

APPENDIX J

Vendor Certification and Licensing Procedures

Arizona Tribal-State Gaming Compact

The Tribe and the State agree that the following procedures shall apply to the State certification of vendors. To the extent that this Appendix J does not address any issue with respect to the certification of a vendor, the provisions of the Compact will govern.

I. DEFINITIONS

In addition to definitions set forth in the Compact and its appendices, the following definitions shall apply to the certification of vendors:

(A) "Bond" means any security evidence of Indebtedness issued pursuant to a Loan Administration Agreement between the issuer of the security and an administrator who has a right to enforce the terms of the Indebtedness on behalf of all Holders of the Indebtedness.

(B) "Financial Source" means any third party extending or guaranteeing financing for a Gaming Operation, Gaming Facility or Gaming Facility Operator as provided under Section 3(s) of the Compact.

(C) "Guaranty" means all obligations of an issuer guaranteeing, or in effect guaranteeing, any Indebtedness, obligation of any primary obligor in any manner, whether directly or indirectly, including but not limited to obligations incurred through an agreement, contingent or otherwise, by such issuer: (i) to purchase such issuer or obligation or any property constituting security therefor; (ii) to advance or supply funds: (1) for the purchase or payment of such Indebtedness or obligation or (2) to maintain working capital or other balance sheet condition; (iii) to purchase securities or other property or services primarily for the purpose of assuring the owner of such Indebtedness or obligation of the ability of the primary obligor to make payment of the Indebtedness or obligation; or (iv) otherwise to assure the owner of such Indebtedness or obligation against loss in respect thereof.

(D) "Holder" means the record or beneficial owner of Indebtedness.

(E) "Indebtedness" means, for any issuer, (a) Bonds, (b) all Guaranties by such issuer, and (c) all obligations for the payment of money incurred or assumed by such issuer.

(F) "Indebtedness issued by or on behalf of a Tribe" means Indebtedness issued by the Tribe or by any branch, department, agency, instrumentality, division, subsidiary, enterprise, authority, wholly-owned corporation or business of the Tribe for a Gaming Operation, Gaming Facility or Gaming Facility Operator.

(G) "Initial Holder" means with respect to any issue of Indebtedness, any Holder of record of a registered Indebtedness of the issue and any beneficial owner of a book-entry participation of the issue who, in either case, acquired its interest in the Indebtedness in connection with the initial sale thereof from the issuer or from a placement agent, underwriter or similar intermediary for the initial sale, directly or indirectly.

(H) "Loan Administration Agreement" means any indenture, loan agreement, lease agreement, note participation agreement, credit facility agreement or any other agreement providing for the terms, conditions and administration of an issue of Indebtedness.

(I) "Regulated Bank" means a lending institution licensed and regulated by the State or the United States.

(J) "Transferee Holder" means a Holder acquiring record or beneficial ownership of Indebtedness from the initial Holder or any subsequent Holder.

II. PERSONS ELIGIBLE FOR WAIVER

Subject to the provisions of Section III below, the following Persons are eligible for a waiver of State certification.

(A) Entertainers. If a Tribe or Gaming Facility Operator contracts directly with an entertainer, the entertainer, employees of the entertainer, and Persons providing personal services to the entertainer who are paid by the entertainer so long as:

- (1) The entertainer does not perform at a Tribe's Gaming Facilities on more than three days in one calendar year; and
- (2) The entertainer, employees of the entertainer, and Persons providing personal services to the entertainer who are paid by the entertainer are not allowed unescorted access to any secure areas of a Gaming Facility as referenced in Compact Section 4(b). For purposes of this waiver, performances ending after midnight that are part of a show or series of shows that started the previous evening will be considered part of the performance from the previous evening, and performances do not include setting up and tearing down the stage, props, or light and sound equipment, or warm ups and sound checks.

(B) Publicly Traded Companies. Companies whose equity is publicly traded on a United States national market or exchange (i.e., excluding OTCBB, Pink Sheet, or regional markets), including any wholly-owned subsidiaries of such companies, so long as:

- (1) Goods, and not services, are purchased from the vendor and those goods are not used in the play of Class III gaming, including software or component parts, and are not used for security or surveillance (other than component parts or replacement component parts used for security or surveillance);
- (2) The Tribe or Gaming Facility Operator makes its purchases directly from the vendor (including via an Internet web site or from a vendor owned retail store);
- (3) The goods purchased by the Tribe or Gaming Facility Operator are sold by the vendor in the regular course of its business, rather than goods acquired solely for resale to the Tribe or Gaming Facility Operator or of a type or nature not sold to other customers of the vendor; and

(4) No employees of the vendor are allowed unescorted access to any secure areas of a Gaming Facility as referenced in Compact Section 4(b).

(C) Providers of Training. The providers of on-site or off-site training services, seminars, and trade show services, and the providers of related hotel accommodations and travel, if they are accredited associations or educational institutions that are regulated by a state or federal agency or sponsored by a trade organization.

(D) Providers of Travel Services. The providers of travel services, including common carriers, automobile rentals, lodging, ground transportation, food and beverage, for travel in the ordinary course of business.

(E) Motor Vehicle Dealers. New motor vehicle dealers (as defined in A.R.S. 28-4301) providing motor vehicles to the Gaming Facility Operator, including for promotional purposes, if they are an Arizona licensed motor vehicle dealer.

III. WAIVER PROCEDURES

The State Gaming Agency will waive the certification requirement for Persons identified in Section II above subject to the following terms.

(A) Within one (1) business day of the vendor providing good and/or services, the Tribal Gaming Office shall submit a notice of waiver to the State Gaming Agency providing the name and address of the vendor, identifying the goods or services to be provided, and describing how the vendor is qualified for the waiver.

(B) Within one (1) business day of receipt of a notice of waiver, the State Gaming Agency shall issue a written waiver of State certification to the Tribal Gaming Office unless the State Gaming Agency determines, reasonably, and in good faith, that the vendor does not qualify for the waiver, is likely not to qualify for State certification, or poses a threat to the public interest.

(C) If the notice of waiver fails to provide information sufficient to allow the State Gaming Agency to make a reasonable, good faith determination that the vendor qualifies for a waiver of certification, the State Gaming Agency may request additional information from the Tribal Gaming Office, and may deny a waiver pending receipt of the additional information.

(D) This process may be followed in advance of any specific transaction in order to allow the preclearance of a vendor or vendors.

(E) The State Gaming Agency may at any time require the Tribal Gaming Office to provide updated information relative to the waiver. The State Gaming Agency may revoke or rescind a waiver at any time if it determines, reasonably, and in good faith, that the vendor does not qualify for the waiver, is likely not to qualify for State certification, or poses a threat to the public interest.

(F) A Person granted a waiver of State certification shall notify the Tribal Gaming Office within ten (10) days of any proposed or final disciplinary action taken against it by any regulatory agency or any change in its regulatory status, including a loss of good standing, or any criminal action taken against it. The Tribal Gaming Office shall notify the State Gaming Agency within one (1) business day of receipt of such notice.

(G) A waiver granted pursuant to this Section III is valid for each Tribal Gaming Operation operating under this form of Appendix J. The State Gaming Agency will maintain a current list of the waivers and make it available to the Tribes.

IV. WAIVER OF FINANCIAL SOURCES

(A) The State Gaming Agency hereby waives the certification requirement for each of the following entities (including all wholly-owned subsidiaries), that is an actual or prospective Holder of any Indebtedness issued by or on behalf of a Tribe and that is a Financial Source acting for its own account or the accounts of other entities specified in this Section IV(A), that certifies to the Tribal Gaming Office that they are in good standing with all applicable regulatory agencies, and are not in danger of losing this standing. These entities are not required to follow the waiver procedures in Section III(A)-(C) above.

- (1) Any fund or other investment vehicle which is administered or managed by a Regulated Bank, to the extent such entity is not otherwise exempt under Section 3(s) of the Compact;
- (2) Any investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. § 80(a)(1), et seq.);
- (3) Any company (a) that is organized as an insurance company, the primary and predominant business activity of which is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and (b) that is licensed by the Arizona Department of Insurance, or equivalent official or agency of another state within the United States who uses the UCWA for licensing;
- (4) Any retirement plan established and maintained by the United States, an agency or instrumentality thereof, or by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees;
- (5) Any employee benefit plan within the meaning of Title I of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1001 et seq.);
- (6) An agency of the U.S. federal government, any U.S. state government, or any U.S. federally recognized Indian tribe, together with any person purchasing any debt securities or other forms of indebtedness of the agency to provide such financing;
- (7) A real estate investment trust, as defined in 26 U.S.C. § 856(a), that is publicly traded on a stock exchange, registered with the Securities and Exchange Commission, and subject to regulatory oversight of the Securities and Exchange Commission;
- (8) A Person who, alone or together with any Person(s) controlling, controlled by or under common control with such Person, holds less than ten

percent (10%) of all outstanding debt securities issued for a Gaming Operation or Gaming Facility;

- (9) A Transferee Holder, that is not otherwise qualified as a Regulated Bank or subject to waiver under Section IV(A), so long as the Transferee Holder (a) has not been denied a gaming approval or gaming license or found unsuitable in any other jurisdiction, or had a gaming license suspended or revoked, (b) has not been convicted of a felony, (c) has not been convicted of a misdemeanor involving a gaming offense, money laundering, extortion, theft, bribery, embezzlement, racketeering, or fraud, and (d) does not have the power to individually accelerate or exercise remedies with respect to the Gaming Operation, Gaming Facilities or the collateral for such Indebtedness. Instead, such actions may only be taken by a Regulated Bank or Person that is the subject of a waiver and described in Section IV(A)(1-7), acting at the direction of the requisite Holders pursuant to the terms of the Indebtedness; and
- (10) Any entity, all the owners or members of which individually meet the criteria of this Section IV(A).

(B) Indebtedness issued by or on behalf of a Tribe is transferable only to a Transferee Holder whose certification has been waived. Any other transfer of Indebtedness or beneficial interest in the Indebtedness is void and null.

(C) A Financial Source for which State certification has been waived pursuant to the provisions of Section IV(A) shall notify the Tribal Gaming Office within ten (10) days of any proposed or final disciplinary action taken against it by any regulatory agency that would make inapplicable the provision of Section IV(A) under which it was granted a waiver.

(D) The State Gaming Agency may revoke or suspend a waiver for a Financial Source at any time if it determines, reasonably, and in good faith, that the Financial Source no longer qualifies for the waiver of State certification.

(E) As a condition of receiving a waiver, Financial Sources shall provide prior written notice to the Tribal Gaming Office before each specific issue of Indebtedness. The financing extended or guaranteed by the Financial Source shall be disclosed to the Tribal Gaming Office in writing before financing or other services are extended.

(F) On an annual basis the Tribal Gaming Office shall provide the State Gaming Agency with a list of all persons that participated as a Financial Source for the Tribe's Gaming Operation, Gaming Facility or Gaming Facility Operator.

V. PERSONS NOT REQUIRING CERTIFICATION

The following Persons are not Financial Sources subject to State certification.

(A) Any securities dealer registered pursuant to the federal Securities Exchange Act of 1934 (15 U.S.C. § 78(a), et seq.) acting in one or more transactions to purchase from any

Person and resell Indebtedness issued by or on behalf of a Tribe, if, no later than sixty (60) days after the securities dealer acquires the Indebtedness, fully offsetting sales of such Indebtedness are made to one or more entities with a waiver pursuant to this Appendix or to other Persons that are either (a) licensed by the Tribal Gaming Office and certified by the State Gaming Agency as required under Section 5 of the Compact, or (b) exempt from licensing and State Certification pursuant to Compact Section 3(s).

(B) Any Person acting solely as a "clearing corporation," as defined in A.R.S. § 47-8102(A)(5), with respect to any Indebtedness issued by or on behalf of a Tribe that are issued in so-called "book-entry" form.

(C) A Person whose sole connection with a provision or extension of financing to a Gaming Operation or Gaming Facility is to provide loan brokerage or debt servicing for a Financial Source at no cost to the Gaming Operation or Gaming Facility, provided that no portion of any financing provided is an extension of credit to the Gaming Operation or Gaming Facility by that person or entity.

VI. OTHER PROVISIONS

(A) Exceptions. The waivers in this Appendix do not apply, or affect the certification requirements applicable, to:

- (1) Manufacturers, Distributors, Management Contractors, or Gaming Vendors; or
- (2) Persons who would qualify for a waiver with respect to goods and services that are within the scope of this Appendix, but who also provide other goods or services that require certification and licensing.

(B) Nothing in this Appendix is intended to limit the State Gaming Agency's discretion to waive the requirement that other vendors be certified if, pursuant to Compact Section 4(d), it determines that certifying the vendor is not necessary to protect the public interest.

