capital, from Persons who fail to meet the suitability standards or licensing requirements to the extent required in Part 7, and that such determination or licensing occurs prior to the acceptance of any funds, debt obligations or other financial benefits by the Tribe, the Enterprise or the Gaming Operation;

6.4.10. require that all Compact Games are operated in a Facility that complies with all building, fire, health and safety standards as set forth in Part 5, including the requirement that the Facility hold a current Facility license and a current Certificate of Occupancy;

6.4.11. require that the Enterprise engage or employ only Persons who meet the suitability requirements to the extent required in Part 7 and that all such Persons are licensed or registered as required by this Compact;

6.4.12. ensure that all Compact Games are operated in accordance with the requirements set forth in this Compact; and

6.4.13. enter into agreements or memoranda of understanding which establish protocols for interaction among Tribal, federal, State and local law enforcement and fire safety agencies.

6.5. Promulgation of Regulations. Without affecting the generality of the foregoing, the TGC shall promulgate and administer regulations for the implementation of this Compact:

6.5.1. prohibiting participation in any Gambling game by any person under the age of twenty-one (21) years;

6.5.2. prohibiting the employment of any person who is under the age of twenty-one (21) years in a position that involves any Gaming activity, provided that under circumstances that do not involve any Gaming activity or the sale or handling of alcoholic beverages, the TGC may promulgate regulations providing for the employment of persons under the age of twenty-one (21) years at the Facility;

6.5.3. prohibiting the employment of any person who has not been licensed or registered in accordance with the applicable requirements of federal and Tribal law and this Compact;

6.5.4. requiring standards for the Enterprise that meet or exceed the requirements contained in the laws of the Commonwealth relating to wages, hours of work and conditions of work, and the regulations issued thereunder;

6.5.5. requiring that on any construction project involving the Facility or a related structure that is funded in whole or in part by federal funds, all workers will be paid wages meeting or exceeding the standards established for the Commonwealth under the federal Davis-Bacon Act, 40 U.S.C. § 276a.

6.5.6. prohibiting the Enterprise and any Management Contractor from discriminating in the employment of persons who work for the Enterprise on the grounds of race, color, national origin, gender, sexual orientation, age or disability, provided, however, that nothing herein shall be interpreted to prevent the Tribe from granting employment preference to Enrolled Tribal Members or members of other Indian tribes and their immediate families in accordance with applicable Tribal law;

6.5.7. prohibiting the Enterprise from (a) cashing for any Patron or employee of the Enterprise any paycheck or any type of government assistance check, including Social Security, Temporary Assistance for Needy Families (TANF), pension, unemployment

benefits, and other similar payments; (b) allowing the operation in the Facility of any credit card or automated teller machine that would allow a Patron to obtain cash from a government-issued electronic benefits card; (c) extending credit to a Patron or employee of the Facility who receives any form of income-based public assistance, including but not limited to, supplemental nutrition assistance, TANF, emergency aid to the elderly, disabled and children, public housing assistance, MassHealth and unemployment insurance; and (d) violating the privacy of any Person subject to this subpart 6.5.7;

6.5.8. providing that all Gaming Devices on the premises of the Facility are connected to a central computerized reporting and auditing system on the Facility premises, which shall collect and record on a continual basis the unaltered activity of each Gaming Device in use at the Facility, and require that the activity of each Gaming Device may be accessed and downloaded electronically by the MGC by a dedicated communications connection, on a “read-only” basis upon entry of appropriate security codes, provided that if the system does not automatically record each instance of MGC access, the MGC provides immediate notice to the TGC when it has accessed the system;

6.5.9. providing that before alcoholic beverages are sold at the Facility, the Tribe adopts a liquor ordinance that complies with the laws of the Tribe and conforms to the laws of the Commonwealth as required by federal law. The ordinance must prohibit an employee of any licensee or registrant at the Approved Gaming Site from selling, serving, giving or delivering an alcoholic beverage on the Approved Gaming Site to an intoxicated person or from procuring or aiding in the procurement of any alcoholic beverage for an intoxicated person at the Approved Gaming Site;

6.5.10. prohibiting the Gaming Operation from providing complimentary alcoholic beverages except in the Gaming Area, or any complimentary services, gifts, cash or other items of value to any Patron unless the complimentary item consists of a room, food, beverage, transportation or entertainment expenses provided directly to the Patron and the Patron’s guests by the Enterprise, or consists of coins, tokens, cash or other items or services provided through a complimentary distribution program which shall be filed with and approved by the TGC upon the implementation of the program, which approval shall be immediately transmitted to the MGC;

6.5.11. requiring the Enterprise to submit quarterly reports to the TGC covering all complimentary services offered or provided by the Enterprise during the immediately preceding quarter. The reports shall identify regulated complimentary services and the costs of those services, the number of people who received each service or item and such other information as the TGC may require. The report shall also document any complimentary services or items valued in excess of an aggregate of two thousand dollars (\$2,000) that were provided to Patrons in each quarter, including detailed reasons as to why they were provided. Complimentary services or items shall be valued in an amount based upon the retail price normally charged by the Enterprise for the service or item. The value of a complimentary service or item not normally offered for sale by the Enterprise or provided by a third party on behalf of the Enterprise shall be the cost of providing the service or item, as determined under rules adopted by the TGC;

6.5.12. requiring that all Records relating to the Gaming Operation at the Facility be maintained in accordance with generally accepted accounting principles. All such Records shall be retained for a period of at least five (5) years from the date of creation;

6.5.13. requiring the Enterprise to obtain, at least annually, a certified audit covering all financial activities of the Enterprise conducted by an independent certified public accountant licensed by the Commonwealth. The audit shall be prepared in accordance with generally accepted accounting principles and auditing standards and shall specify the total amount wagered in the Facility for purposes of calculating Gross Gaming Revenue. The certified audit report shall be submitted to the TGC and the MGC within one hundred twenty (120) days of the close of the Enterprise's fiscal year. Such documents shall be subject to the confidentiality provisions of Part 11. The Tribe will maintain a copy of the certified audit report for not less than five (5) years; and

6.5.14. providing that agents of the TGC and the MGC shall have access to designated areas of the Facility as provided for in this Compact and requiring the agents to report immediately to the TGC any suspected violation of law, this Compact, or the regulations of the TGC.

6.6. Massachusetts Gaming Commission.

6.6.1. Regulatory Role. The Commonwealth may exercise its regulatory role under this Compact through the MGC or one or more other State agencies as the Commonwealth may designate by written notice from the Governor to the Tribe.

6.6.2. State Inspections. MGC representatives shall have the right to inspect the Facility, the Gaming Operation and all Records relating to the Gaming Operation, subject to the following conditions:

(a) with respect to public areas of the Facility, at any time during which the Facility is open for business;

(b) with respect to private areas of the Facility not accessible to the public, at any time during which the Facility is open for business, upon notice and the presentation of proper identification to the TGC and to a designated representative of the Enterprise. The TGC, in its sole discretion, may require an employee of the TGC to accompany the MGC representative at all times that the representative is in the non-public areas of the Facility, but if the TGC imposes such a requirement, the TGC shall ensure that such employee is available at all times for such purpose; and

(c) with respect to inspection and copying of books and Records relating to the Gaming Operation activity, at any time with 24 hours prior notice between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, excluding official holidays. The reasonable costs of copying shall be borne by the MGC.

6.6.3. Inspection Protocol. Whenever an MGC representative enters the Facility for any inspection, he or she shall identify him or herself to security and if possible, contact the TGC Executive Director or his or her designated representative.

6.6.4. Outsourcing. The MGC may contract with private persons, firms or other entities for the purpose of performing certain of its regulatory functions, but the MGC will maintain a single point of contact with the TGC or its Executive Director. Any such private persons, firms or entities shall be required to be licensed by the TGC and subject to a background investigation as rigorous as that required of a Key Gaming Employee.

6.6.5. Office Space. The Enterprise shall provide the MGC with access to reasonable office space for the purposes of its regulatory activities if requested to do so by the MGC.

6.6.6. Non-Interference with Operations. Personnel employed by or under contract with the MGC shall not interfere with the Gaming Operation or the general operations of the Facility, except as may be required to perform the regulatory functions permitted under this Compact.

6.6.7. Identification Badges. Identification badges issued by the TGC shall be worn by MGC representatives while at the Facility and shall be prominently displayed on the MGC representative's outer garment. Such identification badges will be of a distinctive color identifying its wearer as a representative of the MGC. Upon issuance of each badge, the name of its recipient, employment position and badge number shall immediately be forwarded to the MGC.

Part 7. Licensing and Registration.

7.1. License or Registration Required. No Person shall be employed by the Enterprise or provide goods or services to the Enterprise, including sources of financing, unless such Person has been licensed or registered by the TGC to the extent required herein; provided that nothing in this Compact shall restrict the TGC from adopting more stringent licensing or registration requirements for any Person having the ability to influence or affect the affairs or operations of the Gaming Operation or the Facility.

7.2. Basic Requirements for Licensing. The TGC may not issue a license to an Applicant who has:

7.2.1. been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury, however, if the conviction occurred before the ten (10) year period immediately preceding the application for a license, the TGC may consider whether the Applicant has demonstrated by clear and convincing evidence that the Applicant has the financial responsibility, character, reputation, integrity and general moral fitness to not be automatically disqualified for a license or registration;

7.2.2. submitted an application that contains false or misleading material information;

7.2.3. committed prior acts which have not been prosecuted or for which the Applicant was not convicted but which form a pattern of misconduct that makes the Applicant unsuitable for a license; or

7.2.4. failed to demonstrate to the satisfaction of the TGC that the Applicant is a Person of good character, honesty, and integrity whose prior activities, criminal record (if any), reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gambling, or in the carrying on of the business and financial arrangements incidental thereto.

7.3. Basic Requirements for Registration. The TGC may issue a registration if the Applicant is determined by the TGC to be a person of good character, honesty, and integrity whose prior activities, criminal record (if any), reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of Gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gambling, or in the carrying on of the business and financial arrangements incidental thereto.

7.4. For corporations, partnerships, limited liability companies, trusts, or other entities that are required to be licensed or registered under this Part, the Applicant shall establish to the TGC that the following persons within such entity meet the suitability requirements of this Part 7:

- (a) if a corporation, each of its officers and directors and, except for publicly-traded corporations, each of its shareholders who own more than five percent (5%) of the shares of the corporation;
- (b) if a trust, each Person having control over the trust assets;
- (c) if a partnership, each of its partners holding partnership interests (whether limited or general) entitled to five percent (5%) or more of the partnership interests, equity, profits or distributions in the partnership;
- (d) if a limited liability company, each of its members holding membership interests entitled to five percent (5%) or more of the membership interests, equity, profits or distributions in the limited liability company;
- (e) for all other entities not listed in clauses (a)-(d), each Person having a financial ownership, profits or distribution interest in the entity of five percent (5%) or more; and
- (f) with respect to each of the entities listed in clauses (a)-(e), each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, managing partner or member, and general manager.

(g). For purposes of this subpart 7.4, where there is any commonality of interest between any two (2) or more of the entities identified in clauses (a)-(e), those entities may be deemed by the TGC to be a single entity. Nothing herein precludes the TGC from requiring more stringent licensing or registration requirements than those provided herein.

7.5. Processing Applications - General Requirements.

7.5.1. The TGC shall establish reasonable licensing and registration fees for licenses and registrations issued pursuant to this Compact, and may require an Applicant to bear the costs of a background investigation to determine the Applicant's suitability. The TGC shall establish the term for a license or registration, which shall be consistent with the term established by the MGC for Category 1 Licensees in the Commonwealth.

7.5.2. Each Applicant for a license or registration shall submit a completed application, on a form prescribed by the TGC, along with the required information and an application fee, if required, to the TGC in accordance with TGC Regulations.

7.6. Persons or Entities Required to be Licensed.

7.6.1. Compact Game Employees. No Person shall be employed as a Compact Game Employee by the Enterprise unless such Person has been licensed by the TGC.

7.6.2 Key Gaming Employees. No Person shall be employed by the Enterprise as a Key Gaming Employee unless such Person has been licensed by the TGC.

7.6.3. Management Contractors and Primary Management Officials. No Person shall act as a Management Contractor or Primary Management Official unless such Person has been licensed by the TGC.

7.6.4. Gaming Vendors. The Enterprise shall not conduct business with a Gaming Vendor unless the Gaming Vendor has been licensed by the TGC.

7.6.5. Financial Sources. The TGC shall license each Financial Source (other than an Institutional Investor that the TGC has determined does not require a license under subpart 7.9) that, alone or in combination with Affiliates or Persons under common control with such Financial Source, has provided financing in connection with the Facility or the Gaming Operation, if that Person provided more than five percent (5%) of: (a) the start-up capital; (b) the operating capital over a twelve (12) month period; or (c) a combination thereof.

7.6.6. Notwithstanding the foregoing, any Person acting solely as (a) a "clearing corporation" as defined in Massachusetts General Laws Chapter 6, Section 8-102(a)(5), (b) an indenture trustee which is a federally regulated bank or trust company, (c) a beneficial owner of an interest in a debt security of the Enterprise held by an Institutional Investor, or (d) a transferee holder or beneficial owner of an interest in a debt security

issued by the Enterprise following the initial distribution or placement thereof by one or more securities dealers registered pursuant to the Securities Exchange Act of 1934 shall not be deemed to be a Financial Source or a Non-Gaming Supplier subject to the registration and licensing requirements of this Part 7.

7.6.7. Others. Any other Person required by the TGC to hold a license.

7.7. Persons or Entities Required to be Registered.

7.7.1. Employees. Employees in the Facility who are not considered to be Compact Game Employees, Key Gaming Employees, or Primary Management Officials and who have access to the Gaming Area or have knowledge of security procedures, shall be required to register with the TGC and shall produce such information as the TGC may require to become registered.

7.7.2. Non-Gaming Suppliers. The Enterprise shall not conduct business with any Non-Gaming Supplier unless the Non-Gaming Supplier is registered with the TGC and has provided such information as the TGC shall require to become registered. Non-Gaming Suppliers include, but are not limited to: construction companies, vending machine providers, linen suppliers, garbage handlers, facility maintenance companies, transportation services, food purveyors, alcoholic beverage distributors and such other persons or entities as may be identified by the TGC as Non-Gaming Suppliers.

7.7.3. Notwithstanding the foregoing, the TGC may require any Non-Gaming Supplier regularly conducting business with the Enterprise to be licensed as a Gaming Vendor, and may exempt federally or state-regulated banks, savings and loans or other lending institutions providing customary banking and financial services from the registration and licensing requirements of this Part 7.

7.8. The TGC shall establish a master Gaming Vendor and a Non-Gaming Supplier list to monitor all vendor contracts with the Enterprise. Any Gaming Vendor or Non-Gaming Supplier doing business with the Enterprise who has failed to submit any required application for licensure or registration in accordance with the provisions in this Part 7 shall be prohibited from engaging in any business with the Enterprise, and the TGC may terminate any contract that has been entered into with an unlicensed Gaming Vendor or unregistered Non-Gaming Supplier required to be licensed or registered in this Part 7.

7.8.1. The Enterprise shall have a continuing duty to inform the TGC of all vendor contracts with any Gaming Vendor or Non-Gaming Supplier required to be licensed or registered in accordance with this Part 7.

7.8.2 The TGC shall monitor all Gaming Vendors and other Persons having a material involvement, directly or indirectly, with a Gaming Vendor to ensure that Gaming Vendor licenses are not issued to, or held by, a Gaming Vendor with whom unqualified, disqualified or unsuitable Persons are materially involved, either directly or indirectly.

7.9. Institutional Investors. To the extent provided in subpart 7.4, any Person with a financial interest of more than five percent (5%) in the equity of any Person required to be licensed under this Part, or in a holding, intermediary or subsidiary of such Person, shall be required to be qualified for licensure; provided that the TGC may waive this requirement for Institutional Investors with an interest in up to fifteen percent (15%) of the stock of such Person, or in a holding, intermediary or subsidiary of such Person, upon a showing by the Person seeking the waiver that the Person acquired the equity for investment purposes only and does not have any ability to influence or affect the affairs or operations of the Person or a holding, intermediary or subsidiary of such Person. Any Institutional Investor granted a waiver which subsequently is determined to have the ability to influence or affect the affairs or operations of the Person, or a holding, intermediary or subsidiary of the Person, shall provide not less than thirty (30) days' notice to the TGC of such ability and shall apply for a license and be subject to the licensing requirements of this Part 7 before taking any action that may influence or affect the affairs of the Person or a holding, intermediary or subsidiary of the Person. In addition to the foregoing, the TGC may exempt Institutional Investors from the licensing and registration requirements applicable to Financial Sources in this Part 7.

7.10. Attorneys and certified public accountants and their firms shall be exempt from the licensing and registration requirements of this Compact to the extent that they are providing services covered by their professional licenses.

7.11. Background Investigations.

7.11.1. Before issuing a license to or registering any Applicant under this Part, the TGC shall conduct, or cause to be conducted, all necessary background investigations to determine that the Applicant is qualified for a license or registration under the standards set forth in this Part 7.

7.11.2. The TGC shall not issue a license or registration until the TGC determines that the Applicant meets all of the qualifications under this Part 7.

7.11.3. In lieu of completing its own background investigation, the TGC may contract with the MGC for the conduct of some or all of its background investigations, or may rely on a license or registration previously issued to the Applicant by the TGC or the MGC that is currently in effect.

7.12. Abbreviated Licensing and Registration Processes. If an Applicant for a license or registration is licensed or registered in another jurisdiction within the United States with license and registration requirements as least as stringent as those of the TGC and is in good standing in all the jurisdictions in which it holds a license or registration, the TGC may allow for an abbreviated background, licensing or registration process and may issue a license or registration under this Part, to the extent permitted under federal law; provided, however, that the TGC shall reserve its right to investigate the qualifications of an Applicant at any time and may require the Applicant to submit at any time a full application for a license or provide further information for registration.

7.13. Releases. An Applicant for a license or registration shall be required to provide releases to the TGC and to the MGC to make available and to provide for the exchange of background information regarding the Applicant. The TGC and the MGC shall cooperate with each other in furnishing that information, unless doing so would violate any agreement either agency has with a source of the information other than the Applicant, would impair or impede a criminal investigation, would violate Commonwealth law, or would not assure that the information will remain confidential.

7.14. TGC Intent to Issue License or Registration.

7.14.1. Notice to MGC. Once the TGC has received a completed application for a license or registration, conducted a background investigation as required by subpart 7.11, and made a determination that the Applicant is suitable for a license or registration, the TGC shall transmit to the MGC, unless such transmittal is waived by the MGC, a notice of intent to license or register the Applicant.

7.14.2. Applicant Information. For Applicants subject to licensing, the TGC shall transmit, along with the notice of intent to license, all of the following information, where applicable, for the past ten (10) years:

- (a) the name of the Applicant, including all other names by which the Applicant has been known;
- (b) the residential address of the Applicant;
- (c) an employment history for the Applicant;
- (d) fingerprints for the Applicant;
- (e) any criminal and arrest records for the Applicant;
- (f) any civil or criminal actions in which the Applicant has been involved, together with any judgments, settlements or other outcomes of such matters;
- (g) the Applicant's credit and banking history;
- (h) a copy of all other application materials and information received by the TGC from the Applicant;
- (i) a current photograph; and
- (j) except to the extent waived by the MGC, such releases of information, waivers, and other completed and executed forms as have been obtained by the TGC.

7.14.3. For Applicants subject to registration, the TGC shall transmit to the MGC unless waived by the MGC, along with the notice of intent to issue a registration:

- (a) a copy of all the application materials and information received by the TGC from the Applicant; and
- (b) a release of information and waiver form, and any other completed and executed forms obtained by the TGC.

7.15. Other Information and Documents. The TGC may require an Applicant to provide such other information or Documents as it considers appropriate including, but not limited to, information or Documents related to the financial integrity of the Applicant, bank accounts and Records, bank references, business and personal income and disbursement schedules, tax returns and reports filed by government agencies, and business and personal accounting check Records and ledgers. Upon receipt, the TGC immediately shall forward to the MGC a copy of all information it receives under this subpart 7.15.

7.16. MGC Review.

7.16.1. Within thirty (30) days of its receipt of a notice of intent to issue a license or registration, the MGC must notify the TGC in writing of its objection, if any, to the issuance of the license or registration. If additional time is required by the MGC to complete any necessary background investigation or evaluation of the Applicant, the MGC may extend the time to notify the TGC for an additional thirty (30) days, unless the TGC agrees to a longer extension.

7.16.2. If the MGC timely objects to the issuance of a license or registration, the TGC may not issue the license or registration unless and until the MGC withdraws its objection. In the event the TGC does not receive timely notice of an objection by the MGC, the TGC may approve the license or registration application.

7.16.3. The TGC and the MGC shall work cooperatively to resolve any MGC objections to an application. Within fifteen (15) days of the MGC's notice of objection, the TGC and the MGC shall meet and attempt to resolve their differences informally. If the parties are unable to resolve their differences within fifteen (15) days of the meeting, either party may invoke the dispute resolution process in Part 21.

7.17. Temporary Licenses or Registrations. During the pendency of the MGC review under subpart 7.16, the TGC may issue a temporary license or temporary registration to an Applicant and impose specific conditions thereon. The TGC must provide to the MGC at least ten (10) days' advance notice of its intent to issue a temporary license or registration and if a temporary license or registration is issued, the TGC must include any and all conditions required by the MGC to be imposed on the temporary license or registration.

7.18. Emergency Registration. Notwithstanding the requirements of this Part 7, the TGC may issue an emergency registration to a Non-Gaming Supplier to permit the Non-Gaming Supplier

to provide immediate emergency services to the Enterprise that are necessary to protect the health and safety of the employees and Patrons or the continued operation of the Facility. An emergency registration shall be valid for not more than ten (10) days and no emergency registration may be issued to the same Non-Gaming Supplier more than twice in any year. The TGC shall notify the MGC of the issuance of an emergency registration within twenty-four (24) hours of the issuance.

7.19 Denial, Suspension and Revocation. An application for a license or registration shall be denied and a license or registration shall be revoked: (a) if at any time the TGC or the MGC determines that the application is incomplete or deficient; (b) if the Applicant, licensee, or registrant is determined to be unsuitable or otherwise unqualified for a license or registration; or (c) if an Applicant, licensee or registrant, or any officer, director, member, partner or Person with a financial interest of five percent (5%) or more of an Applicant, licensee or registrant, or any employee of an Applicant, licensee or registrant whose responsibilities include any activity related to the operation, maintenance or management of Compact Games, has been arrested for or convicted of a felony or crime involving fraud, embezzlement, theft, perjury or a Gaming-related offense. The TGC may deny, revoke, suspend or condition an application, license or registration if the TGC or the MGC determines that the Applicant, licensee or registrant has failed to comply with any provision of this Compact pertaining to Applicants, licensees or registrants, as applicable; has violated any other provision of this Compact, or engaged in any conduct that would constitute a finding of unsuitability under this Part; or for any other reason the TGC or the MGC deems necessary or appropriate in order to protect the Enterprise and uphold the integrity of the Gaming Operation.

7.19.1. If the MGC makes a determination that an application should be denied or a license or registration revoked, suspended, or conditioned, it shall immediately notify the TGC and provide the TGC with a detailed explanation and evidence supporting its determination. The Applicant, licensee or registrant shall be notified by the TGC of the intent to deny, suspend or revoke the application, license or registration. All rights to notice and hearing shall be governed by applicable law, as to which the Applicant, licensee or registrant shall be notified by the TGC in writing along with the notice of an intent to deny, suspend or revoke the application, license or registration.

7.20. Continuing Duty to Supply Information. An Applicant, licensee or registrant shall have the continuing duty to provide any assistance or information required by the TCG or the MGC and to cooperate in any inquiry or investigation conducted by the TCG or the MGC. Refusal to answer or produce information, evidence or testimony by an Applicant, licensee or registrant is grounds for the denial of the application or the suspension or revocation of the license or registration.

7.21. Withholding or Falsifying Application Information. No Applicant, licensee or registrant shall withhold material information from, or give false or misleading information to, the TGC or the MGC. If the TGC or MGC determines that an Applicant, licensee or registrant, or a close associate therewith, has intentionally provided false or misleading information, the TGC shall deny the application or revoke the license or registration.

7.22. Issuance of License or Registration Following Arbitration. The TGC may, in its discretion, issue a license or registration to a Person following entry of a final order or other final determination in an arbitration proceeding conducted under the dispute resolution process in Part 21 which fails to uphold the objection of the MGC to the issuance of a license or registration by the TGC.

7.23. No Recourse. Under no circumstances shall any Applicant, licensee or registrant have any right to seek recourse against the TGC, the Tribe or the Gaming Operation, including any Management Contractor associated therewith, or the Commonwealth, including the MGC, with respect to the denial, suspension or revocation of a license or registration. A license or registration is a privilege, not a property right.

Part 8. Annual Oversight Assessment.

8.1. The Tribe shall reimburse the MGC for the costs the Commonwealth incurs in carrying out the regulatory functions authorized by the terms of this Compact. The Tribe will pay its share of the MGC's actual costs of operation which directly relate to the MGC's responsibilities under this Compact. The costs shall be based on estimates by the MGC derived from the actual costs incurred in prior years and shall be included in a budget the MGC shall provide to the TGC for its approval, which approval shall not be unreasonably withheld or delayed. Payments for such costs shall be made to the MGC in advance and prior to the beginning of each fiscal year, or on such other payment schedule as the MGC and the Tribe shall agree. At the close of each fiscal year, the MGC shall reconcile the payments made by the Tribe under this Part with the actual costs incurred in carrying out its regulatory responsibilities under this Compact. Within thirty (30) days of the close of the fiscal year, the MGC shall either refund to the Tribe any amount paid in excess of the actual costs or bill the Tribe with a detailed invoice for the actual costs incurred in excess of the amounts paid, which amount due shall be paid by the Tribe as an addition to the next quarterly payment made under Part 9. At the Tribe's expense, the Tribe shall have the right to conduct a reasonable audit with respect to such costs.

8.2 Notwithstanding subpart 8.1, no funds shall be due under subpart 8.1 until one hundred twenty (120) days after the date the land comprising the Approved Gaming Site is accepted into trust by the United States as eligible for the conduct of Gaming under IGRA, on which date the Tribe shall pay to the MGC an amount estimated by the MGC to be necessary to cover the MGC's oversight responsibilities for the remaining portion of that first fiscal year of regulatory activity. The MGC estimate required under this subpart shall be included in a budget the MGC shall provide to the TGC for its approval, which approval shall not be unreasonably withheld or delayed.

Part 9. Revenue Allocations.

9.1. This Compact represents a negotiated agreement on a government-to-government basis between the Tribe and the Commonwealth with respect to the allocation of certain Tribal gaming revenues, under the following terms and circumstances:

9.1.1. Under IGRA, the Tribe has a right to seek a negotiated compact with the Commonwealth to engage in Gaming on federal lands held in trust for it and qualified for Gaming. The Tribe presently has no lands held in trust, for Gaming purposes or otherwise.

9.1.2. IGRA requires the Commonwealth to commence negotiations with a qualified tribe for a compact within one hundred eighty (180) days of the tribe's request to do so. IGRA does not require a state to provide a tribe with geographic exclusivity as to the proposed location for its Gaming, the games it intends to offer, or on any other basis. The parties agree that IGRA negotiations need not be commenced or concluded until the Tribe has land in trust that is qualified for Gaming.

9.1.3. Massachusetts General Laws Chapter 23K, Section 19, as added by Section 16 of the Act, authorizes no more than three licensed casinos within the Commonwealth, one in each of three distinct geographic areas within the Commonwealth and identified as Regions A, B and C. Region C, which is in Southeastern Massachusetts, is where the Tribe's proposed casino would be located. The casinos authorized under Section 19 must obtain a license from the MGC and pay a minimum licensing fee of \$85 million. The licensed casinos are also subject to gaming taxes and other fees payable to the Commonwealth. Under federal law, an Indian tribe cannot be required to hold a state license or pay taxes to a state as a condition of conducting gaming that is available to others within a state, but a tribe must reach agreement with the Commonwealth for a tribal-state compact regarding such gaming through an IGRA negotiation, which must be conducted by the Commonwealth in good faith. However, applicable law permits a tribe to request and offer to pay fair value for concessions and benefits to it that a state is otherwise not required to negotiate or provide under IGRA and thus would ordinarily not be available to the tribe.

9.1.4. Section 91 of the Act creates a process that authorizes the Governor to negotiate a compact with a qualified Indian tribe for a tribally-owned casino under IGRA and then to seek approval from the General Court. Section 91 further provides that if a tribal-state compact is not reached and approved by the General Court on or before July 31, 2012, and certain other conditions occur thereafter, the MGC shall consider bids for a Category 1 License in Region C. If such a license is granted, any casino operated under an IGRA compact within Region C would not be able to do so on an exclusive basis and would be negatively impacted economically. On the other hand, the approval by the General Court of this Compact by July 31, 2012, although not required under IGRA or Commonwealth law, would provide the Tribe with the opportunity to operate a casino in Region C on an exclusive basis, but would displace revenues that could have been received by the Commonwealth from a licensed casino. Such exclusivity therefore would be extremely valuable to the Tribe, while being detrimental to the Commonwealth.

9.1.5. Although financially detrimental, the Commonwealth recognizes the importance of assisting the Tribal government in reaching its goal of self-sufficiency, including its ability to fund critical Tribal governmental programs through the conduct of Gaming under IGRA, and that such ability will be materially assisted if the Tribe can do so on an exclusive basis within Region C. Providing such exclusivity would also further the

Commonwealth's policy of controlling the expansion of Gaming within Massachusetts, by limiting the total number of casinos within the Commonwealth to three.

9.1.6. As a further and material part of its request that the Governor and the Commonwealth negotiate a compact under IGRA and Section 91 of the Act on an expedited basis, the Tribe has proposed and received the pledge in subpart 2.11 that, although not required to do so, the Governor will cooperate with and support the Tribe's efforts in seeking trust status for the land within Region C described therein, including the qualification of the Approved Gaming Site for Gaming purposes. The Tribe acknowledges and agrees that such support is being provided at its request and that it represents a substantial benefit to the Tribe that is in addition to the other concessions and benefits being provided to it by the Commonwealth herein.

9.2. In fair exchange for the concessions, commitments, and actions by the Commonwealth and the Governor for the Tribe's benefit set forth above and in other parts of this Compact, including but not limited to, the creation, on an exclusive basis, of the opportunity to conduct casino gaming in Region C; assistance in advocating for and qualifying the transfer of certain lands into trust by the United States for governmental and Gaming purposes; agreeing to consider resolution of various important issues between the Tribe and the Commonwealth, such as those involving hunting, fishing and land use matters; and other concessions described in this Compact, and to further the regulatory and other gaming-related purposes of IGRA, the Tribe has proposed, and the Commonwealth has agreed to accept payment of the following, based on an allocation of some of the Tribe's Gross Gaming Revenues for the uses described:

9.2.1. The Tribe shall pay an amount (the "Allocation") equal to twenty-one and one-half percent (21.5%) of its Gross Gaming Revenue per day on a quarterly basis to the MGC as set forth below.

9.2.2. In order to distribute the Allocation in a manner that is consistent with the intent of the parties under this Compact, IGRA, and applicable law, there shall be set up on the books of the Commonwealth a "Mashpee Tribal Gaming Fund," into which all payments under this Compact shall be paid and which shall be administered by the MGC.

9.2.3. Within three (3) business days of its receipt of the Allocation, the MGC shall transfer the monies in the Mashpee Tribal Gaming Fund to the funds identified in Massachusetts General Laws, Chapter 23K, Section 59(2), and in the proportions set forth therein. An amount equal to fifty percent (50%) of the monies transferred under this subpart 9.2.3 to the Transportation Infrastructure and Development Fund established in Massachusetts General Laws Chapter 23K, Section 62 shall be segregated and utilized for the purpose of transportation and related infrastructure projects in Region C, including but not limited to, transit expansion and maintenance, other than those infrastructure improvements and traffic mitigation measures identified in subpart 5.4.5 and required to be completed by the Tribe pursuant to subpart 5.4.11.

9.2.4. If the Tribe's exclusive right to operate a casino within Region C is abrogated by the lawful issuance of a Category 1 License to operate a casino in Region C, then upon

commencement of operations of such casino in Region C the Tribe can elect to either: (a) cease operations of its casino within sixty (60) days and terminate this Compact at the end of such period, in which case the Tribe will lose its right to conduct class III gaming within Region C, provided that payment of the Allocation shall be made for any Gaming conducted within the Facility; or (b) continue under this Compact but reduce the Allocation to fifteen percent (15%) of Gross Gaming Revenues. Nothing herein shall relieve the Tribe of its obligation to pay the regulatory costs and fees required under Part 8.

9.3. The amount of quarterly Allocation payments shall be based on the Gross Gaming Revenues generated during the immediately preceding quarter, due by the thirtieth (30th) day following the end of each calendar quarter (i.e., by April 30 for the first quarter, July 30 for the second quarter, October 30 for the third quarter, and January 30 for the fourth quarter of the preceding year). If Gaming in the Facility commences during a calendar quarter, the first payment shall be made within thirty (30) days of the end of the first full quarter of such operations and shall cover the period from the commencement of operations to the end of the first full calendar quarter.

9.4. Any quarterly Allocation payment not paid on or before the date on which it is due shall be deemed overdue. If any quarterly Allocation payment is overdue, the Tribe shall pay, in addition to the overdue quarterly payment, all interest accrued thereon from the date such quarterly payment was due at the rate of one percent (1.0%) per month or the maximum rate permitted by law for delinquent payments owed to the Commonwealth, whichever is less. Entitlement to such interest shall be in addition to any other remedies the Commonwealth may have under this Compact.

9.5. The quarterly Allocation payments shall be accompanied by a certification of the Gross Gaming Revenue calculation prepared by an authorized representative of the Tribe reflecting the total of all Gross Gaming Revenues during the quarter and the total amount of the Allocation amounts due and payable. A copy of the certification shall also be sent to the MGC.

9.6. The Tribe shall not conduct any Gaming at the Facility, directly or indirectly, if the Tribe is in arrears in any Allocation payment due under this Part for more than thirty (30) days and the MGC or the Governor has given the Tribe at least fifteen (15) days' written notice to cure such arrearage, and regardless of whether or not a dispute is pending over whether or not such Allocation payment is due. It is the intent of the parties that disputes over such payments shall not cause delays in the payments while a dispute is pending. Such disputes shall not be grounds for seeking or obtaining any equitable relief from the requirement that Gaming be suspended while the amount in such notice remains unpaid and uncured.

9.7. If the audited financial statement under Part 16 shows a material understatement in an Allocation payment to the Commonwealth during the year covered by said statement, the Tribe's next payment shall be increased by the amount owing plus interest at the rate of one percent (1.0%) per month or the maximum rate permitted by State law for delinquent Allocation payments owed to the Commonwealth, whichever is less.

9.8. Any dispute over the amount of the quarterly Allocation payment shall be resolved by the dispute resolution process defined in Part 21 of this Compact, but said process shall not delay Allocation payments determined to be due either by the Tribe's certified public accountant or by the MGC or Office of the Governor and made the subject of a notice to cure under subpart 9.6.

9.9. Any Allocation payment by the Tribe that is determined by the dispute resolution process in Part 21 to have been an overpayment will be credited against the Tribe's next quarterly Allocation payment as the Tribe's sole remedy in connection therewith.

Part 10. Records.

10.1. In addition to other Records required to be maintained by this Compact, the Enterprise shall maintain the following Records related to the implementation of this Compact, in permanent form and as written or entered, whether manually or by computer. The following Records shall be maintained by the Enterprise and made available for inspection by the MGC for not less than five (5) years from the date generated:

10.1.1. A log recording all surveillance activities in the monitoring room of the Facility, including, but not limited to, surveillance Records kept in the normal course of Enterprise operations and in accordance with industry standards; provided, notwithstanding anything to the contrary herein, surveillance Records may, at the discretion of the Enterprise, be destroyed if no incident has been reported within one (1) year following the date such Records were made and neither the TGC nor the MGC has requested that the Enterprise retain such Records and the Enterprise did not know or should not reasonably have been expected to have known that the Records should be retained;

10.1.2. Payouts from the conduct of all Compact Games;

10.1.3. Maintenance logs for all equipment used in the operation of Compact Games by the Enterprise;

10.1.4. Security logs as kept in the normal course of conducting and maintaining security at the Facility and in all aspects of the Enterprise, which at a minimum shall conform to industry practices for such reports. The security logs shall document any unusual or nonstandard activities, occurrences or events at or related to the Facility or in connection with the Enterprise. Each incident, without regard to materiality, shall be assigned a sequential number for each such report. At a minimum, the security logs shall consist of the following information for each incident, which shall be recorded in a reasonable format: (a) the assigned sequential number; (b) the date, time and specific location of the incident; (c) a description of the incident; (d) the identity, including any identification information, of any persons involved in the incident and any known witnesses to the incident; and (e) the identity of the person making the report and any other persons contributing to its preparation;

10.1.5. Books and Records on all Compact Games operated by the Enterprise, which shall be maintained in accordance with generally accepted accounting principles; and

10.1.6. All other documents generated in accordance with this Compact.

10.2. All Records required to be provided to the MGC under this Compact may be transmitted in an electronic format.

Part 11. Confidentiality of Records.

11.1. The parties agree that, to the extent permitted by law, any Documents, communications, or information provided to or received from the TGC, the Enterprise, the MGC or any other official, agency or entity of the Commonwealth, the Tribe, or the United States, in connection with any investigation or confidential matter under the provisions of this Compact, are confidential. Any party that has received any information, Document or communication from the other that is marked or deemed “Confidential” may release or disclose the information, Document or communication only with the prior written consent of the other party or pursuant to a lawful court order after timely notice of the proceeding has been given to the other party, unless such release or disclosure is required pursuant to State or federal law. Such Documents, communications or information shall be maintained in a secure place accessible only to authorized officials and employees of the party that has received the same, and shall be treated in accordance with the party’s procedures and regulations to protect the confidentiality of the information, Documents and communications.

11.2. These prohibitions shall not be construed to prohibit:

11.2.1. the furnishing of any information to a law enforcement or regulatory agency of the Tribal, State or federal government;

11.2.2. the Commonwealth from making known the names of Persons, firms, or corporations conducting Gaming pursuant to the terms of this Compact, locations at which such Gaming is conducted, or the dates on which such Gaming is conducted;

11.2.3. the publishing of the terms of this Compact;

11.2.4. the disclosure of information as necessary to audit, investigate, prosecute or arbitrate violations of this Compact or other applicable laws or to defend suits against a party; or

11.2.5. the compliance with subpoenas or court orders issued by courts of competent jurisdiction.

Part 12. Community Mitigation.

12.1. Host Community. Prior to the execution and approval of this Compact, the Tribe, on its own volition and without the participation of the Commonwealth, entered into an inter-governmental agreement with Taunton, Massachusetts, as the anticipated Host Community in connection with the location proposed by the Tribe for its casino under this Compact. The Tribe did so in recognition of its desire to develop a government-to-government working relationship with that community and to qualify the site for obtaining General Court approval of a gaming compact under Section 91 of the Act by July 31, 2012, so that the Tribe's proposed casino could obtain exclusivity in Region C. Neither approval of the Compact by July 31, 2012, nor exclusivity within Region C for the Tribe, nor the execution of the inter-governmental agreement with Taunton or any other community were required by the Governor as part of the negotiation of, or as a condition to, this Compact. The Tribe's agreement with Taunton addresses the impact the Facility is likely to have on the Host Community and identifies measures that the Tribe will take, including the provision of financial resources to the Host Community to mitigate those impacts.

12.1.1. If the Tribe relocates the Facility to alternative land pursuant to subpart 5.2 and the Facility is no longer located in Taunton, the Tribe shall enter into an inter-governmental agreement with the local government of the Host Community that addresses the impact of the Facility on the Host Community and identifies measures that the Tribe will take, including the provision of financial resources to the Host Community, to mitigate those impacts.

12.2. Surrounding Communities. The funding to mitigate impacts with respect to Surrounding Communities shall be in accordance with section 61 of Massachusetts General Laws chapter 23K, as added by section 16 of the Act. Pursuant to section 61 the MGC will expend monies from its Community Mitigation Fund to assist communities to offset costs related to the construction and operation of a gaming establishment including, but not limited to, the impacts on communities and water and sewer districts in the vicinity of the Facility, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire and emergency services. The MGC may, at its discretion, distribute funds to a governmental entity or district other than a single municipality in order to implement a mitigation measure that affects more than one (1) municipality. In addition, in conjunction with its application to the Secretary of the Interior to have the Approved Gaming Site accepted into trust for gaming purposes, and in accordance with its obligations under the NEPA, the Tribe is required to commission and pay for environmental impact studies prior to the Approved Gaming Site being accepted into trust, a process that necessitates public hearings and other obligations to take into account the input and views of surrounding communities. This process will give communities in the vicinity an opportunity to shape the scope and content of the public studies made on the impacts on the human environment, which NEPA broadly defines to include among other things education, housing, public safety, infrastructure, transportation and traffic, air, land, water, wildlife and all other social and physical considerations, and the alternative proposals and costs to mitigate all impacts that are the reasonably foreseeable consequences of any proposed decision to take land in trust for the purpose of Gaming conducted under this Compact. Under the Act, Region C may

establish a local community mitigation advisory committee, which shall include not fewer than six (6) members, one of whom shall be appointed by each of the Host and Surrounding Communities, and one of whom shall be appointed by each regional planning agency to which at least one of the Host or Surrounding Communities belongs. At least one (1) member of that committee shall be appointed by the Tribe, and the Tribal appointee shall also be eligible to serve as a representative to the subcommittee on community mitigation formed under chapter 23K, section 68(b), as added by section 16 of the Act. The local community mitigation advisory committee may provide information to and develop recommendations for the subcommittee on community mitigation of the impact of the Facility on the Host Community and Surrounding Communities. The rules and processes governing the committee and subcommittee, including those providing guidance as to which communities shall be eligible for benefits and which applications for such benefits shall be granted, shall be as governed by the Act.

Part 13. Use of Net Revenues.

Net revenues (which for the limited purpose of this Part 13 are as defined in IGRA) that the Tribe receives from Gaming shall only be used for any one or more of the following purposes permitted under IGRA:

- (a) To fund Tribal government operations or programs;
- (b) To provide for the general welfare of the Tribe and its members;
- (c) To promote Tribal economic development;
- (d) To donate to charitable organizations;
- (e) To help fund operations of local government agencies; or
- (f) Other permitted uses under IGRA.

Part 14. Problem Gambling.

14.1. The Tribe acknowledges that the conduct of Gaming activities on its Tribal land may adversely impact individuals who suffer from problem gambling. The Tribe is committed to supporting problem gambling education, awareness and treatment for such individuals. The Tribe agrees to contribute an amount that is no less than \$1.5 million annually to the Public Trust Health Fund established under Massachusetts General Laws chapter 23K, section 58, as added by section 16 of the Act. The annual payments agreed to under this Part 14 shall commence on the fifteenth (15th) day of the month following the one-year anniversary of the date the Facility opens and shall be paid on the same date each year thereafter for the duration of this Compact.

14.2. Prior to the commencement of Gaming at the Facility, the Enterprise shall develop and implement a responsible gaming program that meets or exceeds industry standards for a Gaming facility of comparable size.

14.2.1. The responsible gaming program of the Enterprise must include a process for persons to voluntarily exclude themselves from the Facility. The names of persons who have requested to be so excluded shall be entered and maintained by the Enterprise on a self-exclusion list. Persons whose names appear on the self-exclusion list shall agree that during any period of self-exclusion, such persons shall not collect any winnings or recover any losses resulting from any gaming activity at the Facility.

14.2.2. The Enterprise must make all reasonable efforts to remove all persons on the self-exclusion list from all of its direct marketing lists or direct marketing programs, and to invalidate such persons' membership in its players' club program, and deny such persons check cashing privileges.

14.2.3. The Enterprise shall develop a comprehensive training and education program for all Compact Game Employees to assist them in identifying problem gamblers.

14.3. The Enterprise shall post at conspicuous locations throughout the Facility, the toll-free help-line number for the Massachusetts Council on Compulsive Gambling and shall place at locations in the Gaming Area of the Facility educational and informational materials aimed at the prevention of problem gambling and which identify where persons may receive counseling or assistance for problem gambling.

Part 15. Enforcement.

15.1. The TGC and the MGC shall cooperate to ensure that the Enterprise is operated in compliance with the provisions of this Compact and all applicable laws and regulations and is subject to controls fully adequate to provide for the public safety and the physical security of all Patrons.

15.2. The MGC shall have the authority to investigate any report of a failure to comply with the provisions of this Compact, and may require the TGC to correct any such failure upon such terms and conditions as the MGC may determine are reasonably necessary after consultation with the TGC. All reports of a failure to comply with the provisions of this Compact or any applicable law shall be reduced to writing, and a copy shall be forwarded to the TGC, along with a written report of the outcome of any investigation that was conducted in connection therewith. Investigators employed by the MGC for the purposes set forth in this Part 15 shall be required to obtain Key Gaming Employee licenses as defined in Part 7 and shall carry proper identification at all times.

15.3. If the MGC determines that the Enterprise is not in compliance with the provisions of this Compact, the MGC shall deliver a written notice of non-compliance to the Enterprise, the TGC, and the Tribe that describes in detail the nature of the non-compliance and the action required to

remedy it. In the event that corrective action is not undertaken by the Tribe, the TGC or the Enterprise within ten (10) days after receipt of a valid notice from the MGC, the MGC may initiate the dispute resolution procedures in Part 21 or may exercise its rights in the United States District Court for the District of Massachusetts pursuant to 25 U.S.C. § 2710(d)(7)(A)(ii). In the event that the MGC determines that an emergency exists, the MGC may bring an action in the United States District Court for the District of Massachusetts immediately upon a finding by the MGC of non-compliance with the provisions of this Compact. In addition to the remedies provided hereunder, the MGC may exercise its right to petition the NIGC to impose penalties, which may include civil fines and temporary or permanent closure of the Facility, for violation of the provisions of this Compact.

Part 16. Audits.

16.1. The Tribe shall cause, at its own expense, the annual financial statements of its Gaming Operation to be audited by an independent certified public accountant in accordance with generally accepted auditing principles as applied to audits for the gaming industry. A copy of the current audited financial statement for the Gaming Operation shall be submitted on an annual basis to the MGC no later than one hundred twenty (120) days following the end of the accounting period under review. The TGC shall also transmit a copy of all audit reports to the MGC within twenty (20) days of receipt of the audit by the TGC, and shall also provide a copy of the audit to other Commonwealth agencies upon request. Auditors employed by the MGC shall have access to the Facility and to all Records of the Enterprise during ordinary hours of operation in accordance with Part 6. All Records of the Enterprise and any MGC Records related to the Enterprise shall be deemed confidential and proprietary financial information pursuant to Part 11 and shall be protected from public disclosure by the MGC to the extent permitted by law. The Tribe shall provide secure storage in the Facility for the MGC to store any copies of Enterprise Records that are the subject of MGC review.

16.2. The Tribe shall select a nationally recognized accounting firm that is licensed by the Commonwealth and has demonstrated experience in auditing tribal gaming enterprises for the audit required by this Part.

16.3. The TGC shall provide to the MGC a copy of the audit report of the independent auditor at the same time the final audit is supplied to the NIGC under IGRA. Prior to issuance of the final audit report, the MGC may review, at the TGC offices, the draft audit report, engagement letter, management's representation letter, lawyer's contingency letter and other work-papers and make copies as the MGC deems necessary.

16.4. The MGC or other Commonwealth agency may cause at its own expense an audit to be made by or on behalf of the Commonwealth of the quarterly Allocation payment report submitted pursuant to subpart 9.5. The audit shall be conducted by a certified public accountant in accordance with generally accepted accounting principles. If the audit finds that there is a material understatement in the quarterly Allocation payment for any quarter as reflected on such quarter's quarterly Allocation payment report, the Commonwealth will promptly notify the Tribe, and the Tribe will either accept the difference or provide reconciliation satisfactory to the

Commonwealth. If the Tribe accepts the difference or fails to provide a reconciliation satisfactory to the Commonwealth within thirty (30) days of receipt of the notice, the Tribe must immediately pay the amount of any resulting deficiency in the quarterly Allocation payment plus interest on such amounts from the date they were due at the rate of one percent (1.0%) per month, or at the maximum rate permitted by state law for delinquent payments owed to the Commonwealth, whichever is less. The Tribe shall reimburse the Commonwealth or the MGC, as the case may be, for the cost of the audit if the audit finds a material understatement in the quarterly Allocation payment for any quarter as reflected on such quarterly payment report.

Part 17. Criminal Jurisdiction.

17.1. The Tribe and the Commonwealth acknowledge that pursuant to 18 U.S.C. §1166 (d), jurisdiction to prosecute violations of state gambling laws made applicable by that section to Indian country is vested exclusively in the United States, unless the Commonwealth and the Tribe agree in this Compact to transfer such jurisdiction to the Commonwealth.

17.2. It is the intent of the parties by the provisions of this Part 17 to provide for the application of the Commonwealth's laws, jurisdiction, and law enforcement services to criminal acts or omissions that directly affect the Enterprise, the Gaming Operation, or Persons or property at the Gaming Enclosure, and in no way to otherwise affect or limit any criminal jurisdiction of the Tribe.

17.3. The Tribe and the Commonwealth agree that, in the event of the violation of any Gaming law of the Commonwealth, or the commission of any criminal offense against the Enterprise or the Gaming Operation or against any Person or property at the Gaming Enclosure, whether by or against an Indian or non-Indian, the Commonwealth shall have and may exercise criminal jurisdiction to prosecute such Person under its laws and in its courts.

17.4. If the Tribe adopts a Law and Order Code no less stringent than that provided in 25 C.F.R. Part 11 and authorizes its Tribal Court to hear criminal cases arising from offenses committed by its members and occurring at the Gaming Enclosure, the Tribe shall have and may exercise criminal jurisdiction concurrent with the Commonwealth over offenses committed at the Gaming Enclosure by members of the Tribe. Notwithstanding the foregoing and subject to any applicable federal jurisdiction, the Commonwealth shall have the first right of prosecution as to any crime which, if committed in the Commonwealth outside of Indian country, would be classified under the Commonwealth's laws as a felony.

17.5. Nothing in this Part 17 shall be interpreted to diminish the criminal jurisdiction of the United States or to diminish the rights of any Person under the United States Constitution or the Massachusetts Declaration of Rights as against the United States or the Commonwealth.

17.6. If the Tribe establishes a law enforcement agency, the Tribe shall implement a written law enforcement plan that provides a comprehensive and effective means to address criminal and undesirable activity at the Facility. The plan shall provide that sufficient law enforcement resources are available at all times to protect the Gaming Operation and the health, welfare and

safety of all Patrons of the Facility. Officers employed by the Tribal law enforcement agency shall meet all training requirements for officers set by the Municipal Police Training Committee under Massachusetts General Law Chapter 6, Section 116 or meet the standards of education, experience and training established by the United States Secretary of the Interior pursuant to 25 U.S.C. § 2802, as amended by the Tribal Law and Order Act of 2010, Pub. L. 111-211.

17.7. The Tribe, including the TGC and Tribal law enforcement, and the Commonwealth agree to cooperate fully in the investigation and prosecution of any violation of any Gaming law of the Commonwealth or the commission of any criminal offense against the Enterprise or the Gaming Operation or against any Person at the Gaming Enclosure, whether by or against an Indian or non-Indian. To this end, the procedures applicable to the enforcement of criminal laws at the Gaming Enclosure shall be established pursuant to a Memorandum of Agreement to be executed by the Tribe and the Commonwealth or other appropriate law enforcement agencies, which shall include, but not be limited to, terms governing the manner in which the Tribe and the Commonwealth shall cooperate in the detection and reporting of violations, the apprehension and detention of any suspected violator, the investigation and prosecution of any offense, and the coordination of such activities through a Tribal law enforcement liaison.

17.8. Law enforcement officers of the Commonwealth, or officers designated by the Commonwealth, shall have access to all areas of the Gaming Enclosure, all persons employed by the Enterprise or working at the Gaming Enclosure, all Patrons, and all surveillance video, reports and Records related to the conduct of Compact Games at the Facility for the purpose of maintaining public order and safety, conducting investigations related to possible criminal activity and enforcing applicable laws of the Commonwealth and for other law enforcement activities which are requested by the Tribe.

Part 18. Miscellaneous Provisions.

18.1. Smoke-free Facility. The Tribe agrees to prohibit all smoking within the Facility in accordance with Massachusetts General Laws Chapter 270, Section 22, to the extent any gaming establishments authorized by the Act are required to prohibit smoking. The parties agree that consistent with Section 22(c), the use of tobacco at the Facility is permitted for Native American religious or ceremonial purposes.

18.2. Firearms. The Tribe agrees to prohibit any person from bringing firearms of any kind into the Facility unless the person is a representative of a governmental law enforcement agency and is authorized by that law enforcement agency to carry such firearms and be on the premises in an official capacity. The Enterprise shall take reasonable measures to inform the public of this prohibition and to enforce it.

18.3. Persons Barred From the Facility. The TGC shall establish, maintain and share with the MGC a list of persons barred from the Facility because their criminal histories, associations, reputation or habits pose a threat to the integrity of Gaming or enhance the chances of unsuitable, unfair or illegal activities or pose a threat to the safety of the Patrons or employees. The TGC shall exclude persons on such a list from entry into the Facility. The TGC shall also exclude

persons engaging in disorderly conduct or other conduct jeopardizing public safety, and those persons who have either placed themselves on a self-exclusion list or who have been placed on an exclusion list in accordance with the Enterprise's policies.

18.4. Restricted Access. The TGC shall issue regulations prohibiting persons under the age of twenty-one (21) years from being present in any Gaming Area of the Facility, and prohibiting such persons from placing any wager, directly or indirectly; provided that persons under the age of twenty-one (21) years may be permitted to work in non-Gaming positions anywhere in the Facility as prescribed by the TGC.

18.5. Compliance with Tax Reporting Requirements. The Enterprise shall comply with all applicable reporting and withholding requirements of the United States Department of the Treasury, Internal Revenue Service and the Massachusetts Department of Revenue relating to employees and Patrons of the Enterprise and as required in connection with all forms of Gaming conducted at the Facility; shall maintain accurate Records of all such reports and returns; and shall implement policies and procedures adequate to assure compliance with such obligations.

18.5.1. Tax Agreement. Given that it is in their mutual benefit, the Tribe and the Commonwealth agree to enter into separate, good-faith discussions for an inter-governmental agreement which addresses measures the Tribe will use for the imposition, accounting, collection and remission to the Commonwealth of state taxes that, pursuant to federal law, are applicable to activities taking place upon, and to goods and services provided, received or consumed upon, the Approved Gaming Site. Such an inter-governmental agreement shall adhere to all federal statutory and case law pertaining to the application of state taxes on Indian Lands, and shall establish a mutually acceptable formula for the apportionment, between the Tribe and the Commonwealth, of the taxes collected under such agreement. Nothing herein is intended to authorize the imposition of any state or local tax on the Tribe or a Tribal member that is not otherwise authorized under federal law.

18.6. Labor Relations. The parties agree that an important objective of this Compact is to assure that employee rights are protected. Notwithstanding any other provision of this Compact, the Gaming Operations authorized by this Compact may only commence after the Tribe has adopted an ordinance identical to the Tribal Labor Relations Ordinance attached hereto as Appendix D and may only continue as long as the Tribe maintains in legal effect said Ordinance. The Tribe shall provide written notice to the MGC that it has adopted said Ordinance before commencing the Gaming Operation authorized by this Compact, and shall notify the MGC within ten (10) days of any amendment to or repeal of said Ordinance.

18.7. Most Favored Nation. The amount of Gross Gaming Revenue to be allocated pursuant to Part 9 is a mutually agreed-upon valuation of and equitable consideration for the concessions made by the Commonwealth to the Tribe set forth in this Compact. The parties understand that such valuation is made in light of the law and the expected market conditions that exist in the Commonwealth at the time of the execution of this Compact. With respect to any game, the Tribe shall at no time be required to pay a percentage of Gross Gaming Revenue under this Compact that is greater than the daily revenue percentage then required to be paid by any

Category 1 Licensee or greater than the revenue allocation percentage then required to be paid by any other Indian tribe to the Commonwealth under a compact entered into pursuant to IGRA. The Tribe and the Commonwealth shall meet as soon as practical after any such reduction in the daily revenue percentage or lower tribal revenue allocation percentage becomes effective, in order to determine any possible effects the reduction may have on the other provisions of this Compact, including the need to amend or modify this Compact pursuant to Part 23; and any necessary changes to the implementation of this Compact.

18.8. If this Compact is not approved by the United States Secretary of the Interior as required by IGRA, the Governor agrees that, if requested by the Tribe, the Governor will immediately resume negotiations in good faith with the Tribe for an amended compact. Before it is given effect, any amended Compact must be ratified by the General Court and, pursuant to IGRA, be approved by the Secretary of the Interior.

18.9. The parties acknowledge that the Tribe's right to engage in Gaming is as a Tribal government pursuant to the terms of this Compact and in compliance with IGRA, and not pursuant to a gaming license issued by the Commonwealth as that term is used under the Act. Section 91(d) of the Act requires that the compact "include a statement of the financial investment rights of any individual or entity which has made an investment to the tribe, its affiliates or predecessor applicants of the tribe for the purpose of securing a gaming license for that tribe under its name or any subsidiary or affiliate since 2005." In compliance therewith, the Tribe represents that since 2005 no individual or entity has made an investment to the Tribe, its affiliates or predecessor, for the purpose of securing a gaming license under its name or any subsidiary or affiliate. However, in keeping with the spirit of section 91(d), the Tribe discloses and represents that it has received financial assistance and funding because the Tribe is pursuing the conduct of gaming operations within the Commonwealth. Since 2005, the entities or individuals who have contributed or advanced funds to the Tribe, its Affiliates or any predecessor for such purposes are set forth in Appendix E, along with a description of the various instruments and agreements that reflect such assistance or funding, to which the Tribe or its Affiliates or predecessor is a party. The Tribe represents that it has received no other material third party financial assistance or investment connected to Gaming in the Commonwealth.

18.10. Before paying a Patron winnings in excess of \$600, the Enterprise will verify the Patron's identification and determine from information provided to it by the Commonwealth's child support enforcement agency ("IV-D agency") or department of revenue whether the Patron owes past-due child support or any tax liability to the Commonwealth. Subsequent to statutory state and federal tax withholding, the Enterprise shall first disburse to the IV-D agency the full amount of the cash or prize or such portion of the cash or prize that satisfies the Patron's past-due child support obligation. If funds remain available after the disbursement to the IV-D agency or if no such obligation to the IV-D agency is owed, the Enterprise shall disburse to the department of revenue the full amount of the cash or prize or such portion of the cash prize that satisfies any past-due tax liability of the Patron. The Enterprise shall disburse to the Patron only that portion of the prize, if any, remaining after the Patron's past-due child support obligation or tax liability has been satisfied. Nothing in this Section 18.10 shall operate to waive the Tribe's sovereign immunity from a suit by a Patron whose winnings are paid to the IV-D agency or to the department of revenue as required by this Subpart 8.10.

Part 19. Patron Disputes, Workers' Compensation, Unemployment Insurance, Employee Health Care Coverage.

19.1. Patron Disputes. The TGC shall, after consultation with the MGC, establish procedures for the resolution of Patron disputes involving the play of Compact Games.

19.2. Workers' Compensation. The Tribe agrees that tort claims by employees of the Enterprise will be handled pursuant to the Commonwealth's Workers' Compensation Law, Massachusetts General Laws Chapter 152. The Tribe and the Enterprise consent to the jurisdiction of the Commonwealth agencies charged with the enforcement of such law and to the courts of the Commonwealth for purposes of enforcement of such law. The Tribe will cause the Enterprise to consent to maintain in effect at all times during the term of this Compact a policy of workers' compensation insurance for such coverage as required by the Commonwealth's Workers' Compensation Law.

19.3. Unemployment Insurance. The Tribe agrees that it will participate in the Commonwealth's statutory program for providing unemployment insurance benefits and unemployment compensation disability benefits with respect to employees of the Enterprise, including compliance with the provisions of the Commonwealth's Unemployment Insurance Law, Massachusetts General Laws Chapter 151A. The Tribe and the Enterprise consent to the jurisdiction of the Commonwealth agencies charged with the enforcement of such law and to the courts of the Commonwealth for purposes of enforcement of such law, provided that nothing herein shall be construed as a waiver by the Tribe or the Enterprise of the defense of sovereign immunity as to any claim for unemployment or disability benefits not covered by such unemployment or disability insurance.

19.4. Employee Health Care Coverage. The Tribe agrees that it will provide employees of the Enterprise with health care benefits which meet or exceed the benefits, protections and processes provided to other similarly situated employees within the Commonwealth by employers who are subject to the Commonwealth's Act Providing Access to Affordable, Quality, Accountable Health Care, Chapter 58 of the Acts of 2006, as amended, and all implementing regulations and all laws referenced or incorporated into such Act.

19.5. Generally. In any claim made under subparts 19.2, 19.3 or 19.4, the Tribe and the Enterprise waive the defenses of Tribal sovereign immunity from suit and exhaustion of tribal court remedies and agree not to raise sovereign immunity or exhaustion of tribal court remedies as defenses, but such waivers shall only apply to claims up to the extent of insurance coverage provided for under such subparts. The Tribe and the Enterprise likewise agree to bind and instruct their insurer not to raise sovereign immunity and exhaustion of tribal court remedies as defenses for claims up to the extent of insurance coverage provided for under such subparts. All claims shall be brought against the Enterprise, but shall not relieve the Tribe of any ultimate financial liability for such claims up to the extent of the insurance coverage provided for under such subparts, and the Tribal or Enterprise insurer shall be bound in each case to address the matter and pay for any such judgment.

Part 20. Insurance Coverage and Claims.

20.1. The Tribe shall, after consultation with the MGC, establish procedures governing the adjudication and compensation for commercial general liability claims arising in connection with the Facility. Such claims shall be covered by commercial general liability insurance consistent with industry standards for non-tribal casinos in the United States underwritten by an insurer with an A.M. Best rating of A or higher and at the limits set forth below.

20.2. Limits. The Enterprise shall maintain a general liability insurance policy with limits of not less than twenty million dollars (\$20,000,000) per occurrence and ten million dollars (\$10,000,000) per person for bodily injury, personal injury, and property damage arising out of, connected with, or related to, the operation of the Facility or the Gaming Operation (“Covered Claims”). Covered Claims shall include, but not be limited to, claims based on the Commonwealth Dram shop laws or other alcohol-related injury claims. The laws of the Commonwealth shall be applied in determining all Covered Claims, including the time periods limiting the filing of any action. The insurance policy shall:

20.2.1. prohibit the insurer, the Enterprise or the Tribe from invoking sovereign immunity or the defense of exhaustion of tribal court remedies for claims up to the limits of the insurance policy;

20.2.2. permit the insurer, the Enterprise or the Tribe to assert any statutory or common law defense to the claim other than sovereign immunity and exhaustion of tribal court remedies as provided in subpart 20.2.1; and

20.2.3. provide that any award or judgment rendered shall be satisfied solely from insurance proceeds.

20.3. The Tribe and the Enterprise agree to waive sovereign immunity and consent to the jurisdiction of the courts of the Commonwealth for the adjudication of Covered Claims, but only to the extent of the insurance policy limits. The Tribe or the Enterprise may, in their discretion, consider claims for compensation in excess of the limits of the sovereign immunity waiver.

20.4. Notices explaining the procedures and time limitations for making a Covered Claim shall be prominently displayed in the Facility, posted on the Tribe’s website, and provided to any person requesting that information, including any person for whom the Tribe, the Enterprise or the TGC has notice of injury or property damage giving rise to the tort claim. Such notices shall explain the method and places for making a Covered Claim, including where the person may submit any required claim form, and the process for asserting the claim against the Tribe or the Enterprise. All Covered Claims pursuant to this Part 20 shall be brought exclusively against the Enterprise as the sole party in interest, but such claims shall not relieve the Tribe of any ultimate financial liability up to the limits and terms of the insurance coverage as set forth in this Part 20.

Part 21. Dispute Resolution.

21.1. In the event the Tribe or the Commonwealth believe that the other party has failed to comply with any requirement of this Compact, or in the event of a dispute over the interpretation of the terms and conditions of this Compact, the aggrieved party may invoke the dispute resolution procedure in this Part 21.

21.2. The aggrieved party shall serve written notice on the other party as provided in Part 29. The notice shall identify the specific provision of the Compact alleged to have been violated or in dispute and shall specify the factual basis for the allegation of non-compliance or the proposed interpretation. Representatives of the Tribe and the Commonwealth shall meet within thirty (30) days of the receipt of the notice and shall attempt to reach an equitable solution satisfactory to both the Tribe and the Commonwealth.

21.3. Subject to subpart 21.8, if the dispute is not resolved to the satisfaction of the parties within thirty (30) days after the meeting, either party may require the dispute to be resolved by an arbitrator in accordance with this section. Arbitration shall be initiated by serving on the other party a notice for arbitration. The notice shall specify the nature of the dispute, the provision of the Compact at issue, and the proposed relief sought. If a party refuses to consent to arbitration, the other party may seek to compel arbitration in the courts in the sequence set forth in subpart 21.8. The waivers of immunity and consent to suit therein shall be applicable to any claim to compel arbitration.

21.4. Arbitration under this Part 21 shall be conducted in accordance with the rules of the American Arbitration Association (AAA), or such other rules as the parties may mutually agree. Arbitrators shall be selected from a list maintained by the AAA and shall be experienced in Indian Law and shall not have represented either party during the previous ten (10) years. Each party shall select one arbitrator from the list and the two arbitrators shall select the third arbitrator. Except as provided in subpart 21.6, the costs of the arbitration shall be shared equally by the parties, but the parties shall bear their own costs and attorneys' fees associated with the arbitration.

21.5. The arbitration hearing shall occur within ninety (90) days of the selection of the arbitrators under subpart 21.4, unless another date is stipulated to by the parties or set by the arbitrators. The hearing shall occur at a location agreed to by the parties, or if the parties cannot agree, as determined by the arbitrators.

21.6. The party initiating arbitration under this Part 21 shall certify, to the best of the party's knowledge that its claim or contention is made in good faith and not for any improper purpose. If arbitration is found to have been initiated in violation of this subpart, the arbitrators, upon the request of a party or upon their own initiative, may award to the other party a sum equal to the costs of the arbitration and the other party's reasonable attorneys' fees incurred in connection with the arbitration.

21.7. The decision of the arbitrators shall be final, binding and non-appealable. The prevailing party in an arbitration proceeding may bring an action solely and exclusively in the United States

District Court for the District of Massachusetts to enforce the arbitration award, provided that if the federal court lacks or declines jurisdiction to hear the matter, such enforcement action may be brought in State court, and the parties agree to waive sovereign immunity solely and exclusively for the limited purpose of such an enforcement action.

21.8. Notwithstanding anything in this Part 21 to the contrary, neither party shall be compelled to arbitrate, and may litigate in the United States District Court for the District of Massachusetts or, if the federal court lacks or declines jurisdiction to hear the matter, in State court, a claim seeking to enjoin or assert a violation or material breach of this Compact, to enforce a monetary obligation to pay an amount due to a party under this Compact, and each of the parties agrees to a limited waiver of sovereign immunity and consent to the jurisdiction of such court for such action.

21.9. In no event may either party be precluded from pursuing any arbitration or judicial remedy against the other on the grounds of a failure to exhaust administrative remedies. The parties agree that, except in the case of imminent threat to the public health or safety, reasonable efforts will be made to explore alternative dispute resolution avenues prior to resort to judicial process.

21.10. Any determination by the MGC pursuant to Section 91(e) of the Act that the Tribe will not have land taken into trust by the United States Secretary of the Interior will not be subject to the arbitration procedures in this Part 21. Nothing in this Part shall prevent the Tribe from challenging in a court of competent jurisdiction any such determination by the MGC.

21.11. This Part may not be construed to waive, limit, or restrict any remedy that is otherwise available to either party, nor may this Part be construed to preclude, limit, or restrict the ability of the parties to pursue, by mutual agreement, any other method of dispute resolution, including, but not limited to, mediation or utilization of a technical advisor to the TGC and MGC; provided that neither party is under any obligation to agree to such alternative method of dispute resolution.

21.12. The Tribe represents that any of the transactions contemplated by this Compact may constitute a "Commercial Transaction" within the meaning of the 2009-ORD-008 (the Tribe's Commercial Transaction Ordinance) which in Section 5(b) thereof authorizes the Tribal Council to waive the sovereign immunity of the Tribe if the waiver is made by an express written agreement and includes limits as to duration, grantee, transaction, and property or funds, if any, of the Tribe made subject thereto. Accordingly, notwithstanding any other provision herein, the Tribe warrants and represents that each and every waiver of the Tribe's sovereign immunity contained in this Compact is enforceable provided each is subject to the following express limitations, which are hereby accepted by the Commonwealth, that each waiver (a) shall be enforceable solely by the Commonwealth, (b) shall be limited in duration to the duration of the term of this Compact (as it may be extended pursuant to Part 24), and (c) only permits enforcement of claims as against revenues and other assets of the Enterprise or those distributed by the Enterprise to the Tribe.

Part 22. Effective Date.

This Compact shall become effective upon the publication of notice of approval by the United States Secretary of the Interior in the Federal Register in accordance with 25 U.S.C. § 2710 (d)(3)(B) and § 2710(d)(8)(D).

Part 23. Amendments and Modifications.

23.1. The terms and conditions of this Compact may be modified or amended by written agreement of both parties, and any such amendment or modification shall be subject to the approval of the General Court and the United States Secretary of the Interior, to the extent required by law.

23.2. Except for a modification requested pursuant to Part 24, a request to amend or modify this Compact by either party shall be in writing, specifying the manner in which a party requests this Compact to be changed, and the reason(s) for the modification and the proposed language. Representatives of the Tribe and the Commonwealth shall meet within thirty (30) days of a request under this subpart 23.2 and shall expeditiously negotiate whether and on what terms and conditions this Compact will be amended or modified.

Part 24. Duration.

24.1. The initial term of this Compact shall conclude at midnight on the fifteenth (15th) year anniversary of the date the Facility is opened, unless terminated pursuant to Part 25, or automatically renewed pursuant to subpart 24.2 or 24.3.1 or 24.3.2. The initial term of any Facility opening on February 29th shall be treated as if opened on March 1st.

24.2. If in effect, this Compact shall be automatically renewed without modification for an additional term of fifteen (15) years unless not less than one hundred eighty (180) days prior to the expiration of this Compact, the Tribe or the Commonwealth serves written notice on the other for the modification or nonrenewal of the Compact. Any notice provided under this subpart 24.2 must be made in accordance with Part 29.

24.3. In the event notice for modification is given by either the Tribe or the Commonwealth, the notice must be accompanied by specific written grounds demonstrating that the modification is necessary to protect the integrity of the Gaming Operation, or to prevent material harm to Patrons of the Facility, the citizens of the Commonwealth, or the members of the Tribe. Within thirty (30) days of the receipt of a notice for modification, the Tribe and the Commonwealth shall meet and expeditiously negotiate to reach agreement on the requested modification.

24.3.1 If the parties reach agreement in writing on any negotiated modification before expiration of the initial term of the Compact referred to in subpart 24.1, the Compact shall be renewed, as modified, for an additional term of fifteen (15) years, provided the modified Compact is approved as may be required by State or federal law.

24.3.2 If no written agreement as to a negotiated modification is reached before expiration of the initial term of the Compact, the Compact shall renew without such modification, but either party may invoke the dispute resolution process in Part 21, provided the issue submitted for dispute resolution is limited to whether the party requesting modification of the Compact has demonstrated that the modification is necessary to protect the integrity of the Gaming Operation or prevent material harm to Patrons of the Facility, the citizens of the Commonwealth or the members of the Tribe. If modification of the Compact is ordered pursuant to a final non-appealable arbitration award under Part 21, the Compact shall be modified, but any such modified Compact shall be subject to approval as required by State or federal law.

24.4. In the event written notice of nonrenewal is given by either the Tribe or the Commonwealth, the notice must be accompanied by specific written grounds demonstrating that the decision to not renew the Compact is necessary to protect the integrity of the Gaming Operation, or to prevent material harm to Patrons of the Facility, the citizens of the Commonwealth, or the members of the Tribe. If such notice is received, and unless a successor compact has been negotiated and is in effect, the Tribe shall cease the conduct of all Compact Games upon the expiration date of this Compact.

24.5. Upon receipt of a notice of nonrenewal of this Compact from the Commonwealth, the Tribe may request that the Commonwealth enter into good faith negotiations under IGRA for a successor compact to become effective upon the expiration of this Compact. The Governor may enter into such negotiations, provided any successor compact is approved as may be required by State and federal law. If no successor compact is in effect at the expiration of the initial term of this Compact, the Tribe shall cease the conduct of all Compact Games.

24.6. If this Compact is automatically renewed for an additional term of fifteen (15) years pursuant to this Part, the Tribe shall cease the conduct of all Compact Games under this Compact upon the expiration of the second fifteen (15) year term.

Part 25. Termination.

25.1. Subject to Part 24, this Compact shall remain in effect until such time as:

25.1.1. This Compact is terminated by mutual agreement of the Tribe and the Commonwealth;

25.1.2. The Commonwealth amends its Constitution or its laws to criminally prohibit within the Commonwealth the conduct of all of the Gaming authorized by this Compact, and a court of competent jurisdiction makes a final and enforceable determination that all of the Gaming authorized by this Compact is criminally prohibited under the laws of the Commonwealth;

25.1.3. The federal government amends or repeals IGRA so that this Compact is no longer required for the Tribe to conduct the Gaming authorized under this Compact;

25.1.4. Either party materially breaches this Compact; but in such case, this Compact shall cease to be effective only after the dispute resolution process set forth in Part 21 has been concluded with a finding of material breach and the breach has continued for a period of sixty (60) days following the conclusion of the dispute resolution process; or

25.1.5. The Tribe fails to comply with its payment obligations to the Commonwealth under Part 9, and persists in such failure for a period of thirty (30) days after receipt of a written notice from the Commonwealth that specifies the amount due and the provision of this Compact under which such payment obligation is required. The Tribe may dispute the payment obligation or the amount of the obligation by invoking the dispute resolution process in Part 21. If the Tribe invokes the dispute resolution process in Part 21, the Tribe shall simultaneously place into escrow, in a financial institution that is not affiliated with either the Tribe or the Commonwealth, a sum of money equal to the amount claimed due by the Commonwealth. Within thirty (30) days of the entry of a final, non-appealable order by the arbitrators or by a court of competent jurisdiction, this Compact shall terminate and the Tribe shall cease the operation of Gaming governed by this Compact, unless the Tribe has paid the full amount due, if any, as determined by the arbitrators or the Court or made arrangements satisfactory to the Commonwealth to make the payment. If the Tribe fails to make the payment to the Commonwealth, or fails to make an arrangement with the Commonwealth for payment, the Compact shall terminate and the Tribe shall cease the operation of all Gaming governed by this Compact.

25.2. The Tribe shall not conduct Gaming under this Compact at the same time it conducts gaming in Region C under a Category 1 License it has obtained under the Act. The Tribe may conduct Gaming under this Compact at the same time it conducts gaming in Region C under a Category 2 License it has obtained under the Act. The Tribe will prohibit each Affiliate of the Tribe from financing, managing, or supporting the conduct of Gaming in Region C by any Person other than the Tribe.

25.3. Notwithstanding any expiration or termination of this Compact pursuant to Part 24 or Part 25, any payment obligation or liability assumed or incurred by the parties prior and up to the expiration or termination of this Compact shall survive such expiration or termination until satisfied in full. The dispute resolution process in Part 21 shall survive such expiration or termination and continue in full force and effect only so long as necessary for an aggrieved party to seek recourse as to the fulfillment of any such obligation or liability.

Part 26. Calculation of Time.

In computing any period of time prescribed or allowed by this Compact, the day of the act, event or breach from which the designated period of time begins to run shall not be included.

Part 27. Entire Agreement.

This Compact is the entire agreement between the parties and supersedes all prior agreements between the parties with respect to the conduct of Gaming in the Commonwealth. Neither this Compact nor any provision herein may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by both parties in accordance with this Compact.

Part 28. Counterparts.

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

Part 29. Notices.

All notices and other communications required or authorized to be served in accordance with this Compact shall be served by registered or certified mail, return receipt requested, at the following addresses:

Governor, Commonwealth of Massachusetts
Office of the Governor
State House, Room 360
Boston, MA 02133

Chairperson, Mashpee Wampanoag Tribe
483 Great Neck Road South
Mashpee, MA 02649

or to such other address or addresses as either the Tribe or the Commonwealth may from time to time designate in writing.

Part 30. Filing of Compact with Secretary of State.

Upon execution by the Governor and approval by the General Court, a certified copy of this Compact shall be filed by the Governor with the Commonwealth's Secretary of State. Any subsequent amendment or modification of this Compact shall be similarly filed.

IN WITNESS WHEREOF, the Tribal Chairperson and Vice Chairperson of the Mashpee Wampanoag Tribe and the Governor of the Commonwealth of Massachusetts hereto set their hands and seals.

Date: July 12, 2012

COMMONWEALTH OF MASSACHUSETTS MASHPEE WAMPANOAG TRIBE

By: _____
Deval L. Patrick
Governor

By: _____
Cedric Cromwell
Chairperson

By: _____
Aaron Tobey Jr.
Vice Chairperson

Intergovernmental Agreement
By and Between
The Mashpee Wampanoag Tribe
And
The City of Taunton

May 17, 2012

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LIST OF EXHIBITS

- Exhibit A Map of the Subject Property
- Exhibit B Description of the Project
- Exhibit C Summary of Mitigation Costs
- Exhibit D Traffic Mitigation Measures

INTERGOVERNMENTAL AGREEMENT

By and Between the Mashpee Wampanoag Tribe

and

the City of Taunton, Massachusetts

THIS AGREEMENT is made and entered into as of the 17th day of May, 2012, by and between the Tribe, whose address is 483 Great Neck Road South, Mashpee, Massachusetts 02649, and the City, whose address is 141 Oak Street, Taunton, Massachusetts 02780. All capitalized terms used herein shall have the meanings ascribed to them in Section 1, below.

RECITALS

1. The City and the Tribe recognize that each is a governmental entity with mutual responsibility for the welfare of its people.
2. The Tribe has options to purchase the Subject Property.
3. The Tribe submitted the Trust Application to the United States Department of the Interior, Bureau of Indian Affairs for the acquisition in trust of the Subject Property as part of the Tribe's initial reservation land.
4. The Tribe's intention is to develop the Project on the Subject Property.
5. The Tribe is currently negotiating the Compact with the Governor of the Commonwealth pursuant to the Act, which Compact may provide for the joint exercise of jurisdiction of the Tribe and the Commonwealth to regulate Gaming on the Subject Property pursuant to state and federal laws where applicable.
6. The Tribe desires to have the support and cooperation of the City in the conclusion of the Compact and its approval by the General Court of the Commonwealth, the Trust Application and the development of the Project.
7. The City has scheduled the Referendum.
8. The City desires to support the Tribe's efforts to obtain approval of the Compact and Trust Application and the development of the Project, as the City believes that the Project will bring economic development to the City, creating new jobs for residents and new sources of income for the City.
9. The Tribe and the City have established a cooperative and mutually respectful government-to-government relationship with each other and have acknowledged that the Project

will impact the City. The Tribe desires to mitigate said impacts through the means described in this Agreement.

10. The Tribe may utilize certain municipal and related services rather than duplicate such services on the Subject Property and accordingly desires to pay, or reimburse the City, for such services that the Project will require, and the City desires to provide such services.

Accordingly, the Parties for good and valuable consideration, the receipt of which is hereby acknowledged, enter into this Agreement to effectuate the purposes set forth above and to be bound by the provisions set forth below:

Section 1. Definitions.

Capitalized terms used in this Agreement shall have the meanings set forth in this Section 1.

“AAA” means the American Arbitration Association.

“Act” means the Commonwealth’s Act Establishing Expanded Gaming in Massachusetts, Chapter 194 of the Acts of 2011, Massachusetts Laws St. 204, c. 194 (H3807).

“Additional Services” means the additional police, fire protection, administrative, school and emergency medical services to be provided to protect the health, safety and welfare of the City’s residents, the temporary workforce needed to construct the Project, the employees of the Project and the increased number of visitors to the City expected as a result of the operation of the Project.

“Agreement” means this agreement between the Tribe and the City including all exhibits attached hereto, as the same may be amended, modified, or restated from time to time in accordance with the terms hereof.

“Advisory Committee” means the nine (9) member Tribal-City Advisory Committee established in Section 19 hereof.

“Approvals” means any federal, tribal, Commonwealth, county or municipal permits, licenses, approvals, waivers, authorizations, orders or findings that are applicable to the Tribe or the acquisition of the Subject Property and its remediation, and the development and construction of the Project.

“Authority” means the Tribe’s Gaming Authority.

“Basis Amount” means the amount determined by dividing (i) the aggregate net revenues generated by charitable bingo games conducted by an Identified Charity for the three year period from June 1, 2009 through May 31, 2012 by (ii) three.

“Bonded Costs” means the sum of: (i) One-Time Impact Costs; (ii) Other City Infrastructure Costs; (iii) Traffic Mitigation Costs; and (iv) the costs incurred in connection with the issuance of the bonds as contemplated in Section 5.D hereof.

“Business Day” means any day, other than a Saturday, Sunday or a day on which banks located in the Commonwealth shall be authorized or required by law to close.

“Casino” means any premises on the Subject Property at which Gaming is conducted.

“City” means the City of Taunton, a municipal corporation of the Commonwealth.

“City Ordinances” means the Revised Ordinances of the City, as the same may be amended, modified, or restated from time to time.

“Claim” or “Claims” means any and all claims, losses, proceedings, damages, causes of action, liability, costs, and expenses (including reasonable attorneys’ fees), arising from or in connection with, or caused by any act or omission of any Party against whom indemnification is sought or such Party’s contractors, licensees, invitees, agents, lessees, servants, or employees, related to or in connection with any obligations on such Party’s part to be performed under the terms of this Agreement.

“Commencement Date” means the first to occur of the following (i) the date construction of the Project is commenced; or (ii) 90 days after the date the Subject Property is taken into trust by the United States of America.

“Compact” means the Tribe-Commonwealth gaming compact, as the same may be amended, modified, or restated from time to time in accordance with the terms thereof.

“Completion Date” means, as to:

(i) Phase 1 of the Project as described on Exhibit B: no later than 15 months from the Commencement Date;

(ii) Phase 2 of the Project as described on Exhibit B: no later than 30 months from the Commencement Date;

(iii) Phase 3 of the Project as described on Exhibit B: no later than 60 months from the Commencement Date; and

(iv) Phase 4 of the Project as described on Exhibit B: after 60 months from the Commencement Date.

“Commonwealth” means the Commonwealth of Massachusetts.

“Court” means the Superior Court of the County.

“County” means Bristol County, Massachusetts.

“CPA” means a Certified Public Accountant.

“Dispute” means any dispute, claim, or controversy arising under or relating to this Agreement, the breach, termination, or validity of this Agreement, or the dealings between the Parties or with respect to any claim arising by virtue of any representations made by any Party.

“Dispute Notice” means a written notice of any Dispute.

“Force Majeure Event” shall mean delays due to (i) strikes, lockouts, casualties, acts of God, war or injunction, or (ii) material adverse economic events or circumstances which impact businesses generally in the City or the Commonwealth, or the gaming industry specifically.

“Game” means a banking or percentage game played with cards, dice, tiles or dominoes or an electronic, electrical or mechanical device or machine played for money, property, checks, credit or any other representative of value which is permitted under IGRA.

“Gaming” means the dealing, operating, carrying on, conducting, maintaining or exposing any Game for pay.

“Governor” means the Governor of the Commonwealth.

“Guaranteed Amount” means an amount equal to Eight Million Dollars (\$8,000,000).

“Identified Charities” means non-profit organizations identified by the City which have operated charitable bingo games in the City consistently for the three year period from June 1, 2009 to May 31, 2012.

“IGRA” means the Indian Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C. Section 2701 et seq. and 18 U.S.C. Sections 1166 to 1168.

“Impact Payments” means those payments described in Sections 5, 6, 7, 9 and 10 hereof.

“Impacts” means collectively, the following potential impacts to the City resulting from the conduct of Gaming at the Subject Property: (i) loss of City tax revenue; (ii) increased use of City services; (iii) increased use of City infrastructure; (iv) the need for additional infrastructure, City employees and equipment; (v) increased need for maintenance, repair and replacement of City infrastructure; and (vi) costs related to mitigating impacts arising out of Gaming at the Subject Property.

“Legal Opinion” means (i) with respect to the City, an opinion by legal counsel to the City (which opinion may be issued by the City Solicitor) and reasonably acceptable to the Tribe that the Agreement has been duly executed and authorized by the City, and (ii) with respect to the Tribe, one or more legal opinions by legal counsel to the Tribe and reasonably acceptable to the City that the Agreement has been duly executed, is authorized by the Tribe and that the limited waiver of sovereign immunity as set forth in this Agreement is enforceable.

“Mayor” means the duly elected Mayor of the City.

“MassDOT” means the Massachusetts Department of Transportation.

“Massachusetts Gaming Commission” means the gaming regulatory agency created by the Act.

“Municipal Council” means the duly elected Municipal Council of the City.

“Net Slot Revenue” means the total of all sums actually received from the operation of Slot Machines at the Project less the total paid out as winnings to Gaming patrons from the operation of Slot Machines. Net Slot Revenue shall not include any amount received from credit extended or collected for purposes other than the operation of Slot Machines. Net Slot Revenue shall also not include the wagering by a Gaming patron of any promotional gaming credit issued by the Casino.

“NIGC” means the National Indian Gaming Commission, the federal Indian gaming regulatory body.

“One-Time Impact Costs” means those items identified on Exhibit D hereof as One-Time Phase 1 Costs and One-Time Phase 2 Costs.

“Opening Date” means the date on which the Casino is open to the public for Gaming.

“Other City Infrastructure Costs” means the cost of those infrastructure projects determined by the City not to exceed Fifteen Million Dollars (\$15,000,000).

“Party” means either the Tribe or the City or their respective successors or assigns.

“Parties” means, together, the Tribe and the City and their respective successors or assigns.

“Percentage Amount” means a payment in the amount equal to 2.05% of Net Slot Revenue.

“Project” means the Casino, together with one or more hotels and ancillary facilities more particularly described on Exhibit B attached hereto and by this reference made a part hereof.

“Project Standards” means the fit and finish of a high quality destination resort casino in a location comparable to the Subject Property.

“Referendum” means the referendum to be held on June 9, 2012 at which the City’s voters will be asked to approve the proposed Project.

“Slot Machines” mean any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the individual playing or operating the machine to receive cash, or tokens to be exchanged for cash, or to receive merchandise or any other thing of value, whether the payoff is made automatically from the machine or in any other manner.

“Subject Property” means those parcels of land in the City in the area shaded in brown on Exhibit A attached hereto, together with such additional property as the Tribe may choose to add from time to time provided that such additional property is either (i) north of Route 140 and contiguous to the property shaded in brown on Exhibit A hereof, or (ii) any property located within the Liberty and Union Industrial Park having frontage on Stevens Street.

“Traffic Mitigation Costs” means the costs of the traffic mitigation measures identified on Exhibit C hereof.

“Tribal Codes” means ordinances setting forth codes adopted by the Tribe for building, fire, health and safety for the Subject Property.

“Tribal Code Compliance Officers” means Massachusetts licensed engineers, architects or similar experts who shall be knowledgeable regarding building, fire, health and safety codes generally to be retained by the Tribe.

“Tribal Council” means the duly elected Tribal Council of the Tribe.

“TMLP” means the Taunton Municipal Lighting Plant or its successor.

“Tribe” means the Mashpee Wampanoag Tribe, a federally-recognized Indian tribe.

“Trust Application” means the fee-to-trust application of the Tribe to the Department of the Interior, Bureau of Indian Affairs with respect to the Subject Property.

Section 2. Project.

A. Approvals.

The Tribe shall use its reasonable efforts to promptly apply for, pursue and obtain all Approvals necessary to design, develop, construct and operate the Project. Until all such Approvals are obtained, the Tribe shall provide the City, from time to time upon its request, but not more often than once each calendar month, with a written update of the status of such Approvals. If any Approvals are denied or unreasonably delayed, the Tribe shall provide prompt written notice thereof to the City. Upon obtaining such Approvals, the Tribe shall develop, construct and operate the Project in accordance with Project Standards. The City acknowledges and agrees, that notwithstanding the description of the Project on Exhibit B, the Tribe may alter the Project and the components thereof provided that any material change to the Project shall require the approval of the City which approval shall not unreasonably be withheld or delayed. So long as Gaming is permitted by law to be conducted at the Project, the primary business to be operated at the Subject Property shall be Gaming, and no business will be operated at the Subject Property which could reasonably be expected to have a material adverse effect on the conduct of Gaming at the Subject Property.

B. Financing Documents.

At least five (5) days prior to their execution, the Tribe shall submit to the City’s outside legal counsel pursuant to customary confidentiality agreements, drafts of all documents pertaining to the financing of the Project. The City shall have the right to review and comment on, but not approve, such financing arrangements.

C. Duty to Complete.

Except upon the occurrence of a Force Majeure Event, the Tribe shall use commercially reasonable efforts to complete each phase of the Project (as each such phase is detailed on Exhibit B) not later than the applicable Completion Date. Upon the occurrence of a Force Majeure Event, the Commencement Date(s) and Completion Date(s) shall be extended on a day-for-day basis but only for so long as the Force Majeure Event is in effect, plus such period of time not to exceed 90 days as the Tribe may require to remobilize its design and construction team, including its architect, general contractor, subcontractors and vendors of goods and services.

Section 3. Future Land Acquisition.

If the Tribe acquires lands in the City in addition to the Subject Property and subsequently seeks to conduct Gaming thereon, the Parties agree to reopen and negotiate in good faith an amendment to this Agreement to mitigate any impacts of such activities. Nothing in this Agreement is intended to restrict the right of the Tribe to acquire land outside of the City for any reason, and no such acquisition shall violate or trigger rights or obligations of either Party under this Agreement.

Section 4. Mitigation Measures.

The Parties agree that the Impact Payments are made in lieu of all taxes and other assessments otherwise due to the City and/or the City's departments, boards or commissions including, but not limited to, its school district and police and fire departments (but excluding any fees imposed under City Ordinances for inspections imposed pursuant to Section 12). In conjunction with the measures set forth herein, the Impact Payments constitute the Tribe's mitigation efforts and are in full and complete satisfaction of all Impacts whether or not identified in this Agreement.

Section 5. Mitigation and Impact Payments.

A. Payments in Lieu of Property Taxes.

The Tribe shall pay to the City annual payments in lieu of property taxes on the Subject Property, currently at a rate of \$27.62 per \$1,000 of assessed valuation (which rate is subject to adjustment to the rate on commercial property at the time the Subject Property is put into trust) based upon an assessed valuation of the Subject Property either (i) at the time the Subject Property is taken into trust, or (ii) on the date of this Agreement, whichever is greater, *plus* a three percent (3%) per year increase on the previous year's payment; *provided, however*, that commencing on the eleventh anniversary of the date on which the Subject Property is taken into trust there shall be no further annual escalation on the previous year's payment. All such payments shall be made annually on each anniversary date of the date on which the Subject Property is taken into trust.

B. Mitigation Payments.

- (1) In order to mitigate Impacts, the Tribe shall make an initial payment to the City in an amount equal to One Million Five Hundred Thousand Dollars

(\$1,500,000), on or before the date that is thirty (30) days after the date that the General Court of the Commonwealth approves the Compact.

(2) Commencing on the Opening Date and continuing thereafter, the Tribe shall pay to the City the Percentage Amount which amount, in any calendar year, shall not be less than the Guaranteed Amount, prorated for any partial year. The Percentage Amount shall be determined monthly on the last day of each calendar month commencing on the first such date to occur after the Opening Date. The Percentage Amount shall be remitted to the City in arrears on the last Business Day of the calendar month immediately following the month for which the Percentage Amount is determined; *provided, however*, that if by the terms of the Compact, the Tribe is required to make a payment to the Commonwealth based upon gaming revenue of the Casino on a basis more frequently than monthly, then the Tribe agrees to pay the Percentage Amount on a basis no less frequently than the Tribe is making such payments to the Commonwealth. On January 31 of each calendar year occurring after the Opening Date, the Tribe shall determine the aggregate Percentage Amounts paid to the City for the immediately preceding calendar year. If such amount is less than the Guaranteed Amount, prorated for any partial year, the Tribe shall pay to the City, no later than February 15 (or if such date is not a Business Day, then the Business Day immediately following February 15), an amount equal to the difference between such Guaranteed Amount and such aggregate Percentage Amounts.

C. One-Time Impact Costs. The Tribe shall pay the City all One-Time Impact Costs prior to their respective due dates as set forth herein, except to the extent that One-Time Impact Costs are included as a Bonded Cost and, therefore, paid as provided in Section 5.D hereof.

D. Bonding. The City shall use its reasonable efforts to issue, or to cause an instrumentality, authority or agency of the City or the Commonwealth having the authority to issue taxable and tax-exempt bonds to issue, special revenue bonds in the amount of the Bonded Costs. The Tribe shall provide, or cause to be provided by a creditworthy party, a guaranty, letter of credit or other credit enhancement to allow for the efficient issuance of such bonds. The Tribe shall pay, or cause to be paid, the principal, interest and issuance costs of bonds issued to finance the One-Time Payment Costs and Traffic Mitigation Costs. The City shall pay, or cause to be paid, the principal, interest and issuance costs of bonds issued to finance the Other City Infrastructure Costs.

E. Compulsive Gambling.

The Tribe recognizes that the operation of Gaming on the Subject Property may adversely impact individuals who suffer from problem or pathological gambling addiction disorders. Moreover, the Tribe is committed to supporting problem gambling education, awareness and treatment for such individuals. The Tribe shall make a contribution of Sixty Thousand Dollars (\$60,000) upon the opening of the Casino and Thirty Thousand Dollars (\$30,000) annually thereafter to a local center for the treatment of compulsive gambling. In addition, the Tribe will undertake the following actions prior to commencing Gaming on the

Subject Property: (i) the Tribe will provide annual training to front line staff personnel with respect to recognizing people that may have a gambling addiction; (ii) the Tribe will post signage conspicuously at every point of entry to the Gaming floor, the signage shall list the contact information of an agency or organization that can provide the appropriate assistance to persons experiencing a problem; and (iii) the Tribe shall have available and provide upon request, written materials outlining the various approved agencies where a patron can get assistance for problem gambling.

F. Identified Charities.

At least 90 days prior to the Opening Date, the City shall provide the Tribe with a list of any Identified Charities, along with accounting records sufficient to enable the Tribe to determine the Basis Amount. The Tribe may retain a CPA to review the financial data and report to the Tribe and the City findings as to whether that data is sufficient to support a conclusion as to the Basis Amount for each of the Identified Charities for that three year period. If the data is sufficient the CPA shall make a written report of the Basis Amounts. If the data is not sufficient, the CPA shall then make further inquiries, and attempt to gather sufficient information to make a finding as to the Basis Amounts. If the CPA reports that it is not possible to make a determination as to the Basis Amount for any given entity, the Tribe may then: (i) accept the claimed amount as the Basis Amount, or (ii) defer determination of the Basis Amount until such time as sufficient data is made available and the CPA reports that the data is sufficient to permit a finding of the Basis Amount. For each year following the Opening Date that an Identified Charity continues to operate a charitable bingo game on a consistent basis, the Tribe shall pay to each such Identified Charity an amount which, when combined with any bingo gaming revenues generated by such Identified Charity, for such year equals one hundred and five percent (105%) of the Basis Amount for such Identified Charity.

G. Wire Transfers.

The Tribe shall make all Impact Payments by wire transfer to an account or accounts specified in writing by the City no later than the date such Impact Payment is due and payable hereunder.

H. Financial Audits.

The City, or its representatives, shall have the right, upon reasonable prior notice to the Tribe, to examine those portions of the financial audits provided by the Tribe to the Commonwealth pursuant to the Compact related to the calculation of Net Slot Revenue or, if the Compact does not require that the Tribe provide such audits to the Commonwealth, the Tribe at its own expense shall cause an independent CPA to annually furnish to the City no later than 60 days following the end of each fiscal year of the Tribe, the calculation of Net Slot Revenue for the prior fiscal year.

I. Public Liability Insurance.

The Tribe shall obtain and maintain public liability insurance insuring the Tribe, its agents and employees against claims, demands or liability for bodily injury and property damages by or to patrons and other visitors at the Project arising out of or relating to the

operation, maintenance or use of the Project. Such liability insurance shall provide coverage according to limits as provided in the Compact, or if the Compact does not require that such insurance be provided, then of no less than Five Million Dollars (\$5,000,000) per person and Five Million Dollars (\$5,000,000) per occurrence for both negligent and intentional torts.

J. Outside Professional Fees.

The Tribe shall pay the reasonable and customary fees and expenses incurred by the City prior to the Opening Date for its engagement of consultants, attorneys and/or other third party professionals in connection with this Agreement. Such payments shall be made within 30 days of receipt of an invoice therefore from the City.

Section 6. Police, Fire Protection, Emergency Medical and Other Services.

The City through its consultants has estimated that the impact on the City of additional police, fire and emergency medical services shall be as set forth on Exhibit D hereto. The Parties agree to work cooperatively to evaluate and determine the appropriate staffing levels, training, amounts and types of equipment and necessary facilities to provide Additional Services, recognizing that the ultimate responsibility to provide Additional Services is with the City and therefore, the City must have the authority to determine the composition and timing of the Additional Services, planning, training of personnel, equipment and facilities. The Tribe shall be responsible for the payment of all costs of the Additional Services. The timing, amount, implementation and cost of the Additional Services shall be negotiated in good faith by the City and the Tribe within 90 days of the date of this Agreement or such longer period of time as the Parties may agree and the costs estimated on Exhibit D hereto shall be adjusted to reflect the results of such negotiations.

Section 7. Traffic Improvements.

A. Traffic Improvements.

The Tribe shall be responsible for the payment of all costs of improvements to transportation infrastructure including, but not limited to, road construction, bridges, road maintenance and traffic signals necessitated by the Project. The objective of such traffic improvements is to construct a road system by which traffic to and from the Project can have direct ingress and egress to the Subject Property via a major roadway without having to navigate through minor or residential roads within the City roadway network system and to provide integrated road system improvements that will mitigate adverse traffic impacts caused by the Project and to allow safe flow of traffic to and from the Project particularly on Stevens Street and along Route 140 and Route 24 servicing the Project and other state and local roads without adverse impact to the City. The Tribe shall ensure that in no event may it cause the public road system to operate below a level of service "D" for intersection delay during peak traffic hours. Level of service "D" standards shall be determined based upon the most recently adopted version of the Highway Capacity Manual Transportation Research Board. The timing, amount, implementation and cost of the traffic improvements set forth on Exhibit C hereto shall be negotiated in good faith by the City and the Tribe within 90 days of the date of this Agreement or such longer period of time as the Parties may agree and such traffic improvements set forth on

Exhibit C shall be adjusted to reflect the results of such negotiations. Prior to the Opening Date, the Tribe at its sole cost shall cause to be constructed or otherwise implemented the traffic improvements set forth on Exhibit C hereto, as such exhibit may be adjusted as a result of negotiations by the Parties.

B. Mitigation.

Prior to the Opening Date, the Tribe shall use its reasonable efforts to mitigate traffic, safety and circulation issues relating to ingress and egress to the Subject Property. Mitigation shall include but not limited to transportation demand management and traffic calming measures. Ingress and egress to the Subject Property by the public, employees or service vehicles shall be via major Routes (Route 24 and Route 140) only and no other roads adjacent to the Subject Property. All other entries to the Subject Property shall be secured and may only be used for ingress and egress under emergency conditions.

C. Additional Traffic Improvements.

The Tribe and City agree to work cooperatively to seek funding from the Commonwealth and the federal government to construct improvements on Routes 140 and 24 in an effort to mitigate regional traffic concerns as contemplated by MassDOT prior to the date of this Agreement.

Section 8. TMLP Electricity.

The Tribe may contract with the TMLP for some or all of its electricity from time to time.

Section 9. Water Service.

A. Water Fees and Charges.

The Tribe shall pay all water connection fees and monthly water service charges at standard commercial rates, and pay or reimburse the City for all costs required to construct water system infrastructure improvements required to reliably expand the water system to accommodate the anticipated water needs (including fire protection) of the Project. Such costs are estimated as set forth on Exhibit D hereto. The cost of any such improvements shall be at the City's then current charges which shall include the cost of material and labor. Labor costs shall include all benefits such as estimated pension costs, medical insurance, vacations and days-off so as to fully reimburse the City. The timing, amount, implementation and cost of the water service improvements set forth on Exhibit D hereto shall be negotiated in good faith by the City and the Tribe within 90 days of the date of this Agreement or such longer period of time as the Parties may agree and the costs estimated on Exhibit D hereto shall be adjusted to reflect the results of such negotiations.

B. Inspection. The Opening Date shall not occur until water service is completed, inspected and approved by inspectors designated by the City. Any approvals by the City required to implement this Section shall not be unreasonably withheld, and the standards referred to in this Section shall be substantially identical to those applied by the City to other similar users.

C. **Onsite Improvements.** The Tribe may explore the potential for on-site water supply for potable consumption and/or irrigation as a means to reduce the Project's demands on the City's water supply system.

Section 10. Sewer and Wastewater Service.

A. Sewer and Wastewater Charges and Fees.

The Tribe shall provide for sewage conveyance, treatment and disposal generated at the Subject Property by connection to the City's existing sewer collection system. The Tribe shall pay all sewer connection fees and monthly sewer service charges at standard commercial rates, provide required easements for sewer infrastructure within the Subject Property (if needed), construct its sewer infrastructure to the City's and Commonwealth's sewer infrastructure standards and pay all costs of constructing sewer infrastructure necessary to connect the Project to existing sewer services. Such costs are currently estimated on Exhibit D hereto. The timing, amount, implementation and cost of the sewer and wastewater improvements set forth on Exhibit D hereto shall be negotiated in good faith by the City and the Tribe within 90 days of the date of this Agreement or such longer period of time as the Parties may agree and the costs estimated on Exhibit D hereto shall be adjusted to reflect the results of such negotiations.

B. Inspection.

No use shall occur on or off the Subject Property until sewer service is completed, inspected and approved by inspectors designated by the City. Any approvals by the City required to implement this Section shall not be unreasonably withheld, and the standards referred to in this Section shall be substantially identical to those applied by the City to other similar users.

C. On Site Improvements.

The Tribe shall investigate developing on-site wastewater reclamation capacity to reduce sewage flows to the City's publicly owned treatment works facility.

Section 11. Solid Waste Disposal.

The Tribe shall contract with a private waste hauler for disposal of solid waste and recycled materials generated by the Project and pay all fees associated therewith, and the City shall have no obligation to provide solid waste disposal services to the Tribe.

Section 12. Ordinances and Inspection.

A. Tribal Codes.

In order to protect the health and safety of all patrons, guests and employees of the Project, the Project shall meet the building, health and safety codes established by the Tribe. The Tribe shall adopt Tribal Codes that are no less restrictive than similar codes now or hereafter in effect in the Commonwealth and/or the City. The Tribe shall retain or hire, as third parties reasonably acceptable to the City, Tribal Code Compliance Officers, who shall be knowledgeable regarding building, health and safety codes generally (including the Tribal

Codes). The Tribal Code Compliance Officers shall be responsible for (i) reviewing the Project's plans and specifications in order to confirm that the Project's design and construction meet the minimum standards set forth in, and otherwise comply with, the Tribal Codes; (ii) granting all building permits for the Project in compliance with such Tribal Codes; and (iii) conducting all inspections to assure compliance with the Project's plans and specifications and all building permits.

B. Health Inspections.

The Tribe hereby grants to the City health inspector a limited license to access the Subject Property upon reasonable prior notice to a designated representative of the Tribe for the sole purpose of inspecting the compliance of the Tribe with the Tribal Codes as to health and safety, specifically as to any food service operations or restaurants within the Project. The Tribe agrees to contract with the City for purposes for hiring City health inspectors to determine such compliance. The Tribe shall pay the cost of such health inspectors based on the actual salary and benefits paid to each health inspector by the City, prorated for the actual number of hours spent by such inspectors on such inspections. When on the Subject Property, the City health inspector shall be accompanied by a designated representative of the Tribe.

C. Dispute Resolution.

In the event either (i) the City believes that the Tribal Codes are less restrictive than similar codes now in effect in the Commonwealth or the City, or (ii) the Project is not being constructed in accordance with the Project's plans and specifications or such construction or the operations of the Casino or its food service operations or restaurants is in violation of the Tribal Codes, then the dispute resolution procedures of Section 20.I. may be invoked by the City.

D. License for Access.

The Tribe hereby grants to the Taunton Police Department, the Taunton Fire Department, emergency responders and any applicable City inspectors, a limited license to access the Subject Property as necessary to determine the compliance by the Tribe with the Tribal Codes. The City shall provide the Tribe with advance notice of scheduled or regular inspections, and such inspections shall be made during normal business hours and such inspectors shall be accompanied by a designated representative of the Tribe. Such notice shall be made by telephone or e-mail to such telephone number or e-mail address designated in writing by the Tribe from time to time.

Section 13. Consultation on Project Design.

Without compromise of its sovereign rights, the Tribe shall consult, in good faith, with the City Planning Department in order to elicit City input on Project siting, design and the best practices to mitigate light pollution and noise, including input on the best available technology to achieve those objectives. Such consultation will also focus on the maintenance or placement of site buffers or other effective forms of screening as may be necessary to visually screen the Project's buildings, structures and parking areas from residential and historic areas of the City.

Section 14. Green Construction.

The Tribe shall use commercially reasonable efforts to utilize sustainable development and construction principles and environmentally friendly construction methods with the goal of striving to construct a building that is both economically feasible and substantially compliant with the Leadership in Environmental and Energy Design (LEED) program; *provided, however*, that the Project shall not be required hereunder to obtain an actual certification under the LEED program.

Section 15. Police Protection.

A. Police Protection.

It is anticipated that the provision of police protection to the Subject Property will be addressed in the Compact. It is currently anticipated that such police protection will be provided by the City. In the event the Tribe establishes a tribal police force for the Subject Property, (i) the Parties shall meet and negotiate in good faith for a cross-deputization and mutual aid agreement identifying the respective jurisdictional activities of the tribal police force and the City Police Department; and (ii) the City will assist the Tribe in its establishment of a tribal police force, including working cooperatively to seek federal funds available to recognized Indian Tribes for public safety and police services; provided that the Tribe remains responsible to pay or reimburse the City for any costs incurred by the City in providing such assistance.

B. Special Events.

Whenever the Tribe schedules a special event on the Subject Property, the Tribe shall consult with the City as to whether additional police assistance is required for the health, safety and welfare of Casino patrons, employees and City residents. If the Parties determine that such assistance is required, the Tribe will reimburse to the City for the full costs of police coverage of such events in accordance with an agreement which will be reviewed on an annual basis.

Section 16. Local Hiring and Purchasing Preference.

Subject to employment and vendor preferences relating to tribal members, the Tribe shall work in good faith with the City to: (i) employ (or cause its contractors to employ) City residents during construction and operation of the Project and (ii) purchase goods and services from local vendors provided that the cost and quality is competitive with other sources. The Tribe shall provide the City with semi-annual written reports detailing its compliance with the requirements of this Section.

Section 17. Prohibited Activities.

The Tribe agrees that the following activities shall not be permitted at any time at the Subject Property, and will adopt an ordinance prohibiting them and providing for the enforcement of these prohibitions:

A. Gambling Prohibited for Minors.

Persons under the age of 21 shall not be allowed to gamble. Individuals under the age of 21 may pass through Gaming rooms or areas only if they are *en route* to a non-gaming room or area of the Casino.

B. Alcohol Prohibited for Minors.

Persons under the age of 21 shall not be allowed to purchase, consume, or otherwise possess alcoholic beverages. All alcohol beverage service shall be subject to liquor laws of the Commonwealth, the County and the City, to the extent applicable, and any federally approved liquor ordinance of the Tribe.

C. Nude Entertainment Prohibited.

Nude entertainment, nude dancing, or venues containing nudity shall not be permitted at the Subject Property.

Section 18. Undertakings of the City.

In consideration for the mitigation measures to be undertaken by the Tribe in this Agreement, and in further recognition of the many benefits the Project will bring to the City, the City shall do the following:

A. Municipal Services.

The City shall provide the services identified in this Agreement. Except as otherwise provided for herein, the City shall provide normal and customary general municipal services to the Project as are available to residents and other commercial entities situated in the City.

B. Response to Comments.

The City shall reasonably assist the Tribe in responding to negative comments about the Project, reiterating the City's support and the basis therefor.

C. Intervention in Litigation.

Upon the written request of the Tribe, the City shall defend, intervene in or participate as *amicus curiae* in any lawsuit challenging any City, Commonwealth or federal approvals necessary for gaming to occur on the Subject Property including an appeal of or legal challenge to, this Agreement, *provided, however*, that if the Tribe shall request the City to defend, intervene or participate in any such lawsuit, the Parties shall agree upon a budget for the costs of such defense, intervention or participation (such costs to include disbursements and fees for outside attorneys and consultants), and the Tribe shall be responsible for the payment of all such budgeted costs.

D. Letters of Support.

The City shall prepare and forward letters of support for the Trust Application and Compact to the United States Department of the Interior, the Governor, and key members of the

Massachusetts State Legislature as jointly identified by the Parties when reasonably requested by the Tribe.

Section 19. Tribal-City Advisory Committee.

In matters other than issues appropriately arising under the dispute resolution provisions of Section 20.I, the City and the Tribe shall establish a permanent Advisory Committee. The jurisdiction of the Advisory Committee shall encompass any matter within the scope of this Agreement including questions related to implementation of the Agreement, subject to Section 20.I. The Advisory Committee will be organized within three (3) months of the Opening Date.

A. Composition.

The Advisory Committee shall be composed as follows: one (1) member of the Municipal Council or its designee; the Mayor or her/his representative; one (1) resident of East Taunton to be appointed by the Mayor; one (1) representative of a community organization established to address the local impacts of gambling as designated by the Mayor; four (4) representatives of the Tribe; and one (1) member who shall be selected by the other eight (8) members of the Advisory Committee. Members of the Advisory Committee shall serve at the pleasure of their respective appointing authorities.

B. Meeting Times and Locations.

The Advisory Committee shall meet quarterly or as otherwise needed at locations within the City or at the Subject Property according to procedures established by the Advisory Committee.

C. Authority of Committee.

The Advisory Committee may make recommendations to the Tribe and the City, including amendments to this Agreement, which both Parties shall consider before taking any action on an Advisory Committee recommendation. In addition, the Advisory Committee will work with the Tribe and the appropriate departments of the City to develop local tourist attractions and the marketing thereof for the mutual benefit of the Parties and enhancement of the Tribe's intention to create a travel destination for its customers.

Section 20. General Provisions.

A. Notices.

Any notices, consents, demands, requests, approvals, and other communications to be given under this Agreement by any Party to the other shall be deemed to have been duly given if given in writing and personally delivered, or sent by nationally recognized overnight courier, or sent by certified mail, postage prepaid, with return receipt requested, at the following addresses:

If to the City:
City of Taunton
141 Oak Street
Taunton, MA 02780
Attn: Mayor

With a copy to:
City of Taunton
141 Oak Street
Taunton, MA 02780
Attn: City Solicitor

If to the Tribe:
Mashpee Wampanoag Tribe
483 Great Neck Road South
Mashpee, MA 02649
Attn: Tribal Chairman

With a copy to:
Stephen I. Burr, Esq.
Rackemann Sawyer & Brewster, P.C.
160 Federal Street
Boston, MA 02110

Notices delivered personally or by courier, shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of 10:00 am on the third Business Day after mailing. Any Party may change its address for notice hereunder by giving notice of such change in the manner provided in this Section.

B. Assignment.

The City consents to the Tribe's assignment of this Agreement to the Authority, which will own and operate all of the assets related to the Project. The Authority shall be bound by this Agreement and the Tribe agrees to provide prior to such assignment a Tribal Council resolution authorizing the Tribe's limited waiver of the Authority's sovereign immunity acceptable to the City in its reasonable discretion. Notwithstanding the provisions of this Section, the Tribe's obligations to the City under this Agreement shall survive the assignment thereof.

C. Binding Effect.

This Agreement shall be binding upon the Parties, together with their respective successors, and permitted assigns.

D. Independent Covenants; Severability.

The existence of any claim or cause of action of any Party ("First Party") against the other Party ("Second Party"), whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Second Party of the covenants and agreements of the First Party contained in this Agreement. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, or by a decision of the United States Secretary of Interior, Bureau of Indian Affairs or agency charged with review of Agreements entered into with Indian Tribes, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance here from. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

E. Language; Captions; References.

Whenever the context requires, references in this Agreement to the singular number shall include the plural, the plural number shall include the singular, and words denoting gender shall include the masculine, feminine, and neuter. Section headings in this Agreement are for convenience of reference only and shall not be considered in construing or interpreting this Agreement. "Hereof," "hereto," "herein," and words of similar import used in this Agreement shall be deemed references to this Agreement as a whole, and not to any particular section, paragraph, or other provision of this Agreement unless the context specifically indicates to the contrary. Any reference to a particular "section" shall be construed as referring to the indicated section of this Agreement unless the context indicates to the contrary. Whenever the term "including" is used herein, it shall mean including without limitation.

F. Ambiguities.

The general rule of contract construction that any ambiguity in a contract will be construed against the party drafting such contract shall not apply to this Agreement.

G. No Third Party Beneficiaries.

This Agreement does not create, and shall not be construed as creating, any right enforceable by any person not a party to this Agreement. Any covenant or agreement contained in this Agreement shall be only for the benefit of the Parties and their respective successors and permitted assigns.

H. Relationship of the Parties.

Nothing in this Agreement shall create or be deemed to create the relationship of partners, joint venturers, employer-employee, fiduciaries or principal-agent among the Parties, nor shall any Party have any authority to assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of any other Party or to bind any other Party in any manner whatsoever, nor shall any Party make any representation, warranty, covenant, agreement, or commitment on behalf of any other Party.

I. Limited Waivers of Sovereign Immunity and Dispute Resolution.

(1) By the City. The City hereby waives its immunity, if any, in the Courts of the Commonwealth or federal courts of appropriate jurisdiction, in favor of the Tribe for the purpose of resolving all Disputes. This includes compulsory arbitration of Disputes as provided for herein and permitting the Massachusetts state courts to compel such arbitration and to enforce the terms of any award or order resulting from such arbitration.

(2) By the Tribe. The Tribe hereby waives its sovereign immunity in the courts of the Commonwealth or federal courts of appropriate jurisdiction in favor of the City for the purpose of resolving all Disputes. This includes compulsory arbitration of all Disputes as provided for herein and permitting the Massachusetts state courts to compel such arbitration and to enforce the terms of any award or order resulting from such arbitration. The Tribe also expressly forgoes and waives any claim that the exhaustion of any tribal court proceeding is or will be a necessary prerequisite to the initiation or maintenance of any actions subject to the waivers herein.

The Parties also agree that to the extent any suit is commenced as provided for herein, such suit shall be brought in the Court (and appeals therefrom shall be brought in the Massachusetts Appellate Courts) and the Parties hereby consent to the jurisdiction of the Court.

(3) Disputes. It is acknowledged by the Parties that a quick and efficient resolution of any Dispute is critical to the implementation of this Agreement. In order to effectuate such intent, the Parties do hereby establish this dispute resolution procedure. All Disputes shall be subject to this Section, it being the intention of the Parties that all such Disputes be subject thereto regardless of any specific reference or absence of such reference as provided herein. No time bar defenses shall be available based upon the passage of time during any negotiation called for by this Section. The Parties mutually agree that unless prohibited by law each Party shall keep the existence and subject matter of the Disputes and any information concerning any resulting arbitration proceeding as well as the terms of any settlement or award strictly confidential.

(4) Dispute Notice. Either Party shall give the other a Dispute Notice which Dispute Notice shall set forth the amount of loss, damage, and cost of expense claimed, if any.

(5) Good Faith Negotiations Within 10 days of the Dispute Notice the Parties shall meet to negotiate in good faith to resolve the Dispute. Separately and independently, either Party may seek injunctive relief from the Court, to maintain the status quo during the following dispute resolution process, upon or after service of a Dispute Notice by one Party upon the other.

(6) Arbitration. In the event the Dispute is unresolved within 30 days of the Dispute Notice by good faith negotiations, the Dispute shall be arbitrated by a single arbitrator through and administered by the AAA upon the filing by either Party of a written demand with AAA, with notice to the other Party. Further, the Dispute shall be subject to the Commercial Arbitration Rules of the AAA effective June 1, 2009 and as may be amended thereafter. The Parties also agree that the Dispute shall be arbitrated in Boston, Massachusetts, before an arbitrator selected pursuant to the AAA's arbitration selection process. Upon such Dispute being submitted to the AAA for resolution, the AAA and the arbitrator shall assume exclusive jurisdiction over the Dispute.

Notwithstanding anything herein to the contrary set forth in this Agreement, the Parties agree they shall promptly exchange all documents relevant to the Dispute, the identity and location of all witnesses who have personal knowledge of the facts relating to the Dispute and shall be limited to no more than five (5) depositions by each Party. The intention of the Parties is that all Disputes shall be arbitrated expeditiously.

For each issue decided by the arbitrator, the arbitrator shall award the expenses of the proceeding, including reasonable attorneys' fees, to the prevailing Party with respect to such issue. The arbitrator in arriving at his decision shall consider the pertinent facts and circumstances as presented in evidence and be governed by the terms and provisions of this Agreement and applicable law. To the extent any provisions of this Agreement are inconsistent with the AAA Rules, this Agreement shall control.

Any arbitration award may be entered as a judgment in the Court and the Parties consent to the Court's jurisdiction for purposes of entering and enforcement of such judgment. A printed transcript of any such arbitration proceeding shall be kept and each of the Parties shall have the right to request a copy of such transcript, at its sole cost.

The Parties agree that, in addition to monetary relief, the arbitrator may make an award of equitable relief including but not limited to a temporary, preliminary or permanent injunction and the Parties further agree that the arbitrator is empowered to enforce any of the provisions of this Agreement. The arbitrator shall issue a reasoned opinion in support of each award in excess of Seventy-Five Thousand (\$75,000). The arbitrator shall not have the authority to issue punitive damages. Notwithstanding anything to the contrary set forth in this Agreement, the City agrees that, other than the payments set forth in Section 20.M(2), any recovery of a monetary judgment against the Tribe shall be enforced solely against Net Slot Revenues.

J. Choice of Law.

The laws of the Commonwealth shall govern the validity or enforceability and the interpretation and construction of all provisions of this Agreement and all issues hereunder.

K. Judicial Review.

The Parties consent to all actions for enforcement of all awards in arbitration, which actions shall be in the Superior Court of the County.

L. Effective Date.

This Agreement shall become effective on the last to occur of: (i) the date that this Agreement is executed by both Parties; and (ii) the date that the voters of the City approve the Referendum.

M. Termination by the Tribe.

(1) At any time before the Subject Property is taken into trust by the United States, the Tribe may elect to terminate this Agreement without penalty provided that the Tribe has paid the City all of its actual out-of-pocket expenses relating to the Project and this Agreement and, provided that the condition set forth in Section 5.B1 hereof has been satisfied, the payment to the City of the amount set forth in Section 5.B1 hereof.

(2) After the Subject Property is taken into trust by the United States, and provided that the Tribe is not in default or breach of any of its covenants or obligations to the City hereunder, the Tribe may terminate its obligation to construct the Project (but not any other obligation or provision of the Agreement) upon payment to the City (i) all of its actual out of pocket expenses relating to the Project and this Agreement; and (ii) the sum of Five Million Dollars (\$5,000,000), payable from the Tribe's Gaming revenues.

(3) The foregoing payments shall be the City's sole and exclusive remedy for any decision by the Tribe to not proceed with the Project in the City for any or no reason.

N. Amendment/Modification.

This Agreement may not be modified or amended except by a writing of equal formality signed by both Parties. The Tribe agrees that it will not adopt any resolution (i) negating or impairing the provisions of this Agreement, or (ii) revoking, modifying or changing the Tribe's limited waiver of sovereign immunity set forth in this Agreement.

O. Good Faith and Fair Dealing.

The Parties to this Agreement agree that this Agreement imposes on them a duty of good faith and fair dealing.

P. Indemnification.

(1) The Tribe agrees to and shall indemnify, defend, protect, and hold harmless the City from and against any and all Claims, and in case any action or proceeding be brought against the City (or the City's agents, employees, contractors, subcontractors or legal counsel) by reason of any such Claim, the Tribe upon notice from the City shall have the option to defend the City relative to such Claim at the Tribe's expense by counsel reasonably satisfactory to the City. However, in the event that the Tribe does not elect to defend the action or proceeding, the City shall defend the same, at the Tribe's expense, and shall consult with the Tribe during the pendency of the action or proceeding.

(2) The City agrees to and shall indemnify, defend, protect, and hold harmless the Tribe from and against any and all Claims, and in case any action or proceeding be brought against the Tribe (or the Tribe's agents, employees, contractors, subcontractors or legal counsel) by reason of any such Claim, the City upon notice from the Tribe shall have the option to defend the Tribe relative to such Claim at the City's expense by counsel reasonably satisfactory to the Tribe. However, in the event that the City does not elect to defend the action or proceeding, the Tribe shall defend the same, at the City's expense, and shall consult with the City during the pendency of the action or proceeding.

(3) Notwithstanding the foregoing provisions of this Section 20.P: (i) the City shall be liable to the Tribe under the provisions of this Section 20.P only to the extent that the City would have been liable under applicable statutes of the Commonwealth had the action or proceeding giving rise to the Claim for which indemnification is being sought been brought by a non-Party; and (ii) the Tribe shall be liable to the City under the provisions of this Section 20.P only to the same extent that the Tribe would have been liable assuming the same applicable statutes of the Commonwealth were also applicable to the Tribe had the action or proceeding giving rise to the Claim for which indemnification is being sought been brought by a non-Party.

Q. Entire Agreement/Merger.

This Agreement contains the entire agreement between the Parties and supersedes any and all other agreements, either oral or written, between the Parties with respect to the subject matter. This Agreement may only be amended in writing with the approval of both Parties.

R. Approval by the Department of the Interior.

At a mutually acceptable time, the Parties agree to submit this Agreement to the Department of the Interior for either (i) approval pursuant to 25 U.S.C. § 81 or (ii) a written reply from the Department of the Interior that this Agreement does not require approval under 25 U.S.C. § 81 to be enforceable.

S. Execution in Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall constitute an original, and all of which, when taken together, shall constitute but one and the same instrument.

Section 21. Additional Covenants.

On or before June 9, 2012:

- (1) The Tribe shall: (i) adopt a Tribal Council resolution of limited waiver of sovereign immunity in reasonable and customary form consistent with the provisions of this Agreement, which formally waives the sovereign immunity of the Tribe exclusively in favor of the City as to Disputes, and (ii) deliver to the City the Legal Opinion; and
- (2) The City shall deliver to the Tribe the Legal Opinion.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement to be effective as of the date first above written.

City of Taunton

Mashpee Wampanoag Tribe

By: Thomas C. Hoye, Jr.
Title: Mayor

By: Cedric Cromwell
Title: Chairman

Approved as to form and character:

By: Jason D. Buffington
Title: City Solicitor

Exhibit A

Map of the Subject Property

Exhibit B
Description of the Project

PHASE 1

Casino – 150,000 Sq. Ft.

3,000 slots

150 table games

40 poker tables

Food & Beverage

Food Court – 7 to 10 branded themed outlets

International Buffet

Two Fine Dining Restaurants

Steakhouse / Seafood

Asian Restaurant

Center Bar with lounge seats and small stage

Retail – 10 retail stores

2,500 to 3,200 space parking garage and 2,085 surface parking spaces

PHASE 2

300 Room 3.5 to 4 Star Hotel

Additional gaming space

12 to 15 Stories in height

Spa

Large Pool

Roof Terrace

6 Event / Meeting Rooms

PHASE 3

300 Room mid-range hotel

12 to 15 Stories in height

200 seat 24 hour café restaurant

PHASE 4

15,000 Sq. Ft. Event Center

300 Room Family “Water Park” Hotel (12 to 15 stories in height)

25,000 Sq. Ft. Indoor/Outdoor Water Park

700 surface parking spots

Exhibit C

Traffic Mitigation Measures

Proposed geometric and traffic signal improvements measures to mitigate identified traffic impacts are discussed in this Exhibit. Any measures affecting state-controlled highways or signals will be coordinated with and approved by MassDOT.

Route 24/Route 140 Interchange

As stated above, the Massachusetts Department of Transportation, in conjunction with replacing the structurally deficient Route 24 bridge over Route 140 and addressing regional traffic concerns has investigated a number of conceptual alternatives for relieving traffic congestion, accommodating a potential future widening of Route 24 and improving pedestrian and bicycle accommodations at the interchange of Route 24 with Route 140 in Taunton (MassDOT Project #605888). Improvements at this location have been under consideration since the mid-1990's by the Southeast Regional Planning and Economic Development District (SERPEDD). In 2003, improvements were studied in relationship to proposed LUIP development; in 2008 acceleration and deceleration lanes were added to Route 24 to accommodate periodic queues generated by the interchange. At the present time, alternatives for improvements have been identified but the project has not reached the feasibility study stage.

Given the long-term time frame necessary for planning, permitting, design and construction, it is not realistic to expect that these improvements will be available in time for the opening of the proposed casino. For this reason, interim improvements are proposed to improve the existing operation of the interchange and accommodate casino traffic, as follows. The proponent and City will continue to work with MassDOT to develop a long-term interchange alternative which when realized will accommodate all projected traffic volumes including the potential revitalization of the Silver City Galleria Mall.

Route 24 SB Ramp (Exit 12B)/County Street (Route 140) Interchange

At the Route 24 SB Ramp, the Route 140 NB approach will be widened to accommodate 2 left-turn lanes and 2 through lanes just beyond the Route 24 overpass, as shown in **Figure C-1**. The widening required will not affect the Route 24 bridge abutments. The Route 24 SB off-ramp approach which we realigned and widened to have double left-turn lanes and a single channelized right-turn lane, which will enter into its own lane allowing a free, uninterrupted movement. Widening of the ramp is required to open up the single lane ramp to 2 lanes prior to approaching Route 140. The right-turn lane will be signalized so as to not conflict with the northbound double left-turning movement. The Route 140 SB approach will be widened to allow 2 through lanes and a channelized right-turn lane, capable of accommodating the resultant queues. Route 140 SB beneath Route 24 will be widened to accommodate two through lanes and a barrier separated through lane which accommodates the free right turn from the Route 24 SB off-ramp. This improvement will include updating all traffic signal equipment. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Route 24 NB Ramp (Exit 12A)/County Street (Route 140)

At the Route 24 NB Ramp, the Route 140 SB approach will have 2 through lanes, an added lane from the Route 24 SB ramp, and 1 exclusive left-turn lane. The northbound approach will have 2 through lanes and 2 channelized right-turn lanes, as shown in **Figure C-1**. Under existing conditions, the channelized right-turn lane operates under yield control. With the addition of another lane for the right-turning movement, the channelized right-turns will be signalized. The Route 140 NB right turn approach will be widened to allow two channelized right-turn lanes, capable of accommodating the resultant queues, that will taper to one lane onto Route 24 NB. This improvement will include updating all traffic signal equipment. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Galleria Mall Drive South/County Street/Route 140 SB Ramps (Exit 11A)

The majority of trips to the project site are expected to use Route 140 SB via Exit 11A. Currently, the Exit 11A ramp to the Stevens Street Connector has vehicular traffic entering into its own lane and then merges with traffic from County Street after approximately 150 feet. The volume from County Street and the Galleria Mall is minimal compared to that coming from Route 140 SB. To facilitate continuous flow from Route 140 SB to the Stevens Street Connector, it is proposed that the ramp maintain its own lane, while the County Street traffic merges from 2 lanes to 1 lane before meeting with the Route 140 SB ramp traffic, as shown in **Figure C-2**. The Stevens Street Overpass centerline will shift to the west to allow for 3 travel lanes as it approaches the signal at the Overpass Connector/Route 140 NB Ramps/Stevens Street intersection. The Stevens Street Overpass bridge will restriped to consist of 3 travel lanes in the northbound and 1 travel lane in the southbound directions. This improvement will include updating all traffic signal equipment. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Overpass Connector/Route 140 NB Ramps/Stevens Street Intersection

The existing signalization at this intersection cannot process the volumes being added to the northbound Stevens Street Overpass approach and the southbound Stevens Street left-turn lanes efficiently. To improve operations, it is suggested that the conflict between these 2 heavy movements be removed. A new ramp is proposed on Stevens Street to the north of this intersection to allow all Stevens Street southbound traffic to access Route 140 NB prior to this intersection, as shown in **Figure C-3**. This will remove the need for the double southbound left-turn at this intersection, requiring only a single shared through/right-turn lane for the Stevens Street southbound approach. The northbound Stevens Street Overpass Approach will have 3 through lanes and a channelized right-turn island. The northbound and eastbound approaches will continue to access Route 140 NB as they currently do. This intersection shall be coordinated with the intersection of O'Connell Way/Stevens Street/LUIP Phase 1 Drive. This improvement will include updating all traffic signal equipment. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Route 140 NB (between Exit 11 and 12)

The additional ramp from Stevens Street will require some widening of Route 140 NB where the ramp meets the highway. Since the new ramp will enter Route 140 NB approximately 700 feet from the existing on-ramp to the south, it is proposed that this ramp be separated from the main line traffic by a barrier, as shown in **Figure C-3**. The traffic from both ramps will merge together before joining with main line Route 140 NB traffic. In addition, Route 140 NB will be widened from 2 lanes to 3 lanes between the new ramp and the approach to the Route 24 NB on-ramp. The approach to the Route 24 northbound ramp will be widened to allow for a double right turn to the ramp as mentioned previously. This improvement will include all planning, permitting, design and construction costs associated with implementing this improvement.

Site Driveways

O'Connell Way/Stevens Street/LUIP Phase 1 Drive

With the added volume at the southern end of Stevens Street and into and out of the project site, O'Connell Way/Stevens Street will need to be signalized. As shown in **Figure C-4**, the northbound Stevens Street approach will have 2 left-turn lanes, a through lane, and a right-turn lane. The southbound approach will continue to have a left-turn lane and a through/right-turn lane. The eastbound site drive approach will operate as an uninterrupted channelized right-turn, which will enter into its own lane on Stevens Street. This will allow immediate access onto the new ramp to Route 140 NB. Left-turns and through movements will not be allowed out of the main site driveway, physically restricted by geometry. The westbound approach will operate as left-turn/through lane and a right-turn lane. This intersection shall be coordinated with the intersection of Overpass Connector/Route 140 NB Ramps/Stevens Street Intersection. This improvement will include updating all traffic signal equipment. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Stevens Street/Proposed Casino Service Road

A secondary service road has been proposed to the east of the proposed garage to accommodate service vehicles generated by Crossroads Center and by the casino itself, as shown in **Figure C-5**. The garage exits will be signed so as to prohibit right turns by casino patrons or employees on to that service road. Further, the proponent will work with the City of Taunton and MassDOT to investigate a truck exclusion on Stevens Street north of the service driveway. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Route 140 West of Route 24 Improvements

MassDOT Project #605191 involves roadway reconstruction, median installation and sidewalk reconstruction on Route 140 in the City of Taunton. Also included are traffic signal upgrades and drainage improvements. Additionally, MassDOT Project #605679 included the total reconstruction of Harts Four Corners. Four study area intersections with Route 140 are

included in this project area: Hart's Four Corners, Mozzone Boulevard, Hess Gas Station/Bristol-Plymouth High School and Erika Drive. While the MassDOT project will widen the road and make positive changes to today's operations, Project-related mitigation at intersections in this corridor include the following measures.

Mozzone Boulevard/County Street (Route 140)

At Mozzone Boulevard/County Street, the northbound Route 140 left-turn movement is very difficult to make during the weekday evening and Saturday mid-day peak hours. Due to the high volumes making this move, the left-most northbound lane operates as a de facto left-turn lane during these times. With added volumes on Route 140, it will be even more difficult to find acceptable gaps in the southbound traffic in order to make the northbound left-turn movement.

To improve operations, a short leading northbound phase is proposed to allow left-turning vehicles to make protected and permissive turns. Re-striping the northbound lanes to have a left-turn only lane and a through lane would allow the leading northbound phase to be actuated only when vehicles are detected in the left-most lane. This signal shall be coordinated with the signals at Erika Drive, the Bristol Plymouth High School Drive and the Route 24/140 interchange. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Bristol Plymouth HS Drive/County Street (Route 140)

The high school driveway and Hess station approaches to this intersection currently operate with significant delays to the driveways, particularly the traffic leaving Bristol-Plymouth High School. With the additional volumes along County Street, the delay for these driveway movements will increase. It is proposed that this intersection, if warranted, be signalized to allow vehicles to enter and exit the driveways more easily. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Erika Drive/County Street (Route 140)

During the Saturday mid-day peak hour, the Erika Drive approach worsens under Build Conditions. By updating the cycle length and phasing splits at this location, all approaches can achieve acceptable operations during all peak hours. No geometric changes are necessary at this intersection. Costs associated with this improvement will include updating the traffic signal controller.

If the casino opening date precedes the implementation of MassDOT project#605191 the intersections of Mozzone Boulevard, Erika Drive and (if constructed) Bristol Plymouth HS Drive shall be coordinated during peak hours as a condition of this mitigation proposal.

Hart's Four Corners -- Hart Street/County Street (Route 140)

This location is assigned as MassDOT project #605679. The 25% plans were approved in September 2011, and design is progressing. The current design proposes that both County Street approaches be widened to 3 lanes consisting of a left-turn lane, a through lane, and a shared

through/right-turn. The lane usage for the Hart Street approaches is proposed to remain as a shared left-turn/through lane and a right-turn lane. To further improve operations at this location, it is suggested that both Hart Street approaches be widened at the intersection to include a left-turn lane, a through lane, and a right-turn lane. All planning, permitting and construction costs associated with implementing these improvements are included in this improvement.

County Street (Route 140)/Gordon M. Owen Riverway Extension

Under Existing Conditions, the Gordon M. Owen Riverway Extension approach operates with considerable delay during the peak hours. By adjusting the phasing splits at this intersection, the delay for this approach and the intersection overall can be improved. No geometric changes are necessary at this intersection. This improvement will include all costs of updating the traffic signal equipment.

Improvements at Other Locations

High Street/Winthrop Street

The High Street westbound left-turn movement worsens during the weekday morning and Saturday mid-day peak hours, respectively. During the evening peak hour, the Winthrop Street southbound approach also worsens. While this location is already nearing capacity during the evening peak hour under Existing Conditions, mitigation can be done to lessen the impact of the added trips and even improve the operations over the Existing Conditions.

Operational improvements at High Street/Winthrop Street can be achieved without having to do any major geometric changes by updating the signal timings and phasing. Signal phasing changes will allow this intersection to operate at an acceptable level.

Winthrop Street (Route 44) at Highland Street

This intersection will be evaluated and updated signal timings and phasing will be implemented to improve operational conditions.

Emergency Vehicle Pre-emption at Thirteen Signalized Intersections

A total of thirteen existing traffic signals will be outfitted with emergency vehicle priority equipment to allow a rapid response from the firehouse to the Casino site, including any locations where signal modifications are already proposed. Up to ten emergency response vehicles will be outfitted with emitters to trigger the before mentioned emergency vehicle priority equipment. All costs of implementation are included.

East Taunton Neighborhood Improvements

Various “traffic calming” measures are recommended in East Taunton to reduce speeds, improve safety and discourage vehicles traveling to/from the project area from using the residential streets. The proponent will contribute funds to initiate planning for and implementation of a comprehensive traffic calming plan for the area shown in **Figure C-6**. The contribution will include an allowance for monitoring project traffic on Stevens Street,

Middleboro Avenue and other neighborhood roadways at agreed-upon intervals after opening of each phase of the project. Additionally, specific intersection improvements proposed include the following:

Bristol Plymouth High School Drive/Hart Street/Poole Street

Improvements proposed here include realignment of the High School driveway to align with Poole Street, ADA accommodations and a flashing warning beacon on Hart Street.

Stevens Street/Middleboro Avenue

Proposed improvements include a flashing warning beacon, ADA accommodations, sidewalk widening on the intersection approaches, and installation of crosswalk markings. Additionally, it is proposed that Stevens Street be signed as a Heavy Vehicle Exclusion.

Stevens Street/Pinehill Street

A raised intersection is proposed at this location. In addition, radar speed control signs both northbound and southbound in advance of Pinehill Street are proposed, along with ADA improvements at the intersection updated crosswalk markings and a posted Heavy Vehicle Exclusion for Pinehill Street.

Middleboro Avenue/Pinehill Street/Caswell Street

A modern roundabout or fully actuated traffic signal control is proposed at this location. Heavy Vehicle exclusion signs can be provided on Pinehill Street. ADA accommodations and crosswalks are also proposed. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

Middleboro Avenue/Old Colony Avenue/Liberty Street

A modern roundabout or fully actuated traffic signal control is proposed at this location. Geometric improvements, ADA accommodations, crosswalks and sidewalks are proposed to provide improved channelization of traffic and redistribute unused roadway space to pedestrians. All planning, permitting, design and construction costs associated with implementing these improvements are included in this improvement.

East Taunton Elementary Driveway at Stevens Street

School zone flashing warning devices will be installed on each approach to the driveway, along with the appropriate signage and pavement markings.

Exhibit D

Summary of Mitigation Costs

Summary of Mitigation Costs - City of Taunton

<u>Category</u>	<u>One-Time Phase 1 Cost (estimate)</u>	<u>One-Time Phase 2 Cost (estimate)</u>	<u>Annual costs (estimate)</u>
Fire	\$2,140,000.00	\$720,000.00	\$1,500,000.00
	Summary: Upgrades to East Taunton fire station; purchase of one ladder truck; and the hiring of a fire inspection official and fire officers.		
Police	\$2,982,000.00	\$0.00	\$2,500,000.00
	Summary: creation of a police substation to accommodate the increased daily population in East Taunton and purchase of new patrol cars; and hiring of additional officers.		
Administrative	\$132,000	\$0.00	\$400,000.00
	Summary: hiring of additional administrative employees and increase in general government and health/citizen services.		
Schools	\$0.00	\$0.00	\$370,000.00
	Summary: increased local contribution		
Sewer	\$7,500,000.00	\$0.00	\$0.00
	Summary: removal of infiltration and inflow and eliminate CSO on West Water Street; and upgrade to the Route 140 wastewater pumping station.		
Water	\$2,000,000.00	\$0.00	\$20,000.00
	Summary: Upgrades and construction to connect Project to water main and operation and maintenance of system to maintain appropriate water flow.		
Total	\$14,754,000.00	\$720,000.00	\$4,790,000.00

MASHPEE PARCELS

	Owner	Location	Current Use	Proposed Use	Acreage
1	MWT	410 Meetinghouse Road	Old Indian Meetinghouse	Old Indian Meetinghouse	.15
2	MWITC	17 Mizzenmast	Burial Ground/Cemetery	Same	0.361
3	MWT	414 Meetinghouse Road	Cemetery	Same	11.5
4	MWT	431 Main Street	Parsonage	Same	2.0
5	MWT	414 Main Street	Tribe Museum	Tribe Museum	0.58
6	MWITC	483 Great Neck Road South	Tribal Council Offices	New Tribal Government Center (educational, cultural, health)	58.7
7	MWITC	41 Hollow Road	Vacant	Tribal housing	10.81
8	MOIMHA	Meetinghouse Road	Vacant	Tribal housing	46.82
9	MWITC	Es Res Great Neck Road	Cultural/Recreational	Same	8.9
10	MWITC	56 Uncle Percy's Road	Vacant	Tribal Housing	.15
11	Maushop, LLC (MWT)	213 Sampsons Mill Road	Agriculture/Tribal Offices	Same	30.138

Total Acreage: 170.1 acres

MASHPEE PARCELS

Parcel No. 1 (ID: 61-58A-0-R)

The land with the building thereon located on Meetinghouse Road in the Town of Mashpee and shown as Parcel 58A on a Plan of Land entitled “Plan of Land Prepared for Old Indian Meeting House Authority, Inc.” by Holmes and McGrath, Inc., civil engineers and land surveyors, dated March 29, 2007 and recorded herewith. This parcel contains 6,447, plus or minus, square feet and is further identified on Town of Mashpee Assessors Map 61 as Parcel 58A. For Grantor’s title reference, see Barnstable Registry of Deeds, Book 121, Page 139.

Parcel No. 2 (125-238-0-E)

Northeasterly	by Mizzenmast, one hundred eighteen (118) feet;
Southeasterly	by Lot 81, one hundred ninety-two and 76/100 (192.76) feet;
Westerly	by a portion of Lot 171, fifty-seven (57) feet; and
Northwesterly	by Lot 79, one hundred eighty-eight and 65/100 (188.65) feet.

All of said boundaries are determined by the court to be located as shown on subdivision plan 35464-B (Sheet 7) dated January 23, 1974, drawn by Hayes Engineering, Inc., George B. Hayes, Surveyor, and filed in the Land Registration Office at Boston, a copy of which is filed with the Barnstable County Registry of Deeds in Land Registration Book 415, Page 64 with certificate of title no. 51944 and said land is shown thereon as LOT 80.

Said land is subject to and has the benefit of the matters set forth in a Declaration dated August 26, 1974 being Document No. 189,760, as amended by Document No. 196,542.

Said land is subject to the rights granted in an easement given to the New England Telephone & Telegraph Company et.al. Dated July 22, 1974 being Document No. 188,980.

Said land is further subject to a Conservation Restriction and Easement dated May 23, 2002 granted to the Commonwealth of Massachusetts Department of Environmental Management, being Document 873208, filed with Certificate of Title No. 165380 and to a Preservation Restriction for Archaeological Site dated May 20, 2002 granted to the Massachusetts Historic Commission, being Document 873209, filed with Certificate of Title No. 165300.

Being the same premises conveyed to Grantor by Deed from Stephen Berish and Daniel B. Abrams, Trustees of the M&M Nominee Trust, udt dated August 26, 1998 dated May 23, 2002 and filed as Document 873206, filed with Certificate of Title No. 165300.

Parcel No. 3 (68-13A-0-E)

The land located on Meeting House Road and Route 28 in the Town of Mashpee and shown as Parcel 2 on a plan of land entitled, “Plan of Land prepared for Mashpee Wampanoag Tribe in Mashpee” by Holmes and McGrath, Inc., Civil Engineers and Land Surveyors, dated

MASHPEE PARCELS

May 6 2008 and recorded herewith. This parcel contains 11.5 +/- acres. For Grantor's title reference, see Barnstable County Registry of Deeds Book 121, Page 139.

Parcel No. 4 (ID: 27-42-0-R)

The land with the buildings thereon located off of Route 130 in said Mashpee, bounded and described as follows: beginning at the Southwest corner by land now or formerly owned by Benjamin J. Attaquin; thence running

SOUTHEASTERLY: by the highway to the Easterly bar post; thence

NORTHEASTERLY: parallel with the Easterly side of the dwelling house and about Nineteen (19) feet from said house by a range of stakes about Twenty-Eight (28) rods to land of said Attaquin, by the fence; thence

NORTHWESTERLY: by the fence about Eight (8) rods; thence

SOUTHWESTERLY: by the fence to the place started from.

Containing 1 acre and 70 rods, more or less, with the dwelling house standing thereon, being the homestead of Ebenezer Attaquin, and now known as the Parsonage.

For title reference, see Deed dated December 8, 1852 from Ebenezer Attaquin, Benjamin J. Attaquin, and Elisabeth Attaquin to the Inhabitants of the Parish of Mashpee recorded on December 29, 1852 in Barnstable Registry of Deeds in Book 49, Page 220.

Parcel No. 5 (35-30-0-R)

The land with the buildings thereon bounded and described as follows:

Commencing at the Snake Pond Road and Cotuit Road and land now or formerly belonging to the Bourne Mill site but now or formerly of O.M. Holmes to the west bank of the Mashpee River;

Thence southerly by the westerly bank of said river to land now or formerly of David Lovell;

Thence westerly by said Lovell land to a fence and land now or formerly of said Lovell;

Thence northerly by said land and fence to the first mentioned bound and point of beginning.

Containing one half acre, more or less, and shown on Mashpee Assessors Map 35 as Block 30.

MASHPEE PARCELS

Parcel No. 8 (ID: 45-75-0-R)

the land located on the easterly side of Meetinghouse Road in Mashpee, Barnstable County, Massachusetts more particularly shown as Parcel 3 containing 46.82 Acres (2,039,602 s.f.) on a plan entitled "Subdivision Plan of Land in Mashpee, Massachusetts prepared for Willowbend Development Corporation" prepared by Vanasse Hangen Brustlin, Inc., scale 1"=100 feet, dated December 4, 2002 and recorded with Barnstable County Registry of Deeds in Plan Book 579, Page 48 (the "Premises").

For Grantor's title see deed dated December 18, 2003 recorded with said Deeds in Book 18061, Page 285.

Parcel No. 9 (ID: 99-38-0-R)

LOT 1 and LOT 2 as shown on plan entitled "Plan of Land Prepared for Duck Pond Limited Partnership in Mashpee, MA, Scale: 1"=50', Date: February 13, 2007" prepared by Holmes McGrath, Inc., and recorded in Barnstable County Registry of Deeds Plan Book 618, Page 33. Said parcel is also shown on Town of Mashpee Assessor's Map 99, as Parcel 38. Said parcels of land contain a total of approximately 8.9 acres.

For title, see deed of Gary A. Gomes and Jane B. Gomes to Duck Pond Limited Partnership dated July 5, 2005, recorded with Barnstable County Registry of Deeds in Book 20018, Page 343.

Parcel No. 10 (ID: 117-173-0-R)

Lot 15 (Block 10)
Land Court Plan 11408-I

For Grantor's title see Certificate of title No. 25839.

Parcel No. 11 (ID: 63-10-0-R)

BEING shown as LOT NO. 6 on a plan of land entitled "Plan of Land in Mashpee, Mass., for Jill Slaymaker, March 22, 1985" recorded with said deeds in Plan Book 401, Page 97.

For Grantor's title, see deed dated July 12, 1985 and recorded with the Barnstable County Registry of Deeds in Book 4629, Page 275.

Appendix C

Land in Taunton

Land presently known and numbered as: (1) Lots 9A, 9B, 13 and 14 on that certain LUIP Master Plan, and (2) Tax Parcels 118-50, 118-45, 109-302, 119-1, 118-51, 118-52, 119-66, 119-67 and 109-299, in each case in the city of Taunton, Massachusetts in Bristol County.”

Appendix D

TRIBAL LABOR RELATIONS ORDINANCE

Section 1: Enactment and Applicability

(a) This Tribal Labor Relations Ordinance ("TLRO") is enacted by and pursuant to the laws of the Mashpee Wampanoag Tribe ("Tribe") in compliance with subpart 18.5 of the tribal-state gaming compact entered into between the Tribe and the Commonwealth of Massachusetts pursuant to the Indian Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.) (the "Compact"), and shall remain in effect as provided below until the Compact terminates or provides otherwise through an amendment of this Ordinance or the Compact in accordance with their terms.

(b) Terms used in this Ordinance are intended to be defined as set forth in the Compact unless otherwise expressly set forth herein.

(c) Upon the employment of 250 or more persons in a Facility that is open to the public, the provisions of this Ordinance shall become effective immediately.

(d) Upon the request of a labor organization, the Tribal Gaming Commission shall certify the number of employees in the Facility. Either party may dispute the certification of the Tribal Gaming Commission to the Tribal Labor Panel.

Section 2: Eligible Employees

The provisions of this Ordinance shall apply to any person ("Eligible Employee") who is employed within the Facility, except for any of the following:

(a) any employee who is a supervisor, defined as any individual employed at the Facility having authority, in the interest of the Enterprise, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires

the use of independent judgment;

(b) any employee of the Tribal Gaming Commission; and

(c) any employee of the security or surveillance department, other than those who are responsible for the technical repair and maintenance of equipment.

Section 3: Non-interference with regulatory or security activities

The application of this Ordinance shall not interfere in any way with the authorized duties of any Tribal, State or federal regulatory agency. Furthermore, the exercise of rights hereunder shall in no way interfere with the Facility's surveillance/security systems or any other internal controls system designed to protect the integrity of the Enterprise or Gaming Operations. The Tribal Gaming Commission is specifically excluded from the definition of Tribe and its agents.

Section 4: Eligible Employees free to engage in or refrain from concerted activity

Eligible Employees shall have the right to self-organization, to form, to join, or assist employee organizations, to bargain collectively through representatives of their own choosing, to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities.

Section 5: Unfair labor practices for the Tribe

It shall be an unfair labor practice for the Tribe and/or employer or their agents:

(a) to interfere with, restrain or coerce Eligible Employees in the exercise of the rights guaranteed herein;

(b) to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it, but this does not restrict the Tribe and/or employer and a certified labor organization from agreeing to union security or dues check off;

(c) to discharge or otherwise discriminate against an Eligible Employee because s/he has filed charges or given testimony under this Ordinance;

(d) to refuse to bargain collectively with the representatives of Eligible Employees.

Section 6: Unfair labor practices for a labor organization

It shall be an unfair labor practice for a labor organization or its agents:

(a) to interfere, restrain or coerce Eligible Employees in the exercise of the rights guaranteed herein;

(b) to engage in, or to induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a primary or secondary boycott or a refusal in the course of his employment to use, manufacture, process, transport or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services; or to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce or other terms and conditions of employment. This section does not apply to section 11 of this TLRO;

(c) to force or require the Tribe and/or employer to recognize or bargain with a particular labor organization as the representative of Eligible Employees if another labor organization has been certified as the representative of such Eligible Employees under the provisions of this TLRO except as provided otherwise by law;

(d) to refuse to bargain collectively with the Tribe and/or employer, provided it is the representative of Eligible Employees subject to the provisions herein; or

(e) to attempt to influence the outcome of a tribal governmental election, provided, however, that this section does not apply to tribal members.

Section 7: Tribe and union neutrality

(a) The Tribe agrees that if a labor organization first commits in writing (i) that it will not engage in any type of strikes, picketing, boycotts, attack websites, or other economic activity at or in relation to the Facility, (ii) that it will not disparage the Tribe for purposes of organizing Eligible Employees, and (iii) that it and its local affiliates will agree to resolve all issues, including collective bargaining impasses, through binding dispute resolution mechanisms set forth in section 13 herein, the Tribe shall thereafter:

(1) recognize the labor organization if it is certified pursuant to section 10, subdivision (f) of this TLRO; and

(2) not express or imply any opposition to Eligible Employees choosing to be represented by a labor organization for purposes of collective bargaining, as guaranteed in this TLRO, nor express or imply any opposition to the selection by Eligible Employees of that particular organization to be their representative in collective bargaining or any preference for another labor organization.

(b) If a United States Court of Appeals issues a final order upholding National Labor Relations Board jurisdiction over a Facility that is not later superseded by a decision of the United States Supreme Court, then the labor organization's offer in subdivision (a) shall be deemed to be an offer to accept the entirety of this Ordinance as a bilateral contract between the Tribe and the labor organization and a waiver by the labor organization of any right to file any form of action or proceeding with the National Labor Relations Board, and the Tribe agrees to accept such offer.

(c) Except as agreed in subdivision (a) above, the Tribe's and labor organization's expression of any view, argument or opinion or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute or be evidence of interference, restraint, or coercion if such expression contains no threat of reprisal or force or promise of benefit.

Section 8: Access to Eligible Employees

(a) Access shall be granted to the labor organization upon reasonable advance written notice to the Tribe for the purposes of organizing Eligible Employees, provided that such organizing activity shall not interfere with patronage of the Facility or with the normal work routine of the Eligible Employees and shall be done on non-work time in non-work areas that are designated as employee break rooms or locker rooms that are not open to the public. The Tribe may require the labor organization and or union organizers to be subject to the same licensing rules applied to individuals or entities with similar levels of access to the Facility, provided that such licensing shall not be unreasonable, discriminatory, or designed to impede access.

(b) The Tribe, in its discretion, may also designate additional voluntary access to the labor organization in such areas as employee parking lots and non-

Casino facilities located on tribal lands.

(c) In determining whether organizing activities potentially interfere with normal tribal work routines, the labor organization's activities shall not be permitted if the Tribal Labor Panel determines that they compromise the operation of the Facility in the following areas:

(1) security and surveillance systems throughout the Facility, and reservation;

(2) access limitations designed to ensure security;

(3) internal controls designed to ensure security;

(4) other systems designed to protect the integrity of the Tribe's gaming operations, tribal property and/or safety of casino personnel, patrons, employees or tribal members, residents, guests or invitees.

(d) The Tribe shall provide to the labor organization, upon a thirty percent (30%) showing of interest to the Tribal Labor Panel, an eligibility list containing the full first and last name of the Eligible Employees within the sought after bargaining unit and the Eligible Employees' last known address within ten (10) working days. Nothing herein shall preclude the Tribe from voluntarily providing an eligibility list at an earlier point of a union organizing campaign.

(e) The Tribe agrees to facilitate the dissemination of information from the labor organization to Eligible Employees at the Facility by allowing posters, leaflets and other written materials to be posted in non-public employee break areas where the Tribe already posts announcements pertaining to Eligible Employees, provided that such information does not contain any profanity or discriminatory references, disparaging remarks or similar inappropriate language. Actual posting of such posters, notices, and other materials shall be by employees desiring to post such materials.

Section 9: Indian preference explicitly permitted

Nothing in this Ordinance shall preclude the Tribe from giving preference in employment, promotion, seniority, lay-offs or retention to members of the Tribe or other federally recognized Indian tribes and their immediate families, or shall in any way affect the Tribe's right to follow tribal law, ordinances, personnel policies or the Tribe's customs or traditions regarding said preference in employment,

promotion, seniority, lay-offs or retention. Moreover, in the event of a conflict between tribal law, tribal ordinance or the Tribe's customs and traditions regarding said preference and this Ordinance, the tribal law, tribal ordinance, or the Tribe's customs and traditions shall govern.

Section 10: Selection of representatives

(a) Dated and signed authorized cards from thirty percent (30%) or more of the Eligible Employees within the bargaining unit verified by the elections officer will result in a secret ballot election to be held within thirty (30) working days from presentation to the elections officer.

(b) The election shall be conducted by the election officer. The election officer shall be a member of the Tribal Labor Panel chosen pursuant to the dispute resolution provisions herein. All questions concerning representation of the Tribe and/or employer's Eligible Employees by a labor organization shall be resolved by the election officer. The election officer shall be chosen upon notification by the labor organization to the Tribe of its intention to present authorization cards, and the same election officer shall preside thereafter for all proceedings under the request for recognition; provided, however, that if the election officer resigns, dies, or is incapacitated for any other reason from performing the functions of this office, a substitute election officer shall be selected in accordance with the dispute resolution provisions herein.

(c) The election officer shall certify the labor organization as the exclusive collective bargaining representative of a unit of Eligible Employees if the labor organization has received the majority of votes by Eligible Employees voting in a secret ballot election that the election officer determines to have been conducted fairly. If the election officer determines that the election was conducted unfairly due to misconduct by the Tribe and/or employer or labor organization, the election officer may order a re-run election. If the election officer determines that there was the commission of multiple serious Unfair Labor Practices by the Tribe that interfere with the election process and preclude the holding of a fair election, and the labor organization is able to demonstrate that it had the support of a majority of the Eligible Employees in the unit at any point before or during the course of the Tribe's misconduct, the election officer may certify the labor organization. However, this remedy is extraordinary and its use limited to cases involving the most serious violations.

(d) The Tribe or the labor organization may appeal any decision rendered

after the date of the election by the election officer through binding dispute resolution mechanisms set forth in section 13 herein.

(e) A labor organization which loses an election and has exhausted all dispute remedies related to the election may not invoke any provisions of this Ordinance at that particular Facility until one year after the election was lost.

(f) In the event the labor organization makes the written offer set forth in section 7 of this TLRO, dated and signed authorized cards from at least fifty percent (50%) plus one of the Eligible Employees within the bargaining unit verified by the election officer shall result in certification of the labor organization as the exclusive collective bargaining representative of the Eligible Employees. A labor organization seeking to invoke the provisions of this subdivision shall notify the Tribe and the administrator of the Tribal Labor Panel of such intent in writing. If the labor organization fails to be certified as the exclusive collective bargaining representative pursuant to this subdivision within two (2) years following the date of the written notice invoking this subdivision, the labor organization may not invoke any provision of this labor Ordinance for two (2) years thereafter.

Section 11: Collective bargaining impasse

(a) Upon recognition, the Tribe and the labor organization will negotiate in good faith for a collective bargaining agreement covering bargaining unit Eligible Employees represented by the labor organization.

(b) Except where the labor organization has made the written commitment set forth in section 7 of this TLRO, if collective bargaining negotiations result in impasse, and the matter has not been resolved by the tribal forum procedures set forth in section 13, subdivision (b) herein, governing resolution of impasse, within sixty (60) working days or such other time mutually agreed by the parties, the labor organization shall have the right to strike and the tribe /employer shall have the right to lockout employees. Strike-related picketing shall not be conducted on Indian lands as defined in 25 U.S.C. § 2703(4).

(c) Where the labor organization makes the offer set forth in section 7, subdivision (a), if collective bargaining negotiations result in impasse, the matter shall be resolved by the procedures set forth in section 13. The arbitrator shall consider, but not be limited to, the following factors:

(1) Wages, hours and other terms and conditions of employment of other Indian gaming operations in the region;

- (2) Size and type of the Tribe's operations at the Facility;
- (3) Change in the cost of living as it affects the Eligible Employees and measured by the index mutually agreed to by the parties;
- (4) Regional and local market conditions;
- (5) The Tribe's financial capacity (if the employer places this in issue); and
- (6) The competitive nature of the business environment in which the Facility operate.

(d) If the labor organization violates the terms of the commitment set forth in section 7 of this TLRO by engaging in strikes, picketing, boycotts, attack websites, or other economic activity, the Tribe shall, at its option, have the right to withdraw, within thirty (30) working days of a determination of such a violation pursuant to section 13 of this TLRO, from the obligation to resolve impasses pursuant to the procedures set forth in section 13 of this TLRO.

Section 12: Decertification of bargaining agent

(a) The filing of a petition or statements signed by thirty percent (30%) or more of the Eligible Employees in a bargaining unit seeking the decertification of a certified labor organization, will result in a secret ballot election to be held thirty (30) working days from the presentation of the petition or statements.

(b) The election shall be conducted by an election officer. The election officer shall be a member of the Tribal Labor Panel chosen pursuant to the dispute resolution provisions herein. All questions concerning the decertification of the labor organization shall be resolved by an election officer. The election officer shall be chosen upon notification to the Tribe and the labor organization of the intent of the Eligible Employees to present a decertification petition, and the same election officer shall preside thereafter for all proceedings under the request for decertification; provided however that if the election officer resigns, dies or is incapacitated for any other reason from performing the functions of this office, a substitute election officer shall be selected in accordance with the dispute resolution provisions herein.

(c) The election officer shall order the labor organization decertified as the exclusive collective bargaining representative if a majority of the Eligible

Employees voting in a secret ballot election that the election officer determines to have been conducted fairly vote to decertify the labor organization. If the election officer determines that the election was conducted unfairly due to misconduct by the Tribe and/or employer or the labor organization the election officer may order a re-run election or dismiss the decertification petition.

(d) A decertification proceeding may not begin until one (1) year after the certification of a labor organization if there is no collective bargaining agreement. Where there is a collective bargaining agreement, a decertification petition may only be filed no more than ninety (90) working days and no less than sixty (60) working days prior to the expiration of a collective bargaining agreement. A decertification petition may be filed anytime after the expiration of a collective bargaining agreement.

(e) The Tribe or the labor organization may appeal any decision rendered after the date of the election by the election officer through the binding dispute resolution mechanisms set forth in section 13 herein.

Section 13: Binding dispute resolution mechanism

(a) All issues shall be resolved exclusively through the binding dispute resolution mechanisms herein.

(b) The first level of binding dispute resolution for all matters related to organizing, election procedures, alleged unfair labor practices, and discharge of Eligible Employees shall be an appeal to a designated tribal forum such as a Tribal Council, Business Committee, or Grievance Board. The parties agree to pursue in good faith the expeditious resolution of these matters within strict time limits. The time limits may not be extended without the agreement of both parties. In the absence of a mutually satisfactory resolution, either party may proceed to the independent binding dispute resolution set forth below. The agreed upon time limits are set forth as follows:

(1) All matters related to organizing, election procedures and alleged unfair labor practices prior to the labor organization becoming certified as the collective bargaining representative of bargaining unit Eligible Employees, shall be resolved by the designated tribal forum within thirty (30) working days.

(2) All matters after the labor organization has become certified as the collective bargaining representative and relate specifically to impasse

during negotiations, shall be resolved by the designated tribal forum within sixty (60) working days.

(c) The second level of binding dispute resolution shall be a resolution by either a single arbitrator or a three (3) member panel of arbitrators selected from the members of the Tribal Labor Panel as set forth in this section 13. The Tribal Labor Panel shall consist of seven (7) arbitrators appointed by the mutual agreement of the parties, or if the parties cannot mutually agree upon seven (7) members, then such members as may be mutually agreed upon by the parties shall select the remaining members, or if the parties cannot mutually agree upon any members of the Tribal Labor Panel, then each party will select two (2) members, with the four (4) members so selected by the parties selecting the remaining three (3) members.

(1) Each member of the Tribal Labor Panel shall be a member of the American Academy of Arbitrators and have relevant experience in federal labor law and/or federal Indian law with preference given to those with experience in both. Names of individuals may be provided by such sources as, but not limited to, Indian Dispute Services, Federal Mediation and Conciliation Service, and the American Arbitration Association.

(2) Unless either party objects, one arbitrator from the Tribal Labor Panel will render a binding decision on the dispute under the Ordinance. If either party objects, the dispute will be decided by a three (3) member panel of the Tribal Labor Panel. Arbitrator(s) will be selected as follows:

(i) In the event there is to be only one arbitrator, and the parties cannot agree on which person is to serve, each party may strike no more than three (3) names, by alternating picks. A coin toss shall determine which party may strike the first name. The parties shall repeat the process until only one name is remaining. If there is no agreement as among more than one remaining possible arbitrator, the arbitrator shall be determined by drawing lots.

(ii) In the event there are to be three arbitrators, each party may strike no more than two (2) names. A coin toss shall determine which party may strike the first name. If there is no agreement as among more than one remaining possible arbitrator, the arbitrators shall be determined by drawing lots.

(3) The arbitrator(s) will render a binding decision and shall have the

authority to conduct elections, determine units, determine scope of negotiations, hold hearings, subpoena witnesses, take testimony, and conduct all other activities needed to fulfill its obligations under this Tribal Labor Relations Ordinance. The arbitrator(s) will generally follow the American Arbitration Association's procedural rules relating to labor dispute resolution. The arbitrator(s) must render a written, binding decision that complies in all respects with the provisions of this Ordinance.

(d) Under the third level of binding dispute resolution, either party may seek a motion to compel arbitration or a motion to confirm an arbitration award in Tribal Court, which may be appealed to federal court. If the Tribal Court does not render its decision within ninety (90) working days, or in the event there is no Tribal Court, the matter may proceed directly to federal court or, if such court lacks or declines jurisdiction, to the state superior court. The Tribe agrees to a limited waiver of its sovereign immunity for the sole purpose of compelling arbitration or confirming an arbitration award issued pursuant to the Ordinance in the applicable Tribal, federal or state court. The parties are free to put at issue whether or not the arbitration award exceeds the authority of the arbitrator(s).

Appendix E

Exhibit E (Compact Section 18.9)

Massachusetts Gaming Act

Section 91 Disclosure

A. Pursuant to Section 91 (d) of the Massachusetts Gaming Act:

No individual or entity has made an investment to the Tribe, its affiliates or predecessors or applicants of the Tribe for the purpose of securing a gaming license for the Tribe under its name or any subsidiary or affiliate since 2005.

B. Pursuant to Part 18.9 of the Compact:

Since 2005, the entities or individuals who have contributed financial assistance or investments in connection with the funding necessary to implement the gaming operation and related development associated with the possible compact are:

<u>Name of Party</u>	<u>Organization Documents</u>	Formation Jurisdiction
1.	At Mashpee, LLC Michigan	Operating Agreement
2.	TCAM, LLC Delaware	Operating Agreement
3. documents	Arkana Limited Isle of Man	Corporate formation
4.	KSW Mass, L.L.C. Delaware	Operating Agreement
5.	Detroit MA, LLC Michigan	Operating Agreement
6.	SE Mass II, LLC Delaware	Operating Agreement
7. documents	R.W. Investment Limited Isle of Man	Corporate formation
8. Agreement	Genting Management Services, LLC Delaware	Operating

The Agreements executed by the Tribe with these entities are as follows (other than those which have been settled or terminated):

1. Termination and Settlement Agreement dated April 29, 2009, among the Tribe, MWTC, TCAM, AM, KJW and DetroitMA.
2. Mutual Release Agreement dated April 29, 2009, among Arkana, TCAM, KSW, AM and DetroitMA.
3. Assignment of Option dated April 29, 2009 between TCAM and the Tribe.
4. Promissory Note, dated June 15, 2012, executed by the Tribe and, the Mashpee Wampanoag Gaming Authority (MWGA), to the order of R.W. Investment Limited.
5. Management Agreement dated June 14, 2012, executed by the Tribe, MWGA and Genting Management Services, LLC