

**TITLE 8
YAVAPAI-APACHE NATION
GAMING CODE**

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**TITLE 8
YAVAPAI-APACHE NATION
GAMING CODE**

CHAPTER 1: GENERAL PROVISIONS

Section 101. Enactment of Yavapai-Apache Nation Gaming Code

Pursuant to the Tribal Council's authority under Article V of the Yavapai-Apache Nation Constitution, and in compliance with the Indian Gaming Regulatory Act, the Tribal Council has enacted the Yavapai-Apache Nation Gaming Code to govern, regulate and control Gaming Activities conducted by the Nation on the Indian Lands of the Yavapai-Apache Nation. As of the Effective Date, except with regard to the Cliff Castle Casino Business Code, enacted as Title 36 of the Yavapai-Apache Nation Tribal Code as amended, this Gaming Code, supersedes, repeals, and replaces all prior gaming ordinances, codes, resolutions, and other legislative documents regulating tribal gaming on the Indian Lands of the Nation.

Section 102. Purpose

The purpose of this Gaming Code is to make lawful and to regulate the operation and conduct of Gaming Activities on the Indian Lands of the Nation so that revenue may be produced to fund Tribal governmental operations and programs which promote the health, education, and welfare of the Nation and its members and which promote Tribal economic development.

Section 103. Gaming Policy

- (a) **Gaming Activity Authorized.** Class II and Class III Gaming are authorized to be conducted on the Indian Lands of the Nation if such gaming is conducted in accordance with the provisions of this Gaming Code and the Indian Gaming Regulatory Act, and where such gaming involves Class III Gaming or those forms of Class II Poker referenced in the Poker MOU, is conducted in accordance with the provisions of the Compact and/or the Poker MOU. All forms of Class I Gaming are authorized to be conducted on the Indian Lands of the Nation. Class I Gaming is not subject to this Gaming Code.
- (b) **Ownership of the Gaming Operation.** The Yavapai-Apache Nation, acting through the Tribal Council, an enterprise owned by the Nation, or such other entity owned by the Nation, shall have the sole proprietary interest in and responsibility for the operation and conduct of any Gaming Activity on the Indian Lands of the Nation.
- (c) **Gaming Facility Operator.** The Gaming Facility Operator shall have the responsibility for the on-site operation, management, and security of the Gaming Facility. The Gaming Facility Operator shall establish, maintain, and adhere to a written security plan that meets the requirements of the Compact. The Gaming

Facility Operator shall adopt reasonable procedures designed to provide for the physical safety of its patrons and employees, the safeguarding of assets and the protection of the patrons' property and the Gaming Operation's property.

- (d) **Protection of the Environment; Public Health and Safety.** The Nation's construction and maintenance of any Gaming Facility, and the conduct of any Gaming Activity, shall be done in a manner that adequately protects the environment and the public health and safety, and conforms with all applicable requirements of law.

Section 104. Interpretation

- (a) **Construction.** This Gaming Code is an exercise of the sovereign power of the Nation and shall be liberally construed for the accomplishment of its purpose and to comply with the Indian Gaming Regulatory Act and the Gaming Compact. Nothing in this Gaming Code shall be construed as providing the State of Arizona with any authority over the Nation's Gaming Activities that is not otherwise provided for in the Compact, including any authority over Class II Gaming Activities that is not otherwise provided for in the Compact and/or the Poker MOU.
- (b) **Notice.** Any notice required pursuant to this Gaming Code shall be in writing and served or delivered by hand delivery, electronic mail, or by U.S. mail.
- (c) **Computation of Time.** In computing any period of time prescribed or allowed by this Gaming Code, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday under the Nation's laws, or when the act to be done is the filing of or providing access to any report or document, and the last day of the period falls on a day in which the weather or other conditions have made the offices in which the report or document is to be filed inaccessible, in which event the designated period shall extend until the end of the next day on which the office is accessible which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays and legal holidays under the Nation's laws shall be excluded from the computation period.

CHAPTER 2: DEFINITIONS

The following words shall have the following meanings under this Gaming Code, unless the context otherwise requires:

1. "Act" means the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. §§ 2701- 2721 and 18 U.S.C. §§ 1166-1168 and its implementing regulations;
2. "Ancillary Services" means any goods or services, except for legal services, provided to the Nation in connection with the operation of Class III Gaming in a Gaming Facility, including but not limited to equipment, transportation, food, linens, janitorial supplies, or maintenance, as set forth in the Compact and Appendix J;
3. "Applicant" means any Person who has applied for a License or other approval from the Commission or certification from the State Gaming Agency under this Gaming Code and the Compact;
4. "Barred Person" means a Person who is temporarily or permanently barred from entering or remaining in the Gaming Facility pursuant to Section 1101 of this Code;
5. "Card Game Table" means a single table at which the Nation conducts the card game of poker, jackpot poker or blackjack;
6. "Chairperson" means the Chairperson of the Yavapai-Apache Nation, or alternatively, the Chairperson of the Commission;
7. "Class I Gaming" means all forms of gaming defined as Class I in Section 4(6) of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(6);
8. "Class II Gaming" means all forms of gaming defined as Class II in Section 4(7) of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(7);
9. "Class III Gaming" means all forms of gaming as defined in Section 4(8) of the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(8);
10. "Commission" means the body within the Tribal Gaming Office consisting of five individuals appointed by the Tribal Council to oversee the Tribal Gaming Office and to oversee the regulation of all Gaming Activities on the Indian Lands of the Nation, subject to the provisions of this Code;
11. "Compact" means the Gaming Compact between the Yavapai-Apache Nation and the State of Arizona, dated December 27, 2002, as amended by the Yavapai-Apache Nation Amended and Restated Gaming Compact dated April 15, 2021 ("2021 Compact"), and all amendments and all appendices approved thereunder;
12. "Distributor" means a Person that distributes Gaming Devices and/or component parts thereof;

13. "Enrolled Tribal Member" means an enrolled member of the Yavapai-Apache Nation whose name appears on the Nation's official membership roll;
14. "Executive Director" means the Person charged with overseeing the Tribal Gaming Office staff and who has the overall responsibility for the day-to-day functions of the Tribal Gaming Office in conformance with Section 303 of this Code;
15. "Gaming Activity" or "Gaming Activities" means all forms of Class II or Class III gaming owned and operated by the Nation and conducted on the Indian Lands of the Nation, unless specifically noted herein;
16. "Gaming Code" or "Code" means this Gaming Code of the Yavapai-Apache Nation;
17. "Gaming Device" means a fixed location or mobile mechanical device, electro-mechanical device, or device controlled by an electronic microprocessor or in any other manner, whether that device would constitute Class II Gaming or Class III Gaming if operated on Indian Lands by an Indian tribe, which is used in connection with a game of chance, whether or not the outcome of the game is also affected in some part by skill, and where the game includes the payment of consideration in the form of coins, tokens, bills, coupons, ticket vouchers, pull tabs, smart cards, electronic in-house accounting system credits or any other forms of consideration and, through the application of chance, the player of the game may become entitled to a prize, which may be paid in coins, tokens, bills, coupons, ticket vouchers, smart cards, electronic in-house accounting system credits or any other forms of value. Gaming Device does not include any of the following:
 - (a) Those technological aids used in live bingo games that function only as electronic substitutes for bingo cards and cannot substitute for the bingo caller;
 - (b) Devices that issue and validate paper lottery products and that are directly operated only by Arizona State Lottery licensed retailers and their employees;
 - (c) Devices expressly authorized by Arizona statutes and which are operated by the Arizona State Lottery that allow a lottery player to dispense paper lottery tickets, so long as the devices do not identify winning or losing lottery tickets, display lottery winnings or disburse lottery winnings;
 - (d) Devices expressly authorized by Arizona statutes and which are operated by the Arizona State Lottery that allow a lottery player to validate paper lottery tickets for a game that does not have a predetermined number of winning tickets, if:
 - (i) The devices do not allow interactive gaming;
 - (ii) The devices do not allow a lottery player to play the lottery for immediate payment or reward;
 - (iii) The devices do not disburse lottery winnings; and

(iv) The devices are not Video Lottery Terminals;

(e) Player Activated Lottery Terminals;

18. "Gaming Employee" means any person employed as a Primary Management Official or Key Employee of a Gaming Operation of the Nation, and any person employed in the operation or management of a Gaming Operation, including, but not limited to, any person whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public;
19. "Gaming Facility" means the buildings or structures in which Gaming Activities are conducted on the Indian Lands of the Nation. The hotel is not a "Gaming Facility" within the meaning of the Compact, as reflected in the Agreement between the Nation and the State pursuant to Section 2(n) of the Compact, or this Code;
20. "Gaming Facility Operator" means the Nation, an enterprise owned by the Nation, or such other entity of the Nation as the Nation may from time to time designate by written notice to the State of Arizona under the Compact as the wholly-owned tribal entity having full authority and responsibility for the operation and management of Gaming Activities;
21. "Gaming Operation" means any Gaming Activity conducted within any Gaming Facility or on the Indian Lands of the Nation;
22. "Gaming Regulation" or "Regulation" means a written rule duly promulgated by the Commission under Chapter 7 of this Code in conformance with the Tribal Gaming Office's duties and responsibilities under this Code and the Compact to regulate the conduct of Gaming Activity on the Indian Lands of the Nation;
23. "Gaming Vendor" means any Person or entity which sells, leases, distributes or provides (1) devices, machines, or equipment used directly in connection with Gaming Activity including that which has the capacity to affect the calculation, storage, collection, electronic security, or control of gaming revenues; (2) services which are unique to the operation of Gaming Activity, including, but not limited to, simulcasting and bookmaking; and (3) security or surveillance services or equipment for the Gaming Facility. Gaming Vendors include Persons who provide general construction contracting, payroll and locks and locksmith services for the Gaming Facility, as well as Persons who provide player tracking, player acquisition, promotional, and marketing services related to Gaming Activity, as set forth in the Compact and Appendix J;
24. "Gross Receipts" means receipts from the sale of shares, tickets, or rights in any manner connected with participation or the right to participate in Class II or Class III Gaming Activities including but not limited to any admission fee or charge, the sale of merchandise, refreshments, souvenirs, services, equipment, or supplies, interest earned on deposits, and all other miscellaneous receipts;
25. "Host system" means the Gaming Facility Operator's MCS and, if used, an incentive system and/or validation system;

26. "Indian Lands" means (1) all lands within the limits of the Yavapai-Apache Nation Reservation, and (2) any lands title to which is held in trust by the United States for the benefit of the Yavapai-Apache Nation or a member thereof or held by the Yavapai-Apache Nation or member thereof, subject to restriction by the United States against alienation, and over which the Yavapai-Apache Nation exercises governmental power;
27. "Internal Controls" means written policies and procedures of the Gaming Facility Operator based on regulatory standards designed to create a system of checks and balances to safeguard the integrity of the Gaming Operation and protect its assets from unauthorized access, misappropriation, forgery, theft or fraud;
28. "Key Employee" means a Gaming Employee who performs one or more of the following functions:
 - (a) Bingo caller;
 - (b) Counting room supervisor;
 - (c) Chief of security;
 - (d) Custodian of gaming supplies or cash;
 - (e) Floor manager;
 - (f) Pit boss;
 - (g) Dealer;
 - (h) Croupier;
 - (i) Approver of credit;
 - (j) Custodian of gambling devices including Persons with access to cash and accounting records within such devices;
 - (k) If not otherwise included, any other Person: (1) whose total cash compensation is in excess of \$50,000 per year; (2) who ranks among the four most highly compensated persons in the Gaming Operation; or (3) is designated by the Nation as a Key Employee;
29. "Licensee" means any Person who has received a Tribal Gaming License from the Commission to be involved in the Gaming Operation as a Gaming Facility Operator, Gaming Employee, Gaming Vendor or provider of Ancillary Services to the Nation;
30. "Manufacturer" means a Person that manufactures Gaming Devices and/or component parts thereof for use or play in the Gaming Facility;
31. "MCS" means the Gaming Facility Operator's online monitoring and control system (also known as a game management system) that regularly monitors each gaming device *via* a real time defined communication protocol;
32. "Nation" means the Yavapai-Apache Nation, a federally recognized Indian Nation;
33. "National Indian Gaming Commission" means the National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, 18 U.S.C. §§ 1166-68;

34. "Net Revenue" means gross gaming revenues of a Gaming Operation less (a) amounts paid out as, or paid for, prizes; and (b) total gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses and non- operating expenses consistent with professional accounting pronouncements and the Indian Gaming Regulatory Act, 25 U.S.C. § 2703, excluding management fees;
35. "Notice of Violation" means a written notice of the Executive Director that has been served upon the Gaming Facility Operator or a Vendor alleging or finding a violation of the Act, the Gaming Code, Compact, Gaming Regulations or any applicable gaming laws of the Yavapai-Apache Nation or the State of Arizona in conformance with Section 602 of this Code;
36. "Occasion" means a gathering at which a Gaming Activity is conducted;
37. "Patron Dispute" means the dispute that occurs whenever the Gaming Facility Operator refuses payment of alleged winnings to a patron or there is otherwise a dispute regarding that patron's wins or losses from Gaming Activity, and the Gaming Facility Operator and the patron are unable to resolve the dispute to the satisfaction of the patron;
38. "Person" includes a natural person, trust, firm, company, association, partnership, society, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever, except that the term "Person" does not include the Nation, the Tribal Council or the Commission;
39. "Player Activated Lottery Terminal" means an on-line computer system that is not a Video Lottery Terminal and that does not provide the player with interactive gaming, but that uses the terminal for dispensing paper tickets only, in which:
 - (a) The terminal algorithm is used for the random generation of numbers;
 - (b) The tickets dispensed by the terminal do not allow the player the means to play directly against the terminal;
 - (c) The player uses the dispensed ticket to participate in an off-site random drawing; and
 - (d) The player cannot play against the terminal for immediate payment or reward;
40. "Poker MOU" means the Memorandum of Understanding Regarding Poker Between the Yavapai-Apache Nation and the State of Arizona, dated December 27, 2002, as amended.
41. "Pot" means a location on a Poker table or the total amount anted and bet by players during a hand which is awarded to the winning player;
42. "Primary Management Official" means:
 - (a) The Person having management responsibility for a management contract; or
 - (b) Any Person who has authority to hire and fire employees or to set up working policy for a Gaming Operation; or
 - (c) The chief financial officer or other person who has financial management responsibility; or

- (d) Any other Person designated by the Nation as a primary management official;
43. "Principal" means with respect to any Person:
- (a) Each of its officers and directors;
 - (b) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer or general manager;
 - (c) Each of its owners or partners, if an unincorporated business;
 - (d) Each of its shareholders who own more than ten (10) percent of the shares of the corporation, if a corporation, including a proxy, trustee, agent or delegate authorized to exercise any right of a shareholder of more than ten (10) percent of the shares of the corporation;
 - (e) Each Person, other than a qualified banking institution insured by the Federal Deposit Insurance Corporation, who has provided financing for the entity constituting more than ten (10) percent of the total financing of the entity; and
 - (f) Each of the beneficiaries or trustees of a trust;
44. "Proposition Player" means a player who receives a salary, wage, or fixed sum from the Gaming Facility Operator for playing in short games (those with empty seats), starting new games or filling in where needed. Although a Proposition Player works for the Gaming Facility Operator, the Proposition Player plays his or her own money, retains his or her winnings and absorbs his or her losses;
45. "Refusal of Service" means a notification by the Gaming Facility Operator that temporarily prohibits a Person from entering or remaining in the Gaming Facility for a specified period of time as provided for under Section 906(a)(1) of this Code;
46. "Secure Area" means the following areas within the Gaming Facility: Gaming Device storage and repair areas, count rooms, vaults, cages, security offices and surveillance rooms, revenue accounting offices, rooms containing information systems that monitor or control Gaming Activities, or other areas as may be agreed to by the State Gaming Agency and the Tribal Gaming Office in a separate agreement;
47. "Self-Excluded Person" means a Person who, by acknowledging that he or she is a problem gambler, has voluntarily placed his or her name on the Tribal Gaming Office's and/or the State Gaming Agency's self-exclusion list;
48. "State" means the State of Arizona, its authorized officials, agents and representatives;
49. "State Certification" means the process utilized by the State Gaming Agency to ensure that all Persons required to be certified are qualified to hold such certification in accordance with the provisions of the Compact;
50. "State Gaming Agency" means the agency of the State which the Governor may from time to time designate by written notice to the Nation as the single State agency authorized to act on behalf of the State under the Compact;

51. "Tribal Constitution" means the Constitution of the Yavapai-Apache Nation adopted on March 7, 1992, as approved by the Secretary of Interior pursuant to authority granted by the Act of June 18, 1934, 48 Stat. 984, as may be amended;
52. "Tribal Council" means the Tribal Council of the Yavapai-Apache Nation, the governing body of the Nation;
53. "Tribal Court" means the judiciary of the Yavapai-Apache Nation;
54. "Tribal Gaming License" or "License" means an approval issued by the Commission to the following Persons who are involved in the Gaming Operation:
 - (a) The Gaming Facility Operator, including its Principals, Primary Management Officials and Key Employees;
 - (b) Gaming Employees;
 - (c) Manufacturers and Distributors of Gaming Devices, Gaming Vendors, and providers of Ancillary Services; and
 - (d) Those Persons who are otherwise required to secure a Tribal Gaming License from the Commission pursuant to the Compact or this Code;
55. "Tribal Gaming Office" means the tribal regulatory agency designated by the action of the Tribal Council as the entity that shall exercise the civil regulatory authority of the Nation over Gaming Activities pursuant to this Gaming Code;
56. "Vendor" means a Manufacturer or Distributor of Gaming Devices, Gaming Vendor, or provider of Ancillary Services, as those terms are defined in this Gaming Code;
57. "Video Lottery Terminal" means an on-line computer or data-processing terminal capable of providing a source of both input and a video display output for the computer system to which it is connected, in which a player is playing against the algorithm of the terminal so that the player is playing directly against the terminal for immediate payment and is immediately rewarded or penalized based on the outcome, and which dispenses a paper receipt which can be redeemed by the player for the player's winnings.

CHAPTER 3: YAVAPAI-APACHE NATION TRIBAL GAMING OFFICE

Section 301. Establishment and Structure

The Yavapai-Apache Nation Tribal Gaming Office is established under this Gaming Code to regulate all Gaming Activity on the Indian Lands of the Nation consistent with the terms of this Code, the Act, the Compact, and all Gaming Regulations implemented hereunder. The Tribal Gaming Office shall consist of the Commission, the Executive Director, and all Tribal Gaming Office staff.

Section 302. Commission

- (a) **Composition; Staggered Terms.** The Commission shall consist of five (5) enrolled Tribal Members appointed by the Tribal Council in a manner that provides for staggered terms. Each member of the Commission shall serve for a term of five (5) years, and may be subject to reappointment by the Tribal Council upon the expiration of his or her term. A commissioner may continue to serve after the expiration of his or her term of office until a successor has been appointed, unless such commissioner has been removed for cause under Section 302(e) of this Code.
- (b) **Qualifications.** No Person shall be eligible or qualified to serve or continue to serve as a commissioner unless he or she meets the following qualifications:
 - (1) Is twenty-one (21) years of age or older;
 - (2) Has no financial interest in, or management responsibility for, any Gaming Activity;
 - (3) Has no financial interest in a Vendor licensed by the Commission;
 - (4) Must qualify for and obtain a valid Tribal Gaming License;
 - (5) Is not a member of the Tribal Council; and
 - (6) Complies with any policy approved by the Tribal Council restricting the Nation's Board and Commission members from being an immediate family member of a Tribal Council member if such a policy is in effect at the time of appointment.
- (c) **Selection of Officers.** The Commission shall select annually by majority vote one (1) of its members to serve as Chairperson of the Commission, one (1) of its members to serve as Vice Chairperson, and one (1) of its members to serve as Secretary. The Vice Chairperson shall serve as Chairperson of the Commission during meetings of the Commission at which the Chairperson is absent.
- (d) **Motions and Resolutions; Meetings; Quorum.** Unless otherwise provided in this Code, all official actions of the Commission shall be taken by motion or

resolution approved by the vote of a majority of the quorum present in the meeting. The Commission shall meet at the call of the Chairperson of the Commission or a majority of the commissioners, but in no event shall the Commission meet less than once per calendar month. Three (3) members of the Commission shall constitute a quorum. In the case of an emergency, the commissioners may participate in meetings via electronic communications, whereby each commissioner can hear and speak to the other commissioners in real time. Proxy voting shall be prohibited.

- (e) **Removal of Commissioners.** A commissioner may be involuntarily removed from office before the expiration of his or her term in accordance with the following procedures:
 - (1) Any member or members of the Tribal Council or a majority of the commissioners may submit a written request to remove a commissioner to the Secretary of the Tribal Council, specifying the factual basis of the request;
 - (2) The cause for removal shall be limited to the following grounds: (1) conviction in any court of a felony; (2) a failure to meet or maintain the qualifications for commissioners set forth in Section 302(b) of this Code; (3) gross neglect of duty; (4) malfeasance in office; or (5) conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the Commission;
 - (3) Within thirty (30) days following receipt of the written request for removal, the Tribal Council shall convene for the purpose of voting on the removal of the commissioner. Before any vote is taken, the commissioner shall be given written notice and a full opportunity, either in person or through a representative of his or her choice, to answer or otherwise respond to any and all of the allegations against him or her; and
 - (4) If the Tribal Council determines by majority vote that removal for cause has been established by a preponderance of the evidence, the Tribal Council shall remove the commissioner.
- (f) **Resignations and Vacancies.** Any commissioner may resign at any time by giving written notice of such to the Secretary of the Commission and to the Secretary of the Tribal Council. The resignation shall become effective at the time specified in such notice, and the acceptance of such resignation shall not be necessary to make it effective. Any vacancy on the Commission, however caused, shall be filled for the unexpired portion of the vacated commissioner's term by a qualified person appointed by the Tribal Council.
- (g) **Compensation.** Commissioners shall be reasonably compensated as determined by the Tribal Council and in accordance with the annual budget of the Commission.

- (h) **Powers and Duties.** The Commission shall have the following powers and duties:
- (1) To oversee the regulation of all Gaming Activity on the Indian Lands of the Nation;
 - (2) To conduct hearings regarding Licensees in accordance with this Gaming Code and any Gaming Regulations;
 - (3) To bring suits in Tribal Court seeking remedies for violations of this Code or the Compact, including against any Person who commits trespass as described in Chapter 11 of this Code, or who engages in any activity or activities prohibited by this Code or the Compact;
 - (4) To make licensing decisions in accordance with this Gaming Code, the Compact, and the Gaming Regulations;
 - (5) To establish fees for applications for Licenses and renewals thereof;
 - (6) To issue barring decisions in conformance with this Code and the Compact;
 - (7) To decide Patron Disputes in accordance with this Gaming Code;
 - (8) To administer oaths and affirmations to witnesses appearing before the Commission;
 - (9) To require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents necessary for the Commission to carry out its regulatory duties under this Gaming Code and the Compact, and to bring actions in the Tribal Court for the enforcement of such subpoenas;
 - (10) To perform the Commission's powers and duties within the budget approved by the Tribal Council;
 - (11) To enter into contracts, consistent with the budget approved by the Tribal Council, for services or activities necessary to the discharge of the duties of the Tribal Gaming Office under this Gaming Code and the Compact;
 - (12) To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all proceedings of the Commission;
 - (13) To submit quarterly and annual reports to the Tribal Council on the activities of the Tribal Gaming Office; such reports to include financial information and information on the general regulatory activities of the Tribal Gaming Office;

- (14) To promulgate Gaming Regulations subject to the applicable notice and comment provisions of Chapter 7 of this Code;
- (15) To approve internal policies and procedures to govern the day-to-day operation of the Tribal Gaming Office;
- (16) Subject to the approval of the Tribal Council, to amend or enter into new Compact appendices or memoranda of understanding and agreements with the State Gaming Agency;
- (17) To recommended candidates for the position of Executive Director to the Tribal Council; and
- (18) To oversee the Tribal Gaming Office and its Executive Director in order to ensure that Gaming Activities conducted on the Indian Lands of the Nation comply with this Code, the Act, the Compact, and all Gaming Regulations implemented hereunder.

Section 303. Tribal Gaming Office Staff

- (a) **Executive Director.** The day-to-day functions of the Tribal Gaming Office shall be supervised by an Executive Director who shall have overall responsibility for the administrative functions of the Tribal Gaming Office and other responsibilities specified under this Code. The Executive Director shall also serve as the formal liaison to the person holding the similarly titled position with the State Gaming Agency. The Executive Director shall be hired by the Tribal Council and devote his/her full efforts and diligence to the position. Nothing in this subsection prohibits the temporary appointment of an acting Executive Director by the current Executive Director or the Tribal Council when the Executive Director is unavailable.
- (b) **Other Staff.** The Executive Director shall employ and supervise inspectors, agents, and other staff as may be necessary to fulfill the Tribal Gaming Office's regulatory duties under this Gaming Code and the Compact.
- (c) **Employees of the Nation.** Tribal Gaming Office staff are employees of the Nation and subject to the Nation's Human Resource policies and procedures.
- (d) **Qualifications.**
 - (1) Must not have been employed by the Gaming Facility Operator within a ninety-day period immediately preceding employment with the Tribal Gaming Office, unless waived by the Gaming Facility Operator; and
 - (2) Must qualify for and obtain a valid Tribal Gaming License and, unless a Tribal Member, certification by the State Gaming Agency.

- (e) **Duties and Responsibilities.** Subject to the oversight of the Commission as set forth in Section 302 of this Code, the Executive Director and the Tribal Gaming Office staff shall have the following duties and responsibilities:
- (1) To monitor and regulate the conduct of all Gaming Activity on the Indian Lands of the Nation;
 - (2) To investigate alleged violations of this Code, the Compact or Gaming Regulations;
 - (3) To issue notices of alleged violations of this Code, the Compact or Gaming Regulations in accordance with Chapter 6 of this Code;
 - (4) To have immediate access to all premises on the Indian Lands of the Nation where Gaming Activity is conducted;
 - (5) To inspect, examine, and copy all papers, books and records (whether in paper or electronic form) related to the Gaming Activities conducted on the Indian Lands of the Nation, including to have “read only” electronic access to the Host System pursuant to Section 802(b) of this Gaming Code, in order to carry out the regulatory duties of the Tribal Gaming Office under this Gaming Code and the Compact;
 - (6) To conduct or cause to be conducted background investigations of Persons required to be licensed;
 - (7) To issue temporary licenses to Applicants;
 - (8) To issue identification cards to Licensees;
 - (9) To approve Gaming Facility Operator’s internal controls, plans, rules, lotteries and promotions in accordance with Chapter 7 of this Code;
 - (10) To make reports to the State Gaming Agency and the National Indian Gaming Commission as required by the Compact and the Act;
 - (11) To provide for the detention of persons who may be involved in illegal acts, in cooperation with the public safety personnel of the Gaming Facility Operator and the Yavapai-Apache Police Department, as necessary for the purpose of notifying appropriate law enforcement authorities;
 - (12) To operate the Tribal Gaming Office within the budget approved by the Commission and the Tribal Council; and
 - (13) To keep the Commission informed and to submit reports upon the request of the Commission or at least monthly on the activities of the Tribal Gaming Office; such reports may include, but are not limited to, licensing

information, financial information and such other information deemed relevant by the Commission to the regulatory activities of the Tribal Gaming Office.

Section 304. Prohibition on Immediate Employment by the Gaming Facility Operator

The Gaming Facility Operator may not employ a current or former Tribal Gaming Office Commissioner, Executive Director, or staff member for a period of ninety-days (90) after his or her employment with the Tribal Gaming Office or the end of a Commissioner's term of service on the Commission, as applicable, unless waived by the Commission.

Section 305. Prohibition on Gambling

Tribal Gaming Office commissioners and staff are prohibited from gambling in the Nation's Gaming Facility.

Section 306. Ethics Policy

The Commission shall adopt an Ethics Policy applicable to commissioners and staff of the Tribal Gaming Office, which shall, at a minimum, include provisions on confidentiality, conflict of interest and receipt of gifts and complimentary items from the Gaming Facility Operator and other Licensees.

CHAPTER 4: LICENSE FOR OPERATING AND CONDUCTING GAMING ACTIVITY

Section 401. Who Shall be Licensed

- (a) **Gaming Facility and Gaming Facility Operator.** The Gaming Facility and Gaming Facility Operator, including its Principals, shall apply for and receive a Tribal Gaming License from the Commission and where applicable, shall be certified by the State Gaming Agency in conformance with the Compact, prior to commencement of operation. A separate License shall be required for each Gaming Facility.

- (b) **Gaming Employees.** Every Gaming Employee shall apply for and receive a Tribal Gaming License from the Commission prior to commencement of employment, subject to the issuance of a temporary license provided for in Section 404 of this Code. The Commission may establish different classifications of Gaming Employees by Regulation as long as the classifications and associated background investigations are consistent with the applicable requirements of this Code, the Compact and National Indian Gaming Commission regulations. Except as otherwise provided in this Code, any Gaming Employee that is not an Enrolled Tribal Member or whose duties are not limited to Class II Gaming shall also be certified by the State Gaming Agency. Gaming Employees that hold the following positions are not required to be certified by the State Gaming Agency so long as they do not have unescorted access to Secure Areas:
 - (1) Food and beverage service personnel such as chefs, cooks, waiters, waitresses, bus persons, dishwashers, food and beverage cashiers, and hosts;
 - (2) Gift shop managers, assistant managers, cashiers, and clerks;
 - (3) Greeters;
 - (4) Landscapers, gardeners, and groundskeepers;
 - (5) Maintenance, cleaning, and janitorial personnel;
 - (6) Stewards and valets;
 - (7) Wardrobe personnel; and
 - (8) Warehouse personnel.

- (c) **Manufacturer and Distributors of Gaming Devices and Gaming Vendors in Excess of \$10,000.** In conformance with the Compact or Appendix J, each Manufacturer and Distributor of Gaming Devices, and each Gaming Vendor providing goods or services to the Nation in excess of \$10,000 shall be certified

by the State Gaming Agency and apply for and receive a Tribal Gaming License from the Commission prior to the sale, lease or providing of goods or services.

- (d) **Other Vendors and Providers of Ancillary Services.** In conformance with the Compact or Appendix J, each Gaming Vendor providing goods or services to the Nation between \$1,000 and \$10,000 in any single month and each provider of Ancillary Services to the Nation in excess of \$2,500 in any single month shall be certified by the State Gaming Agency and apply for and receive a Tribal Gaming License from the Commission. The \$1,000, \$2,500 and \$10,000 threshold amounts applicable to Gaming Vendors and providers of Ancillary Services shall be automatically increased by 10% on each five-year anniversary of the effective date of 2021 Compact.
- (e) **Tribal Gaming Office Commissioners and Staff.** Every commissioner or staff member of the Tribal Gaming Office shall apply for and receive a Tribal Gaming License through the Nation prior to commencement of service or employment, subject to the issuance of a temporary license provided for in Section 404 of this Code. Tribal Gaming Office staff that are not Enrolled Tribal Members shall also be certified by the State Gaming Agency.
- (f) **Hotel employees.** Notwithstanding anything to the contrary in this Code, hotel employees are not required to apply for and receive a Tribal Gaming License or be certified by the State Gaming Agency so long as they do not have access to nonpublic areas of the Gaming Facility (except if escorted by Security, Tribal Gaming Office inspector or a Gaming Facility supervisor or manager).

Section 402. Applications for a Tribal Gaming License

- (a) Except as provided for in Section 402(c)-(d) of this Code, each Applicant for a Tribal Gaming License shall file with the Tribal Gaming Office a written application in the form prescribed by the Commission, along with the Applicant's fingerprint card, current photograph, and the fee required by the State Gaming Agency and Commission.
 - (1) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal,

Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe being unable to license you for a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

- (2) The following additional notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an Applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

- (b) Except as provided for in Section 402(c)-(d) of this Code, the Tribal Gaming Office shall request from each Applicant, and from each Principal of each Applicant, all of the following information, as may be modified by the regulations of the National Indian Gaming Commission:
 - (1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, and all languages spoken or written;
 - (2) Currently and for the previous five (5) years (or if the Applicant is under the age of 23, information from the age of eighteen), business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the Applicant during each period of residence listed in Section 402(b)(2) of this Code;
 - (4) Current business and residence telephone numbers, and all cell phone numbers;
 - (5) A description of any existing and previous business relationships with Indian tribes, including any ownership interests in those businesses;

- (6) A description of any existing and previous business relationships in the gaming industry generally, including ownership interests in those businesses;
 - (7) The name and address of any licensing or regulatory agency with which the Applicant has filed an application for a license or permit related to gaming and whether or not such license or permit was granted;
 - (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
 - (9) For each misdemeanor for which there is an ongoing prosecution or a conviction (excluding minor traffic violations), the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
 - (10) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to Sections 402(b)(8) or 402(b)(9) of this Code, the criminal charge, the date of the charge, the name and address of the court involved, and the disposition, if any;
 - (11) The name and address of any licensing or regulatory agency with which the Applicant has filed an application for an occupational license or permit and whether or not such license was granted;
 - (12) A current photograph;
 - (13) Any other information the Commission deems relevant;
 - (14) Fingerprints consistent with procedures adopted by the Nation according to 25 C.F.R. § 522.2(h). For purposes of this Section, the Tribal Gaming Office is hereby identified as the law enforcement agency that is authorized and directed to process and forward the fingerprints to the applicable state or federal agency for a criminal history check, including a check of criminal history records information maintained by the Federal Bureau of Investigation; and
 - (15) The fee required by the State Gaming Agency and the Commission.
- (c) An Applicant that qualifies as a Vendor or Provider of Ancillary Services under Section 401(d) of this Code may use the Short Form Application provided for in Section 5(d)(2) of the Compact. The Short Form Application shall be submitted to the State Gaming Agency and the Tribal Gaming Office no later than one (1) business day after providing any goods or services to the Nation. The Tribal Gaming Office may require additional information from the Applicant at a later date if necessary to ensure their suitability for licensure.

- (d) An Applicant that occupies one of the positions described in Section 401(b) of this Code and who does not have access to Secure Areas may apply for a Tribal Gaming License with only fingerprint card(s) and a shortened form of application as prescribed by the Commission. The Applicant shall be permitted to work for up to fifteen (15) days prior to receiving their License. The shortened form of application need only require, at a minimum, the Person's name, address, social security number, date and place of birth, other names used, last employer, and criminal history.
- (e) In no event may any Applicant withdraw an application without the permission of the Nation or the Commission, as applicable.

Section 403. Background Investigations

- (a) Upon receipt of a completed application and required fee for licensing, the staff of the Tribal Gaming Office shall conduct or cause to be conducted a background investigation sufficient to determine whether the Applicant is qualified for licensing.
- (b) In conducting a background investigation, the staff of Tribal Gaming Office and its agents shall keep confidential the identity of each Person interviewed in the course of the investigation, to the extent permitted by applicable law.
- (c) A complete application file containing all of the information listed in Section 402 of this Code and an investigative report for each background investigation shall be maintained for no less than 3 years when the Gaming Facility Operator employs a Primary Management Official, a Key Employee, or other Gaming Employee. Before issuing a license, the investigative report shall include all of the following information: (1) steps taken in conducting the investigation, (2) results obtained, (3) conclusions reached, and (4) the basis for those conclusions.

Section 404. Temporary Tribal Gaming License

Within twenty (20) days of the receipt of a completed application for a Tribal Gaming License, the Executive Director may issue a temporary License to the Applicant unless (1) grounds sufficient to disqualify the Applicant are apparent on the face of the application; (2) a background investigation discloses that the Applicant has a criminal history; or (3) the Tribal Gaming Office receives notice from the State Gaming Agency that it will not issue a temporary certification for the Applicant. The temporary Tribal Gaming License shall immediately become void and be of no effect upon (1) the issuance of the License; (2) the issuance of a notice of denial; or (3) ninety (90) days after the Licensee has begun working, if the Applicant's continued employment is prohibited by Federal Law or any regulation promulgated by the National Indian Gaming Commission. Applicants that require certification from the State Gaming Agency shall also obtain temporary state certification from the State Gaming Agency pursuant to Section 5(n) of the Compact.

Section 405. Eligibility Determination

- (a) Upon completion of the background investigation, the Commission shall review an Applicant's prior activities, criminal record, if any, and reputation, habits, and associations in order to make a finding concerning the eligibility of an Applicant for licensure pursuant to Section 502 of this Code.
- (b) With regard to Vendors that are subject to the state certification requirements under the Compact and Appendix J, as amended, the Commission shall provide the State Gaming Agency with twenty (20) days from the date of the State Gaming Agency's receipt of the completed Application to make a certification determination, before the Commission makes its own eligibility determination for said Applicant as permitted by this Code.
- (c) For Persons or Applicants subject to the Compact, and pursuant to Section 5 of the Compact, the State Gaming Agency may also conduct a background investigation of the Applicant and provide the Commission with a written recommendation as to whether the Applicant should be licensed. If the Commission takes any action with respect to a License despite a recommendation to the contrary from the State Gaming Agency, the Commission shall afford the State Gaming Agency an opportunity for a hearing before an appropriate Tribal forum to contest the Commission's licensing decision in conformance with Section 5(q)(2)-(3) of the Compact. The decision of the Tribal forum shall be final, except that if the Tribal forum upholds a licensing decision of the Commission contrary to the State Gaming Agency's recommendation, the State Gaming Agency may appeal to an independent three-member tribunal as provided in Section 5(q)(4) of the Compact.

Section 406. Additional Background Investigations

The Tribal Gaming Office retains the right to conduct additional background investigations of any Licensee at any time while the License is valid.

Section 407. Report to the National Indian Gaming Commission

- (a) Before issuing a license to a Primary Management Official or Key Employee, the Tribal Gaming Office shall prepare a notice of results of the Applicant's background investigation, which must be submitted to the National Indian Gaming Commission no later than 60 days after the Applicant begins work at a Gaming Operation authorized by this Gaming Code.
- (b) Unless otherwise required by 25 C.F.R. Part 556, the notice of results shall include the following information:
 - (1) The Applicant's name, date of birth, and social security number;
 - (2) The date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;

- (3) A summary of the information presented in the investigative report, including:
 - (A) Licenses that have previously been denied;
 - (B) Licenses that have been revoked, even if subsequently reinstated;
 - (C) Every known criminal charge brought against the applicant within the last 10 years of the date of the application;
 - (D) Every felony offense of which the applicant has been convicted or any ongoing prosecution; and
 - (4) A copy of the eligibility determination made in accordance with Section 405 of this Code.
- (c) The Commission may license a Primary Management Official or Key Employee Applicant after submitting a notice of results of the Applicant's background investigation to the National Indian Gaming Commission and shall notify the National Indian Gaming Commission of the issuance of the License within thirty (30) days of issuance.
 - (d) If, within thirty (30) days of the National Indian Gaming Commission's receipt of a notice of results, the National Indian Gaming Commission provides the Tribal Gaming Office with a statement itemizing objections to the issuance of a License to a Primary Management Official or to a Key Employee, the Commission shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission and make a final decision whether to issue a License to such Applicant. If the Commission had issued a License to a Primary Management Official or Key Employee before receiving the National Indian Gaming Commission's statement of objections, notice and hearing shall be provided to the Licensee pursuant to Section 503.
 - (e) The Gaming Operation shall not employ as a Primary Management Official or a Key Employee a Person who does not have a License after ninety (90) days after his or her commencement of work at the Gaming Operation.
 - (f) If a License is not issued to a Primary Management Official or Key Employee Applicant, the Tribal Gaming Office shall:
 - (1) Notify the National Indian Gaming Commission; and
 - (2) Forward copies of its eligibility determination and notice of results (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

- (g) With respect to Primary Management Officials and Key Employees, the Tribal Gaming Office shall retain applications, investigative reports and eligibility determinations for no less than three (3) years from the date of termination of employment.

Section 408. Duration and Renewal of Licenses

- (a) Any License shall be effective for two (2) years from month of issuance. A Licensee that has applied for renewal may continue to be employed or engaged under the expired License until action is taken on the renewal Application.
- (b) Applicants for renewal of a License shall provide updated material as requested on the appropriate renewal forms consistent with the provisions of this Code, the Compact and any Gaming Regulations duly promulgated by the Commission under this Code. Applicants for renewal shall not be required to resubmit historical data already made available to the Tribal Gaming Office.
- (c) Additional background investigations shall not be required of Applicants for renewal unless the Tribal Gaming Office becomes aware of new information concerning the Applicant's continued eligibility for a License or it otherwise has good cause to perform additional background investigations on the Applicant.

Section 409: Tribal Licensing Standards

The issuance of a License by the Nation or the Commission does not create or imply a right of employment or continued employment. Tribal Gaming Office commissioners and staff and Gaming Employees must be licensed, and the Tribal Gaming Office and Gaming Facility Operator will not employ anyone who is not licensed. The Nation or Commission shall not license a Tribal Gaming Office commissioner or staff or Gaming Employee if it is determined that the Applicant:

- (a) has ever been convicted of any gaming offense;
- (b) has been convicted of a felony in the seven (7) years prior to submission of the Application unless that felony has been set-aside;
- (c) has ever been convicted of a felony relating to extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery, fraud, murder, voluntary manslaughter, sex offenses, rape or kidnapping;
- (d) has knowingly and willfully provided materially important false statements or information or omitted materially important information on his or her Application or background questionnaire; or
- (e) is a Person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal

practices, and methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

Section 410: Utilization of Gaming Employees

When the needs of the business dictate, the Gaming Facility Operator may temporarily utilize any Gaming Employee holding a valid Tribal Gaming License in any other position within the Gaming Facility without requiring a new License from the Commission so long as:

- (a) The Gaming Employee is properly trained and has authorized access to areas required by the other position; and
- (b) The Gaming Facility Operator provides written notice to the Tribal Gaming Office.

Section 411: Identification

All Gaming Employees and all employees of the Tribal Gaming Office shall wear, in plain view, identification badges or cards issued by the Tribal Gaming Office which shall, at a minimum, include a photograph, first and last name, an identification number unique to the individual License, the Nation's seal, and a date of expiration. The Gaming Facility Operator shall have responsibility for preparing and issuing visitor badges.

CHAPTER 5: DENIAL, SUSPENSION, REVOCATION, AND NON-RENEWAL OF TRIBAL GAMING LICENSES

Section 501: Disclosure of Possible Grounds for Denial, Suspension, Revocation or Non-Renewal of a Tribal Gaming License; Change of Principals

- (a) After an Applicant has submitted an application to the Tribal Gaming Office for a Tribal Gaming License or has had the Tribal Gaming License issued by the Commission, such Person shall have an ongoing and affirmative obligation to promptly and in writing disclose to the Tribal Gaming Office any possible subsequent grounds for revocation, suspension, denial or non-renewal of such Person's License including, but not limited to, those grounds set forth at Sections 409 and 502 of this Code.
- (b) After any Applicant who is not a natural person has submitted an application to the Tribal Gaming Office for a Tribal Gaming License or has been issued a Tribal Gaming License by the Commission, but except for providers of Ancillary Services and for Gaming Vendors providing goods or services between \$1,000 and \$10,000 in any single month, such entity shall file a report of each change of its Principals with the Tribal Gaming Office and the State Gaming Agency. Each new Principal shall file a complete application within thirty (30) days after the change of Principal takes place, regardless of whether the change occurs by appointment, election, or some other means. The Tribal Gaming Office shall forward a copy of the application to the State Gaming Agency. The entity's License shall remain valid unless the Commission disapproves the change or denies the application. Pursuant to the Compact, the entity's certification also shall remain valid unless the State Gaming Agency disapproves the change or denies the application.

Section 502: Grounds for Denial, Suspension, Revocation or Non-Renewal of a Tribal Gaming License

The Commission may deny, suspend, revoke or refuse to renew a Tribal Gaming License when the Applicant or Licensee:

- (a) has been determined by the National Indian Gaming Commission to not be eligible for employment. If, after a License has been issued, the Commission receives reliable information from the National Indian Gaming Commission that a Primary Management Official or Key Employee is not eligible for employment, the Commission shall immediately suspend such License and shall notify in writing the Licensee of the suspension and the proposed revocation. After a revocation hearing, the Commission shall decide to revoke or to reinstate the gaming License, and it shall notify the National Indian Gaming Commission of its decision within forty-five (45) days of receiving notification from the National Indian Gaming Commission;
- (b) is a Person whose prior activities, criminal record, if any, reputation, habits and associations pose a threat to the public interest of the Nation or the State or to the

effective regulation and control of Gaming Activity, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of Gaming Activity or the carrying on of the business and financial arrangements incidental thereto. When the Commission finds that this subsection (b) applies to an Applicant or Licensee who is a Primary Management Official or Key Employee, the Commission shall deny, suspend, revoke or refuse to renew a Tribal Gaming License in accordance with all applicable National Indian Gaming Commission regulations;

- (c) has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of this Gaming Code, the Compact or the provisions of any Gaming Regulation, or when any such violation or non-compliance has occurred upon any premises occupied or operated by any such Person or over which he or she has substantial control;
- (d) knowingly causes, aids, abets, or conspires with another to cause any Person or entity to violate any of the laws of the Nation, the Regulations of the Commission or State Gaming Agency, the provisions of this Gaming Code or the Compact;
- (e) has obtained a Tribal Gaming License or State Certification by fraud, misrepresentation, concealment or through inadvertence or mistake;
- (f) has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any tribal, state or United States governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of the Nation, or any state of the United States, or of any crime, whether a felony or misdemeanor, involving any Gaming Activity or physical harm to individuals or moral turpitude;
- (g) makes a misrepresentation of, or fails to disclose a material fact to the Nation, Commission or State Gaming Agency;
- (h) knowingly discloses the existence of or information related to any ongoing Tribal Gaming Office investigation after receiving notice that such information is to be maintained as confidential;
- (i) fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this Code;
- (j) has been convicted of any felony offense;
- (k) is subject to current prosecution or pending charges, or a conviction which is under appeal, for any felony or gaming offense; provided, that at the request of any Applicant, the Commission may defer decision upon the application during the pendency of such prosecution or appeal;

- (l) has had a gaming license issued by any state or tribe in the United States revoked, denied or refused renewal;
- (m) has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation, denial of an application or forfeiture of license;
- (n) has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal laws of any tribe or state if such pursuit creates probable cause to believe that the participation of such Person in gaming or related activities would be detrimental to the proper operation of an authorized gaming or related activity on the Indian Lands of the Nation. For purposes of this paragraph, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;
- (o) is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization in such a manner which creates probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the authorized gaming or related activity on the Indian Lands of the Nation. For the purposes of this paragraph, career offender shall be defined as any Person whose behavior is pursued in an occupational manner or context for the purposes of economic gain utilizing such methods as are deemed criminal violations of Tribal law, Federal law or the laws and the public policy of the State. A career offender organization shall be defined as any group of Persons who operate together as career offenders;
- (p) fails to keep sufficient books and records to substantiate the reports required by this Gaming Code or falsifies any books and records related to any Gaming Activity; or
- (q) fails to provide any information requested by the Tribal Gaming Office within fourteen (14) days of receiving a written request from the Tribal Gaming Office for such information.

Section 503: Proceedings to Deny a Tribal Gaming License

- (a) The Commission may deny a Tribal Gaming License to any Applicant where the Commission determines that the Applicant is unable to meet the suitability requirements of Section 502 of this Code.
- (b) The Commission shall serve the Applicant with a written notice of its decision to deny the Applicant's Gaming License, which shall include the specific grounds under Section 502 for denial and which shall notify the Applicant of the Applicant's opportunity to be heard before the Commission at the Commission's next regularly scheduled Commission meeting. No other formal proceedings before the Commission or written notices shall be required, except that the Commission, after hearing the Applicant, may determine, in its sole discretion, to

reverse its decision to deny the Tribal Gaming License for the Applicant. The decision by the Commission shall be final and not subject to appeal in the Tribal Court.

Section 504: Proceedings to Suspend, Revoke or Not Renew a Tribal Gaming License

- (a) **Initiation by Commission.** Proceedings to suspend, revoke or non-renew a Tribal Gaming License shall be initiated by the Commission by serving a complaint upon the Licensee as set forth in this Code.
- (b) **Immediate Suspension.** The Commission may, by motion or resolution approved by unanimous vote of the Commissioners at a meeting where a quorum is present, immediately suspend a Tribal Gaming License prior to holding a suspension or revocation hearing as described in Section 504(g) of this Code, only where the Commission finds one of the following by clear and convincing evidence: (1) that the immediate suspension is necessary to protect the public interest, the effective regulation and control of Gaming Activities or the safe, fair, and honest conduct of Gaming Activities; or (2) that the continued licensure of the Person constitutes an immediate threat to the public health or welfare of patrons and/or employees of the Gaming Facility. An immediate suspension shall take effect upon service of a complaint upon the Licensee prepared in conformance with Section 504(c).
- (c) **Contents of Complaint.** The complaint shall set forth the following:
 - (1) The specific grounds for revocation, suspension or non-renewal of a Tribal Gaming License set forth in Section 502 that the Commission has reasonable cause to believe apply to the Licensee;
 - (2) The specific facts giving rise to the alleged grounds for revocation, suspension or non-renewal of a Tribal Gaming License;
 - (3) The date, time and location of the hearing described in Section 504(g) of this Code. The date of the hearing shall not be less than twenty (20) days after the Licensee receives a copy of the complaint or the amended complaint, as the case may be, unless the Licensee makes a written request to the Commission for an earlier hearing date, and the Commission finds that such a request for an earlier hearing date is reasonable and can be accommodated by the Commission. In the case of an immediate suspension, the Commission shall make all reasonable efforts to hold an earlier hearing if requested by the Licensee;
 - (4) Inform the Licensee that, in accordance with Section 502(i) of this Code and Section 5(f)(6) of the Compact, the burden remains upon the Licensee to demonstrate by clear and convincing evidence that the Licensee continues to be qualified for licensure as required by this Code and the Compact;

- (5) Notice that the Commission may amend the complaint in the event the Commission, following service of the original complaint, discovers or develops additional information pertaining to the facts and allegations set forth in the original complaint; and
 - (6) Notice that the Licensee may request access to information relied upon by the Commission in issuing the complaint as described in Section 504(e) of this Code, and how to request such information.
- (d) **Service.** The Commission shall cause the complaint or amended complaint to be served personally upon the Licensee or it may be sent by certified mail, return receipt requested, to the Licensee at the address shown upon the License or at such other address as may be updated in the files of the Tribal Gaming Office. A copy of the complaint or amended complaint shall also be provided to the Gaming Facility Operator. In the event personal service or certified mail is not available, the Commission shall cause the complaint or amended complaint to be served by any other means reasonably calculated to effectuate delivery to the Licensee.
- (e) **Access to Information.** Upon the written request of the Licensee, the Licensee shall be entitled to receive copies of all documents, reports, videos or other information relied upon by the Commission in issuing the complaint or amended complaint, unless the disclosure of such copies will materially compromise an ongoing Tribal Gaming Office or law enforcement investigation or if the disclosure has the potential to jeopardize the integrity of gaming for the Nation. If requested by the Licensee, the Commission may furnish an index of the documents, reports, videos or other information that have been withheld and shall set forth, in summary fashion, the reasons the documents, reports, videos or other information have been withheld from the requesting Licensee.
- (f) **Answer; Subpoenas.** Not less than five (5) days prior to the date of the hearing, the Licensee or his or her chosen representative shall file a written answer to the complaint or amended complaint with the Tribal Gaming Office and shall inform the Commission whether the Licensee desires to present evidence and/or witnesses at the hearing. In the case of an expedited hearing held on an immediate suspension, the Licensee and Commission may agree to a different time for filing an answer or agree that no answer need be filed, without prejudice to the Licensee. The answer shall be accompanied by a list of witnesses which the Licensee reasonably anticipates calling at the hearing. At the request of the Licensee and for good cause shown, or on its own motion, the Commission may issue subpoenas for the attendance of witnesses and for the production of papers, books, records, and documents.
- (g) **Hearing.** The hearing before the Commission shall be recorded by electronic or stenographic means and the records maintained for six months or until all appeals have been exhausted. The Licensee may be represented by legal counsel or other advocate at the Licensee's cost. The Licensee shall have the opportunity to respond to the allegations in the complaint or amended complaint and present evidence at the hearing, including documentary or testimonial evidence. The

Commission shall consider the evidence presented by the Licensee. The Commission shall develop specific hearing procedures by Regulation.

- (h) **Written Decision.** The Commission shall render a written decision containing findings of fact and conclusions of law in support of its decision. The Commission shall issue its decision within twenty (20) days of the conclusion of the hearing, unless the Commission provides written notice to the Licensee that an additional period of time, not to exceed ten (10) days, is required to complete the decision. In the case of an immediate suspension issued under Section 504(b) of this Gaming Code, the Commission shall use its best efforts to expedite the issuance of a final decision, which in no event shall be issued more than ten (10) days from the conclusion of the hearing, unless the Licensee and Commission agree to a later date. In the event of a suspension or revocation of the License, the Commission shall also inform the Licensee of the effective date of the suspension or revocation and/or the length of the suspension in the final written decision. The Commission shall inform the Licensee that the decision of the Commission may be appealed to the Tribal Court as provided for in Section 1402 of this Code.
- (i) **Surrender of Identification upon Suspension or Revocation of License.** When the Commission suspends, revokes or refuses to renew a Tribal Gaming License, the Licensee shall surrender his or her identification badge to the Tribal Gaming Office, or such other department of the Nation or the Gaming Facility Operator as the Tribal Gaming Office may designate, on the effective date of the suspension or revocation. No License shall be valid as of the effective date of the suspension, revocation, or non-renewal whether or not the Licensee surrenders his or her identification badge.
- (j) **Tribal Gaming Office Not Responsible for Back Pay or Lost Wages.** Under no circumstances shall the Tribal Gaming Office be held responsible for the payment of back pay, lost wages, benefits or any similar claim due to the suspension, revocation or refusal to renew a Tribal Gaming License.

CHAPTER 6: VIOLATIONS OF GAMING CODE, COMPACT OR GAMING REGULATIONS

Section 601: Investigation Responsibilities

The Executive Director of the Tribal Gaming Office has the responsibility to investigate alleged violations of the Act, the Gaming Code, the Compact or the Gaming Regulations or any applicable gaming laws of the Yavapai-Apache Nation or the State of Arizona.

Section 602: Notice of Violation Procedures

- (a) **Initiation by Executive Director.** Prior to issuing any final decision on a Notice of Violation, the Executive Director shall first deliver a preliminary Notice of Violation to the General Manager and Compliance Manager (or their successor titles) of the Gaming Facility Operator, or Vendor.
- (b) **Contents of the Preliminary Notice of Violation.** The preliminary Notice of Violation shall, at the minimum, provide the following:
 - (1) The specific sections of the Act, the Gaming Code, the Compact or Gaming Regulations or applicable gaming law alleged to have been violated;
 - (2) The specific facts giving rise to the alleged violation that the Executive Director has reasonable cause to believe has been committed;
 - (3) Those corrective actions (if any) that the Executive Director finds are needed to resolve the alleged violation; and
 - (4) A warning that the failure to file a written response to the notice permitted by Section 602(c) of this Code may preclude a later challenge of the notice on the merits in any subsequent proceeding to suspend, revoke or non-renew a Licensee's Tribal Gaming License pursuant to Section 602(f) of this Code.
- (c) **Obligation to Investigate and Written Response.** Upon receiving a preliminary Notice of Violation, the Gaming Facility Operator or Vendor shall investigate the allegations set forth in the preliminary Notice of Violation and determine what corrective actions (if any) may be required. When the preliminary Notice of Violation is delivered to the Gaming Facility Operator, the Gaming Facility Operator shall identify those Gaming Employees or other individuals who may have been involved in the alleged violation. The Gaming Facility Operator and/or Gaming Employee or Vendor shall file a written response to the preliminary Notice of Violation within ten (10) days of service. The Response shall contain:
 - (1) The signature of any Gaming Employee or Gaming Employees involved in the alleged violation indicating that Gaming Employee was informed of the preliminary Notice of Violation, if applicable;

- (2) An explanation of what corrective actions (if any) or other steps have been taken by the Gaming Facility Operator or Vendor as a result of the preliminary Notice of Violation to ensure that the violation does not occur again; and/or
 - (3) Any statement by the Gaming Facility Operator and/or the identified Gaming Employee, or Vendor challenging or objecting to the preliminary Notice of Violation or any material aspect of the preliminary Notice of Violation.
- (d) **Final Decision.** The Executive Director shall consider any written response received under Section 602(c) and any other information relevant to the matter and shall render a final written decision on the preliminary Notice of Violation within ten (10) days of receiving the response. The written decision shall be served on the General Manager and Compliance Manager for the Gaming Facility Operator and on any Gaming Employee who received notice of the preliminary Notice of Violation as indicated by the signature required by Section 602(c)(1) or, as applicable, the Vendor that is subject to the Notice of Violation. The final decision on the Notice of Violation shall explain the basis of the decision and clearly state whether: (1) there was no violation; (2) there was a violation but appropriate corrective actions have been taken; or (3) there was a violation and appropriate corrective actions have not been taken. In the event the Executive Director determines that there was a violation and appropriate corrective actions have not been taken, subject to the right of review permitted under Section 602(e), the Executive Director may take such other actions as may be allowable under the Gaming Code and Compact as necessary to ensure continued compliance with the Act, Gaming Code, the Compact, Gaming Regulations and applicable gaming law.
- (e) **Review of Decision.** Within five (5) days after the date of service of the final decision on the Notice of Violation, the Gaming Facility Operator and/or Gaming Employee or Vendor may file a petition with the Commission requesting a review of the Executive Director's decision. The Commission may set a hearing on the matter or may make a decision based solely upon the information available to the Executive Director as of the date of the Executive Director's final decision. The Commission shall issue a written decision within twenty (20) days of the filing of the petition. The Commission's decision is final and non-appealable, except as provided below under Section 602(f).
- (f) **Use of the Notice in a Collateral Proceeding.** Only if a written response to the preliminary Notice of Violation under Section 602(c) of this Code was filed by either the Gaming Facility Operator or the identified Gaming Employee or Vendor, may the Gaming Facility Operator or the identified Gaming Employee or Vendor later challenge the merits of the Notice of Violation in a subsequent proceeding before the Commission to suspend, revoke or not renew a Tribal Gaming License or as part of any related appeal to the Tribal Court as permitted by this Code.

- (g) **Compact Investigation and Reporting Obligations.** Nothing in this Section shall be construed to alter or diminish any Tribal Gaming Office investigation or reporting requirements under the Compact.

CHAPTER 7: MINIMUM INTERNAL CONTROL STANDARDS; PROMULGATION OF COMMISSION GAMING REGULATIONS; REVIEW OF GAMING FACILITY OPERATOR INTERNAL CONTROLS, PLANS, RULES, LOTTERIES

Section 701. Minimum Internal Control Standards. The minimum internal control standards applicable to the conduct of Gaming Activity shall be those set forth in the National Indian Gaming Commission's Guidance on the Class III Minimum Internal Control Standards, Bulletin No. 2018-3, dated August 14, 2018, including all recommended standards referenced therein and all additions, amendments, and updates thereto, except as may be modified or supplemented by the following:

- (a) Gaming Regulations promulgated by the Commission in accordance with Section 702 below;
- (b) Amendments to Appendix H of the Compact; or
- (c) Other applicable appendix of the Compact.

Section 702. Commission Gaming Regulations.

- (a) **Authority to Promulgate Regulations.** The Commission has the authority to promulgate Gaming Regulations in conformance with the Tribal Gaming Office's duties and responsibilities under this Code and the Compact to regulate the conduct of Gaming Activity on the Indian Lands of the Nation.
- (b) **Procedures.** When promulgating, amending or repealing Gaming Regulations, the Commission shall comply with the following notice and comment procedures:
 - (1) **Purpose and Need Statement.** All proposed Gaming Regulations shall contain a brief statement specifying the underlying purpose of the proposed Gaming Regulation with a reference to the provision of the Code or the Compact that is being addressed by such Gaming Regulation.
 - (2) **Period for Comment.** Prior to the issuance of a final Gaming Regulation, the Commission shall first submit a copy of the proposed Gaming Regulation to the Gaming Facility Operator for review and comment. Within fifteen (15) days of receipt, the Gaming Facility Operator may submit written comments to the Commission pertaining to the proposed Gaming Regulation, or it may reply that it has no comment. The Gaming Facility Operator shall be entitled to an additional period of fifteen (15) days to review the proposed Gaming Regulation and to provide comments, so long as a written request for such extension is received by the Commission within the original fifteen (15) day notice and comment period. If the Gaming Facility Operator does not file any written comments with the Commission within the time limitations provided by this subsection or if it replies it has no comment, the proposed Gaming

Regulation shall be promulgated as final by the Commission at its next Commission meeting.

- (3) **Response to Comments.** Where the Commission receives timely written comments from the Gaming Facility Operator to a proposed Gaming Regulation, the Commission shall promptly meet and confer with the Gaming Facility Operator to discuss the proposed Gaming Regulation. Thereafter, the Commission shall adequately consider any written comments and additional information received by the Commission during the notice and comment period as required by this Section. The Commission may, in response to such comments and additional information:
 - (A) Modify the proposed Gaming Regulation;
 - (B) Supplement the proposed Gaming Regulation;
 - (C) Make technical or factual corrections to the proposed Gaming Regulation; or
 - (D) Make any other changes to the proposed Gaming Regulation as the Commission determines is called for by such comments.
 - (4) **Promulgation of the Gaming Regulation.** The Commission shall promulgate the final Gaming Regulation in its original form or as amended pursuant to this Section at its next Commission meeting after the conclusion of the notice and comment period and any meeting with the Gaming Facility Operator required by this Section. Notice and a copy of the final Gaming Regulation shall be provided to the General Manager and Compliance Manager (or their successor titles) of the Gaming Facility Operator within twenty-four (24) hours of promulgation.
- (c) **Tribal Gaming Office Policies and Procedures Exempt.** The Commission's approval of internal policies and procedures to govern the day-to-day operation of the Tribal Gaming Office, including the Ethics Policy required by this Code, shall not be considered "Regulations" and shall be exempt from the requirements of this Section.

Section 703. Review of Gaming Facility Operator Internal Controls

- (a) The Gaming Facility Operator shall operate each Gaming Facility pursuant to a system of Internal Controls. The Internal Controls shall provide a level of control which equals or exceeds the level of control required by the minimum internal control standards described in Section 701 above and be consistent with this Code, any Gaming Regulations and the Compact.
- (b) The Gaming Facility Operator shall submit all Internal Controls and any amendments to the Tribal Gaming Office for approval prior to implementation.

- (c) The Tribal Gaming Office Executive Director and staff shall review the Internal Controls or amendments for the sole purpose of determining whether the Internal Controls provide a level of control which equals or exceeds the level of control required by the minimum internal control standards described in Section 701 above and are consistent with this Code, any Gaming Regulations and the Compact.
- (d) The Executive Director shall issue a letter either approving the Internal Controls or amendments thereto or setting forth comments and/or objections in as timely of a manner as possible, but no later than ten (10) days following receipt of the Internal Controls or amendments.
- (e) If the Executive Director issues a letter setting forth comments and/or objections, the Executive Director and the Gaming Facility Operator shall meet and confer within ten (10) days in a good faith effort to resolve any objections. Thereafter, the Executive Director may take any of the following actions:
 - (1) Review any revisions to the Internal Controls or amendments provided by the Gaming Facility Operator;
 - (2) Issue a letter approving the originally submitted Internal Controls or amendments or as subsequently revised by the Gaming Facility Operator;
 - (3) Issue a letter disapproving the originally submitted Internal Controls or amendments or as subsequently revised by the Gaming Facility Operator.
- (f) When required, the Executive Director shall provide copies of the Internal Controls and any amendments to the State Gaming Agency within thirty (30) days of implementation.

Section 704. Review of Gaming Facility Operator Plans, Rules, Lotteries and Promotions

- (a) The Gaming Facility Operator shall submit the following documents to the Executive Director for approval prior to implementation and according to the timeframes set forth in the respective Appendix or MOU:
 - (1) Surveillance and security plans as described in Appendix C of the Compact;
 - (2) Game rules as described in the respective Appendix or MOU;
 - (3) Lotteries and promotions as described in Appendix G of the Compact;
 - (4) Tournament rules as described in the respective Appendix or MOU;

- (5) Rules for incentive transactions as described in Appendix A of the Compact; and
 - (6) Any other documents required to be submitted to the Tribal Gaming Office for approval as set forth in an Appendix or MOU.
- (b) The Executive Director shall review the submitted document for the sole purpose of determining whether the document is consistent with the requirements of the Compact.
 - (c) The Executive Director shall issue a letter either approving the document or setting forth comments and/or objections in as timely of a manner as possible following receipt of the document.
 - (d) If the Executive Director issues a letter setting forth comments and/or objections, the Executive Director and the Gaming Facility Operator shall promptly meet and confer in a good faith effort to discuss the comments and resolve any objections. Thereafter, the Executive Director may take any of the following actions:
 - (1) Review any revisions to the document provided by the Gaming Facility Operator;
 - (2) Issue a letter approving the originally submitted document or as subsequently revised by the Gaming Facility Operator;
 - (3) Issue a letter disapproving the originally submitted document or as subsequently revised by the Gaming Facility Operator.
 - (e) When required, the Executive Director shall provide a copy of the document to the State Gaming Agency as set forth in the respective Appendix or MOU.

CHAPTER 8: FINANCIAL PRACTICES AND REPORTING

Section 801. Monthly Reports

- (a) On or before the twentieth day of each month, the Gaming Facility Operator shall file with the Tribal Gaming Office and the Tribal Council, a financial report for the preceding calendar month, prepared in accordance with generally accepted accounting principles, showing:
 - (1) The amount of Gross Receipts derived from Gaming Activities;
 - (2) The operating expenses incurred or paid;
 - (3) The specific classifications of such receipts and expenses allocated by department, and if applicable, by Class II, and Class III Gaming; and
 - (4) The Net Revenues derived from Gaming Activities.
- (b) It is the duty of the Gaming Facility Operator to maintain and keep such books and records as may be necessary to substantiate the particulars of each report described above.

Section 802. Maintenance of Books and Records; Tribal Gaming Office Access

- (a) Full and accurate books of account shall be kept on the Indian Lands of the Nation at the places of business of the Gaming Facility Operator showing the condition of the business and all transactions relating to Gaming Activities on the Indian Lands of the Nation. All books and records relating to Gaming Activities, including the records of the Gaming Facility Operator and the Tribal Gaming Office, shall be separately maintained in order to facilitate auditing in conformance with the Compact and Appendix I, as amended.
- (b) The Tribal Gaming Office shall be entitled to inspect, examine, and copy all papers, books and records (whether in paper or electronic form) related to the Gaming Activities conducted on the Indian Lands of the Nation without notice at any time during ordinary business hours or during Gaming Activities. The Tribal Gaming Office shall also be entitled to “read only” electronic access to the Host System for the Gaming Facility under the following circumstances:
 - (1) Access shall be through a single terminal located in a secure area within the Tribal Gaming Office, which shall be installed, maintained and supported by the Gaming Facility Operator’s Internal Information Technologies Office or its successor department in cooperation with the Tribal Gaming Office, including through the grant of appropriate access permissions as may be required to fulfill the purposes of this Section, which shall not be unreasonably withheld;

- (2) Access shall be limited to the Executive Director, the Internal Control Analyst and the Machine Compliance Specialist (or their successor titles) and any additional personnel that have been designated by name in writing by the Executive Director and approved by the Commission as having a need for such access in order to perform regulatory duties required by this Gaming Code and the Compact;
 - (3) Access shall only be performed in conformance with the written policies and procedures to be developed by the Tribal Gaming Office under this Code.
- (c) All records of Gaming Activities in whatever medium shall be retained for the term required by the Compact, or a separate agreement with the State Gaming Agency, or regulations of the National Indian Gaming Commission, whichever is longer. Such books shall be maintained according to generally accepted accounting principles and shall be suitable for audit pursuant to standards of the American Institute of Certified Public Accountants.

Section 803. Deposit of Gross Receipts; Payment of Operating Expenses

All Gross Receipts shall be deposited in a special account of the Gaming Facility Operator that shall contain only Gross Receipts and disbursements. Such account(s) shall be separate and distinct from all other accounts of the Nation. All operating expenses shall be withdrawn from such account by electronic transfer or consecutively numbered checks duly signed by the Gaming Facility Operator or an official or officials thereof designated by the Gaming Facility Operator, payable to a specific Person or organization. No check shall be drawn to "cash" or a fictitious payee.

Section 804. Annual Audit

- (a) **Audit Reports.** The Gaming Facility Operator shall, not less than annually at its fiscal year end, employ an independent certified public accountant approved by the Nation to audit the financial statements of the Gaming Operation in conformance with the requirements of the 25 C.F.R. §§ 571.12 and 571.13, the Compact, and Appendix I, as amended. The independent certified public accountant shall issue a report on audited financial statements of the Gaming Operation. The independent certified public accountant shall perform the audit in accordance with generally accepted auditing standards published by the American Institute of Certified Public Accountants and submit the audited financial statements, along with any reports the accountant has prepared, to the Tribal Council, the Tribal Gaming Office, the National Indian Gaming Commission, and the State Gaming Agency in accordance with all applicable National Indian Gaming Commission regulations within one hundred twenty (120) days after the Gaming Operation's fiscal year end.
- (b) **Auditors.** Either the firm or all independent certified public accountants engaged to do audits under this Code shall be licensed by the Arizona State Board of Accountancy.

- (c) **Audit of Contracts.** Any contract for supplies, services, or merchandise which relates to Gaming Activities in an amount greater than twenty-five thousand (\$25,000) per year, except contracts for professional legal or accounting services, shall be included within the scope of the annual audit.

Section 805. Disposition of Net Revenues

The Net Revenues derived from Class II and Class III Gaming Activities shall be distributed in accordance with the Nation's Gaming Revenue Allocation Plan, as approved by the United States Department of the Interior. In no event shall Net Revenues be used for any purpose other than the following:

- (a) To fund the Nation's governmental operations and programs;
- (b) To provide for the general welfare of the Nation and its members;
- (c) To promote tribal economic development;
- (d) To donate to charitable organizations; and
- (e) To help fund operations of local government agencies.

Section 806. Compliance with Internal Revenue Code

The Gaming Facility Operator shall maintain a permanent record containing the name and address of each player who receives a prize as required by and in accordance with the Internal Revenue Code. The Gaming Facility Operator will provide the State Gaming Agency a copy of the documentation the Gaming Facility Operator submits to the Internal Revenue Service indicating such game winnings of patrons of the Gaming Operation.

CHAPTER 9: GAMING OPERATION STANDARDS AND REQUIREMENTS

Section 901. Designation of Officer In Charge.

The Gaming Facility Operator shall designate a Person or Persons to be the officer in charge of the Gaming Facility at all times. The officer in charge shall be primarily responsible for the operation and conduct of all Gaming Activities in the Gaming Facility. The officer in charge must have obtained a License from the Commission at least ten (10) days prior to the Occasion. There shall be an officer in charge to supervise all Gaming Activities and who shall be continuously present on the premises where Gaming Activities are being conducted and, if the Gaming Facility otherwise does not operate on a twenty-four (24) hour basis, for a period of at least one (1) hour after the last Gaming Activities of the Occasion has been completed.

Section 902. Reporting to the Tribal Gaming Office

The Gaming Facility Operator, or a Tribal Gaming Office inspector or agent, as applicable, shall promptly report to the Tribal Gaming Office any reportable events, unusual occurrences, and all violations or suspected violations of this Code or the Compact as set forth in Appendix C of the Compact as amended. The Tribal Gaming Office shall, in turn, notify the State Gaming Agency pursuant to Section 6(g) of the Compact and Appendix C.

Section 903. Premises Open to the Tribal Gaming Office

The premises where any Gaming Activity is being conducted, or where it is intended that Gaming Activity will be conducted, shall at all times be open to immediate inspection by the Tribal Gaming Office.

Section 904. Patron Disputes

Whenever the Gaming Facility Operator refuses payment of alleged winnings to a patron or there is otherwise a dispute with a patron regarding that patron's wins or losses from Gaming Activity, and the Gaming Facility Operator and the patron are unable to resolve the dispute to the satisfaction of the patron, the Patron Dispute shall be resolved as follows:

- (a) **Patron Disputes of At Least Five Hundred Dollars.** If the Patron Dispute involves at least five hundred dollars (\$500), the Gaming Facility Operator shall notify the Tribal Gaming Office of the existence of the Patron Dispute and shall provide to the Tribal Gaming Office all documents, surveillance materials or other information regarding the particular Patron Dispute at issue. The Executive Director shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.
- (b) **Patron Disputes of Less Than Five Hundred Dollars.** If the Patron Dispute involves less than five hundred dollars (\$500), the Gaming Facility Operator shall inform the patron of his or her right to request that the Tribal Gaming Office conduct an investigation. The patron must make such a request to the Tribal Gaming Office within seventy-two (72) hours after the Gaming Facility Operator informs the patron of his or her right to request that the Tribal Gaming Office

conduct an investigation. The request must be in writing and include of the time, place and cause of the Patron Dispute. Upon timely request of the patron, the Executive Director shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

- (c) **Notice to Patrons.** Within thirty (30) days after the Tribal Gaming Office first receives notification from the Gaming Facility Operator or patron of the existence of a Patron Dispute, the Executive Director shall render a decision on the Patron Dispute and mail written notice of such decision by certified mail, return receipt requested, to the Gaming Facility Operator and the patron.
- (d) **Effective Date of Decision.** The decision of the Executive Director is effective on the date it is received by the patron as reflected on the return receipt.
- (e) **Review of Decision.** Within thirty (30) days after the date of receipt of the written decision, the patron or Gaming Facility Operator may file a petition with the Commission requesting a review of the Executive Director's decision. The Commission may set a hearing on the matter or may make a decision based solely upon the Executive Director's decision and other documentation provided to it by the patron and the Gaming Facility Operator. The Commission shall then issue a written decision within sixty (60) days of the filing of the petition. For Patron Disputes involving at least five-hundred dollars (\$500), the written decision shall include a notice that the patron or Gaming Facility Operator may file a complaint in Tribal Court within sixty (60) days of receipt of the Commission's written decision pursuant to Section 1404 of this Code.
- (f) **Principles of Contract Law.** All Patron Disputes arise exclusively under principles of common law contract, and such disputes shall not, under any circumstances, create a cause of action under any other principle of law including, but not limited to, principles of property law or tort law. Damages, costs, expenses, and attorneys' fees shall not be awarded to a patron in any Patron Dispute, and in no event shall a patron be entitled to recover more than the patron's alleged winnings.

Section 905. Restriction on Minors

- (a) No Person under 21 years of age may place any wager, directly or indirectly, in any Class III Gaming Activity or other Gaming Activity subject to the Compact, unless the State amends its law to permit wagering by Persons under 21 years of age in any Gaming Activity by a Person or entity other than an Indian tribe, whereupon the Nation may amend Tribal law to change the lawful gaming age under the Compact to correspond to the lawful gaming age under State law.
- (b) Unless the Nation amends Tribal law to permit Class III wagering by Persons under 21 years of age, any wager placed by a Person under the age of 21 years in a Gaming Facility of the Nation is automatically void and the Gaming Facility Operator shall not knowingly pay out any winnings arising out of such wager, and

any payout inadvertently paid to such underage person shall be and is immediately forfeited to the Gaming Facility Operator.

- (c) Neither the Nation, the Gaming Facility Operator, the Tribal Gaming Office, nor any employee thereof shall be deemed to have waived the sovereign immunity of the Nation or be liable in any way to a Person under 21 years of age or to any other party in any proceeding as a result of the participation of a Person under 21 years of age in the Gaming Activities of the Nation in violation of this Code and the Compact, or as a result of such Person being prohibited from participating in any Gaming Activity of the Nation.

Section 906. Safety and Security; Surveillance

- (a) **Safety and Security.** The Gaming Facility Operator shall establish and adhere to policies and procedures that provide for the safety and security of its employees and patrons.
 - (1) **Refusal of Service.** Pursuant to its safety and security policies and procedures, the Gaming Facility Operator may issue a Refusal of Service to any Person in the Gaming Facility and surrounding premises controlled by the Gaming Facility Operator for such reasons and for such period of time as the Gaming Facility Operator, in its sole discretion, shall determine appropriate, including but not limited to Persons who are determined by the Gaming Facility Operator to be disorderly, rude, intoxicated, or causing a disturbance to the public or the Gaming Operation.
 - (A) **Notice to Tribal Gaming Office.** The Gaming Facility Operator shall provide the Tribal Gaming Office with a copy of any Refusal of Service issued by the Gaming Facility Operator. Where the Gaming Facility Operator issues a Refusal of Service lasting more than seventy-two (72) hours, the Gaming Facility Operator shall provide a copy of the Refusal of Service to the Tribal Gaming Office within forty-eight (48) hours from its issuance.
 - (B) **Reviews.** The Gaming Facility Operator shall implement appropriate policies and procedures to permit a Person who is the subject of a Refusal of Service lasting over thirty (30) days to appeal the Refusal of Service to the General Manager of the Gaming Facility Operator. The General Manager shall make a timely review of all information pertaining to the Refusal of Service and take such actions as the General Manager finds appropriate under the circumstances.
 - (2) **Detention of Individuals.** The Gaming Facility Operator may detain individuals briefly for the purposes of obtaining identification from the individual in connection with the issuance of a written notice of Refusal of Service and may detain individuals who may be involved in illegal

activities for the purposes of notifying and summoning appropriate law enforcement authorities. If the Gaming Facility Operator requests that an individual leave the Gaming Facility or the surrounding premises for any reason and the individual refuses to do so, the Gaming Facility Operator may eject the individual using such force as may be necessary under the circumstances or request the Yavapai-Apache Police Department to remove the individual.

- (b) **Surveillance.** The Gaming Facility Operator or the Tribal Gaming Office shall establish, maintain and enforce reasonable policies and procedures for surveillance. The Gaming Facility Operator or the Tribal Gaming Office shall operate a surveillance system in all areas of the Gaming Facility in which Gaming Activity is conducted that meets the requirements of Appendix C of the Compact, as amended. The Gaming Facility Operator or the Tribal Gaming Office may also, in its discretion, conduct such surveillance in other areas of the Gaming Facility and its surrounding premises as it deems appropriate to the management and operation of the business and for the protection of the patrons' property and the Gaming Facility Operator's property from illegal activity.

Section 907. Financial Services in Gaming Facilities

The following financial services shall be prohibited by the Gaming Facility Operator:

- (a) Locating an automatic teller machine ("ATM") adjacent to, or in close proximity to, any Gaming Device;
- (b) Locating in a Gaming Facility an ATM that accepts electronic benefit transfer cards issued pursuant to a state or federal program that is intended to provide for needy families or individuals;
- (c) Accepting checks or other non-cash items issued pursuant to a state or federal program that is intended to provide for needy families or individuals; and
- (d) Extending credit to any patron of a Gaming Facility for Gaming Activities, except as provided in compliance with the provisions of Appendix N of the Compact and all applicable federal laws.

Section 908. Prohibition Against Gambling; Certain Employment Restrictions

- (a) Gaming Employees may gamble in the Gaming Facility pursuant to internal controls established by the Gaming Facility Operator, except:
 - (1) No Person who is employed as the General Manager, a Department Director, or a Department Manager shall be permitted to place a wager in any Gaming Activity.

- (2) No Person who is employed by the Security Department, Information Technology or the Surveillance Department shall be permitted to place a wager in any Gaming Activity;
 - (3) No card room supervisor or management employee shall be permitted to place a wager in any game of Poker operated by the Gaming Facility Operator, except that, so long as the Nation operates no more than ten Poker or Jackpot poker tables at one time, an on-duty floor person may act as a Proposition Player pursuant to internal controls established by the Gaming Facility Operator and approved by the Executive Director and the State Gaming Agency, when such play by the floor person is necessary to keep a Poker game operating;
 - (4) No Gaming Employee shall be permitted to place a wager in any house banked table game operated by the Gaming Facility Operator; and
 - (5) As provided pursuant to internal controls established by the Gaming Facility Operator.
- (b) **Prohibition Against Self-Dealing.** No Gaming Employee shall:
- (1) Accept any form of incentive, tip or other thing of value from any patron or guest, or any Vendor, fellow employee or any other Person, except that employees of the Gaming Facility Operator may accept such incentive, tip or other thing of value where it is specifically made permissible under the Compact, this Code or any approved policy or procedure issued by the Gaming Facility Operator; or
 - (2) Use their position for personal gain or to obtain a benefit or other thing of value for any other Person, including, but not limited to, members of the employee's family or friends or fellow employees.

CHAPTER 10: PROBLEM GAMBLING

Section 1001. Problem Gambling

(a) **Signage.**

- (1) At all public entrances and exits of each Gaming Facility, the Gaming Facility Operator shall post signs in English and Spanish stating that help is available if a Person has a problem with gambling and providing the Statewide toll-free helpline telephone number, text message and website information established by the Arizona Department of Gaming – Division of Problem Gambling.
- (2) The Gaming Facility Operator shall display signage visible on the gaming floor and on or in close proximity to all cash access, check cashing and automated teller machines (ATMs) in the Gaming Facility stating that help is available if a Person has a problem with gambling and providing the Statewide toll-free helpline telephone number, text message and website information established by the Arizona Department of Gaming – Division of Problem Gambling.

(b) **Self-exclusion.** The Gaming Facility Operator shall take reasonable measures to deter entry into the Gaming Facilities of the Nation, and identify and bar the participation in any Gaming Activities of the Nation by all Self-Excluded Persons. These reasonable measures shall include, but are not limited to, the following:

- (1) Checking the most recent Self-Excluded Persons list before issuing or re-issuing any slot or players cards and shall deny a card to any Self-Excluded Person;
- (2) Removing all Self-Excluded Persons from the Gaming Facility Operator's mailing lists and revoking the slot or players cards for all Self-Excluded Persons;
- (3) Taking reasonable steps to ensure that Self-Excluded Persons are denied access to all financial transactions, including the extension of credit (this shall not apply to the purchase of non-gaming related items or cash purchases that do not generally require the check of a Person's identification);
- (4) Taking reasonable steps to identify Self-Excluded Persons who may be in the Gaming Facility and, once identified, promptly escort the Self-Excluded Person from the Gaming Facility. For Self-Excluded Persons removed from the Gaming Facility, reporting to the Tribal Gaming Office the name of the Self-Excluded Person, the security staff involved, date of removal, amount or value of any monies, prizes, or awards forfeited, if any, and any other action taken;

- (5) Prohibiting the payment of any jackpot, prize, or award (whether cash, property, or in any other form), where a Person's identification must be verified, to a Self-Excluded Person. Any jackpot, prize, or award won by a Self-Excluded Person shall be donated by the Gaming Facility Operator on a timely basis to an Arizona-based non-profit charitable organization primarily dedicated to the treatment or prevention of problem gambling or other addiction treatment services;
 - (6) Advising Persons who inquire about self-exclusion of the existence of the State Gaming Agency's self-exclusion list and offer self-exclusion application forms provided by the State Gaming Agency to those Persons when requested; and
 - (7) Implementing a procedure for the confidentiality, maintenance, and appropriate dissemination of the information on the self-exclusion list provided by the Tribal Gaming Office or the State Gaming Agency.
- (c) **Problem Gambling Program.** The Gaming Facility Operator shall develop and maintain a program to mitigate problem gambling and curtail compulsive gambling, which may be in conjunction with the Arizona Department of Gaming – Division of Problem Gambling, and which shall include the safeguards set forth in Appendix M of the Compact as amended.

Section 1002. Limitations on Liability; No Waiver of Sovereign Immunity for Self-Exclusion

- (a) Neither the Nation, the Gaming Facility Operator, the Tribal Gaming Office, nor any Commissioner or employee thereof shall be liable to any Self-Excluded Person or to any other party in any proceeding and neither the Nation, the Gaming Facility Operator, nor the Tribal Gaming Office shall be deemed to have waived its sovereign immunity with respect to any Person for any harm, monetary or otherwise, which may arise as a result of:
 - (1) The failure of the Gaming Facility Operator or the Tribal Gaming Office to withhold or restore gaming privileges from or to a Self-Excluded Person; or
 - (2) Otherwise permitting a Self-Excluded Person to engage in Gaming Activity while on the list of Self-Excluded Persons.
- (b) Neither the Nation, the Gaming Facility Operator, the Tribal Gaming Office, nor any Commissioner or employee thereof shall be liable to any Self-Excluded Person or to any other party in any proceeding, and neither the Nation, the Gaming Facility Operator, nor the Tribal Gaming Office shall be deemed to have waived its sovereign immunity with respect to any Person for any harm, monetary or otherwise, which may arise as a result of disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of the identity of any Self-Excluded Person.

CHAPTER 11. BARRING; TRESPASS; CONSENT TO JURISDICTION

Section 1101. Barring

- (a) **Commission's Authority to Bar Persons.** The Commission may bar a Person from entering or remaining in the Gaming Facility for any period of time where the Commission finds substantial evidence of the following:
 - (1) That the Person's conduct while on the premises of the Gaming Facility or in conjunction with any Gaming Activity presents a threat to the integrity of the Gaming Activity or assets of the Nation, or to the safety or security of Patrons, employees, or visitors to the Gaming Facility; or
 - (2) That the Person's criminal history or association with career offenders or career offender organizations poses a threat to the integrity of the Gaming Activity of the Nation.
 - (3) That the Person is the subject of an exclusion order issued by the Tribal Court prohibiting the Person from being present on the Indian Lands of the Nation.
- (b) **Temporary Barring.** The Tribal Gaming Office may temporarily bar any Person on the premises of the Gaming Facility, pending a final decision by the Commission, where the agent has substantial information to believe that the Person's conduct, history or association would support a final barring decision by the Commission under Section 1101(a). The Commission shall take action on a temporary barring decision within thirty (30) days.
- (c) **Notice of Barring to be Provided to Gaming Facility Operator.** In addition to the requirement to provide notice of barring decisions to the State of Arizona under Section 3(u) of the Compact, the Tribal Gaming Office shall also provide the General Manager of the Gaming Facility Operator with a copy of all temporary and final barring decisions issued under this Section.
- (d) **Hand Paid Jackpots Prohibited.** The Gaming Facility Operator is prohibited from paying any hand-paid jackpot won by a Person who is identified by the Gaming Facility Operator as a Barred Person. Any jackpot won by a Barred Person shall be donated by the Gaming Facility Operator to an Arizona-based non-profit charitable organization.
- (e) **The Tribal Gaming Office.** The Commission shall promulgate appropriate Regulations for the exercise of its barring authority under this Section, including but not limited to the issuance of temporary and final barring decisions and the ability of Barred Persons to have a barring decision lasting more than twelve (12) months reconsidered by the Commission.

Section 1102. Trespass

A Person commits trespass by unlawfully entering or remaining in any Gaming Facility in violation of this Gaming Code. The following Persons shall be deemed in trespass under this Gaming Code:

- (a) Any Self-Excluded Person who enters any Gaming Facility of the Nation;
- (b) Any Person under the age of 21 years who places or attempts to place any wager, directly or indirectly, in any Class III Gaming Activity or other Gaming Activity subject to the Compact, so long as such conduct remains prohibited under Tribal law as set forth in Section 905 of this Code;
- (c) Any Barred Person or Person who has been issued a Refusal of Service by the Gaming Facility Operator and who refuses to immediately leave or returns to any Gaming Facility while barred or before the expiration of the Refusal of Service;
- (d) Any Person who enters, remains, refuses to immediately leave, or returns to the premises of any Gaming Facility of the Nation in contravention to the oral or written request of an agent of the Commission, Public Safety Officer, security services employee, or any other representative of the Gaming Facility Operator;
or
- (e) Any person who is the subject of an exclusion order issued by the Tribal Court prohibiting the Person from being present on the Indian Lands of the Nation.

Section 1103. Consent to Jurisdiction

Any Person who enters any Gaming Facility of the Nation is deemed to have consented to the jurisdiction of the Tribal Courts of the Nation. The Gaming Facility Operator shall conspicuously display at all entrances to the Gaming Facility, and in any other place as may be appropriate, a notice which shall be clearly legible, printed or otherwise inscribed in bold face type and which is substantially in the following form:

Any Person who enters the Cliff Castle Casino hereby expressly consents and agrees to be subject to the laws of the Yavapai-Apache Nation and to the jurisdiction of the Tribal Courts of the Yavapai-Apache Nation in all civil and criminal proceedings consistent with applicable law.

If you are a Person who has been barred from this Gaming Facility or any other Gaming Facility in Arizona or if you have been issued a notice of Refusal of Service or have placed yourself on the Self-Exclusion list maintained by the Yavapai-Apache Tribal Gaming Office or the Arizona Department of Gaming, your presence in the Cliff Castle Casino is willful trespass which may subject you to criminal prosecution and/or civil suit in the Tribal Courts of the Yavapai-Apache Nation or, where applicable, Federal or State Court.

Section 1104. Remedies for Trespass

- (a) **Commission to Bring Trespass Action.** Except as otherwise provided in this Gaming Code, the Commission may on its own or at the request of the Gaming Facility Operator, institute a civil action in Tribal Court against any Person who commits trespass upon any Gaming Facility of the Nation.
- (b) **Civil Penalties.** The Tribal Court may order a Person who commits willful trespass to pay a civil penalty not to exceed five thousand dollars (\$5,000) for each day that a violation occurs and for each separate violation, and may award other monetary damages, including punitive damages, attorney's fees, injunctive relief, forfeiture of property and evidence, costs of administrative proceedings and investigations or any other relief that is just and equitable under the circumstances.
- (c) **Exclusion.** For good and sufficient cause found, the Tribal Court may exclude from the Indian Lands of the Nation any Person who engages in an activity or activities in violation of this Gaming Code and the Compact, to the extent such exclusion is consistent with the laws of the Nation.
- (d) **Referral for Criminal Prosecution.** The Commission may also refer a trespass to law enforcement for possible criminal prosecution in Tribal Court or state or federal court.

CHAPTER 12: LAW ENFORCEMENT AND EMERGENCY PERSONNEL

Section 1201. Coordination on Law Enforcement Matters

The State of Arizona and the Nation will coordinate the use of resources, authority, and personnel of the State and the Nation for the shared goal of preventing and prosecuting criminal or undesirable activity by players, employees, or businesses in connection with any Gaming Facility of the Nation.

Section 1202. Law Enforcement Services Plan

The Gaming Facility Operator shall ensure that a written law enforcement services plan has been implemented in compliance with Section 13(e) of the Compact that provides a comprehensive and effective means to address criminal and undesirable activity at the Gaming Facility. This plan shall, at a minimum, provide for:

- (a) Sufficient law enforcement resources that are to be available twenty-four (24) hours a day, seven days per week; and
- (b) The employment of a police officer (either by the Gaming Facility Operator, the Tribal Gaming Office or the Yavapai-Apache Police Department) holding current Arizona police officer standards and training certification to be assigned to handle gaming-related matters when they arise.

Section 1203. Emergency Medical and Fire Suppression

The Gaming Facility Operator shall make provisions for adequate emergency accessibility and service. Such provisions shall include a written emergency medical and fire suppression plan that includes all steps reasonably appropriate to ensure the on-going availability of sufficient emergency services to the Gaming Facility in compliance with the Compact.

CHAPTER 13: FRAUDULENT ACTS; CHEATING

Section 1301. Cheating.

It shall be unlawful for any Person:

- (a) To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is arrived at but before it is revealed to the player.
- (b) To, by any trick or sleight of hand performance, or by fraud or fraudulent scheme, use a card, dice or other object or device to win or attempt to win money or property or a representative of either;
- (c) To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet;
- (d) To aid anyone in the acquisition of such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;
- (e) To receive, distribute, apply or divert any property, funds, proceeds or other assets of a Gaming Operation to the benefit of any individual or any other person except as authorized by the Act, the Compact, this Code or any other applicable law, statute or regulation;
- (f) To claim, collect or take, or attempt to claim, collect or take, money or anything of value in a Gaming Facility, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
- (g) To alter, counterfeit, reproduce or attempt to alter, counterfeit or reproduce any coupon, ticket, voucher or anything of value in a Gaming Facility with the intent to defraud.
- (h) To knowingly entice or induce another to participate in gaming conducted or operated in violation of the provisions of this Code with the intent that the other Person play or participate in that gambling game;
- (i) To utilize another Person or agent in any Gaming Activity or the use of another Person's account with the intent to conceal the Person's identity in order to place a wager, collect winnings; or the use of false or altered identification to collect promotional items, "free-play" or anything of value;
- (j) To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;

- (k) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or the event which is the subject of the bet, including pinching bets;
- (l) To alter, mark, manipulate, tamper with or otherwise modify with the intent to cheat, any component of a Gaming Device, Card Game Table, or other game in a manner contrary to the designed and normal operational purpose for the component with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game; or
- (m) To assist or enable any restricted minor within the meaning of Section 3(w) of the Compact to place a wager in any Gaming Facility.

Section 1302. Use of Device for Calculating Probabilities

It shall be unlawful for any Person patronizing any Gaming Facility of the Nation to use, or possess with the intent to use, any device to assist:

- (a) In projecting the outcome of the game;
- (b) In keeping track of the cards played;
- (c) In analyzing the probability of the occurrence of an event relating to the game;
- (d) In analyzing the strategy for playing or betting to be used in the game; or
- (e) In manipulating the odds or outcome of any game in any way.

Section 1303. Use of Counterfeit or Unapproved or Prohibited Objects, Devices or Means in Gaming Activity Unlawful

- (a) It shall be unlawful for any Person to:
 - (1) Knowingly use any counterfeit or unapproved ticket, chip, token, coin or other object to participate in any Gaming Activity conducted by the Nation or to knowingly use or attempt to use any other device or means to violate the provisions of this Code, the Compact or applicable law;
 - (2) To have on his or her person or in his or her possession, whether on or off the Gaming Facility premises, any counterfeit or unapproved ticket, chip, token, coin, or other object or device that is intended to be used to violate the provisions of this Code, the Compact or applicable law.
 - (3) To have on his or her person or in his or her possession, whether on or off the Gaming Facility premises, any paraphernalia for manufacturing slugs or for the production any counterfeit or unapproved ticket, chip, token,

coin, or other object or device that is intended to be used to violate the provisions of this Code, the Compact or applicable law.

- (b) It shall be unlawful for any Person who is not a duly authorized employee of the Gaming Facility Operator or of a Vendor acting in furtherance of his or her employment within the Gaming Facility, to have on his or her person or in his or her possession, whether on or off the Gaming Facility premises, any key or device designed for the purpose of and suitable for opening, entering or affecting the operation of Gaming Activity, including but not limited to any drop box or electronic or mechanical device connected thereto or for moving money or other contents there from.

Section 1304. Manufacture, Sale or Distribution of Devices for a Wrongful Purpose; Rebuttable Inference of Cheating

- (a) It shall be unlawful for any Person to manufacture, sell or distribute any counterfeit or unapproved ticket, chip, token, coin, card, dice, object, game, device or means or any slugs intended to be used to violate any provision of this Code and the Compact or applicable law.
- (b) Possessing paraphernalia for manipulating the odds or outcome of a game in any way or for manufacturing slugs or any counterfeit ticket, chip, token, coin, card, dice or other object, which includes possession of more than one device, piece of equipment, product or material described in this Section, shall create, in any action against the possessor resulting from such possession, a rebuttable inference that the possessor intended to use them for the purpose of cheating.

Section 1305. Marking, Alteration or Modification of Equipment and Devices Associated with Gaming; Unlawful Instruction

- (a) It shall be unlawful to mark, alter or otherwise modify any Gaming Device used by the Nation in a manner that could affect the normal criteria of random selection of a Gaming Device or determine the outcome of Gaming Activity or a Gaming Device in any way.
- (b) It shall be unlawful for any person to instruct another in cheating or in the use of any counterfeit or unapproved ticket, chip, token, coin, card, dice, object, game, device or other means of cheating prohibited by this Chapter 13, with the knowledge or intent that the information or its use, once conveyed, may be employed to violate any provision of this Code or the Compact or applicable law.
- (c) It shall be unlawful for any Person to knowingly aid, conspire or collude with another Person or Persons for the purpose of committing any form of cheating or fraudulent act otherwise prohibited by this Chapter 13.

Section 1306. Remedies for Fraudulent Acts; Cheating

- (a) **Commission to Bring Civil Action.** Except as otherwise provided in this

Gaming Code, the Commission may on its own or at the request of the Gaming Facility Operator, institute a civil action in Tribal Court against any Person who violates any provision of this Chapter 13.

- (b) **Civil Penalties.** The Tribal Court may order a Person who violates any provision of this Chapter 13 to pay a civil penalty not to exceed five thousand dollars (\$5,000) for each violation, and may award other monetary damages, including punitive damages, attorneys fees, injunctive relief, forfeiture of property and evidence, costs of administrative proceedings and investigations or any other relief that is just and equitable under the circumstances.
- (c) **Exclusion.** For good and sufficient cause found, the Tribal Court may exclude from the Indian Lands of the Nation any Person who violates any provision of this Chapter 13, to the extent such exclusion is not inconsistent with the laws of the Nation.
- (d) **Referral for Criminal Prosecution.** The Commission may also refer a violation of this Chapter 13 to law enforcement for possible criminal prosecution in Tribal Court or state or federal court.

Section 1307. Unlawful Dissemination of Information Concerning Racing; Exemptions, Penalty

- (a) It shall be unlawful for any Person to furnish or disseminate any information in regard to racing or races, from any point within the State to any point outside the State, by means of any signaling device, including but not limited to the telephone, internet, cellular or smart phone, telegraph, teletype, radio or any other signaling device, with the intention that the information is to be used to induce betting or wagering on the result of the race or races, or with the intention that the information is to be used to decide the result of any bet or wage made upon the race or races.
- (b) This Section does not prohibit:
 - (1) A newspaper of general circulation from printing and disseminating news concerning races that are to be run or the results of races that have been run; or
 - (2) The furnishing or dissemination of information concerning wagers made in an off-track pari-mutuel system of wagering authorized under this Code or the Compact.

Section 1308. Detention and Questioning of Persons Suspected of Violating Tribal, Federal or State law; Limitations on Liability; Posting of Notice

- (a) Authorities who question any Person suspected of violating any Tribal, Federal or State law, or any provision of this Code or the Compact shall not be criminally or civilly liable for:

- (1) The questioning of a suspected violator; or
 - (2) Any report given to the Tribal Gaming Office, the Gaming Facility Operator, the State Gaming Agency, Federal or State regulatory authorities, or law enforcement authorities regarding the identity of a Person suspected of violating any Tribal, Federal or State law, or any provision of this Code or the Compact.
- (b) Any regulatory, public safety, security service provider or law enforcement authority who has probable cause to believe that a Person has violated Tribal, Federal or State law, while in a Gaming Facility of the Nation, may take such Person into custody and detain such Person in a reasonable manner and for a reasonable length of time. Such taking into custody and detention shall not render the authority criminally or civilly liable unless it is established by clear and convincing evidence that the custody and detention was wholly unreasonable under all the circumstances.
- (c) There must be displayed in a conspicuous place in the Gaming Facility a notice in boldface type which is clearly legible in substantially this form:

Agents of the Yavapai-Apache Tribal Gaming Office or the State Gaming Agency, or any public safety officer who has probable cause for believing that a Person has violated Chapter 13 of the Yavapai-Apache Nation Gaming Code prohibiting cheating or other fraudulent acts in gaming may detain that person in the Gaming Facility.

Section 1309. Disposition of Evidence or Other Property Seized by Agent of the Tribal Gaming Office

- (a) Except as otherwise provided in the Compact, any evidence of cheating, fraudulent acts or other violations of this Section, seized from the suspected perpetrator, shall be turned over to the custody of the Tribal Police pending resolution by a court of competent jurisdiction. If no prosecution is undertaken or the court dismisses the case the Tribal Police shall deliver the evidence or property to the Tribal Gaming Office, and any Person who has a claim to the seized evidence or property may file a written claim for return of said evidence or property with the Tribal Gaming Office within thirty (30) days of receiving notice from the Tribal Gaming Office that no prosecution has been undertaken or that the court has dismissed the case.
- (b) If more than one Person files a claim for the evidence or property, the following procedures shall be followed:
- (1) The Persons who have filed a claim for such evidence may agree among themselves the manner and means for dividing the evidence or property; or

- (2) The Persons who have filed a claim for such evidence or property may agree to have the matter determined by the Commission or any single Person may institute legal proceedings in the Tribal Court to determine the proper disposition of the evidence or property. The Tribal Gaming Office shall return the evidence or property to the Persons who have filed a claim for such evidence or property in accordance with any decision or agreement approved by the Commission, or any final judgment or award entered by the Tribal Court pursuant to the provisions of this Section.
- (3) A Person to whom evidence or property is returned by the Tribal Gaming Office pursuant to this Section shall execute such documents as are required by the Tribal Gaming Office to defend, hold harmless, indemnify and release the Tribal Gaming Office from any liability arising from the delivery of the evidence or property to the claimant.
- (4) If no claim is submitted within the thirty (30) day period prescribed by this Section, the Nation may use such evidence or property for any lawful purpose. The Tribal Gaming Office may dispose of any evidence or property that cannot be used for any lawful purpose in any reasonable manner.

CHAPTER 14: TRIBAL COURT JURISDICTION

Section 1401. Jurisdiction

Except as otherwise provided in this Gaming Code, the Tribal Court shall have exclusive jurisdiction to hear and decide all matters concerning the administration and enforcement of this Gaming Code; provided, however, that nothing in this Gaming Code shall be construed to preclude prosecution in Federal Court pursuant to the Indian Gaming Regulatory Act or other applicable law.

Section 1402. Appeals from Decisions to Suspend, Revoke or Non-renew a Tribal Gaming License.

- (a) **Appeal; Timing.** Any Licensee aggrieved by a decision of the Commission to suspend, revoke, or non-renew their Tribal Gaming License may, within fifteen (15) days after issuance of the decision by the Commission, file a written appeal with the Tribal Court in conformance with the applicable rules of procedure for the Tribal Court. A copy of the appeal, along with all exhibits and attachments thereto, shall be delivered on the same day of filing to the Executive Director of the Tribal Gaming Office.
- (b) **Administrative Record.** In reaching its decision on such an appeal, the Tribal Court shall consider only such evidence relating to the order from which appeal is taken as appears in the records of the Commission and was available to the Commission at the time of its decision.
- (c) **Standard of Review.** The Tribal Court may affirm, reverse, vacate, modify, or remand a decision or order of the Commission; provided that the Tribal Court shall affirm the order of the Commission unless such decision or order is arbitrary, capricious, or otherwise in contravention to applicable law.
- (d) **Finality of the Tribal Court Decision.** No appeal beyond Tribal Court may be had.

Section 1403. Appeal of Gaming Regulations Promulgated by the Commission

- (a) **Appeal; Timing.** The Gaming Facility Operator may appeal a final regulation promulgated by the Commission by filing a written appeal with the Tribal Court within fifteen (15) days after promulgation, provided that the grounds for the appeal are limited to those issues raised in the Gaming Facility Operator's comments filed pursuant to Section 701(b)(2) of this Code. A copy of the appeal, along with all exhibits and attachments thereto, shall be delivered on the same day of filing to the Executive Director of the Tribal Gaming Office.
- (b) **Response.** Within fifteen (15) days of service of the appeal on the Executive Director, the Commission shall file a written response with the Court. No other filings shall be permitted, except by order of the Court.

- (c) **Appeals to be Expedited.** All appeals filed by the Gaming Facility Operator under this Section shall be considered and decided by the Tribal Court in an expedited fashion, consistent with the Court's then existing calendar. In reaching its decision on the appeal, the Court shall only consider the arguments and evidence submitted to the Court in the Gaming Facility Operator's written appeal and in the Commission's response. The Court may hold a single hearing on the appeal upon the request of any party or upon its own initiative.
- (d) **Grounds for Dismissal.** Absent a showing of good cause, the Court shall dismiss the Gaming Facility Operator's appeal if (1) it was untimely filed under Section 1403(a); or (2) the grounds stated in the appeal raise an issue or argument that was not first raised in the Gaming Facility Operator's written comments on the regulation required by Section 701(b)(2) of the Code.
- (e) **Standard of Review.** Upon review, the Court shall affirm the validity of the Regulation unless such regulation is found to be arbitrary, capricious or otherwise in contravention to applicable law.

Section 1404. Patron Disputes

Any Patron whose Patron Dispute involves at least five-hundred dollars (\$500), may file a complaint in Tribal Court within sixty (60) days of receipt of the Commission's written decision referenced in Section 904 of this Code. Disposition of the action in Tribal Court will be final and binding upon all parties in accordance with Tribal law.

Section 1405. Enforcement Action by the Commission

The Commission may, based on reasonable grounds or on reliable complaint made, and after written notice giving the Gaming Facility Operator thirty (30) days to cure an alleged violation of this Gaming Code or the Compact, or applicable Tribal, Federal or State law, seek such relief from the Tribal Court as is authorized in this Gaming Code, against the Gaming Facility Operator or its Principals, Primary Management Officials, Key Employees, or employees having duties to perform respecting the operation and conduct of any Gaming Activity, as may be necessary in the judgment of the Commission for the proper enforcement of this Gaming Code, the Compact or applicable Tribal, Federal or State law.

Section 1406. Trespass Actions

The Commission may, based upon reasonable grounds and reliable complaint made, bring an action in the Tribal Court against any Person who commits trespass upon the premises or property of the Nation or upon a Person or property of another as set forth in Chapter 11 of this Code, or who engages in an activity or activities prohibited by this Code, the Compact or under applicable Tribal, Federal or State law. The Tribal Court may award all appropriate relief consistent with the provisions and limitations set forth in this Code and applicable law.

Section 1407. Enforcement of Commission Subpoenas and Orders of the Commission

The Commission may apply to the Tribal Court for an order to show cause why a Person should not comply with a subpoena or order of the Commission issued pursuant this Code.

CHAPTER 15: OTHER PROVISIONS

Section 1501. Severability

In the event that any section or subsection of this Code be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other section or subsection of this Code.

Section 1502. Effective Date

This Gaming Code, and any amendments to the Code, shall become effective on the date in which they are approved by the Chair of the National Indian Gaming Commission as required by 25 U.S.C. 2701(d)(1)(A)(iii).

Section 1503. Agent for Service of Process


Pursuant to 25 C.F.R. § 519.1, the Chairperson for the Nation is the authorized agent of the Nation for service of process of any official determination, order or notice of violation issued to the Nation by the National Indian Gaming Commission.

CERTIFICATION

I, the undersigned, duly elected Chairman of the Yavapai-Apache Nation do hereby certify that the foregoing Gaming Code was duly amended by a quorum of 9 members of the Yavapai-Apache Tribal Council by a vote of 9 for and 0 against, with 0 abstaining, at a duly called meeting of the Tribal Council on the 27th day of January, 2022.

YAVAPAI-APACHE NATION

By:



Jon Huey, Chairman

ATTEST:



Karla Reimer, Tribal Council Secretary