PONCA TRIBE OF NEBRASKA
LAW AND ORDER CODE

TITLE I
GENERAL PROVISIONS

CHAPTER 1
PRELIMINARY PROVISIONS

Section 1-1-1. Constitutional Authority. This Code is adopted pursuant to the authority vested in the Tribal Council under the Constitution.

Section 1-1-2. Designation of Code.

1. This Code shall be the official code of the Tribe and shall be composed of all ordinances enacted by the members of the Tribe and/or the Tribal Council and all amendments and supplements thereto.

2. This Code shall be known as the Code of the Ponca Tribe of Nebraska and cited as "Ponca Tr. of Neb. Code" followed by the number of the title, the number of the chapter in the title, and the number of the section in the chapter, each separated by a dash. Example: This section shall be cited as "Ponca Tr. of Neb. Code § 1-1-2." This Code may also be referred to as the "Code" or "Ponca Tribe of Nebraska Code," and may be abbreviated as PTNC.

3. The matter set forth in the official edition of the Code current at any time shall, together with any then current supplement, if any, establish prima facie the laws of the Tribe, general and permanent in their nature. Whenever the titles of this Code or any portion thereof are enacted by resolution or ordinance, the text of such resolution or ordinance and any accompanying enactment shall be legal evidence of the laws therein contained.

Section 1-1-3. Effective Date of Enactments.

1. When a title of this Code or any portion thereof, or a resolution adopting the same, provides by its terms that it shall take effect on a specified time and date, such enactment shall become effective on the date and time therein specified.

2. When a title of this Code or any portion thereof, or a resolution adopting the same, provides by its terms that it shall

take effect on a specified day only, such enactment shall become effective at midnight on the date specified in the enactment.

3. When a title of this Code or any portion thereof, or a resolution adopting the same, does not provide by its terms for an effective date, it shall be deemed to take effect immediately.

Section 1-1-4. Retroactive Effect of Enactments.

1. No title of this Code or any portion thereof is retroactive unless expressly declared therein or in the resolution adopting the title or portion thereof.

2. When a title of this Code or any portion thereof, or a resolution adopting the same, provides that it will only apply to conduct, acts, transactions, or occurrences on or after a certain date, including the effective date, conduct, acts, transactions, or occurrences before such date shall be governed by the version of the Code in effect at the time of such conduct, act, transaction, or occurrence.

Section 1-1-5. Prior Inconsistent Ordinances Repealed. Any and all ordinances and codifications enacted before any title, chapter, section, or provision of this Code by the Tribal Council that are of the same subject matter or conflict in any way with the provisions of this Code are hereby repealed and shall not be cited other than for documenting history or legislative intent; however, this repeal shall not affect the validity of any actions undertaken under previous laws and ordinances.

Section 1-1-6. Amendment of Code. This Code may be amended, additions made thereto, or deletions made therefrom, in the manner provided for the adoption of Tribal Council ordinances. Ordinances and amendments and additions to this Code shall become a part thereof for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and/or annexation hereof.

Section 1-1-7. Applicability.

1. Except where otherwise provided in this Code, the effective area and applicability of this Code and other laws of the Tribe shall be the territory of the Tribe.

2. Without limiting the effective area and applicability of this Code and other laws of the Tribe, this Code and the other laws of the Tribe shall also apply to any person who:

a. Conducts business or engages in a business transaction in the territory of the Tribe, with another person located in the territory of the Tribe, or with the Tribe; or

b. Enters into any consensual relationship with Tribe or with any of its members residing or domiciled in the territory of the Tribe.

3. Any person to whom this Title applies shall be deemed to have consented to the following:

a. To be bound by the terms of this Code and the other laws of the Tribe;

b. To the exercise of jurisdiction of the Tribe over the person; and

c. To the exercise of jurisdiction by the Tribal Court over the person in an action arising under this Code or the other laws of the Tribe.

4. Except where applicable governing law requires otherwise, this Code and all other laws of the Tribe shall:

a. Govern and apply to the determination of all causes of action in the Tribal Court; and

b. Govern, apply to, and be given full force and effect in the determination of all issues, disputes, and causes of action in any foreign court or foreign jurisdiction where the transaction, occurrence, or cause of action arises in the territory of the Tribe regardless of the basis or grounds for such foreign jurisdiction or foreign court exercising authority or jurisdiction over such issue, dispute, or cause of action.

Section 1-1-8. General Rules of Construction. In construing the provisions of this Code, unless the context otherwise requires, the following shall apply:

1. This Code shall be liberally construed to effect its object and purpose and to promote justice and equity;

2. This Code shall not be construed as waiving, diluting, or limiting the sovereignty, authority, or jurisdiction of the Tribe; and

3. Whenever possible, this Code shall be construed as consistent with, reflective, and complimentary to the common law of the Tribe.

Section 1-1-9. Words and Phrases.

1. Words and phrases shall be construed according to their common and approved meaning and use within the territory of the Tribe and nearby surrounding communities.

2. Technical words and phrases and those which have acquired a peculiar and appropriate meaning in the laws of the Tribe shall be construed according to such peculiar and appropriate meaning.

Section 1-1-10. Tense, Number, and Gender. Unless the context requires otherwise, in this Code:

1. Words in the present tense include the future and the past tense;

2. Words in the singular number include the plural, and words in the plural number include the singular;

3. Words of any gender include all genders and the neuter;

4. Words of the neuter include the neuter and all genders.

Section 1-1-11. Severability. If any title, chapter, section, or provision of this Code; any amendment made by any title, chapter, section, or provision; or the application of any title, chapter, section, or provision to any person or circumstance is held invalid, the remainder of this Code and all titles, chapters, sections, or provisions and amendments made thereby shall continue in full force and effect and not be affected thereby. To that end, this Code and each and all of the titles, chapters, sections, and provisions of this Code and amendments made thereby are declared to be severable. If any title, chapter, section, or provision of this Code; any amendment by any title, chapter, section, or provision; or the application of any title, chapter, section, or provision to any person or circumstance can be construed or applied in a manner which is valid without holding such title, chapter, section, provision, amendment, or application thereof invalid, it shall be so construed or applied.

Section 1-1-12. Sovereignty and Sovereign Immunity.

1. Nothing in this Code or any title, chapter, section, or provision of this Code or amendment made thereby shall be construed as limiting, waiving, or abrogating the sovereignty, authority, self-government, self-determination, or rights accruing thereby of the Tribe or any Tribal government entity, or Tribal official.

2. Except where expressly waived by a section of this Code specifically referring to a waiver of sovereign immunity and only to the limited and narrow extent expressly stated in such section, nothing in this Code or any title, chapter, section, or provision of this Code or amendment made thereby shall be construed as limiting, waiving, or abrogating the sovereign immunity of the Tribe or any Tribal government entity, Tribal business entity, or Tribal official.

Section 1-1-13. Definitions. Unless the context requires otherwise or another definition is provided for a particular title, article, chapter, section, or provision, in this Code:

1. "Adult" means a natural person who has attained at least the age of majority or a child who has been emancipated.

2. "Age of majority" as used in reference to the age of natural persons means the age of nineteen (19) years or more.

3. "Child" means a natural person who is under the age of majority and has not been emancipated.

4. "Code" means the Code of the Ponca Tribe of Nebraska in its entirety.

5. "Constitution" means the Constitution of the Ponca Tribe of Nebraska.

6. "Council district" means the Council districts established in Article IV of the Constitution as redistricted from time to time pursuant to the laws of the Tribe.

7. "Developmental disability" means a disability attributable to intellectual development disorder, cerebral palsy, epilepsy, autism or another neurological condition closely related to intellectual development disorder or requiring treatment similar to that required for individuals with intellectual development disorder, but does not include a condition which is primarily caused by the process of aging or the infirmities of aging.

8. "Electronic" means having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

9. "Electronic signature" means an electronic sound, symbol, or process, attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

10. "Enrolled member of the Tribe" means a natural person whose name appears on the membership roll of the Tribe.

11. "Extended family" means, whether by blood, marriage, foster care, adoption, or recognition as such by Tribal custom or tradition:

a. Aunt;

b. Uncle;

c. Niece; or

d. Nephew.

12. "Federally recognized tribe" means a Native or Indian nation, tribe, or entity recognized as having a government-to-government relationship with the United States.

13. "Foreign court" means any court, tribunal, or other law-applying or dispute resolution institution which is not the Tribal Court or other tribunal or dispute resolution institution of the Tribe, including federal courts of the United States; a court of a state, territory, or possession of the United States; a court of another Indian tribe; and a court of a foreign state.

14. "Foreign jurisdiction" means any jurisdiction which is not the Tribe, including the United States, states, territories, and possessions of the United States; other Indian tribes; and foreign states.

15. "Immediate family" means, whether by blood, marriage, foster care, adoption, or recognition as such by Tribal custom or tradition:

a. Spouse;

b. Domestic partner;

c. Parent;

d. Grandparent;

e. Sibling;

f. Child; or

g. Grandchild.

16. "Incapacitated person" means a natural person who is substantially incapable of managing the person's property or business affairs or caring for themself by reason of infirmities of aging; mental illness; mental deficiency; physical illness or disability; developmental disabilities; chronic use of drugs; chronic intoxication; the result of accident, organic brain damage, mental or physical disability, or continued consumption or absorption of substances producing a condition which substantially impairs an individual from providing for the individual's own care or custody; or other like incapacity which results in a lacking of sufficient understanding or capacity to communicate informed decisions and includes a natural person determined to be incapacitated for purposes of appointing a guardian or conservator under the laws of the Tribe.

17. "Includes" and "including" means not limited to and is not a term of exclusion.

18. "Indian" means a natural person who is a member of any federally recognized tribe.

19. "Infirmities of aging" means organic brain damage caused by advanced age or other physical degeneration in connection therewith to the extent that the individual so afflicted is substantially impaired in their ability to adequately provide for their own care or custody.

20. "Laws of the Tribe" means the Constitution; this Code; any ordinances, rules, and regulations of the Tribe; any orders or decisions of the Tribal Council or any Tribal government entity; and the common law of the Tribe.

21. "Legal counsel" means a natural person, by whatever name called, who is employed to undertake the provision of legal advice or assistance in connection with the application of the law or any form of resolution of legal disputes and includes an attorney

licensed to practice law in any jurisdiction and a lay advocate admitted to practice law before the Tribal Court.

22. "Member of the Tribe" means a natural person who is a member of the Tribe under the Constitution of the Tribe whether enrolled or not, but does not include honorary members.

23. "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

24. "Minor" as used in reference to the age of natural persons means a natural person who is under the age of majority and has not been emancipated.

25. "Parent" means a natural person who has a legal parent-child relationship with another natural person and is recognized as a parent of such other natural person under the laws of the Tribe or the applicable laws of a foreign jurisdiction and includes:

a. A natural parent of an individual;

b. An individual for whom parentage is presumed or established pursuant to the laws of the Tribe or the applicable laws of a foreign jurisdiction; and

c. An individual who has adopted another individual under the laws of the Tribe or the laws of a foreign jurisdiction.

26. "Person" means any individual or natural person, government or entity or subdivision thereof, sole proprietorship, partnership, cooperative, association, company, limited liability company, corporation, foundation, labor organization, firm, society, joint stock company, enterprise, group of organizations, or other organized group of persons.

27. "Territory of the Tribe" means all territory of the Ponca Tribe of Nebraska, including:

a. Those lands, areas, property, and communities defined as Indian country under the laws of the United States, including lands held in trust by the United States for the benefit of the Tribe or members of the Tribe and dependent Indian communities wherever located;

b. All lands, areas, property, and communities within any service area of the Tribe as defined by Public Law 101-484 of the United States and any amendments thereto:

i. Which belong to the Tribe or a member of the Tribe;

ii. Which are held in trust by the United States for the benefit of the Tribe or a member of the Tribe; and

iii. Where the Tribe may otherwise lawfully exercise jurisdiction and authority;

c. All lands and property to which the Tribe and its members retain aboriginal right, title, or interest; and

d. All lands and property to which right, title, or interest is created or reserved under any treaty of the Tribe with a foreign jurisdiction, including the Treaty with the United States of June 25, 1817; the Treaty with the United States of June 9, 1825; the Treaty with the United States of March 12, 1858; and the Treaty with the United States of March 10, 1865.

28. "Tribal Attorney" means the general legal counsel for the Tribe.

29. "Tribal business entity" means a business entity which is owned, either in whole or in part, by the Tribe or the subsidiary of any such business entity and includes an economic enterprise of the Tribe and nonprofit business entities of the Tribe.

30. "Tribal Council" means the Ponca Tribal Council as provided for in Article IV of the Constitution.

31. "Tribal Court" means the Tribal Court of the Ponca Tribe of Nebraska established by Article VI of the Constitution.

32. "Tribal government entity" means the Tribal Council, a governmental branch, commission, board, agency, department, authority, division, subdivision, court, tribunal, instrumentality, or other entity or component of the Tribe, but excludes Tribal business entities.

33. "Tribal newsletter" means the newsletter or other periodic official publication provided generally to members by the Tribe.

34. "Tribal official" means a Tribal Council member, commissioner, board member, official, agent, officer, or employee of the Tribe, a Tribal government entity, or a Tribal business entity and, unless the context requires otherwise, a judge or justice.

35. "Tribe" means the Ponca Tribe of Nebraska and, unless the context requires otherwise, Tribal government entities, Tribal business entities, other entities of the Tribe, and Tribal officials.

Section 1-1-14. Principles of Common Law.

1. Except as superseded by the Constitution of the Tribe or this Code, the customs and traditions of the Tribe are hereby declared to be the common law of the Tribe and shall be the law applicable within the territory of the Tribe and shall be the rule of decision in all Tribal government entities.

2. The common law of the Tribe expressly does not include the common law of any other Indian tribe, the common law of any foreign jurisdiction nor any interpretation thereunder of the laws of the Tribe by any foreign court. Nothing in this subsection shall prevent a Tribal government entity from utilizing the laws of a foreign jurisdiction for the purpose of guidance and example when permitted by the laws of the Tribe and when no applicable specific law of the Tribe, including Tribal common law, is available.

3. Where possible, the common law of the Tribe shall supplement this Code and this Code shall be interpreted whenever possible as supplementing and not displacing the common law of the Tribe.

Section 1-1-15. Legal Holidays.

1. The following days shall be legal holidays of the Tribe:

a. January 1, "New Year's Day;"

b. Third Monday of January, "Martin Luther King Jr. Day;"

c. May 12, "Chief Standing Bear Day: Remembering Our Leaders;"

d. Last Monday in May, "Memorial Day;"

e. July 4, "Independence Day;"

f. First Monday in September, "Labor Day;"

g. October 31, "Northern Ponca Restoration Day - Remembering our Elders;"

h. November 11, "Veterans' Day;"

i. Fourth Thursday in November, "Thanksgiving Day;"

j. The day after Thanksgiving Day, "Native American Day;"

k. December 24, "Christmas Eve;"

l. December 25, "Christmas Day;" and

m. Any other day the Tribal Council may, from time to time, declare to be a legal holiday.

2. When any of the holidays enumerated in this Section falls on a Sunday, the first day that follows which is not a legal holiday shall be observed as a holiday.

3. When any of the holidays enumerated in this Section falls on a Saturday, the first day that precedes it which is not a legal holiday shall be observed as a holiday.

Section 1-1-16. Closure of Offices.

1. Except as expressly provided elsewhere by the laws of the Tribe, Tribal government entities and offices of the Tribe shall not be open on Saturdays, Sundays, or any legal holiday.

2. The following entities of the Tribe shall not be required to close under this Section:

a. Any law enforcement related Tribal government entities, including Tribal government entities charged with the regulation of gambling, hunting, or fishing;

b. The clinics and other health services facilities of the Health Department; and

c. All Tribal business entities.

Section 1-1-17. Computation of Time. Whenever a time is prescribed in this Code, or otherwise provided or agreed upon, for the doing of an act or the occurrence of an event:

1. Such time shall be calculated by excluding the first day and including the last day;

2. When the period of time is less than seven (7) days, intermediate weekends and legal holidays shall be excluded in the calculation unless the period of time expressly specifies calendar days; and

3. If the last day in the period of time is a weekend or legal holiday, it shall be excluded from calculating the time for doing such act and the act may be performed on the next business day as though performed on the appointed day.

CHAPTER 2
ESTABLISHMENT OF COURTS; JUDGES AND OTHER COURT PERSONNEL

Section 1-2-1. Definitions. In addition to the definitions set forth in Chapter 1 of this Title, unless the context requires otherwise, as used in this Chapter:

1. "Chief Judge" means the Chief Judge of the Trial Court.

2. "Chief Justice" means the Chief Justice of the Court of Appeals.

3. "Court of Appeals" means the Court of Appeals of the Tribal Court established in this Chapter.

4. "Judge" means a judge of the Trial Court duly appointed by the Tribal Council and includes a justice of the Court of Appeals.

5. "Justice" means a justice of the Court of Appeals of the Tribal Court duly designated pursuant to this Chapter.

6. "Trial Court" means the Trial Court of the Tribal Court established by this Chapter.

Section 1-2-2. Courts Established. There is hereby established a court of general jurisdiction known as the Tribal Court of the Ponca Tribe of Nebraska and consisting of a Court of Appeals, a Trial Court, and such lower or intermediate courts and divisions as the Tribal Council from time-to-time may establish or deem necessary.

Section 1-2-3. Court of Appeals.

1. The Court of Appeals shall be comprised of a Chief Justice and such associate justices as are required.

2. The Chief Justice shall be appointed as provided in this Chapter.

3. In the absence of the appointment of associate justices, the associate justices shall be selected from the judges of the Trial Court, provided that no judge of the Trial Court shall serve on a panel of the Court of Appeals involving an appeal or review of that judge's judgment, order, or decision.

Section 1-2-4. Justices and Judges.

1. There shall be appointed one Chief Justice who shall be called into service when the need arises.

2. There shall be appointed one Chief Judge of the Trial Court.

3. There may be appointed such associate justices and judges as the Tribal Council deems necessary or desired.

4. The appointment, qualification, and compensation to be received by such judges shall be determined by the Tribal Council, provided, however, that once appointed a judge shall not have the judge's compensation decreased during the judge's term of office, and provided further that no judge shall be suspended or removed from office prior to the expiration of the judge's term, except as provided hereinafter.

5. Justices and judges shall be appointed to a six (6) year term and may be appointed to successive terms of office.

Section 1-2-5. Selection of Justices and Judges.

1. Justices and judges shall be selected for appointment by the Tribal Council from nominees received from the Judicial Nominating Committee.

2. The Judicial Nominating Committee shall consist of five (5) members appointed by the Tribal Council, with each Council district having at least one representative on the Committee.

3. The Judicial Nominating Committee shall nominate from applicants those individuals the Committee deems qualified to serve as justices and judges of the Tribal Court and certify those nominations to the Tribal Council for consideration.

4. The Tribal Council shall conduct an open hearing for each nominated individual and then select from the candidates the justices or judges to be appointed.

Section 1-2-6. Judges Pro Tempore.

1. In the absence of the appointment of at least two associate justices and/or judges, there shall be appointed at least two judges pro tempore who may be called into service when the need arises, but there may be appointed as many judges pro tempore as the Tribal Council deems necessary or desired. Judges pro tempore shall serve as judges and justices from time to time as provided in this Section.

2. Judges pro tempore shall not serve on the Trial Court or Court of Appeals or perform any duties related to the Tribal Court except when designated or requested to do so by the Chief Justice or the Chief Judge, provided that the Chief Judge may only designate or request the services of a judge pro tempore for matters before the Trial Court or as otherwise provided by the laws of the Tribe.

3. Judges pro tempore shall meet the same requirements and qualifications applicable to other judges and justices of the Tribal Court.

4. A judge pro tempore may serve as a judge or justice, as the case may be, only under the following circumstances:

a. When necessary to comprise a full Court of Appeals in those cases where there are insufficient judges to serve as justices to hear a particular matter;

b. When necessary to fill the role of a judge due to recusal or other unavailability of a particular judge to hear a particular matter before the Trial Court;

c. When necessary to fill the role of a judge who is unavailable for a duration of time due to vacation, illness, or other similar reason;

d. For the purpose of performing specific duties as may be assigned by the Chief Judge or the Chief Justice, as the case may be; or

e. When necessary to fill a vacancy in the office of the Chief Judge pending appointment of a Chief Judge.

5. When sitting on a Trial Court or Court of Appeals, a judge pro tempore shall perform the duties and functions of a judge of the Trial Court or justice of the Court of Appeals, as the case may be, and shall have all of the prerogatives and authority of office of a judge or justice, as the case may be.

6. The term of a judge pro tempore may be for any period of time not to exceed two (2) years for any one (1) term and an individual previously appointed as judge pro tempore may be reappointed by the Tribal Council, provided that the powers and duties of a judge pro tempore shall extend beyond the period of the judge pro tempore's appointment where necessary to hear and determine any proceeding required for a final determination of a cause heard by the judge pro tempore in whole or in part during the period of the judge pro tempore's appointment.

7. Judges pro tempore shall be compensated based upon the actual performance of duties at a rate and manner set by the Tribal Council. In no event shall a judge pro tempore be compensated for attending Tribal Court proceedings or serving as judge pro tempore except when sitting as a judge or justice or otherwise performing the duties of a judge or justice upon proper request of the Chief Judge or the Chief Justice.

8. The Tribal Council may at any time terminate the term of a judge pro tempore, except that a judge pro tempore shall not be removed from a case, matter, dispute, or proceeding to which the judge pro tempore is assigned until the termination or resolution of such case, matter, dispute, or proceeding unless the judge pro tempore is removed from office for cause related to or reflecting upon the office of judge pro tempore.

Section 1-2-7. Removal of Judges.

1. During tenure in office, a justice or judge may be removed from office for any one of the following reasons:

a. Habitual neglect of duties of office, including habitual violation of the oath of office prescribed herein or the rules or code of judicial conduct governing the judge or justice;

b. Oppression in office for personal gain or advantage; or

c. Conviction in any court of competent jurisdiction of a felony or of a crime or civil offense involving moral turpitude.

2. Removal shall be by petition, signed by at least twenty-five percent (25%) of the number of votes cast in the last tribal election. The petition for removal shall be filed with the Tribal Council and processed in accordance with the provisions of the Tribe's election laws governing petitions.

3. Any justice or judge subject to removal shall be entitled to a hearing before the Tribal Council and the right to due process of law under the Constitution. An affirmative vote of two-thirds (2/3) of the full Tribal Council shall be required to remove the justice or judge from office. The Chairperson of the Tribal Council shall vote on any such removal.

Section 1-2-8. Powers and Duties of Judges.

1. The justices and judges of the Tribal Court shall:

a. Administer justice and discharge all duties imposed upon them by the laws of the Tribe;

b. Bear and decide matters of a judicial nature and enter judgments and orders disposing of such matters; and

c. Conform their conduct to the oath of office prescribed herein and the Code of Judicial Conduct as adopted by the American Bar Association or other rules or code of judicial conduct adopted by the Tribal Court in accordance with the laws of the Tribe.

2. All justices and judges shall have the power to:

a. Preserve and enforce order in their immediate presence, and in proceedings before them, when engaged in the performance of their judicial duties;

b. Compel obedience to their lawful orders;

c. Compel the attendance of persons to testify in proceedings before them as provided by the laws of the Tribe;

d. Administer oaths and affirmations to persons in proceedings before them and in any other case where such shall be necessary in the exercise of their powers and duties; and

e. Impose civil contempt by fine or other means as provided under the laws of the Tribe to assure the effectual exercise of these powers.

3. The Chief Judge shall be responsible for the administration of the Trial Court, including assignment of cases and the management of the Trial Court's calendar and business. The Chief Justice shall be responsible for the administration of the Court of Appeals, including the management of the Court of Appeals' calendar and business.

Section 1-2-9. Disqualification of Judges. The following rules shall apply to all judges:

1. A judge shall disqualify themself from hearing any matter where:

a. The judge has been engaged as counsel in the matter prior to appointment as judge;

b. The judge is otherwise interested in the matter;

c. Either party to the matter is a member of the judge's immediate or extended family;

d. The judge is a material witness in the matter;

e. Disqualification is required under the rules or code of judicial conduct governing the judge or justice; or

f. There is cause to believe that, on account of bias, prejudice, or interest of the judge, the judge will not be

able to provide a fair and impartial trial or render a just decision.

2. Any party to a legal proceedings may request a change of assignment of judges to hear the proceedings by following the rules prescribed in the Rules of Civil Procedure or other applicable law of the Tribe.

Section 1-2-10. Separation of Powers. There shall be a separation of power between the Tribal Court and the Tribal Council. Decisions of the Trial Court may be appealed to the Court of Appeals, but shall not be subject to review by the Tribal Council. The Tribal Council shall not exercise any judicial powers reserved or granted exclusively to the Tribal Court and the Tribal Court shall not exercise any legislative or executive powers of the Tribe.

Section 1-2-11. Oath of Office of Judge. Every judge, prior to taking office or acting in such office, shall take the following oath or affirmation:

> I, (state your name), do solemnly swear (affirm) that I will support, defend, and uphold the Constitution and laws of the Ponca Tribe of Nebraska, including the Ponca Tribe of Nebraska Code and the human rights entrenched in the Constitution; that I will administer justice in accordance with the laws of the Ponca Tribe of Nebraska to all persons alike before me without fear, favor, or prejudice and without regard to race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status; and that I will perform my duties and exercise my powers as a judge (justice) of the Ponca Tribe of Nebraska Tribal Court honorably, faithfully, impartially, and conscientiously.

Said oath or affirmation shall be administered by the Chairperson of the Tribal Council.

Section 1-2-12. Court Personnel.

1. There shall be a Tribal Court Administrator of the Tribal Court and such other personnel and employees of the Tribal Court as may be required or provided.

2. The Tribal Court Administrator shall perform the following duties and functions:

a. Supervise and keep all records, files, dockets, and other records of the Tribal Court required to be kept by the laws of the Tribe or otherwise necessary or advisable to be kept;

b. Keep a written or electronic record of all proceedings of the Tribal Court;

c. Administer oaths and affirmations;

d. Collect and account for all fines, fees, and other charges which cause money to come to the Tribal Court; deposit and account for all such moneys in the manner prescribed by the Tribal Council; and disburse such moneys as authorized by the laws of the Tribe;

e. Assist the Tribal Court in any way required to facilitate the performance of its duties; and

f. Aid persons in their dealings with the Tribal Court, including rendering assistance to persons or their counsel in the drafting and filing of documents incidental to proceedings in the Tribal Court.

3. The Tribal Court Administrator may not give legal advice.

4. The Tribal Court Administrator may delegate any of the Tribal Court Administrator's duties and functions to other personnel and employees of the Tribal Court.

5. In the absence of the Tribal Court Administrator, a justice or judge may perform the Tribal Court Administrator's duties in addition to the judge's own.

Section 1-2-13. Court Forms. In addition to any forms authorized or required to be developed under the laws of the Tribe, the Tribal Court may develop and adopt forms for the use of persons and their legal counsel in proceedings in the Tribal or incidental thereto Court, including for filing.

Section 1-2-14. Law and Justice Committee.

1. There is hereby established a Law and Justice Committee as a committee of the Tribal Council and composed of an odd number of members all appointed by the Tribal Council. The members of the

Law and Justice Committee shall have at least one (1) member from each of the following areas:

a. Legal area such as legal counsel designated by the Tribal Court and admitted to practice law before the Tribal Court; an active judge, other than from the Tribal Court; a retired judge or justice; or Tribal Court personnel;

b. Senior staff members or designees from Tribal government entities; and

c. Enrolled members of the Tribe.

2. Each member of the Law and Justice Committee shall serve until the member resigns, is removed, or the Tribal Council appoints the member's successor. Nothing in this subsection shall prevent the Tribal Council from setting the length of a term of any member of the Law and Justice Committee at the time of appointment or otherwise.

3. The duties of the Law and Justice Committee shall be as follows:

a. To act as a liaison between the Tribal Court and Tribal Council;

b. To oversee the budget of the Tribal Court and make recommendations to the Tribal Council regarding the same;

c. To provide oversight of the Tribal Court and make recommendations to the Tribal Council relating to the operations and growth of the Tribal Court, including additional dispute resolution methods;

d. To review complaints of violations of the oath of office prescribed herein and judicial misconduct or disability under the rules or code of judicial conduct governing judges and justices of the Tribal Court; hold public fact-finding hearings when such complaints are supported by reasonable cause with the judge or justice given a full opportunity to defend and be heard with legal counsel; and, if such hearing reveals clear, cogent and convincing evidence of a violation, to publicly admonish, reprimand, or censure the judge or justice or recommend suspension or removal from office in accordance with the laws of the Tribe;

e. To receive written complaints under oath or affirmation against legal counsel admitted to practice before the Tribal Court and other persons alleged to have engaged in the unauthorized practice of law in violation of the laws of the Tribe; review such complaints to determine if they are supported by reasonable cause; and forward such complaints to the Chief Judge for action;

f. To make recommendations on amendments to the Rules of Civil Procedure and other rules of the Tribal Court to the Tribal Council and establish such rules in the absence of Tribal Council action as permitted herein;

g. To approve rules or a code of judicial conduct governing judges or justices as provided herein;

h. To set filing fees for the Tribal Court as permitted herein;

i. To provide annual evaluations of the judges and justices of the Tribal Court and provide the same to the Tribal Council and members of the Tribe;

j. To make recommendations to the Tribal Council regarding amendments, modifications, and additions to this Code; and

k. Such other duties and responsibilities as the Tribal Council may from time designate.

4. The Law and Justice Committee shall designate one of its members to act as the representative of the Committee before the Tribal Council and to communicate the activities of the Committee to the Tribal Council quarterly. In the absence of such designation, the Tribal Court Administrator shall act as the representative of the Committee before the Tribal Council.

5. The Law and Justice Committee shall be authorized to act and conduct business with a majority of its appointed or designated members, so long as at least three (3) positions on the Committee have been filled by designation or appointment.

Section 1-2-15. Locations/Sessions of Court.

1. The Tribal Court may convene for hearing cases at any location within the territory of the Tribe which may be necessary to provide for the orderly administration of justice.

2. Sessions of the Tribal Court for trial of cases in all courts and divisions, excepting the Court of Appeals, shall be held by the Chief Judge, or in case of the Chief Judge's disability, absence, or unavailability, by an associate judge, provided that an associate judge may be called in to hear cases at any time for any reasonable cause by the Chief Judge.

3. In the event no associate judge is appointed, a case may be heard by a judge pro tempore as provided in this Chapter.

Section 1-2-16. Rules of the Court Procedures.

1. The time and place of sessions of the Tribal Court and all other details of judicial procedure not prescribed by this Code shall be governed by the Rules of Civil Procedure and such other rules of the Tribal Court promulgated as herein provided.

2. It shall be the duty of the Law and Justice Committee, in consultation with the Tribal Court, to make recommendations to the Tribal Council for enactment or amendment of the Rules of Civil Procedure and such other rules of the Tribal Court as it believes to be in the interests of improved judicial procedures.

3. In the case of failure of the Tribal Council to establish or approve Rules of Civil Procedure or other necessary rules of the Tribal Court, the Law and Justice Committee acting jointly with the Chief Judge, Chief Justice, and any associate judges shall have authority to establish such rules, provided that such rules shall not abridge, enlarge, or modify any substantive right, and shall be consistent with the laws of the Tribe.

4. Rules of Civil Procedure and other rules of the Tribal Court, enacted or amended in the above manner, will be made a part of this Code, but failure to so codify them shall not affect their validity.

Section 1-2-17. Rules of Professional Conduct. The Tribal Court may adopt rules governing the professional conduct of legal counsel and judges of the Tribal Court, including amendments thereto, as follows:

1. The Tribal Court, any individual admitted to practice before the Tribal Court, or any member of the Tribe may file a petition with the Tribal Court Administrator to adopt, amend, or repeal any rule of professional conduct. The petition shall state the grounds for the adoption, amendment, or repeal of the rule;

include a draft of the proposed new or amended rule; and may be accompanied by supporting documentation. The form and filing of the petition and supporting documentation shall substantially conform, insofar as practicable, to the filing of complaints and other petitions with the Trial Court.

2. After the filing of a petition, the Chief Judge shall review the petition and any supporting documentation and determine whether to reject it for lack of need, merit, or substance. If the Chief Judge denies the petition for lack of need, merit, or substance, the Tribal Court Administrator shall promptly notify the petitioner of the decision of the Chief Judge. The petitioner may appeal such denial to the Court of Appeals.

3. If the Chief Judge does not deny the petition, the Tribal Court Administrator shall prepare a request for comment stating that the Tribal Court invites written comment on the merits of the petition and indicating the place for filing such comments and the expiration date for filing such comments, which shall be no less than sixty (60) days from the date of service and publication of the request. The Tribal Court Administrator shall serve the request for comment and a copy of the petition on all legal counsel admitted to practice before the Tribal Court and shall also publish the request for comment in the Tribal newsletter and any other medium readily available to members of the Tribe.

4. Any legal counsel admitted to practice before the Tribal Court and any member of the Tribe may file written comments with the Tribal Court on the petition. The form and filing of comments shall substantially conform, insofar as practicable, to the filing of complaints and other petitions with the Tribal Court. The Tribal Court Administrator shall serve all comments filed on the petitioner within ten (10) days of the expiration date for filing comments and the petitioner shall have thirty (30) days from the date of service to file any reply to the comments.

5. At any time prior to the expiration of the time allowed for comment on a petition, the Chief Judge, on the Chief Judge's own motion or at the request of the petitioner or any individual admitted to practice before the Tribal Court or any member of the Tribe, may order that a public hearing be held on the petition. The Tribal Court shall determine the method and manner of holding such hearing, which shall be held before the Chief Judge.

6. The Chief Judge shall decide to either grant or deny the petition within thirty (30) days from the expiration of the petitioner's time to reply or any public hearing, whichever is

later. The Chief Judge's decision shall be served upon each legal counsel admitted to practice before the Tribal Court and published in the same manner as the original petition. If the Chief Judge grants the petition, the Chief Judge shall designate an effective date for the rule change. If the Chief Judge denies the petition, the petitioner may appeal the denial to the Court of Appeals.

7. Any petition which involves the adoption, repeal, or amendment of rules governing or related to judicial conduct shall also be approved by the Law and Justice Committee prior to being effective.

Section 1-2-18. Tribal Court Funds. Any funds received by the Tribal Court, whether in the form of filing fees, costs, fines, or other fees, shall be deposited into a Tribal Court account which shall be held and maintained by the Tribe. Such funds may be used for Tribal Court development and expenses as directed by the Tribal Council. The funds shall be disbursed in the manner for disbursing all other Tribal funds.

CHAPTER 3
CONTEMPT AND PERJURY

Section 1-3-1. Contempt of Court. The following acts or failures to act may serve as the basis for finding a person in contempt of court:

1. Disorderly, contemptuous, or insulting behavior toward a justice or judge while holding court, which tends to interrupt the course of the proceedings or undermine the dignity of the Tribal Court;

2. A breach of the peace, or loud, boisterous conduct which tends to interrupt the Tribal Court in a judicial proceeding;

3. Deceit, or abuse of process or proceedings of the Tribal Court by a party or counselor to a judicial proceeding;

4. Disobedience to a lawful writ, judgment, order, or process of the Tribal Court by doing or not doing an act or thing forbidden or required;

5. Assuming or presenting to be an officer, spokesman, or other official of the Tribal Court or acting as such without authority;

6. Taking any person or property from the Tribal Court or an officer acting under Tribal Court order contrary to an order of the Tribal Court;

7. Unlawfully detaining or otherwise interfering with a witness or party to an action while such person is going to or from a Tribal Court proceeding or attending Tribal Court;

8. Disobedience of a lawful subpoena duly served, or refusing to be sworn or answer as a witness;

9. Failure or refusal to pay a fine or penalty levied pursuant to law;

10. Willfully engaging in any other unreasonable conduct that obstructs the administration of justice or lessens the Tribal Court's dignity and authority; or

11. Any other interference with the process, proceeding, or dignity of the Tribal Court or of a justice or judge of the Tribal Court while performing the justice's or judge's official duties.

Section 1-3-2. Consequences for Contempt.

1. The Tribal Court has discretion to determine the appropriate consequences for contempt, but shall endeavor to impose consequences which are just, equitable, discourage further contempts, and compensates where appropriate.

2. Relief in a contempt proceeding may be a sanction for compelling compliance or as a result of conduct, or may be compensatory to a party for losses due to the contemnor's failure to comply or other conduct.

3. In addition to any other consequences for committing contempt, a person who commits contempt as defined in this Section may be subject to a civil fine for each commission of up to five percent (5%) of the person's gross income for the twelve (12) months immediately preceding the contempt.

4. Relief for contempt, including a civil fine, shall be in the form of a civil judgment and may be enforced by the Tribal Court or the compensated party, if and to the extent relief is awarded to the party, by any means available for the enforcement of civil judgments.

Section 1-3-3. Summary Contempt Procedures.

1. The Tribal Court may summarily find a person in contempt if the person commits a contempt in the Tribal Court's presence.

2. The Tribal Court must immediately notify the person of this finding and prepare and file a written order reciting the grounds for the finding, including a statement that the Tribal Court saw or heard the conduct constituting the contempt.

3. The Tribal Court must inform the person of the specific conduct on which the citation is based.

4. The Tribal Court must also provide the person a brief opportunity to present evidence or argument regarding the punishment the Tribal Court will impose.

5. The Tribal Court may not impose consequences during the course of the proceeding at which the contempt occurs, unless prompt consequences is imperative.

Section 1-3-4. Contempt by Notice and Hearing.

1. Except as provided for summary contempt in this Chapter, the Tribal Court may not find a person in contempt without notifying the person of the charge and holding a hearing.

2. The Tribal Court must set the hearing on a date that will allow the person reasonable time to prepare a defense.

3. The notice of hearing must state the hearing's time and place, and the essential facts constituting the charged contempt. The Tribal Court may give the notice orally in open court in the presence of the person charged or by an order to show cause.

4. The person charged with contempt has the right to subpoena witnesses for the hearing in accordance with the Rules of Civil Procedure.

Section 1-3-5. Disqualification of Judge.

1. Unless prompt consequences are imperative, a citation for contempt must be transferred to another judge of the Tribal Court if:

    a. The conduct involves disrespect or a personal attack on the citing judge's character; or

b. If the citing judge's conduct is so integrated with the contempt that the citing judge contributed to or was otherwise involved in it.

2. In cases where a citation for contempt is not required, a judge who issues a citation for contempt may recuse themself and transfer the citation to another judge of the Tribal Court.

3. Should a citation for contempt be transferred:

a. The judge who issued the citation may participate in the adjudication of the citation as a party; and

b. Any prior adjudication of responsibility is void and the judge to whom the citation is transferred must hold a hearing to determine the person's responsibility and punishment.

Section 1-3-6. Appeal.

1. An adjudication of contempt under this Chapter, including the imposition of a civil fine, is a final order and subject to appeal in accordance with the laws of the Tribe governing civil appeals.

2. A judge who issues a citation of appeal and transfers the matter to another judge may appeal the adjudication as a party to the adjudication.

Section 1-3-7. Unsworn Declarations.

1. Except as otherwise provided in this Section or elsewhere in the laws of the Tribe, whenever, under any law of the Tribe or under any rule, regulation, order, or requirement made pursuant to the laws of the Tribe, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn written statement, declaration, verification, certificate, oath, affirmation, or affidavit of the person making the same, such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn written statement, declaration, verification, or certificate of such person which recites that it is true under penalty of perjury, and dated, in substantially the following form:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

2. This Section shall not apply or be available for a deposition, oral testimony, an oath of office, or an oath or affirmation required to be taken before a specified official other than a notary public.

Section 1-3-8. Perjury.

1. A person commits perjury by making:

a. A false sworn statement in regard to a material issue, knowing or believing it to be false;

b. A false unsworn declaration, certificate, verification, or statement in regard to a material issue that the person subscribes as true under penalty of perjury, knowing or believing it to be false;

c. A materially false, fictitious, or fraudulent statement or representation to a Tribal government entity, knowing or believing it to be false, fictitious, or fraudulent; or

d. A false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry or forged matter.

2. This Section is applicable whether the declaration, certificate, verification, or statement is made or subscribed within or without the territory of the Tribe.

3. By submitting any declaration, certificate, verification, or statement, whether sworn or unsworn, to the Tribe or in any proceeding or matter within the jurisdiction of the Tribe, a person submits to the jurisdiction of the Tribe for any issue or matter related to the declaration, certificate, verification, or statement, including enforcement of this Section.

4. No person shall be found to have committed perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the person accused of perjury. Proof of falsity may be established by direct or indirect evidence.

5. A person who commits perjury with respect to the receipt of any benefit from the Tribe forfeits such benefit and shall return any benefit received therefrom unless otherwise provided under applicable law.

6. In addition to any other consequences for committing perjury, a person who commits perjury as defined in this Section shall be subject to a civil fine for each commission of up to the greater of:

a. Five percent (5%) of the person's gross income for the twelve (12) months immediately preceding the perjury; or

b. One and one-half (1-1/2) times the value or amount of benefit the person obtained from the commission of perjury.

7. A civil fine for perjury may be imposed by the Tribal government entity before whom the perjury was committed and thereafter enforced and collected through a civil cause of action brought by such Tribal government entity on behalf of the Tribe in the Tribal Court or through any other method of imposing or enforcing civil fines under the laws of the Tribe.

CHAPTER 5
JURISDICTION

Section 1-4-1. Territorial Jurisdiction. The general jurisdiction of the Tribal Court shall be the territory of the Tribe. As to lands ceded to the United States, or to which the Tribe retains right, title, or interest, the Tribal Court retains original, exclusive jurisdiction over members of the Tribe engaged in hunting, fishing, and gathering for subsistence, ceremonial, and religious purposes.

Section 1-4-2. Personal Jurisdiction.

1. Except for limitations, restrictions, or exceptions imposed by or under the authority of valid applicable laws of the United States or by express provision elsewhere in the laws of the Tribe, the Trial Court shall have personal jurisdiction over:

a. Any person residing, located, or present within the territory of the Tribe for any civil cause of action;

b. Any person who transacts, conducts, or performs any business or activity within the territory of the Tribe, either in person or by an agent or representative, for any civil cause of action arising from such business or activity;

c. Any person who owns, uses, leases, or possesses any property within the territory of the Tribe for any civil cause of action arising from such ownership, use, lease, or possession;

d. Any person who commits a tortious act or engages in tortious conduct within the territory of the Tribe, either in person or by an agent or representative, for any civil cause of action arising from such act or conduct;

e. Any person who commits an act or omission which occurs, wholly or in substantial part, within the territory of the Tribe, by the person's own conduct or the conduct of another for which the person is legally accountable, for any civil cause of action related to such act or omission;

f. Any person who commits an act or omission outside the territory of the Tribe, but has or is intended to have substantial effect within the territory of the Tribe for any civil cause of action involving such act or omission or its effects;

g. Any person who enters into a contract, agreement, or other consensual relationship with the Tribe or any of its members, for any civil cause of action arising from such contract, agreement, or other consensual relationship;

h. Any licensee or permitee of the Tribe for any civil cause of action arising from such person's activities as a licensee or permitee of the Tribe;

i. Any person who consents to the jurisdiction of the Trial Court, provided that such consent, once given, may be revoked only with the permission of the Tribal Court; and

j. Where personal jurisdiction over such person is otherwise conferred or provided in the laws of the Tribe.

2. None of the foregoing bases of jurisdiction is exclusive and jurisdiction over a person may be established upon anyone or more of them as applicable or upon any independent basis existing at law but not set forth herein.

3. The Trial Court shall not have personal jurisdiction over the Tribe without the unequivocal and express consent of the Tribe or an unequivocal and express provision in the laws of the Tribe.

Section 1-4-3. Subject Matter Jurisdiction.

1. Except for limitations, restrictions, or exceptions imposed by or under the authority of valid applicable laws of the United States or by express provision elsewhere in the laws of the Tribe, the Trial Court shall have original jurisdiction over all civil causes of action and over all controversies between any persons, except the Trial Court may decline to assume jurisdiction over any matter which does not involve the Tribe or its property, a member of the Tribe or a member of the Tribe's property, or an Indian or an Indian's property if some other forum exists for the handling of the matter and the matter is not one in which the rights or interests of the Tribe or the members of the Tribe may be directly or indirectly affected.

2. The Trial Court shall also have:

a. Jurisdiction to issue injunctions, writs, and other orders necessary and proper to the complete exercise of its jurisdiction;

b. Jurisdiction to certify questions of law of a foreign jurisdiction to the court of such foreign jurisdiction where such foreign jurisdiction has a procedure or means for certifying questions of law;

c. Jurisdiction to issue opinions to a foreign court upon proper request or certification of a question of the laws of the Tribe from such foreign court;

d. Jurisdiction to recognize, but not enforce, valid judgments and orders issued by foreign courts where the matters to be recognized which are subject of the judgment are not otherwise within the exclusive jurisdiction or authority of the Trial Court and recognition is proper to assist the Trial Court in a matter otherwise properly within its jurisdiction; and

e. Such other jurisdiction as may be provided by the laws of the Tribe.

3. The Trial Court shall not have jurisdiction over any cause of action brought against the Tribe unless the Tribe unequivocally and expressly consents to such jurisdiction or such jurisdiction is unequivocally and expressly granted by the laws of the Tribe, and any such consent or grant of jurisdiction, including

the jurisdiction provided in this Title, shall not be construed to include a waiver of the Tribe's sovereign immunity from suit. Any such consent or grant of jurisdiction over any cause of action brought against the Tribe shall be deemed original and exclusive to the Trial Court and not extend to any foreign court or other tribunal or institution.

4. Notwithstanding any other provision of the laws of the Tribe, the Trial Court shall have jurisdiction over all civil causes of action and over all controversies commenced by the Tribe and nothing in this Section or elsewhere in this Code shall be construed as limiting the jurisdiction of the Trial Court to hear and determine matters commenced by the Tribe, provided that nothing herein shall be construed as granting jurisdiction to the Trial Court to hear or determine any cross-claim or counterclaim against the Tribe or to award any monetary relief, including costs and legal counsel's fees, against the Tribe in an action commenced by the Tribe.

Section 1-4-4. Concurrent Jurisdiction. The jurisdiction invoked or provided by this Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of any foreign court, provided:

1. This Code does not recognize, grant, or cede jurisdiction to any foreign jurisdiction or political or government entity in which jurisdiction does not otherwise exist in valid applicable governing law; and

2. Any concurrent jurisdiction exercised by a foreign jurisdiction shall not preclude any exercise of jurisdiction pursuant to this Code or by the Tribe unless otherwise required by valid applicable governing law and the foreign jurisdiction has obtained and perfected its jurisdiction in full prior to the Tribe exercising jurisdiction.

Section 1-4-5. Jurisdiction of Court of Appeals. The Court of Appeals shall have:

1. Appellate jurisdiction in all actions and proceedings properly before and originating in or permitted by law to be appealed from the Trial Court;

2. Jurisdiction to issue injunctions, writs, and other orders necessary and proper to the complete exercise of its jurisdiction;

3. Jurisdiction to certify questions of law of a foreign jurisdiction to the court of such foreign jurisdiction where such foreign jurisdiction has a procedure or means for certifying questions of law;

4. Jurisdiction to issue opinions to a foreign court upon proper request or certification of a question of the laws of the Tribe from such foreign court;

5. Jurisdiction to recognize, but not enforce, valid judgments and orders issued by foreign courts where the matters to be recognized which are subject of the judgment are not otherwise within the exclusive jurisdiction or authority of the Tribal Court and recognition is proper to assist the Court of Appeals in a matter otherwise properly before it; and

6. Such other jurisdiction as may be provided by the laws of the Tribe.

CHAPTER 5
LEGAL COUNSEL

Section 1-5-1. Definitions. In addition to the definitions set forth in Chapter 1 of this Title, unless the context requires otherwise, as used in this Chapter:

1. "Attorney" means a natural person professionally trained as an attorney and licensed to practice law in any state or federal jurisdiction of the United States or any jurisdiction of a federally recognized tribe.

2. "Lay advocate" means a natural person admitted to practice law before the Tribal Court but who is not an attorney.

Section 1-5-2. Right to Representation.

1. Any person appearing as a party in any action before the Tribal Court shall have the right to be represented by legal counsel of the person's own choice at the person's own expense, provided:

a. The Tribe has no obligation to provide or pay for such legal counsel; and

b. Any such legal counsel appearing before the Tribal Court shall have first obtained admission to practice before

the Tribal Court in accordance with the procedures set forth herein.

2. A person who retains the services of a lay advocate thereby exercises the person's rights to the assistance of counsel under any applicable law. Any person who retains the services of a lay advocate does so at the person's own risk regarding the competence of the advocate.

Section 1-5-3. Unlawful Representation and Practice of Law.

1. No person shall represent or attempt to represent any person before the Tribal Court except as permitted by the Tribal Court and this Chapter.

2. No person shall practice law or attempt to practice law within the territory of the Tribe unless such person is also admitted to practice before the Tribal Court in accordance with this Chapter.

3. In addition to any other consequences for violating this Section, a person who violates this Section shall be subject to a civil fine for each violation, which may be imposed by the Tribal Court or in a civil action brought by the Tribal Attorney in accordance with the laws of the Tribe, of up to the greater of:

a. Five percent (5%) of the person's gross income for the twelve (12) months immediately preceding the incident of unauthorized practice of law; or

b. Two (2) times the amount the person charged or received, whichever is greater, for the representation or unauthorized practice of law in violation of this Section.

Section 1-5-4. Eligibility for Admission.

1. Any attorney who is an active member in good standing of the bar of and eligible to practice law in any state or federal jurisdiction of the United States or any jurisdiction of a federally recognized tribe is eligible to be admitted to practice before the Tribal Court as an attorney.

2. Any natural person who is not an attorney is eligible to be admitted to practice before the Tribal Court as a lay advocate. Lay advocates shall be held to the same standards of knowledge and ability as are expected of attorneys.

3. No person disbarred from the practice of law in any jurisdiction may be admitted to practice in the Tribal Court.

Section 1-5-5. Procedure for Admission.

1. Any natural person desiring to be admitted to practice before the Tribal Court shall apply for admission to the Tribal Court by certifying under oath or affirmation, either verbally or in writing, the following:

a. If the person is an attorney, that the attorney is an active member in good standing of the bar of and eligible to practice law in a state or federal jurisdiction of the United States or any jurisdiction of a federally recognized tribe and the attorney is in good standing in all courts and jurisdictions where admitted;

b. All jurisdictions and courts where the person has been admitted to practice law, whether active or not;

c. That the person has never been disbarred or resigned pending disciplinary proceedings from the practice of law in another jurisdiction;

d. That the person is not currently suspended from the practice of law or subject to discipline or the subject of a pending disciplinary matter related to the practice of law in any jurisdiction or by any court or administrative body; and, if ever suspended from or disciplined with respect to the practice of law in any jurisdiction, the person has been reinstated to the practice of law without restriction and in good standing in the jurisdiction in which the person was suspended or disciplined;

e. That the person is familiar with and knowledgeable of this Code; and

f. That if admitted to practice before the Tribal Court, the person consents to the Tribal Court's exercise of jurisdiction over the person, including for discipline, related to the person's admission to and practice before the Tribal Court and will take the required oath as prescribed in this Chapter for legal counsel and be bound thereby.

2. A non-refundable application fee shall be tendered upon submittal of the application unless waived as provided herein.

3. Upon receipt of an application for admission to practice before the Tribal Court, the Chief Judge shall review the application and may investigate the truth of the matters contained therein. If satisfied that the applicant meets the qualifications set forth herein, the Chief Judge shall notify such applicant who shall take the oath in the manner and form prescribed herein.

4. Upon taking of the oath, either orally or in writing, the Chief Judge shall cause a certificate to be issued evidencing the admission of the legal counsel to practice before the Tribal Court.

5. Any applicant denied admission shall have a right to appeal in accordance with the laws of the Tribe governing civil appeals.

6. The Tribal Court shall retain the right to establish and require the taking of a bar examination for admission to practice before the Tribal Court.

Section 1-5-6. Fees.

1. The Law and Justice Committee, subject to input and recommendations from the Tribal Court, shall determine application fees for admission of legal counsel as well as annual fees to be paid by admitted legal counsel.

2. The Law and Justice Committee, subject to input and recommendations from the Tribal Court, may waive or establish reduced application fees and annual fees for lay advocates.

3. The application fee and any annual fee shall be waived for legal counsel employed by or to represent the Tribe and for others upon Tribal Council resolution.

4. Application and annual fees may go into a special bar admission fund to be used for training of Tribal Court staff, lay advocates, and other officers of the Tribal Court or else shall be deposited into the Tribal Court account in accordance with this Title.

Section 1-5-7. Oath of Legal Counsel. Upon admission to practice as provided herein, legal counsel shall take the following oath, either verbally before the Tribal Court or, if admitted without personally appearing, by subscribing the legal counsel's signature to such oath:

I, (state your name), do solemnly swear (or affirm) that I will support the Constitution, Code, and all ordinances, laws, and resolutions of the Ponca Tribe of Nebraska;

As legal counsel, I will exercise my functions with dignity, conscience, independence, integrity, and humanity;

I will treat the courts and judicial officers of the Ponca Tribe of Nebraska with respect;

I will not counsel or maintain an action, proceeding, or defense that appears to me to be unjust or that lacks a reasonable basis in fact or law;

I will be honest in my dealings with others and never seek to mislead any judge or judicial officer or make false or misleading statements of fact or law;

I will fulfill my duty of confidentiality to my client; I will not accept compensation for representing my client from anyone other than my client without my client's knowledge and approval;

I will avoid engaging in unprofessional conduct; I will not advance any fact prejudicial to the honor or reputation of a party or witness, unless required by my duties to my client or the tribunal;

I will not utilize litigation or any other course of conduct to harass the opposing party;

I will at all times faithfully and diligently adhere to the rules of professional conduct of the Ponca Tribal Court;

I will not engage in conduct that I know or should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in conduct related to the practice of law in the Ponca Tribe of Nebraska;

I will remember that, in addition to commitment to my client's cause, my responsibilities as legal counsel

include a devotion to the good of the Ponca Tribe of Nebraska, the community, and the public.

Section 1-5-8. Duties and Standards of Conduct. All legal counsel shall conform their conduct to the oath prescribed herein and the Rules of Professional Conduct as adopted by the American Bar Association or other rules of professional conduct adopted by the Tribal Court pursuant to the laws of the Tribe. In addition, all legal counsel shall be duty bound to give immediate written notice to the Tribal Court of any formal discipline imposed upon such legal counsel, including dates and terms thereof, by any court, jurisdiction, or administrative tribunal.

Section 1-5-9. Discipline.

1. Whenever it is made to appear to the Chief Judge that any legal counsel admitted to practice before the Tribal Court has been disbarred or suspended from practice in any jurisdiction where such legal counsel is admitted to practice, such legal counsel shall immediately be given notice at such legal counsel's last known address that such legal counsel shall be likewise disbarred or suspended from practice before the Tribal Court unless such legal counsel files a written reply within fourteen (14) business days and shows good cause why such order should not be made. Legal counsel may appeal the Chief Judge's decision to the Court of Appeals.

2. Any judge who finds legal counsel admitted to practice before the Tribal Court to be in contempt of court may, in addition to any other sanction imposed, order the legal counsel to appear within thirty (30) days or the next scheduled court date and show cause why the legal counsel should not be disciplined under this Section.

3. The Chief Judge may, upon receiving a written complaint, signed under oath or affirmation, which indicates that legal counsel admitted to practice before the Tribal Court has acted in an unethical or otherwise improper manner while functioning as legal counsel, order such legal counsel to appear and defend themself at a hearing, to hear all evidence relevant to the matter, and may order the discipline of such legal counsel if such appears reasonably necessary or appropriate. If the Chief Judge is the complainant, another judge shall hear and decide the matter.

4. Discipline imposed under this Section shall be one or more of the following sanctions:

a. Admonition;

b. Reprimand;

c. Restitution to persons financially injured, provided the amount of restitution is proven by a preponderance of the evidence;

d. Probation for a specified period not in excess of two (2) years, provided probation may be renewed for an additional two (2) year period if justified;

e. Suspension for an appropriate fixed period of time not to exceed five (5) years;

f. Suspension for an indefinite period; or

g. Disbarment.

5. Probation may be imposed only in those cases in which there is little likelihood that the legal counsel will harm the public during the period of probation and the conditions of probation can be adequately supervised. The conditions of probation shall be stated in writing; shall be specific, understandable, and enforceable; and may include restitution and assessment of costs and expenses.

6. Suspensions from practice before the Tribal Court shall be for an indefinite period unless the judge specifically orders otherwise. Legal counsel suspended for an indefinite period may petition the Tribal Court for lifting of the suspension at the end of one (1) year and such permission shall be granted if it is made to appear, at a hearing or as the Tribal Court directs, that the petitioner has been adequately reproved and now appears willing to conduct themself in a proper manner, and that the petitioner has been reinstated to practice if previously disbarred or suspended in another jurisdiction.

7. Disbarred legal counsel may petition to be readmitted to practice before the Tribal Court only upon a showing by clear and convincing evidence, at a hearing or as the Tribal Court directs, that the legal counsel has been rehabilitated, possesses the moral qualifications and knowledge of the law required for admission to practice before the Tribal Court, and has been reinstated to practice if previously disbarred or suspended in another jurisdiction. There shall be a presumption, rebuttable by clear and convincing evidence, that legal counsel who has been convicted

in any jurisdiction of any misdemeanor or civil offense involving interference with the administration of justice, false swearing, misrepresentation, fraud, willful extortion, misappropriation, theft, or moral turpitude, or of any felony shall be disqualified for reinstatement.

8. The Tribal Court may provide for requirements and procedures for the discipline of legal counsel in addition to, and not in abrogation of, this Section pursuant to the laws of the Tribe.

Section 1-5-10. Non-Admitted Attorneys.

1. An attorney who is not admitted to practice before the Tribal Court but who is a member in good standing of and eligible to practice before the bar of any foreign court, and who has been retained to appear in a particular case pending in the Tribal Court, may, in the discretion of the judge before whom the case is pending, be permitted upon written application to appear as legal counsel in such case if legal counsel admitted to practice before the Tribal Court is associated as legal counsel of record.

2. An attorney appearing pursuant to this Section shall comply with the oath of legal counsel prescribed herein, the rules of professional conduct of the Tribal Court, and all other duties and obligations imposed on legal counsel imposed by this Chapter.

3. Absent special circumstances, repeated appearances by any attorney under this Section is a cause for denial of an application.

CHAPTER 6
SUBPOENAS AND SERVICE OF OTHER PAPERS

Section 1-6-1. Issuance of Subpoenas.

1. The Tribal Court Administrator shall issue subpoenas to compel the attendance of witnesses or such other persons as a judge may direct for a trial, hearing, or other proceedings before the Tribal Court.

2. The Tribal Court Administrator shall also issue subpoenas in the name of the Tribal Court on behalf of Tribal government entities upon request and where such Tribal government entity is authorized to issue or request subpoenas under the laws of the Tribe.

Section 1-6-2. Services of Subpoenas.

1. Subpoenas in all cases shall be served in accordance with the Rules of Civil Procedure.

2. Except by order of the Tribal Court based upon good cause shown, no subpoena shall be served between the hours of 10:00 p.m. and 7:00 a.m. or on legal holidays.

Section 1-6-3. Service on Tribe.

1. Service of any process on the Tribe may only be accomplished in the manner provided in the Rules of Civil Procedure for service of a summons or complaint on the Tribe, regardless of the jurisdiction, court, tribunal, or proceeding from which the process or underlying matter originates.

2. Except as otherwise expressly provided in the laws of the Tribe or authorized in the Rules of Civil Procedure, no Tribal government entity, Tribal business entity, or Tribal official has the authority to accept or waive service of process on the Tribe and service on any unauthorized Tribal government entity, Tribal business entity, or Tribal official shall not be deemed notice to or service upon the Tribe.

3. Nothing in this Section prohibits service of papers on the Tribe in the manner prescribed by a jurisdiction, court, or tribunal in a proceeding or matter in which the Tribe has appeared or is already a party.

4. Service of process on the Tribe in any manner contrary to this Section is invalid and ineffective. The provisions of this Section shall supersede any contrary provision of any contract, agreement, instrument, law of another jurisdiction, or rule or standard of a dispute resolution tribunal and no provision of a contract or agreement with the Tribe or other instrument involving the Tribe which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, or provision of a contract or agreement with the Tribe or other instrument involving the Tribe which conflicts with or purports to alter any of the provisions of this Section shall be void and unenforceable and severed from the contract, agreement, or instrument.

CHAPTER 7
SOVEREIGNTY AND IMMUNITY

Section 1-7-1. Adoption by Reference.

1. The adoption or inclusion of any law, code, or other document by reference in this Code shall in no way constitute a waiver or cession of any sovereign right or power of the Tribe to the jurisdiction whose law or code is adopted, included, or referenced or in any way diminish such sovereign rights or powers, but shall result in the law, code, or other document adopted, included, or referenced becoming the law of the Tribe.

2. Except where the context requires otherwise, as may be inconsistent with other provisions of this Code, or where inapplicable due to reference to special matters having no counterpart in the Tribe, with respect to any law, code, or other document adopted or included by reference in this Code or in any contract or agreement with the Tribe or instrument or other document of or involving the Tribe, terms particular to any governmental jurisdiction in such law, code, or other document shall be read as referring to their counterparts in the Tribe, including the following:

a. The term "citizen" shall refer to an enrolled member of the Tribe;

b. The terms "court," "tribunal," and the like shall refer to the Tribal Court or other appropriate tribunal of the Tribe;

c. "Jurisdiction" and other geographical references of a government or sovereign shall refer exclusively to the territory and jurisdiction of the Tribe exclusive of any other jurisdiction; and

d. "United States," "state," "country," "nation," "territory," and the like shall refer to the Tribe.

3. The provisions of this Section shall supersede any contrary provision of any contract, agreement, instrument, law of another jurisdiction, or rule or standard of a dispute resolution tribunal and no provision of a contract or agreement with the Tribe or other instrument involving the Tribe which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, or provision of a contract or agreement with the Tribe or other instrument involving the Tribe which conflicts with or

purports to alter any of the provisions of this Section shall be void and unenforceable and severed from the contract, agreement, or instrument.

Section 1-7-2. Actions Involving the Tribe. In any claim, dispute, or cause of action by or against the Tribe in any jurisdiction, whether authorized or not, the following shall apply notwithstanding anything to the contrary in this Code or any contract, agreement, instrument, or document:

1. Except for a period of time specifically applicable to the Tribe by express reference to the Tribe, the periods of time specified in which an answer; reply; brief; or other pleading, response, or filing of any kind shall be allowed or required shall be double the period specified;

2. The Tribe shall not be liable for the payment of the costs or expenses, including legal counsel fees, of the opposing party, and any award of or claim for the same shall be void and unenforceable regardless of any provision for a particular law to govern or be utilized or for the resolution of disputes or enforcement in a particular court or jurisdiction; and

3. The Tribe shall not be required to post security by bond or otherwise for any purpose.

Section 1-7-3. Immunities.

1. Except where expressly waived in this Code or if specifically waived by the Tribal Council in accordance with this Chapter:

a. The Tribe shall be immune from suit in any claim, dispute, or cause of action and from any and all judicial process; and

b. Tribal officials shall be immune from suit in any claim, dispute, or cause of action and from any and all judicial process:

i. In their official capacity;

ii. When acting in their representative capacity, even if named in their individual capacity; or

iii. In any matter arising from or related to the performance of their official duties, even if named in their individual capacity.

2. Tribal officials shall be immune from suit in any claim, dispute, or cause of action and from any judicial process, even if named in their individual capacity, for their statements, speech, debate, and discussions made in official proceedings of the Tribe.

3. In no case shall any of the following be construed as a waiver of the sovereign immunity of the Tribe without an express waiver granted in accordance with this Chapter:

a. Consent or agreement to resolve disputes in a particular manner or by a particular method of dispute resolution, including arbitration;

b. Consent or agreement to resolve disputes, participate in any form or type of dispute resolution, or permit enforcement in a particular court, jurisdiction, or venue;

c. Consent or agreement for a particular law to govern or be utilized with respect to resolution of a claim, dispute, or cause of action or enforcement of a judgment or award from any form or type of dispute resolution, including arbitration;

d. Consent or agreement for a particular law to govern or be utilized for the construction or interpretation of a contract, agreement, or instrument or in a claim, dispute, or cause of action;

e. An agreement to indemnify or hold harmless another person; or

f. A specification of available or allowed relief, whether monetary or non-monetary.

4. Under no circumstances will the Tribe be liable for damages arising from the conduct of any Tribal official which is not within the Tribal official's representative capacity or not arising from or related to the performance of the Tribal official's official duties. Nothing in this subsection prevents the Tribe from purchasing and maintaining insurance against liability asserted against or incurred by Tribal officials in that capacity

or arising from that status even if the Tribe is not liable for the conduct giving rise to the liability.

5. Notwithstanding the provisions of this Section, the Tribal Council may waive the immunity of any Tribal official, in whole or in part, by affirmative vote of two-thirds (2/3) of the full Tribal Council for a particular claim, dispute, or cause of action if the Tribal Council finds the Tribal official acted without authority or outside of the scope of their authority with respect to any matter or issue subject of such claim, dispute, or cause of action.

6. Nothing in this Section shall be construed to limit or prevent:

a. The imposition of any discipline or civil fine on a Tribal official in accordance with the laws of the Tribe;

b. The authority of the Law and Justice Committee with respect to judges and justices of the Tribe, including their conduct, as provided in this Title; or

c. The recall or removal of any Tribal official in accordance with the laws of the Tribe.

7. No Tribal official may claim sovereign immunity as a defense or bar to any claim, dispute, or cause of action brought or taken by the Tribe.

Section 1-7-4. Waivers of Immunity. Notwithstanding any other provision of law of any jurisdiction or the terms of any contract, agreement, instrument, or document, except for waivers of sovereign immunity expressly set forth in this Code or granted by Tribal business entities in accordance with the laws of the Tribe applicable to such Tribal business entities:

1. A waiver of sovereign immunity of the Tribe, including with respect to any contract, agreement, or instrument or its enforcement, shall not be valid or enforceable against the Tribe in any jurisdiction unless it complies with all of the following:

a. The waiver is explicitly expressed in a writing with language specifically referring to a waiver of sovereign immunity and, if related to a contract, agreement, or instrument or its enforcement, written with such language in the contract, agreement, or instrument;

b. If related to a contract, agreement, or instrument or its enforcement, the Tribe is a full party to the contract, agreement, or instrument and may enforce it to the same extent as any person in favor of whom the waiver is granted;

c. If related to or contained in a contract or agreement:

i. The contract or agreement, including a replacement of or amendment to a contract or agreement, was awarded by bid, competitive proposal, or other manner providing full and open competition; and

ii. Unless the Tribe finds good cause to allow a later request, the request for the waiver was included in any bid, proposal, or offer provided to the Tribe and not precluded by the terms of the request for bids, proposals, or offers;

d. The waiver is not general, but is specific and limited as to:

i. The specific person for whose benefit the waiver is granted;

ii. The duration of the waiver, which shall not exceed and, if omitted, shall be deemed, the applicable statute of limitations in this Title for the particular claim against the Tribe;

iii. The property of the Tribe which may be subject to execution to satisfy any judgment or award which may be entered;

iv. The requirements and procedures for initiating dispute resolution, if applicable, and, if the waiver includes consent to resolve disputes in a court other than the Tribal Court, the specific court in which an action may be brought; and

v. If any law other than the laws of the Tribe will be applied in any claim, dispute, or cause of action pursuant to the waiver, what law will be applied, provided the application of such law shall not permit or allow any violation or abrogation of the laws of the Tribe applicable to the Tribe, including this Chapter;

e. The waiver explicitly states the specific transaction and claims, disputes, or classes of disputes subject to the waiver or, if related to a contract, agreement, or instrument or its enforcement, is strictly limited to disputes directly arising under the contract, agreement, or instrument;

f. The waiver is limited to a maximum dollar amount or other specific, limited non-monetary relief and, if related to a contract, agreement, or instrument or its enforcement, a specified amount or, if omitted, shall be deemed, not to exceed the total dollar amount to be paid or received by the Tribe under the contract, agreement, or instrument;

g. If the waiver permits monetary relief, it is limited to direct damages and excludes any monetary relief for loss of profit, anticipated profit, undelivered property or goods, or unperformed services;

h. The waiver does not permit any third parties or others for whom the waiver is not granted to bring any claim, dispute, or cause of action against the Tribe or to join, intervene, or otherwise become a party to a claim, dispute, or cause of action against or involving the Tribe without the express written agreement of the Tribe;

i. The waiver does not permit any relief, monetary or otherwise, prohibited under the laws of the Tribe or not permitted against the Tribe, including costs and legal counsel fees of an opposing party;

j. The waiver does not permit any relief, monetary or otherwise, prohibited under the laws of the Tribe or not permitted against the Tribe, including costs and legal counsel fees of an opposing party;

k. If the waiver is contained in or related to a contract, agreement, or instrument for or on behalf of a particular Tribal government entity, the waiver only applies to that particular Tribal government entity even if the Tribe is the named party to the contract, agreement, or instrument;

l. The waiver and any contract, agreement, or instrument containing or related to the waiver does not seek or purport to escape, deny, or waive the applicability of any law of the Tribe or violate any law of the Tribe, including the requirement to exhaust any contract claim process

provided under the laws of the Tribe and the requirement to register as a foreign business entity under the laws of the Tribe;

m. The waiver and any contract, agreement, or instrument containing or subject to the waiver has been reviewed and approved by legal counsel representing the Tribe prior to approval of the waiver and execution of any related contract, agreement, or instrument;

n. The Tribal Council adopts a resolution for the specific purpose of approving and granting the waiver, which must:

i. State the text of the waiver, including all requirements of this Section, or identify the specific written contract, agreement, or instrument containing the waiver and all requirements of this Section;

ii. Expressly affirm and agree to the waiver by explicit language referring to such; and

iii. Be approved by the affirmative vote of two-thirds (2/3) of the full Tribal Council; and

o. The waiver must comply with all other requirements under applicable law;

2. If a waiver of sovereign immunity is granted for a particular Tribal government entity, including with respect to a contract, agreement, or instrument or its enforcement:

a. Any such waiver shall in no manner or way extend to the Tribe as a whole, any other Tribal government entity, or any Tribal business entity or be deemed a waiver of any of the rights, privileges, or immunities of the Tribe as a whole, any other Tribal government entity, or any Tribal business entity;

b. Any recovery against the Tribal government entity to which the waiver applies shall be limited to the assets of that Tribal government entity or such portion of the assets of that Tribal government entity authorized in the waiver;

c. Neither the Tribe as a whole nor any other Tribal government entity or Tribal business entity shall be liable

for the payment or performance of any of the obligations of the Tribal government entity to which the waiver applies; and

d. No recourse shall be had or allowed against any assets or revenues of the Tribe as a whole, another Tribal government entity, or Tribal business entity in order to satisfy the obligations of the Tribal government entity to which the waiver applies, including assets of the Tribe leased, loaned, or otherwise assigned without transfer of title to such Tribal government entity for its use;

3. A waiver of immunity may be granted only when necessary to secure a substantial advantage or benefit to the Tribe;

4. Any waiver of immunity shall be narrowly construed in favor of the preservation of immunity and strictly limited to its terms, including with respect to the issues and disputes subject to the waiver, the courts which may hear any matter related to or subject to the waiver, the methods of dispute resolution subject to the waiver, and the parties who may claim benefit or use of the waiver;

5. No waiver of immunity shall be effective unless and until the person claiming the waiver has exhausted any contract claim process provided under the laws of the Tribe as well as any pre-dispute resolution processes required by the waiver or the contract, agreement, or instruments subject of the waiver;

6. No waiver of immunity shall extend to:

a. Any claim, dispute, or cause of action or matter which is regulatory or any other law enforcement action or matter, including the imposition of a civil fine under this Code; or

b. Any claim, dispute, or cause of action or review of a claim, dispute, or cause of action where applicable law provides another exclusive or specific remedy or procedure for the claim, dispute, or cause of action;

7. No waiver of immunity shall permit any person to join; intervene; interplead; counterclaim; cross-claim; or otherwise claim, proceed against, or force the Tribe to participate in any claim, dispute, or cause of action unless the waiver or consent was granted specifically in favor of such person;

8. The authority to waive the immunity of the Tribe or to consent to any suit shall not and can not be delegated by the Tribal Council to any Tribal government entity or Tribal official;

9. Except for the Tribal Council by act taken in accordance with this Chapter and other applicable law of the Tribe, no Tribal government entity, Tribal official, or Tribal business entity has the authority to waive the immunity of the Tribe or consent to any suit on behalf of the Tribe itself or any Tribal government entity;

10. No waiver of immunity is valid or enforceable if contained in, claimed to be contained in, or alleged to exist by operation of any term, including an arbitration provision, in a contract, agreement, or instrument, or portion or provision therein or amendment thereto, drafted with non-negotiable terms and conditions or otherwise whereby the Tribe is or was required to adhere to the contract, agreement, instrument, or terms without negotiation, renegotiation, change, or amendment;

11. No term, provision, or language in a contract, agreement, instrument, resolution, or other document asserting, declaring, or agreeing that a waiver of immunity is irrevocable, valid, or enforceable shall waive, abrogate, or supersede the provisions of this Section or any other law of the Tribe, and shall be construed to mean only that the waiver is irrevocable, valid, or enforceable subject to and only to the extent consistent with this Section and any other laws of the Tribe;

12. A waiver of immunity made or granted in violation of this Section shall be against public policy, illegal, made without legal capacity or authority, and void, provided that if a waiver or consent made in violation of this Section cannot be deemed void or unenforceable for any reason:

a. Notwithstanding anything to the contrary in its terms, the waiver shall be revocable at law by the Tribe; or

b. If the waiver cannot be revoked, notwithstanding anything to the contrary in its terms, the waiver shall be construed in accordance with the following:

i. The waiver and all doubts and ambiguities therein shall be strictly construed against the other party and solely in favor of and to the benefit of the Tribe and the maximum retention of its immunity; and

ii. The waiver shall only be effective in the Tribal Court and any provision in the waiver purporting to permit dispute resolution or enforcement in, or to be a consent to jurisdiction to, any other court shall be unenforceable and severed from the contract, agreement, or instrument or construed as revocable by the Tribe or, if not revocable, solely an agreement to permit dispute resolution and enforcement in and/or consent to jurisdiction of the Tribal Court.

Section 1-7-5. Exempt Property.

1. Notwithstanding any other provision of law of any jurisdiction or the terms of any contract, agreement, instrument, or document or waiver of sovereign immunity, the following property and funds of the Tribe shall be exempt from garnishment or execution and may not be pledged or recovered against for any contract or agreement with the Tribe, other instrument involving the Tribe, or claim against the Tribe:

a. Any property held in trust for the Tribe, including any improvements thereon or rights or privileges of any kind thereto;

b. Any intellectual property of the Tribe, including trademarks, copyrights, and cultural patrimony;

c. Any real property of the Tribe, including improvements thereon, or rights or privileges of any kind thereto, provided that such real property may be pledged for a proper mortgage of such property to secure a loan or other indebtedness of the Tribe;

d. Any personal or other tangible or intangible property of the Tribe, including rights or privileges of any kind thereto, provided that such property may be pledged or encumbered for the purpose of securing a loan or other indebtedness of the Tribe;

e. Any funds received from a contract with or grant from a foreign jurisdiction other than the portion of such funds properly allocated, budgeted, and intended to be used for the subject of the claim, including a contract, agreement, or instrument related thereto; and

f. Any other exempt property under the laws of the Tribe.

2. Unless specific property or funds of the Tribe are expressly pledged by the Tribe in a contract, agreement, or instrument, a person may only recover payment or monies from the Tribe from:

a. The specific source of funding for the contract, agreement, instrument, or program involved; or

b. If there is no specific source of funding for the contract, agreement, instrument, or program, general Tribal funds which have not been allocated or dedicated to a specific contract, agreement, instrument, or program.

3. Notwithstanding any other provision of law of any jurisdiction or the terms of any contract, agreement, instrument, or document or waiver of sovereign immunity, except for pledges for proper mortgages as permitted in this Section, no lien or other encumbrance may be filed, claimed, or enforced on or against any real property of the Tribe or held in trust for the Tribe, including improvements thereon and rights or privileges of any kind thereto.

4. Nothing in this Section shall be construed as preventing or prohibiting the Tribe from:

a. Leasing or licensing property of the Tribe, other than funds, in accordance with applicable law and the normal operations of the Tribe;

b. Assigning property of the Tribe, other than funds, to members of the Tribe or to Tribal government entities or Tribal business entities in accordance with the laws of the Tribe; or

c. Properly appropriating and expending funds of the Tribe in accordance with applicable law and budgets approved by the Tribal Council.

CHAPTER 8
TRIBAL CONTRACTS

Section 1-8-1. Definitions. In addition to the definitions set forth in Chapter 1 of this Title, unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Adhesion contract" means any contract or any provision therein or amendment thereto drafted with non-negotiable terms and conditions or otherwise whereby any party must adhere to the original terms without negotiation, renegotiation, or amendment, including where a party refuses to allow any changes, modifications, or amendments requested by the other party or does not provide the other party the opportunity to request changes, modifications, or amendments.

2. "Contract" means a contract, agreement, or other instrument, whether express or implied, written or oral, and includes a contract that has been extended or renewed by an oral or implied agreement.

3. "Deliverables" means all of the goods, products, services, work, work product, items, materials, and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or made available through, a contractor or any agent, employee, or subcontractor of a contractor in connection with a contract.

4. "Dispute" means a claim, dispute, or controversy and includes any question arising between parties to a contract whether the question is one of law or fact or both.

5. "Dispute resolution" means negotiation, mediation, arbitration, court or other judicial proceeding, civil action, or any other action or method to resolve a dispute and includes any proceeding related to or part of dispute resolution, including enforcement of any award or judgment and compelling of any dispute resolution.

6. "Drafting party" means the person that drafted a contract and includes any third party relying upon or otherwise subject to the contract.

Section 1-8-2. Purpose, Applicability, and Scope.

1. The underlying purposes and policies of this Chapter are:

a. To simplify, clarify, and modernize the law governing contracting by the Tribe;

b. To provide for increased public confidence in the procedures followed in Tribal contracting;

c. To ensure the fair and equitable treatment of all persons who contract with the Tribe; and

d. To provide increased economy and expediency in Tribal contracting activities.

2. The provisions of this Chapter apply, without exception, to:

a. Any business, transaction, contract, or other consensual relationship with the Tribe; and

b. Any person who conducts business with; transacts with; or enters or has entered into a contract or other consensual relationship with the Tribe, either in person or by an agent or representative, for purposes of such business, transaction, contract, or consensual relationship.

3. Any person to whom this Chapter applies is responsible for knowing and charged with knowledge of the provisions of this Chapter and any other provisions of this Code which may apply to or govern the person and any business, transaction, contract, or other consensual relationship with the Tribe. Lack of knowledge of any provision of this Chapter or this Code shall not excuse compliance with the same under any circumstances.

4. Any person to whom this Chapter applies shall be deemed to have consented to be bound by the terms of this Chapter for any business, transaction, contract, or consensual relationship with the Tribe or matter related thereto, even if such person claims or purports to reject or refuse to be bound thereby expressly, by implication, or otherwise, provided that a refusal to be bound by the terms of this Chapter shall make such person ineligible for contracting with the Tribe.

5. All terms and conditions of a contract with the Tribe are entered into specifically subject to the laws, sovereignty, and sovereign immunity of the Tribe, including any clauses, terms, conditions, or contracts of third parties incorporated into such contract or concerning or related to third party use, licenses, warranties, limitations of liability, governing law and venue, indemnity, liability, remedy, or other similar provisions.

6. The provisions of this Chapter may be incorporated into any contract with the Tribe by reference and thereby supersede and control over any contrary provisions, but are incorporated into

and supersede and control any contrary provisions in any contract with the Tribe as a matter of law as though expressly written therein, even if not specifically stated or referenced, and may not be waived, superseded, or abrogated by the terms of the contract except where expressly permitted in this Chapter, provided that where a provision of this Chapter may be construed to supplement a provision in a contract, the provision will remain in effect and the supplementary provision of this Chapter will be considered as added thereto. Without limiting the foregoing, the Tribe shall make reasonable efforts to ensure notice of the existence of this Chapter is provided in the process of procuring property, goods, and services.

7. The provisions of this Chapter shall apply to and, to the extent necessary, be deemed an amendment to any contract still in effect and entered into prior to the enactment of this Chapter, provided that if the application of a particular provision of this Chapter which is contrary to a provision in an existing contract would violate the Constitution or constitute a material breach of such contract on the part of the Tribe, such particular provision will not apply to that contract.

8. Except where otherwise provided, the provisions of this Chapter shall not apply to employment with the Tribe.

Section 1-8-3. Principles of Tribal Contracts.

1. The Tribe is a sovereign and its authority to contract is therefore subject to limitations and requirements in the laws of the Tribe, including this Chapter. Contracting with the Tribe is a governmental and not a commercial transaction.

2. Without exception, there is no right or entitlement to contract with the Tribe or to do business with the Tribe or in the territory of the Tribe. The benefit of contracting with the Tribe or doing business with the Tribe or in the territory of the Tribe requires acknowledging and accepting the concomitant duties, obligations, responsibilities, and conditions of complying with the laws of the Tribe and being subject to the jurisdiction and authority of the Tribe. The provisions of this Chapter and all other laws of the Tribe are conditions for the benefit of contracting with the Tribe and doing business with the Tribe and in the territory of the Tribe.

3. Subject to the provisions of this Chapter allowing for a choice of tribunal for disputes, a party to a contract with the Tribe is subject to the jurisdiction and authority of the Tribe

for all matters arising under or relating to the contract or its performance and that jurisdiction and authority cannot be waived or abrogated.

4. The jurisdiction and territory of the Tribe is not the jurisdiction and territory of any foreign jurisdiction.

5. The customary and standard practices of business are the customs and standards of the Tribe, including as reflected in this Chapter. Customary or standard practices of businesses, including with respect to contract terms, in any foreign jurisdiction do not apply as customs and practices within the territory of the Tribe.

6. Except for contracts with a foreign government and subject to the provisions of this Chapter allowing for a choice of law provision for interpretation and enforcement, all contracts with the Tribe shall be governed by the laws of the Tribe notwithstanding any term or condition to the contrary.

7. Subject to the provisions of this Chapter allowing for a choice of tribunal, any action arising under or related to a contract with the Tribe or to enforce the provisions of a contract with the Tribe must be brought in the Tribal Court as a matter of the laws of the Tribe.

8. A natural person or individual, even acting in official capacity, signing a contract with the Tribe on behalf of the Tribe does not have the authority to waive the sovereignty of the Tribe, including its immunities, or any law of the Tribe or its applicability or enforcement.

9. By entering into a contract with the Tribe, every party to the contract consents to, agrees to, acknowledges, and understands the principles set forth in this Section.

Section 1-8-4. General Requirements of Tribal Contracts.

1. Every contract with the Tribe includes an implied covenant of good faith and fair dealing, including the obligation of each party to implement the contract as intended, not use any means to undercut the purpose of the transaction, and not falsely disparage, malign, or discredit any other party. Violating or not performing in accordance with the covenant of good faith and fair dealing is a material breach of the contract.

2. All parties to a contract with the Tribe must comply with and agree to comply with the laws of the Tribe as well as all other applicable laws.

3. No contract with the Tribe or any subcontract thereof may provide for payment to the contractor or subcontractor based on a percentage rate which is applied to the actual performance costs of the contractor or subcontractor or where the contractor's or subcontractor's payment otherwise increases commensurately with increased performance costs of the contractor, subcontractor, or any third party, including another contract to which the contractor or subcontractor is not a party. This subsection will not be deemed violated where the contractor's or subcontractor's payment is calculated based on a percentage of performance costs, but is a fixed or maximum amount set at the time of contracting and not subject to increase based on any increase in actual performance costs.

4. Every contract with the Tribe for property, goods, or services must provide for a fixed date, time, or event when the contract will terminate, expire, or end unless the contract provides that the Tribe can terminate the contract at will, without cause, upon notice which is not more than ninety (90) days. This subsection does not apply to contracts which do not permit or require the payment of monies to be made by the Tribe or where the Tribe's obligation to make any payment is conditioned solely upon the Tribe's affirmative use or engagement of the contractor at the option or request of the Tribe in its sole discretion. Nothing in this subsection prevents the extension or renewal of a contract expressly in a writing duly approved and executed by the Tribe, provided such extension or renewal complies with this subsection.

5. The Tribe may agree to be a guarantor of a contract or the obligations of a Tribal government entity or Tribal business entity upon the express written agreement of the Tribe and approval of the Tribal Council. No contract with the Tribe may provide for or require any Tribal official to be a guarantor of the Tribe or the contract in their official capacity, individual capacity, or any other manner and any provision of a contract with the Tribe which provides for a Tribal official or signatory of the Tribe to guarantee the contract in any manner whatsoever shall be against public policy and shall be void and unenforceable.

6. A contractor of the Tribe shall, at the contractor's sole cost and expense, procure and maintain in full force and effect throughout the term of the contract with the Tribe such

insurance coverage, self-insurance, or equivalent which is the greatest of that:

a. Required by the laws of the Tribe and other applicable law;

b. Reasonably appropriate to the property or goods provided or services performed under the contract; or

c. Customary for contractors providing similar property, goods, or services.

7. Any contractor of the Tribe or subcontractor of such contractor shall maintain any and all records necessary to verify the nature and extent of the costs, property, goods, and services provided by the contractor or subcontractor to the Tribe throughout the term of the contract and for a minimum of three (3) years after final payment has been made to the contractor under the contract. The Tribe shall have access to and be entitled to examine and audit the books and records involving transactions related to a contract with the Tribe or subcontractor under such contract. In conducting any such audit, if the Tribe is able, it shall maintain the confidentiality of any information contained in the books and records that is deemed proprietary as determined by the Tribe.

8. Without being a default by the Tribe or giving rise to any claim against the Tribe, but not limiting a contractor's right to appropriate payment for property or goods delivered or services performed, the Tribe may terminate any contract for any of the following reasons notwithstanding any provision of the contract to the contrary:

a. When required by applicable law;

b. The furnishing of any statement, representation, warranty, or certification in connection with the contract or its solicitation, procurement, or award that is false, deceptive, or materially incorrect or incomplete;

c. Fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by the contractor, its agents, employees, officers, directors, or shareholders;

d. The contractor's existence or good standing in the territory of the Tribe is suspended, terminated, revoked, or forfeited or any license or certification held by the

contractor related to contractor's performance of the contract is suspended, terminated, revoked, or forfeited; or

e. In the event funding for the contract is no longer available, including funds not being appropriated to continue a contract which extends beyond appropriations made for a single fiscal year.

9. While the Tribe will comply with its obligations under an adhesion contract to which it has otherwise expressly assented, notwithstanding any term, provision, or clause in such contract, any adhesion contract to which the Tribe is a party or is incorporated into a contract to which the Tribe is a party, including third party terms and conditions:

a. Shall, at the option of the Tribe, not be binding on or enforceable against the Tribe;

b. Shall be construed strictly against the drafting party and liberally in favor of the Tribe regardless of any clause to the contrary, including any clause that ambiguities will not be interpreted against or in favor of any party;

c. To the extent it may be binding or enforceable against the Tribe, shall be binding on and enforceable only to the extent it does not override or waive any provision of this Chapter or any other law of the Tribe, even if such provision is otherwise subject to being waived or overridden;

d. Shall only be governed by and subject to interpretation and construction under the laws of the Tribe and not any foreign jurisdiction;

e. Shall only permit disputes against the Tribe to be brought in the Tribal Court and allow the Tribe to bring a dispute against the other parties in the Tribal Court or any other court having jurisdiction, any provision purporting to require a dispute to be brought in, or the Tribe to consent to, any foreign court or using any other method of dispute resolution being against public policy and void and unenforceable;

f. May be terminated by the Tribe for no cause, at the convenience of the Tribe, or in the best interests of the Tribe upon thirty (30) days written notice without penalty or giving rise to any claim for damages against the Tribe other

than appropriate payment for property or goods delivered or services performed; and

g. Shall not waive, or in any manner be construed to waive, the sovereign immunity of the Tribe, even if such waiver otherwise complies with the laws of the Tribe, including this Title.

10. Any contract to which the Tribe is a party or is incorporated into a contract to which the Tribe is a party, including third party terms and conditions, which has not been actually reviewed by legal counsel for the Tribe shall be construed strictly against the drafting party and liberally in favor of the Tribe regardless of any clause to the contrary, including any clause that ambiguities will not be interpreted against or in favor of any party.

11. A contractor of the Tribe may not transfer or assign the contract or any interest in the contract to another person, expressly or by operation of law, without the express written consent of the Tribe. A transfer or assignment as the result of a merger, acquisition, division, interest exchange, or similar action which results in the transfer of more than forty-nine percent (49%) of the ownership or controlling interest of a contractor shall be deemed a transfer or assignment of a contract under this subsection. A purported transfer in violation of this subsection annuls the contract, except that all rights of action for breach of contract are reserved to the Tribe. This subsection shall not prohibit the assignment of amounts due from the Tribe under a contract to a bank, lending institution, or other financing institution so long as such assignment does not create, impair, or effect an obligation of the Tribe.

12. Any contract to provide property, goods, or services to the Tribe shall, as a matter of law, be deemed made, entered into, and performed in the territory of the Tribe. Any other contract with the Tribe shall, as a matter of law, be deemed made, entered into, and performed where the Tribe performs its obligations under the contract.

13. The provisions of this Section shall supersede any contrary provision of any contract, law of another jurisdiction, or rule or standard of a dispute resolution tribunal and no provision of a contract with the Tribe which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, condition, or provision of a contract with the Tribe which is contrary to, violates, conflicts with, or purports to alter or

waive any of the provisions of this Section is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

Section 1-8-5. Preference in Contracting.

1. Subject to all other requirements governing the award of contracts, including responsibility, the Tribe shall, to the extent feasible, give preference in the award of contracts with the Tribe to:

a. First, natural persons who are, and entities which are majority owned and controlled by, an enrolled member of the Tribe and can perform the contract; and

b. Second, natural persons who are, and entities which are majority owned and controlled by, an enrolled member of a federally recognized tribe and can perform the contract.

2. Every contractor of the Tribe shall:

a. Give preference in employment opportunities under the contract to enrolled members of federally recognized tribes who can perform the required work;

b. To the extent feasible and consistent with the efficient performance of the contract, give preference in employment and training opportunities under the contract to enrolled members of federally recognized tribes who are not fully qualified to perform the work;

c. To the extent feasible and consistent with the efficient performance of the contract, give preference in the awarding of any subcontracts to natural persons who are, and entities which are majority owned and controlled by, an enrolled member of a federally recognized tribe; and

d. Ensure the requirements of this subsection are included in each subcontract awarded under the contract.

3. Every contractor shall maintain such records as are necessary to indicate compliance with this Section.

4. Without being a default by the Tribe or giving rise to any claim against the Tribe, but not limiting a contractor's right

to appropriate payment for property or goods delivered or services performed, the Tribe may terminate a contract in whole or in part if the contractor fails or refuses to comply with this Section, notwithstanding any provision of the contract to the contrary.

5. To the extent not inconsistent with this Section, the provisions or requirements related to preference in contracting with the Tribe or employment by contractors of the Tribe in any other law of the Tribe or any policy of the Tribe approved by the Tribal Council shall apply to any contractor of the Tribe, any contract awarded by the Tribe, and any awarding of a contract by the Tribe.

Section 1-8-6. Contractor Responsibility.

1. The Tribe shall only contract with responsible persons. To be determined responsible to contract with the Tribe, a person must:

a. Have adequate financial resources to perform the contract, or the ability to obtain them;

b. Be able to comply with the required or proposed delivery or performance under the contract;

c. Be able to handle any necessary issues, general and unique, related to Indian tribes and their status as governments;

d. Have a satisfactory performance record, provided that a person shall not be determined responsible or nonresponsible solely on the basis of a lack of relevant performance history;

e. Have a satisfactory record of integrity and business ethics, including compliance with and meeting the requirements of the conduct of business entities under the laws of the Tribe;

f. Have the necessary organization, experience, equipment, facilities, and skills or the ability to obtain them;

g. Not limit, or seek or attempt to limit, the costs, consequences, responsibility, or liability for the acts, errors, omissions, or conduct of the person or anyone for whom the person is legally responsible or shift the same to

the public or third parties who would not otherwise be legally responsible, including by limiting the amount of direct damages or monetary relief which may be sought or obtained from the person for their acts, errors, omissions, or conduct; and

h. Be otherwise qualified and eligible to receive an award of a contract under the laws of the Tribe.

2. The Tribe shall not contract with any person who has been convicted of, or plead guilty or no contest to, a crime or civil offense or been found through an administrative or judicial process to have engaged in conduct that involves:

a. Fraud of any type, including those arising out of a contract, grant, or other assistance with the Tribe or a foreign government;

b. Dishonesty, deceit, misrepresentation, or deliberate violence;

c. Embezzlement, counterfeiting, forgery, fraudulent conversion, perjury, false claims or statements, bribes, kickbacks, misappropriations of property, unfair or deceptive trade practices, or restraint of trade;

d. Threatened or actual harm to a Tribal official or their immediate or extended family member or to Tribal property;

e. An attempt to evade or defeat taxes lawfully imposed by the Tribe or any foreign jurisdiction;

f. Willful failure or refusal to collect or pay over any Tribal tax;

g. Conduct that otherwise reflects adversely on the person's honesty, trustworthiness, or fitness to own, control, or operate a business or that casts doubt on the integrity or ethics of the person.

3. The Tribe shall not contract with any person who has been suspended from, debarred from, excluded from, or otherwise determined to be ineligible for contracting with the Tribe or any foreign jurisdiction. No contractor of the Tribe shall subcontract with or hire any person who is not eligible for contracting with the Tribe under this subsection. Without being a default by the

Tribe or giving rise to any claim against the Tribe, but not limiting a contractor's right to appropriate payment for property or goods delivered or services performed to the extent not prohibited by applicable law, in the event a contractor of the Tribe or subcontractor of such contract is suspended from, debarred from, excluded from, or otherwise determined to be ineligible for contracting with the Tribe or any foreign jurisdiction during the term of the contract, or if at any time during the term of the contract it is determined that a contractor or subcontractor is not compliant with this subsection, the contract or subcontract will automatically terminate as of the effective date of such suspension, debarment, exclusion, or other ineligibility.

4. By proposing or entering into a contract with the Tribe, a contractor represents and warrants that it meets the requirements of this Section.

Section 1-8-7. Data and Information Under Tribal Contracts.

1. The Tribe shall have the unlimited right, irrevocably, non-exclusively, and royalty-free, to publish, duplicate, use, and disclose all documents, information, and data developed or obtained by a contractor on behalf of the Tribe pursuant to a contract with the Tribe.

2. No person shall sell, resell, license, trade, otherwise transfer for consideration, or offer to sell, resell, license, trade, or otherwise transfer for consideration, any data or other information concerning the Tribe or any data or information concerning a natural person that can directly or indirectly identify the natural person which such person received or obtained from a contract with the Tribe without the express written consent of the Tribe or the natural person affected thereby. In addition to any other consequences for violating this subsection, a person who violates this subsection shall be subject to a civil fine for each violation of up to the greatest of:

a. Twice the amount of the compensation or consideration received for such violation;

b. The gross contract price under the contract where such data or information was received or obtained; or

c. Five percent (5%) of the person's gross income for the twelve (12) months immediately preceding the violation.

3. The Tribe shall own and hold exclusive title to any and all deliverables, documents, and works of authorship, including reports, drawings, estimates, field notes, investigations, analyses, studies, specifications, images, photographs, sound recordings, video, animation, and software, prepared in performance of a contract with the Tribe or developed for the Tribe as a result of a contract with the Tribe, provided that the Tribe may permit a contractor to retain ownership to the contractor's working papers used to prepare deliverables to the Tribe. No contractor of the Tribe shall have ownership interest or title to and shall not patent, license, copyright, duplicate, transfer, sell, or exchange the design, specifications, concepts, or deliverables developed for the Tribe as a result of a contract with the Tribe.

4. Nothing in this Section shall grant any title to the Tribe to any design, specification, concept, data, information, or material used generally in a contractor's work or business and not prepared, developed, or obtained for the Tribe in the performance of the contract with the Tribe.

Section 1-8-8. Confidentiality Clauses.

1. No provision of a contract with the Tribe governing or requiring confidentiality or non-disclosure of documents, information, or data of any kind shall:

a. Be read or construed to abrogate or limit the right of members of the Tribe to inspect official records or financial records of the Tribe pursuant to, in accordance with, and to the extent permitted or required under the Constitution or any other law of the Tribe; or

b. Apply to any disclosure the Tribe is required or needs to make for purposes of any audit, review, or inspection by or for a Tribal government entity or authorized foreign jurisdiction.

2. Any provision of a contract with the Tribe requiring notice to any person prior to, contemporaneously with, or in any manner as a condition or part of disclosure of documents, information, or data of any kind shall not, as a matter of law, apply to:

a. An inspection of official records or financial records of the Tribe by a member of the Tribe pursuant to and

in accordance with the Constitution or any other law of the Tribe; or

b. A disclosure necessary or required for purposes of any audit, review, or inspection by or for a Tribal government entity or authorized foreign jurisdiction.

3. Any term, clause, condition, or provision of a contract with the Tribe or any subcontract thereof which purports to make the terms of the contract or payments made thereunder confidential or otherwise subject to non-disclosure is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

4. Nothing in this Section shall permit disclosure of, or require the Tribe to disclose or reveal, any documents, information, or data of any kind which is privileged, otherwise prohibited from disclosure under applicable law, or which the Tribe is not required to disclose under applicable law.

Section 1-8-9. Payments under Tribal Contracts.

1. Payments shall be made by the Tribe only when contractual deliverables are received or in accordance with specific contractual terms and conditions.

2. No property, goods, or services shall be deemed to be received by the Tribe until all such property, goods, or services are completely delivered and finally accepted by the Tribe.

3. No contract with the Tribe may provide for, allow, or require payment in advance for any property, goods, or services in an amount greater than ten percent (10%) of the contract price, unless such payment in advance is held under the custody and control of a third party in a manner which ensures the security of any funds provided in advance. This subsection shall not prevent the payment of:

a. A subscription or other recurring compensation under a contract where payment is made for property, goods, or services no more than one (1) month in advance;

b. A security deposit for a lease of property by the Tribe which does not exceed the value of two (2) months of payments under the lease;

c. A reasonable earnest deposit for the purchase of real property by the Tribe;

d. A reasonable advance fee paid to legal counsel and held in a regulated trust account of the legal counsel until actually earned by the legal counsel; or

e. A reasonable retainer paid in advance for accounting, legal, or similar professional services where the contractor is not entitled to any additional compensation for the period covered by the retainer.

4. No contract with the Tribe may provide for, allow, or require the Tribe to pay or be liable in any manner for any costs, including legal counsel fees, of a contractor incurred as a result of or in any manner related to the bidding, proposing, negotiation, preparation, or award of the contract.

5. Any contractor of the Tribe not receiving payment in full for property or goods delivered or services rendered within the time period when due under the contractual terms and conditions may charge the Tribe interest on the unpaid principal balance in accordance with the following, provided the time period when due is at least thirty (30) days from receipt of a valid invoice or bill by the Tribe:

a. Interest may only be charged if expressly provided for in the contract;

b. The amount of interest shall be the rate specified in the contract, provided such rate is not more than twelve percent (12%) per year, any greater rate being usury;

c. Interest charges will begin to accrue on the first calendar day after the due date of the payment or the thirty-first (31st) day, whichever is later;

d. Interest charges shall terminate no later than the date on which payment in full of the amount due is sent to the contractor or otherwise made;

e. The Tribe shall pay the interest charge upon request unless the invoice or bill is the subject of a good faith dispute between the Tribe and the contractor; and

f. No claim for interest charges shall be allowed unless the Tribe is requested to pay the interest charges within ninety (90) calendar days from the date on which payment in full is due.

6. In the event that a contractor of the Tribe owes the Tribe any sum under the terms of any contract with the Tribe, pursuant to a judgment, or pursuant to any law, the Tribe may, in its sole discretion, deduct such sum from any amount payable to the contractor under any contract with the Tribe, unless otherwise prohibited by law, provided such deducted amounts are identified to the contractor.

7. When a subcontractor has delivered property or goods or performed services in accordance with the provisions of a subcontract of a contract with the Tribe and all conditions precedent to payment contained in the subcontract have been satisfied, the contractor shall pay the subcontractor and the subcontractor shall pay the subcontractor's subcontractor within ten (10) days of receipt by the contractor or subcontractor of each payment received for the amount received for the subcontractor's property or goods delivered or services performed under the subcontract, less any contractually or statutory permitted or required withholding, so long as the subcontractor provides satisfactory and reasonable assurances of continued performance and financial responsibility to complete the delivery of property or goods and/or performance of services under the subcontract. If a contractor or subcontractor fails to make payment as required under this subsection, the Tribe or contractor, in the case of its subcontractor, may withhold the amount due from subsequent payments until all payments required under this subsection are made. In addition, the subcontractor may charge the contractor or subcontractor, as the case may be, interest on the unpaid amount at the rate of twelve percent (12%) per year from the day following the payment due date until the amount due is paid.

8. The provisions of this Section shall supersede any contrary provision of any contract, law of another jurisdiction, or rule or standard of a dispute resolution tribunal and no provision of a contract with the Tribe which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, condition, or provision of a contract with the Tribe which is contrary to, violates, conflicts with, or purports to alter or waive any of the provisions of this Section is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision

shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

Section 1-8-10. Validity of Certain Contract Provisions.

1. No contract with the Tribe or which is sought to be enforced against the Tribe shall:

a. Authorize or obligate the Tribe or any Tribal official to operate outside of the scope of authority of such Tribal official;

b. Provide for or obligate any Tribal official to in any manner be held liable for the actions of the Tribe;

c. Effect, modify, limit, or waive:

i. The sovereign authority, jurisdiction, or rights of the Tribe, except for waivers of sovereign immunity granted in strict accordance with the laws of the Tribe;

ii. Any law of the Tribe which is not expressly subject to waiver or exception; or

iii. The authority or jurisdiction of the Tribal Court as a separate branch, except to the extent permitted in the provisions of this Chapter allowing for a choice of tribunal;

d. Require the Tribe or any Tribal official to obtain or maintain any license or authorization from any foreign jurisdiction which such foreign jurisdiction lacks authority to require of the Tribe or such Tribal official;

e. Require, permit, authorize, state, or imply:

i. Any endorsement of a person, event, product, or service by the Tribe or any Tribal official in their official capacities and titles; or

ii. Use of the name, position, or title of the Tribe or any Tribal official to suggest official endorsement or preferential treatment of any person;

f. Violate, or permit the violation of, any law of the Tribe or any rights of persons under the laws of the Tribe, including human rights provided under the Constitution;

g. Provided that the Tribe may later assent to an amendment or modification in the interests of the Tribe and claim any right of the Tribe or obligation of a party under such amendment or modification, be amended or modified:

i. Unilaterally by another party;

ii. By absence of objection of the Tribe;

iii. By silence or inaction of the Tribe; or

iv. Other than expressly in a writing duly approved and executed by the Tribe;

h. Provide for, allow, or require payment of any amount for loss of profit, anticipated profit, undelivered property or goods, or unperformed services, whether as damages, termination costs or fees, or otherwise, provided that a contract may permit payment of:

i. Early termination fees if there is a documented discount in the amount of compensation paid under the contract in consideration for the length of the term and the amount of early termination fees is no more than the amount of the discount for the term of the contract through the date of termination;

ii. Actual out of pocket costs resulting from termination that are reasonably identified in the contract and would not have arisen or been incurred had the contract not been terminated; or

iii. Costs or fees which would be allowable as liquidated damages under this Section.

i. Permit any claim or recovery for indirect, incidental, special, exemplary, punitive, consequential, or other non-direct damages, including loss of profit, loss of business, and loss of goodwill, provided that a contract may provide for reasonable liquidated damages if:

i. Actual damages, though real, are difficult or impossible to prove and the liquidated damages are the exclusive damages recoverable;

ii. The amount of liquidated damages reasonably accurately reflects the actual anticipated damages and the liquidated damages are the exclusive damages recoverable; or

iii. The liquidated damages are related solely to delay and coupled with a corresponding bonus for early performance;

j. Limit the amount of direct damages or other recovery the Tribe may seek or obtain against any other party to the contract, such provisions demonstrating lack of contractor responsibility and being unconscionable, provided if a provision in a contract which is in violation of this subsection cannot be deemed void or unenforceable for any reason:

i. Any limit in the amount of damages or recovery the Tribe may seek or obtain against any party shall also apply to the amount of damages or recovery such party may seek or obtain against the Tribe regardless of the basis for such claim against the Tribe, including breach of contract; and

ii. Any limit in the amount of damages or recovery shall not apply to claims for personal injury or death, property damage, breaches of confidentiality, indemnification obligations, breaches of provisions related to anti-corruption, civil fines imposed under the laws of the Tribe, or any other claim which is not a default or breach of contract;

iii. Any claim for damages or amounts against the Tribe in excess of any limit in the contract shall not be subject to any contract claim under this Chapter or any waiver of immunity, even if the waiver otherwise complies with the laws fo the Tribe;

k. Not waive the right or ability of the Tribe to bring, join, or participate in any joint, class, representative, or collective action or to a jury trial, but this provision shall not be construed to prohibit the Tribe

from making such waivers in an actual pending dispute to which the Tribe is a party; or

l. Other than a valid contract of insurance; an instrument with the primary purpose to be a release or waiver of liability or otherwise protect parties from legal claims or damages that may arise from a specific activity, assume risk of a specific activity, or settle a pending claim or dispute of liability; or a provision in a contract requiring a person to purchase, maintain, and carry insurance, including naming another as an additional insured, to cover the acts or omissions of such person for the purpose of providing coverage to the other for liability due to the acts or omissions of the person obtaining such insurance:

i. Require the Tribe to indemnify, insure, defend, hold harmless, or in any manner be responsible for any negligence, fault, act, error, omission, or conduct of a third party whom is not under the control or supervision of the Tribe or for whom the Tribe would not otherwise be legally responsible, including a party to the contract;

ii. Limit the liability or responsibility of another person, including for bodily injury, death, or damage to tangible property of the Tribe, caused by the negligence or fault of such person or anyone under the control or supervision of the person or for whom such person would otherwise be legally responsible, such provisions demonstrating lack of contractor responsibility;

iii. Require a person to indemnify, defend, or hold harmless another person against liability caused by the negligence or fault of the person or anyone under the control or supervision of the person or for whom the person would otherwise be legally responsible; or

iv. Otherwise violate the public policy of the Tribe that parties to a contract be and are fully responsible for their own negligence, fault, acts, errors, omissions, and conduct and the acts, errors, omissions, and conduct of those for whom they would otherwise be legally responsible.

2. Any contract, form, or other document provided by the Tribe and properly executed by the parties shall, in addition to

the provisions of this Chapter, supersede and take precedence over any contract, proposal, form, or other document provided by a contractor of the Tribe and properly executed by the parties and any terms in such executed contract, proposal, form, or other document provided by a contractor of the Tribe shall be excluded from the contract between the parties or, to the extent not excludable, only included in the contract between the parties where such term does not conflict with the executed contract, form, or other document provided by the Tribe.

3. No term, provision, or language in a contract, resolution, or other document asserting, declaring, or agreeing that the contract or any provision therein is irrevocable, valid, or enforceable shall supersede the provisions of this Chapter and shall be construed to mean the contract or provision is irrevocable, valid, or enforceable subject to and only to the extent consistent with this Section and any other laws of the Tribe.

4. The provisions of this Section shall supersede any contrary provision of any contract, law of another jurisdiction, or rule or standard of a dispute resolution tribunal and no provision of a contract with the Tribe which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, condition, or provision of a contract with the Tribe which is contrary to, violates, conflicts with, or purports to alter or waive any of the provisions of this Section is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

Section 1-8-11. Corrupt Practices.

1. For purposes of this Section, "remuneration" means money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind.

2. A person may not:

a. Provide, give, attempt to provide or give, or offer, directly or indirectly, any remuneration to:

i. Obtain a benefit from the Tribe or a contract with the Tribe or a subcontract of such a contract;

ii. Obtain or receive favorable treatment in connection with a benefit from the Tribe or a contract with the Tribe or a subcontract of such a contract, including the selection process and contract execution; or

iii. Otherwise influence the action of a Tribal official in connection with a benefit from the Tribe or a contract with the Tribe or a subcontract of such a contract, including the selection process and contract execution;

b. Solicit, receive, accept, or attempt to accept or receive, directly or indirectly, any remuneration to:

i. Provide a benefit from the Tribe or award a contract with the Tribe or a subcontract of such a contract;

ii. Provide favorable treatment in connection with a benefit from the Tribe or a contract with the Tribe or a subcontract of such a contract, including the selection process and contract execution; or

iii. Otherwise influence the action of such person in connection with a benefit from the Tribe or a contract with the Tribe or a subcontract of such a contract, including the selection process and contract execution;

c. Harm or threaten to harm, directly or indirectly, any person or their property to influence such person in connection with a benefit from the Tribe or a contract with the Tribe or a subcontract of such a contract, including in the selection process, or participation therein, and contract execution; or

d. Include any remuneration prohibited under this subsection in the contract price or other consideration of a contract with the Tribe or a subcontract of such contract.

3. No person may be employed or retained to solicit or secure a benefit from the Tribe or a contract with the Tribe upon an agreement or understanding for any remuneration. This subsection shall not apply to:

a. Bona fide employees of a person maintained by such person in the ordinary course of business for the purpose of securing business for the person; or

b. Bona fide brokers that arrange contracts and act as an intermediary between a buyer and seller for a commission.

4. No person may make an intentional misrepresentation of facts to:

a. Obtain a benefit from the Tribe;

b. Influence the selection process or execution of a contract with the Tribe or a subcontract of such a contract to the detriment of the Tribe;

c. Establish bid or contract prices at artificial non-competitive levels; or

d. Deprive the Tribe of the benefits of free and open competition.

5. No person may engage in any scheme or arrangement between two or more persons, with or without the knowledge of the Tribe, with a purpose of establishing bid or contract prices at artificial, non-competitive levels.

6. No Tribal official shall be admitted to any share or part of any contract with the Tribe or subcontract of such a contract or to any benefit that may arise therefrom, provided this subsection will not be construed to apply to:

a. A contract made with a publicly traded corporation whose ownership incidentally includes a Tribal official so long as the contract or subcontract is made for the general benefit of the corporation in the ordinary course of business; or

b. To any benefits that may accrue from the contract or subcontract to a Tribal official as, and to the same extent as, a member of the class of persons for whose benefit property or goods are provided or services performed under the contract.

7. Every contractor of the Tribe and every subcontractor of such contractor shall disclose to the Tribe any member of the Tribe or Tribal official who has an interest, financially or otherwise,

with the contractor or subcontractor. This subsection does not apply to the ownership of publicly traded stock by a member of the Tribe or Tribal official where the amount of such stock constitutes less than ten percent (10%) of the total stock of such contractor or subcontractor.

8. The Tribe shall have access to and may inspect the facilities and audit the books and records, including electronic data or records, of a contractor of the Tribe or a subcontractor under such a contract to determine whether a violation of this Section has occurred.

9. A contractor or subcontractor shall cooperate fully with the Tribe investigating a violation of this Section as a condition of the contract with the Tribe or subcontract thereof.

10. A contractor shall be responsible for any employee or subcontractor who violates this Section and a subcontractor shall be responsible for any employee of the subcontractor who violates this Section.

11. In addition to any other consequences for a violation of this Section, the Tribe may deduct the amount of any remuneration provided in violation of this Section from amounts the Tribe owes or will pay the contractor under the contract with the Tribe to which the remuneration relates.

12. In addition to any other consequences for a violation of this Section, the Tribe may terminate the contract of any contractor to which any violation of this Section relates immediately upon notice to the contractor without any penalty or damages payable to or owing the contractor, but not limiting a contractor's right to appropriate payment for property or goods delivered or services performed.

13. In addition to any other consequences for a violation of this Section, a person who knowingly engages in conduct prohibited by this Section may be subject to a civil fine for each prohibited act in an amount the greatest of:

a. Four (4) times the amount of the remuneration involved in the violation;

b. The full remuneration paid to the contractor under the contract to which the remuneration relates minus the legitimate documented out of pocket costs and expenses paid by the contractor to perform the contract;

c. Ten percent (10%) of the gross contract price or consideration paid under the contract to which the remuneration relates; or

d. Five percent (5%) of the person's gross income for the twelve (12) months immediately preceding the violation.

14. A civil fine for a violation of this Section may be imposed by the Tribal government entity from who the related benefit or contract was obtained and thereafter enforced and collected through a civil cause of action brought by such Tribal government entity on behalf of the Tribe in the Tribal Court or through any other method of imposing or enforcing civil fines under the laws of the Tribe.

15. The Tribe may deduct the amount of a civil fine imposed under this Section against a contractor from amounts the Tribe owes or will pay the contractor under any contract it may have with the Tribe.

16. The Tribe may report any violation of this Section to the appropriate officials of other jurisdictions and request an investigation and, if appropriate, prosecution of such violation as a violation of the laws of that jurisdiction, including the criminal laws of that jurisdiction.

17. By proposing or entering into a contract with the Tribe, a contractor represents and warrants that it meets the requirements of this Section.

18. Any term, clause, condition, or provision of a contract with the Tribe which is contrary to, violates, conflicts with, or purports to alter or waive any of the provisions of this Section is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

19. The provisions of this Section shall apply to employment with the Tribe.

Section 1-8-12. False Claims.

1. A person makes a false claim if that person:

a. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

b. Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;

c. Has possession, custody, or control of property or money used, or to be used, by the Tribe and knowingly delivers, or causes to be delivered, less than all of the money or property;

d. Authorizes the making or delivery of a document certifying receipt of property used, or to be used, by the Tribe and, with the intent to defraud the Tribe, makes or delivers the receipt without completely knowing that the information on the receipt is true;

e. Knowingly buys, or receives as a pledge of an obligation or debt, public property from a Tribal official who lawfully may not sell or pledge the property;

f. Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay money or transmit property to the Tribe, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay money or transmit property to the Tribe; or

g. Conspires to commit a violation of this subsection.

2. For purposes of this Section, "claim":

a. Means any request or demand, whether under a contract or otherwise, for money or property and whether or not the Tribe has title to the money or property, that is:

i. Presented to a Tribal official; or

ii. Made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Tribe's behalf or to advance a government program or interest, and if the Tribe either provides or has provided any portion of the money or property or will reimburse such contractor, grantee, or other recipient for any portion of the money or property;

b. Includes the failure to pay or an underpayment of amounts owed to the Tribe; and

c. Does not include a request or demand for money or property that the Tribe has paid to a natural person as compensation for employment by the Tribe or as an income subsidy with no restrictions on that natural person's use of the money or property.

3. In addition to any other consequences for a false claim, a person who makes a false claim as defined in this Section shall be subject to a civil fine for each false claim of up to the greater of:

a. Five percent (5%) of the person's gross income for the twelve (12) months immediately preceding the false claim; or

b. One and one-half (1-1/2) times the value or amount of benefit the person obtained or attempted to obtain as a result of the false claim.

4. A civil fine for a false claim may be imposed by the Tribal government entity to whom the false claim was made or submitted and thereafter enforced and collected through a civil cause of action brought by such Tribal government entity on behalf of the Tribe in the Tribal Court or through any other method of imposing or enforcing civil fines under the laws of the Tribe.

5. The provisions of this Section shall apply to employment with the Tribe.

Section 1-8-13. Suspension and Debarment.

1. In addition to any other consequences for the act or conduct, a person may be debarred from contracting with the Tribe for any of the following reasons:

a. Misrepresentation, fraud, misconduct, or a violation or offense in obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such a contract or subcontract, including avoiding or violating the procurement procedures of the Tribe;

b. Willful falsification of documentation or willful misrepresentation of qualifications required to obtain a contract with the Tribe;

c. Embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, making false statements, tax evasion, violating Tribal tax laws, or receiving stolen property;

d. Any violation of law or offense or other behavior or performance indicating a lack of business integrity or business honesty or ethics;

e. Refusal to abide by the laws of the Tribe applicable to the person, including as a result of entering into a contract or other consensual relationship with the Tribe or a member of the Tribe;

f. Attempting to require, as a condition or term of a contract, that the Tribe violate or otherwise not comply with laws applicable to the Tribe;

g. Violation of the terms of a contract with the Tribe or subcontract thereof so serious as to justify debarment, such as willful failure to perform in accordance with the terms of one or more contracts, or a history of failure to perform or unsatisfactory performance of one or more contracts;

h. Violation of the implied covenant of good faith and fair dealing in a contract with the Tribe or subcontract thereof which justifies debarment;

i. Delinquent, unpaid, or unremitted Tribal taxes;

j. Current debarment by any foreign jurisdiction;

k. Any other grounds provided for in the laws of the Tribe; or

l. Any other cause of so serious or compelling a nature that it affects the responsibility of the person.

2. A conviction, civil judgment, or final administrative action establishing grounds for debarment shall be conclusive. In all other cases, the grounds for debarment must be established by the balance of probabilities.

3. A Tribal government entity may commence debarment proceedings against a person by issuing a written notice of proposed debarment to the person which states:

a. That debarment is being considered;

b. The reasons for the proposed debarment in terms sufficient to put the person on notice of the conduct or transactions upon which it is based;

c. The grounds under this Section for proposing debarment;

d. The potential effect of an actual debarment; and

e. That, within thirty (30) days after receipt of the notice, the person may submit, in writing, information and argument in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts.

4. After the time for submitting opposition to a proposed debarment has expired, the Tribal government entity shall review all information, including any written response of the person, and, unless the grounds for debarment are conclusive under this Section, make written findings of material facts and, if debarment is recommended, forward any findings and the recommendation to the Tribal Council for action. The Tribal government entity may conduct such other investigations, hearings, or proceedings it deems necessary to determine the material facts and make a recommendation, giving due regard to providing appropriate due process which may be required to the person subject to the proposed debarment.

5. Upon receipt of a recommendation for debarment, the Tribal Council shall make a final determination of debarment. The Tribal Council may request evidence or additional findings to make its determination and may request further written response or conduct a hearing or other proceedings as it deems necessary to make a determination, giving due regard to providing appropriate due process which may be required to the person subject to the proposed debarment. The Tribal Council's decision shall be provided in writing to the person debarred. Debarment shall be for an indefinite period unless the Tribal Council specifically orders otherwise.

6. Persons debarred for an indefinite period may request in writing that the Tribal government entity which initiated the debarment lift the debarment at the end of one (1) year. The Tribal government entity shall review the request and make a recommendation to the Tribal Council. The request and recommendation will be forwarded to the Tribal Council who may lift the debarment if it is made to appear, as the Tribal Council directs, that the person has been adequately reproved and now appears willing to conduct business in a proper manner, and that, if debarred in a foreign jurisdiction, such debarment has ended or otherwise been lifted.

7. Prior to debarment, a Tribal government entity may suspend a contractor of the Tribe for any of the grounds for debarment set forth in this Section if such Tribal government entity finds there is adequate evidence of such grounds, pending the completion of investigation or further proceedings, and it determines that immediate action is necessary to protect the Tribe's interests. An indictment, civil complaint, notice of violation, imposition of civil fine, or other institution of legal proceedings related to the grounds for suspension shall be adequate evidence for suspension. When a contractor is suspended, the contractor shall be immediately notified in writing:

a. That the contractor has been suspended and the suspension is based on an indictment, civil complaint, notice of violation, imposition of civil fine, or other institution of legal proceedings or other adequate evidence that there are grounds for debarment under this Section;

b. That it has been determined immediate action is necessary to protect the Tribe's interests;

c. That the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue;

d. The grounds under this Section for imposing suspension;

e. The effect of the suspension;

f. That, within thirty (30) days after receipt of the notice, the contractor may submit, in writing, information and argument in opposition to the suspension, including any additional specific information that raises a genuine dispute over the material facts; and

g. Unless the suspension is based on an indictment, civil complaint, notice of violation, imposition of civil fine, or other institution of legal proceedings, that additional proceedings to determine disputed material facts will be conducted.

8. After the time for submitting opposition to a suspension has expired, the Tribal government entity shall review all information and make any necessary written findings of material facts. Any findings and the decision on the suspension shall be provided in writing to the contractor and, unless the suspension is to be lifted, forwarded to the Tribal Council. The Tribal Council may set aside a suspension and, in such a case, notice of the Tribal Council's action will be provided to the contractor. Any decision to lift, modify, or terminate a suspension shall be without prejudice to the subsequent imposition of suspension by another Tribal government entity or imposition of debarment.

9. Suspension shall be pending the completion of investigation and any ensuing legal proceedings, provided that the suspension shall be terminated if no legal proceedings or debarment proceedings under this Section are initiated within twelve (12) months.

10. Unless the suspension or debarment decision provides otherwise, suspension and debarment constitute suspension and debarment, as the case may be:

a. Of all subsidiaries, divisions, other organizational elements, officers, directors, and employees of the person; and

b. From employment or contracting with the Tribe and any of its Tribal government entities and other entities.

Section 1-8-14. Law Applicable.

1. Except as otherwise expressly permitted in this Section, the laws of the Tribe, exclusive of any choice of law principles, shall exclusively govern and be utilized for:

a. The interpretation and construction of all contracts with the Tribe, regardless of any designation of a court or tribunal for disputes or the enforcement of the contract; and

b. The enforcement of all contracts with the Tribe and any judgment or award obtained thereunder, regardless of any designation of a law to govern or be utilized for construction and interpretation of the contract.

2. Subject to the requirements of this Section and any other requirements or limitations in the laws of the Tribe, the Tribe may agree in a contract upon all or any of the following:

a. The jurisdiction whose substantive law will be utilized for the construction and interpretation of the contract or any dispute, including specific specialized law of a particular jurisdiction as a supplement to any other substantive law used for construction and interpretation; and

b. The jurisdiction whose substantive law will be utilized for any dispute, any dispute resolution, or the enforcement of the contract or any judgment or award.

3. Except as otherwise provided in the laws of the Tribe, a choice of substantive law in a contract with the Tribe is valid and enforceable, provided:

a. The law of the jurisdiction agreed upon is the law of the Tribe exclusive of choice of law principles;

b. The contract is made, entered into, and to be performed or actually performed by the Tribe in the jurisdiction agreed upon;

c. The law agreed upon is a specific specialized law of a particular jurisdiction utilized as a supplement to any other valid substantive law used for construction and interpretation; or

d. The law of the jurisdiction agreed upon is the law of a foreign jurisdiction within whose geographical bounds the territory of the Tribe is located within.

4. If a choice of substantive law is in a contract with the Tribe which is an adhesion contract, a contract not reviewed by legal counsel for the Tribe, or a contract where the Tribe was not permitted to negotiate or modify the provision on choice of substantive law and the choice of substantive law is not the laws of the Tribe exclusive of choice of law principles:

a. As a matter of law, the Tribe shall be deemed to have objected and not assented to the choice of substantive law;

b. The choice of substantive law is against public policy and shall be void and unenforceable; and

c. The substantive law which will apply to the contract shall be the laws of the Tribe or, if the contract is not performed for the Tribe or in the territory of the Tribe, the laws of the place of performance of the Tribe.

5. A choice of law in a contract with the Tribe which is otherwise valid and enforceable, including a specific specialized law of a particular jurisdiction utilized as a supplement to any such choice of law, is subject to the following:

a. If such law is not the laws of the Tribe exclusive of choice of law principles, language such as "governed by," "subject to," or similar import shall mean solely for construction and interpretation of the contract and shall not include enforcement, jurisdiction, or authority;

b. If such law is not the laws of the Tribe exclusive of choice of law principles, such law will be limited to the use of the substantive law of the jurisdiction specified solely as a reference for the purpose of construction and interpretation in accordance with the principles governing adoption of laws by reference in this Title, including references to counterparts of the Tribe, and shall not in any manner constitute or be construed as:

i. A consent or agreement to the jurisdiction, authority, or applicability of such law to any party;

ii. Authorization for the enforcement of any such law against any party or the exercise of any regulatory authority over any party;

iii. An agreement to enforcement of the contract, including compelling dispute resolution and enforcement of any judgment or award, pursuant to such law or in the jurisdiction whose law is specified, unless expressly and unequivocally stated otherwise; or

iv. An agreement to submit any dispute or other matter to the courts or other tribunals of the jurisdiction whose law is specified;

c. Any such law which conflicts with this Chapter shall not be applied or used and the provisions of this Chapter shall govern, apply, and be used;

d. If the use or application of any principle, portion, or provision of such law would result in a party being in violation of or acting contrary to any public policy or law of the Tribe or any other law applicable to the party, such principle, portion, or provision of such law shall not be applied or used; and

e. Any other limitations or requirements in the laws of the Tribe regarding choice of law in contracts.

6. Unless such law is the laws of the Tribe exclusive of choice of law principles, a choice of law in a contract with the Tribe, whether for construction and interpretation or enforcement, shall not apply to:

a. Any dispute or matter which is a regulatory or other law enforcement action or matter, including the imposition of a civil fine under this Code; or

b. Any dispute or review of a dispute where applicable law provides another exclusive or specific remedy or procedure for the dispute.

7. A contract shall not make any law other than that of the Tribe applicable to or governing employment with the Tribe.

8. The following provisions in any contract or subcontract for construction work performed within the territory of the Tribe shall be against public policy and shall be void and unenforceable:

a. A provision that purports to make any law other than that of the Tribe applicable to or governing the contract; or

b. Other than a valid agreement to submit disputes to the court of a particular foreign jurisdiction, a provision that purports to require that the location for any dispute resolution be held at any location outside of the territory of the Tribe.

9. A reference to, inclusion of, or agreement to comply with any law of a foreign jurisdiction in a contract with the Tribe shall be solely a contractual obligation of the Tribe and shall not be a consent or agreement to the applicability of such law to the Tribe; authorization for the enforcement of such law against the Tribe; or authorization or agreement to the exercise of any regulatory, judicial, or other authority over the Tribe.

10. In any dispute resolution or other proceeding where a contract with the Tribe is subject to interpretation and construction or enforcement in accordance with the law of a foreign jurisdiction as provided in this Section, the Tribal Court shall apply the substantive law of the foreign jurisdiction in accordance with this Section, but the proceedings will otherwise be governed by the rules of procedure for the Tribal Court.

11. If a choice of law in a contract with the Tribe, whether for construction and interpretation or enforcement, is not valid and enforceable, as a matter of law, the contract shall be deemed to specify the laws of the Tribe, exclusive of choice of law principles, as the law to be utilized for its construction and interpretation or enforcement ~~or, if not the territory of the~~ Tribe, the place where the Tribe is actually performing its obligations under the contract.

12. The provisions of this Section shall supersede any contrary provision of any contract, law of another jurisdiction, or rule or standard of a dispute resolution tribunal and no provision of a contract which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, condition, or provision of a contract with the Tribe which is contrary to, violates, conflicts with, or purports to alter or waive any of the provisions of this Section is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

Section 1-8-15. Choice of Tribunal.

1. Except as otherwise expressly permitted in this Section, the Tribal Court is the exclusive jurisdiction to hear any dispute or enforcement action related to a contract with the Tribe, including enforcing any judgment or award, regardless of whether the contract specifies the law governing or to be utilized for the contract, including the law governing or to be utilized for its

interpretation or construction or for enforcement. A contractor refusing to recognize or be subject to the jurisdiction of the Tribal Court, as an independent branch of the Tribe, is contrary to the public policy of the Tribe and the principle that the benefit of doing business with the Tribe or in the territory of the Tribe requires acknowledging and accepting the concomitant duties, obligations, responsibilities, and conditions of complying with the laws of the Tribe and being subject to the jurisdiction and authority of the Tribe.

2. Subject to the requirements of this Section and any other requirements or limitations in the laws of the Tribe, the Tribe may agree in a contract upon the manner of dispute resolution and the jurisdiction, court, or other tribunal which will hear any dispute or enforcement action relating to the contract with the Tribe.

3. Except as otherwise provided in the laws of the Tribe, a provision in a contract with the Tribe providing for the jurisdiction, court, or other tribunal which will hear any dispute or enforcement action is valid and enforceable, provided it is not construed as a waiver of the sovereign immunity of the Tribe and:

a. The jurisdiction, court, or tribunal agreed upon is the Tribal Court, at least for disputes or enforcement actions brought against the Tribe;

b. The contract is made, entered into, and to be performed or actually performed by the Tribe in the jurisdiction agreed upon;

c. The dispute actually arose in the jurisdiction agreed upon;

d. The court agreed upon is a specific specialized court of a particular jurisdiction utilized solely for disputes related to matters within the specialization of such court; or

e. The court or tribunal agreed upon is that of a foreign jurisdiction within whose geographical bounds the territory of the Tribe is located within.

4. If a provision providing for the manner of dispute resolution and/or the jurisdiction, court, or other tribunal which will hear any dispute or enforcement action is in a contract with the Tribe which is an adhesion contract, a contract not reviewed

by legal counsel for the Tribe, or a contract where the Tribe was not permitted to negotiate or modify the provision on the same, and the Tribal Court is not the exclusive court to hear any dispute against the Tribe:

a. As a matter of law, the Tribe shall be deemed to have objected and not assented to the manner of dispute resolution and/or the choice of jurisdiction, court, or other tribunal;

b. The manner of dispute resolution and/or choice of jurisdiction, court, or other tribunal is against public policy and shall be void and unenforceable; and

c. The exclusive jurisdiction, court, or other tribunal which may hear any dispute or enforcement action shall be the Tribal Court, at least for disputes or enforcement actions brought against the Tribe.

5. A provision in a contract with the Tribe providing for the jurisdiction, court, or other tribunal which will hear any dispute or enforcement action against the Tribe which is not the Tribal Court must expressly state the precise jurisdiction, court, or other tribunal. A contract with the Tribe which references courts generally, courts of competent jurisdiction, or similar general language or does not specify the precise jurisdiction, court, or other tribunal which will hear any dispute or enforcement action:

a. Shall be deemed to refer solely to the Tribal Court as the exclusive jurisdiction, court, or other tribunal, at least for disputes or enforcement actions brought against the Tribe;

b. Shall not include or be a consent by the Tribe to any jurisdiction, court, or tribunal which could not exercise jurisdiction over the Tribe and the matter in the absence of or without regard to the contract; and

c. Shall be deemed an express consent to the Tribe bringing any dispute or enforcement action against any other party in the Tribal Court or in any other court which could exercise jurisdiction over the party and the matter in the absence of or without regard to the contract.

6. Subject to any additional requirements in the laws of the Tribe, the Tribe may agree to settle a dispute under a contract

by arbitration or otherwise submit a dispute under a contract to an arbitrator in either a separate writing or as part of the contract, subject to the following:

a. The other party to the arbitration shall be required to pay all costs and fees of the arbitration, including the compensation of the arbitrator;

b. The Tribe shall not be liable for the payment of any costs or fees of the arbitration; any compensation of the arbitrator; or any costs or expenses, including legal counsel's fees, of any other party to the arbitration and any award of or claim for the same shall be void and unenforceable;

c. The contract or agreement to arbitrate shall specify a maximum award that may be issued by the arbitrator and may specify other conditions limiting the range of possible outcomes;

d. No person may require the Tribe to consent to arbitration as a condition of entering into a contract or obtaining a benefit under a contract;

e. An arbitrator must be neutral and have no official, financial, or personal conflict of interest with respect to the parties, the subject matter of the contract or dispute, or the issues in controversy;

f. The Tribe shall be entitled to participate in the selection of the arbitrator; and

g. Without limiting the effectiveness of the award between the Tribe and a party to the arbitration, an award entered in an arbitration proceeding involving the Tribe may not:

i. Serve as an estoppel against the Tribe in any other proceeding for any issue that was resolved in the proceeding; or

ii. Be used as precedent or otherwise be considered in any factually unrelated proceeding or in any court or other tribunal or proceeding, including another arbitration proceeding.

7. A provision in a contract with the Tribe providing for the jurisdiction, court, or other tribunal which will hear any dispute or enforcement action shall not apply to:

a. Any dispute or matter which is a regulatory or other law enforcement action or matter, including the imposition of a civil fine under this Code;

b. Any dispute or review of a dispute where applicable law provides another exclusive or specific court, tribunal, remedy, or procedure for the dispute.

8. Except for valid claims for benefits related to employment under the laws of a foreign jurisdiction, a contract shall not provide or require that any dispute involving employment with the Tribe be submitted to any jurisdiction, court, or tribunal other than the Tribal Court. Nothing in this subsection shall prevent the Tribe from utilizing internal grievance or administrative processes, negotiation, or mediation within the territory of the Tribe to resolve disputes involving employment with the Tribe.

9. If a provision in a contract with the Tribe providing for the jurisdiction, court, or other tribunal which will hear any dispute or enforcement action is not valid and enforceable, the contract shall be deemed to provide for the Tribal Court as the exclusive jurisdiction to hear any dispute or enforcement action relating to the contract, except that the Tribe may bring a dispute or enforcement action against any other party in any other court which could exercise jurisdiction over the party and the matter in the absence of or without regard to the contract.

10. Subject to the provisions of this Chapter governing choice of law in a contract with the Tribe, if a provision in a contract with the Tribe providing for the jurisdiction, court, or other tribunal which will hear any dispute or enforcement action is otherwise valid and enforceable, the jurisdiction, court, or other tribunal shall apply the substantive laws of the Tribe to any dispute or enforcement action, but the proceedings will otherwise be governed by the rules of procedure for the jurisdiction, court, or other tribunal agreed upon or otherwise validly provided for in the contract except where the laws of the Tribe provide an exclusive procedure for a matter involving the Tribe without regard to the jurisdiction, court, or tribunal involved.

11. The provisions of this Section shall supersede any contrary provision of any contract, law of another jurisdiction, or rule or standard of a dispute resolution tribunal and no provision of a contract which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, condition, or provision of a contract with the Tribe which is contrary to, violates, conflicts with, or purports to alter or waive any of the provisions of this Section is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

Section 1-8-16. Contract Claims.

1. All claims against the Tribe regarding, under, or related in any manner to a contract between the Tribe and the claimant, including a dispute arising thereunder or therefrom, shall be filed with the following claims official, as appropriate:

a. For a contract with a Tribal government entity or Tribal business entity, the director or chief executive officer of the Tribal government entity or Tribal business entity; and

b. For any other contract with the Tribe, the procurement officer of the Tribe.

2. All claims under this Section shall be filed no later than the period of limitations applicable to the underlying dispute or basis for the claim.

3. All claims under this Section shall be in writing and include sufficient information for the claim to be processed and determined, but at least the following:

a. A copy of the contract subject of the claim, including any amendments to the contract;

b. The basis for the claim under the contract, including, if a breach is claimed, the manner in which the contract was allegedly breached by the Tribe;

c. The damages or other relief claimed or requested as a result of the claim, including any damages claimed as a result of any alleged breach of the contract by the Tribe;

d. Any supporting data or other information or documentation to support the claim and the damages or other relief claimed or requested; and

e. A certification made under oath or affirmation by a natural person authorized to bind the claimant with respect to the claim that:

i. The claim is made in good faith; and

ii. All information and supporting data provided are accurate and complete to the best of the claimant's knowledge and belief.

4. Upon receipt of a claim under this Section, the claims official shall immediately advise the following, in writing, of the filing of the claim and provide all information submitted with the claim along with any other information which the claims official may have related to the contract or the claim:

a. For a contract with a Tribal business entity or Tribal government entity, the legal counsel for the Tribal business entity or Tribal government entity, if not the Tribal Attorney; and

b. For any other contract with the Tribe, the Tribal Attorney.

5. Upon notice of the claim, the Tribal government entity or Tribal business entity shall cause an investigation to be made of the claim in coordination with the appropriate legal counsel and any other officials of the Tribe necessary or helpful in investigating the claim. The investigation shall seek to determine all of the facts underlying the claim and the legitimacy of the claim in order to best determine an appropriate resolution of the claim. The claimant shall cooperate fully with the investigation.

6. The legal counsel or the Tribal government entity or Tribal business entity reviewing and investigating the claim may request such information they deems necessary to make a proper and full investigation of the claim from any person. If such a request is made to the claimant and the claimant fails to respond or refuses to provide the information without justification supported by applicable law, the claim may be denied or deemed unsupported on that basis, in whole or in part. A denial or a determination that a claim is not supported due to a failure or refusal to provide information under this subsection shall not be considered

a decision and shall not give rise to or meet the requirement of compliance with this Section prior to commencing any dispute resolution on the claim.

7. After the completion of the investigation, the legal counsel shall review the claim and the results of the investigation to make a recommendation for decision. The legal counsel may consult with such officials of the Tribe and obtain such other information as necessary to make an appropriate recommendation. The legal counsel shall independently determine, based on the investigation and facts determined:

a. Whether the claim is valid as a matter of law under the law applicable to the contract and claim;

b. If the claim is not valid as a matter of law, whether the claim should be considered based on equity; and

c. If the claim is found to be valid as a matter of law or subject to consideration based on equity, a recommendation for payment, relief, or other resolution of the claim, if any, giving due consideration for what the applicable law would allow or require and the equities involved.

8. The recommendation of the legal counsel reviewing the claim shall be provided to:

a. In the case of a contract with a Tribal government entity or Tribal business entity, the director, chief executive officer, or governing board of such Tribal government entity or Tribal business entity, provided:

i. The director, chief executive officer, or governing board may seek approval or input from the Tribal Council on behalf of the Tribe in reviewing the claim; and

ii. The Tribal Council may obtain a separate recommendation from the Tribal Attorney if a different legal counsel made the initial recommendation; and

b. In the case of any other contract with the Tribe, the Tribal Council.

9. Upon receipt of the recommendation, the Tribal Council, director, chief executive officer, or governing board, as appropriate, shall decide:

a. Whether to allow the claim; and

b. If the claim is to be allowed, the payment, relief, or other resolution which may be offered to the claimant.

10. The decision shall be provided in writing to the claimant. The decision may state the reasons for the decision reached, but specific findings of fact are not required. The reasons for the decision and any specific findings of fact are not binding in any subsequent proceeding.

11. The claimant may accept or reject the decision. If the claimant makes a counteroffer to the decision which is not authorized, it will be considered a rejection, but the counteroffer may be presented to the Tribal Council, director, chief executive officer, or governing board, as applicable, for acceptance as a revised decision. If the Tribal Council, director, chief executive officer, or governing board, as applicable, accepts the counteroffer, it will be deemed a decision accepted by the claimant under this Section.

12. If a claim is reviewed by legal counsel that is not the Tribal Attorney and the claimant rejects the decision, the claimant may request that the Tribal Attorney independently review the claim and make a recommendation under this Section. A request under this subsection shall be required prior to, and a condition precedent to, the bringing or filing of, or any proceedings on, any judicial review or dispute resolution on the claim.

13. If a claim under this Section is subject to a valid waiver of immunity which encompasses the claim and the claimant does not accept a decision allowing the claim or the claim is denied, the claimant may file a petition requesting judicial review of the decision in the Tribal Court. Judicial review of the decision shall proceed in accordance with the following:

a. The petition for judicial review shall be filed within thirty (30) days of the issuance of the decision and include all information required for filing a claim under this Section;

b. The Tribal Court shall dismiss the action if:

i. The claimant has not exhausted all administrative remedies under this Section;

ii. A written decision has not been made on the claim;

iii. The claimant does not have or produce a written contract properly approved and executed by the Tribe; or

iv. The claim is not subject to a valid waiver of immunity which encompasses the claim;

c. The Tribe shall be permitted to assert any counterclaim against the claimant, including any offset or deduction permitted against the claim, which shall be tried as a complaint under the Rules of Civil Procedure and not as a judicial review;

d. The judicial review shall be conducted in accordance with and subject to the standards in the Rules of Civil Procedure with the parties being permitted to make reasonable written and oral argument;

e. The Tribal Court may affirm, reverse, modify, or vacate and remand the decision, subject to the standard of judicial review permitted in the Rules of Civil Procedure, provided that the Tribal Court shall affirm the decision if the Tribal Court concludes the decision is reasonable;

f. The Tribal Court shall not have the authority or jurisdiction to award any damages or award any relief prohibited under laws of the Tribe, including this Chapter, or not expressly permitted in the contract subject of the claim or within the scope of the waiver of sovereign immunity encompassing the claim; and

g. The decision of the Tribal Court shall be a final order and subject to appeal in accordance with the laws of the Tribe governing civil appeals, but not subject to collateral attack in any other tribunal, regardless of the availability of any other dispute resolution provided for in the contract or agreement to dispute resolution in any foreign jurisdiction, court, or tribunal.

14. If a claimant does not accept a decision allowing a claim under this Section, in any judicial review or dispute resolution on the same occurrence or subject matter:

a. It shall be deemed a rejection of an offer of judgment under the Tribal Rules of Civil Procedure with the date of offer being the date the decision is provided to the claimant regardless of whether the decision was made or the rejection occurred prior to the filing of the dispute resolution; and

b. To the extent the Tribal Rules of Civil Procedure do not apply or the decision cannot be considered an offer of judgment thereunder, if the claimant does not obtain a more favorable judgment in the dispute resolution, the claimant shall be liable to the Tribe for the reasonable expert witness fees and double the costs and legal counsel's fees incurred by the Tribe after the decision was provided to the claimant and prejudgment interest to accrue from the date the decision was provided to the claimant, all of which shall be included in any judgment or award entered, including an order or judgment of dismissal.

15. Excluding the public court record and any final order or judgment in judicial review permitted under this Section, no recommendation, discussions, decision, offer, or rejection of a decision or offer shall be admissible in any proceeding except:

a. For purposes of judicial review of such recommendation, decision, or offer as permitted in this Section;

b. For purposes of considering the decision as an offer of judgment;

c. To determine whether an obtained judgment is more favorable than a rejected offer in accordance with this Section;

d. To determine whether the proceeding is subject to stay, subject to dismissal, or barred under this Section; or

e. By the Tribe for any purpose related to defending a claim made against it.

16. If a claimant is unable to support any part of the claim and it is determined that the inability is attributable to a

misrepresentation of fact or fraud by the claimant, then the claimant is liable to the Tribe for an amount equal to the unsupported part of the claim plus all of the Tribe's costs attributable to reviewing the unsupported part of the claim.

17. A decision under this Section on a submitted claim shall be made within a reasonable time, taking into account such factors as the size and complexity of the claim and the adequacy of information in support of the claim provided by the claimant.

18. Investigations, determinations, and recommendations of any legal counsel reviewing the claim, proceedings of the Tribal Council or governing board, and all information and records related to any of the foregoing involving any claim filed under this Section shall be privileged and not subject to disclosure or discovery or asked about in any testimony, provided that nothing in this Section shall prevent the Tribe from utilizing any such information or records as necessary in defense of or response to any dispute resolution.

19. Recommendations, determinations, and final decisions under this Section have no value as precedent for future claims under this Section or for any dispute resolution.

20. Any amounts paid to a claimant under this Section may be offset by amounts which may be due the Tribe from the claimant as allowed under the laws of the Tribe, provided such offset amounts are identified to the claimant.

21. The acceptance of a decision under this Section or the payment of any claim made under this Section and acceptance thereof by the claimant shall constitute a complete bar to any dispute resolution or action of any kind by the claimant against the Tribe, by reason of the same occurrence or subject matter, and shall require dismissal with prejudice of any dispute resolution or action of any kind commenced prior to or subsequent to such payment and acceptance.

22. Any dispute resolution regarding, under, or related in any manner to a contract with the Tribe where a claim has not been filed and decided under this Section shall be dismissed without prejudice, provided that if it cannot be so dismissed and a claim has been filed but not decided, the proceedings shall be stayed for at least thirty (30) days to permit the claim to be decided under this Section and for such additional periods of time as the parties may agree or as may be necessary to make a decision under

this Section if the Tribe can demonstrate due diligence in processing the claim or good cause for any delay.

23. The remedy and procedures provided in this Section are exclusive of any other dispute resolution against the Tribe regarding, under, or related in any manner to a contract, notwithstanding anything to the contrary in such contract or any law of any jurisdiction, except that if a contract with the Tribe specifies another dispute resolution or procedure for disputes or enforcement actions relating to the contract, including a waiver of immunity, the following rules apply:

a. Negotiation or mediation provided for in the contract may be sought either before or after the filing of a claim under this Section unless the contract provides otherwise, provided the resolution of the claim pursuant to any negotiation or mediation may be made an accepted decision under this Section;

b. The filing of a claim under this Section shall be a condition precedent to the filing of, or any proceedings on, any dispute resolution in any jurisdiction, court, or tribunal, including in arbitration, and no filing or proceedings on any dispute resolution may be had unless and until a claim has been filed and decided under this Section and the procedures under this Section exhausted;

c. The filing of a claim under this Section shall be a condition precedent to the effectiveness of any waiver of immunity and no waiver of immunity is valid, effective, or may be claimed unless and until a claim has been filed and decided under this Section and the procedures under this Section exhausted; and

d. The timely filing of a proper claim under this Section shall toll any statute of limitations applicable to the claim for purposes of any dispute resolution.

24. Nothing in this Section limits or prevents the Tribe and the claimant from entering into a settlement agreement or otherwise resolving a claim subject to this Section while such claim is pending under this Section.

25. The provisions of this Section shall not apply to:

a. Employment with the Tribe; or

b. Claims or reviews of claims where applicable law provides another remedy or procedure for the particular claim.

26. Notwithstanding anything to the contrary in this Section, if the Tribe finds it would be in the public interest, the Tribe may expressly agree in a contract with a government of a foreign jurisdiction, or agency or subdivision thereof, that this Section will not apply to claims under the contract by the government of the foreign jurisdiction or may except a government, agency, or subdivision of a foreign jurisdiction from the operation of this Section.

27. Except for judicial review conducted in strict compliance with the provisions of this Section, nothing in this Section shall give rise to any appeal, review, challenge, dispute resolution, or other action in any court or tribunal, including the Tribal Court, related to a contract and no court or tribunal, including the Tribal Court, shall have any subject matter jurisdiction over any dispute or dispute resolution by reason of the existence or operation of this Section. Nothing in this Section shall be construed as limiting, waiving, or abrogating the sovereignty or the sovereign immunity of the Tribe.

28. The provisions of this Section shall supersede any contrary provision of any contract and any law of any jurisdiction and no provision of a contract which purports to exempt or avoid the provisions of this Section shall be valid. Any term, clause, condition, or provision of a contract with the Tribe which is contrary to, violates, conflicts with, or purports to alter or waive any of the provisions of this Section is against public policy and shall be void and unenforceable, except that the contract containing that term, clause, condition, or provision shall otherwise be enforceable as if it did not contain such term, clause, condition, or provision.

CHAPTER 9
LIMITATIONS OF ACTIONS

Section 1-9-1. Accrual of Action. For purposes of this Chapter, a cause of action accrues when the damaged or injured party knows or reasonably should know the person has been damaged or injured and knows or reasonably should know the cause, source, act, event, instrumentality, or condition which caused or contributed to the alleged damage or injury.

Section 1-9-2. Contracts and Agreements. Unless otherwise specifically provided in this Code:

1. An action upon a written contract or other written agreement must be commenced within six (6) years after the cause of action accrues and not afterward; and

2. An action upon an oral contract or other oral agreement must be commenced within three (3) years after the cause of action accrues and not afterward.

Section 1-9-3. Injury and Torts. Unless otherwise specifically provided in this Code, an action for injury to a person or property or for other tortious conduct must be commenced within two (2) years after the cause of action accrues and not afterward.

Section 1-9-4. General Limitation. Any action for which no limitation is otherwise prescribed in the laws of the Tribe must be commenced within three (3) years after the cause of action accrues and not afterward.

Section 1-9-5. Actions Involving the Tribe.

1. Unless otherwise specifically provided in this Code:

a. Any action against the Tribe derivative of lease of Tribal land must be commenced within six (6) years of the date the cause of action accrues and not afterward;

b. Any action against the Tribe alleging intentional injury to a person or property or other intentional tortious conduct must be commenced within one (1) year of the date the cause of action accrues and not afterward;

c. Any other action against the Tribe must be commenced within one (1) year of the date the cause of action accrues and not afterward;

d. Any action against a Tribal official arising from the performance of the Tribal official's official duties must be commenced within one (1) year of the date the cause of action accrues and not afterward; and

e. Any action against a Tribal official not arising from the performance of the Tribal official's official duties must be commenced within two (2) years of the date the cause of action accrues and not afterward.

2. No possession by any person, no matter how long continued, of any land, water, water right, easement, or other property whatsoever, real or personal, dedicated to, owned by, or held in trust for the Tribe shall ever ripen into any title, interest, or right against the Tribe.

3. The Tribe shall not be barred by the limitations of actions prescribed in this Chapter or any other time limitation under the laws of the Tribe or any other applicable law, except where such time limitation is made expressly applicable to the Tribe.

4. None of the limitations of action in this Chapter, including this Section, shall be construed as a waiver of the Tribe's sovereign immunity.

5. Except for a period of limitations for an action against the Tribe which is shorter or more restrictive than the periods provided for in this Section:

a. The periods of limitations in this Section apply to actions involving the Tribe regardless of where the action arises or is brought, including a foreign jurisdiction;

b. No period of limitations for an action against the Tribe may be waived in advance or prior to the commencement of an action;

c. Any waiver of a period of limitations for an action against the Tribe may only be waived by resolution of the Tribal Council; and

d. The provisions of this Section shall supersede any contrary provision of any contract, agreement, document, or instrument and any law of any foreign jurisdiction and no provision of a contract, agreement, document, or instrument which purports to exempt or avoid the provisions of this Section shall be valid.

Section 1-9-6. Foreign Judgments and Actions.

1. No action which arises in a foreign jurisdiction shall be maintained against a person if such action is barred by the law of limitations of such foreign jurisdiction.

2. An action upon a judgment or order rendered in a foreign jurisdiction shall be barred if by the laws of such foreign jurisdiction such action would be barred there and the judgment or decree is incapable of being otherwise enforced there.

Section 1-9-7. Tolling of Limitations.

1. For purposes of the time limitations in this Chapter, any cause of action based on fraud or mistake shall not be deemed to have accrued until the aggrieved party has discovered the facts constituting the fraud or mistake.

2. If a person entitled to bring an action is at the time the cause of action accrues either a minor or incapacitated, the period of such time of minority or incapacity shall not be deemed a portion of the period limited for commencement of the action. Such person shall have the same time after removal of the minority or incapacity which is allowed to others.

3. If a person entitled to bring an action is at the time the cause of action accrues incarcerated, the period of such incarceration shall exist only until such time as the person incarcerated discovers the right to bring the action or with the exercise of reasonable diligence should have discovered the right to bring the action, whichever occurs first, and such person shall have the same time after the incarceration ceases which is allowed all others.

4. When a person against whom there is a cause of action is absent from the territory of the Tribe at the time the cause of action accrues or at any time during which the action might have been maintained, such action may be brought against such person after the person's return to the territory of the Tribe. The time of such person's absence shall not be counted or taken as a part of the time limited by the provisions of this Section or any other time limitation under the laws of the Tribe.

5. Except where otherwise provided in the laws of the Tribe, if an action is timely commenced within the period of limitations prescribed for the action and the action is terminated in any manner other than by abatement, voluntary dismissal, dismissal for lack of prosecution, or a final judgment on the merits, the plaintiff, or a successor or personal representative, may bring a new action for the same cause of action within six (6) months after the expiration of the time so limited. The provisions of this subsection apply to judgments on appeal as well as counterclaims, cross-claims, and defenses of the defendant.

6. The period of limitation shall not be extended by the connection of one basis of tolling or disability to another. When the law of limitation begins to run, it shall continue to run notwithstanding a supervening disability of the party entitled to sue or liable to be sued.

Section 1-9-8. Recognition of Foreign Court Orders/Judgments.

1. Except where otherwise provided in this Code, the Tribe shall recognize and enforce valid judgments and orders of a foreign court if:

a. The foreign court does not refuse to recognize and enforce judgments and orders of the Tribal Court;

b. The foreign court had personal and subject matter jurisdiction to issue the judgment or order;

c. The judgment or order does not conflict with another final judgment or order that is entitled to recognition or enforcement;

d. The person against whom the judgment or order is to be enforced was afforded fair process, including fair notice and a fair hearing;

e. The judgment or order was obtained under a system likely to secure an impartial administration of justice;

f. There is nothing to show either prejudice in the foreign court or in the system of laws under which it was sitting;

g. The judgment or order was not obtained by fraud; and

h. The judgment or order is not contrary to public policy of the Tribe.

2. Where another standard of recognition and enforcement applies to the recognition and enforcement of a particular judgment or order of a foreign court in this Code, that standard shall be applied and govern the recognition and enforcement of that order or judgment.

3. Nothing in this Section shall prevent the Tribal Council, by duly adopted resolution of the Tribal Council, from making the foregoing provisions not applicable to any transaction, contract, agreement, instrument, or other matter specified in such resolution.

CHAPTER 10
CONDUCT ON TRIBAL PROPERTY

Section 1-10-1. Purpose. The purpose of this Chapter is to ensure the safety of members of the Tribe and all others on all premises of the Tribe by protecting the public from inappropriate behavior and categorically excluding the possession of weapons of any kind on all premises of the Tribe.

Section 1-10-2. Definitions. In addition to the definitions set forth in Chapter 1 of this Title, unless the context requires otherwise, as used in this Chapter:

1. "Authorized individual" means a natural person specifically authorized under this Chapter to carry weapons on the Tribe's property.

2. "Law enforcement officer" means a natural person who is designated as such by the laws of the Tribe or who otherwise is elected, appointed, or employed by the Tribe or a foreign jurisdiction and vested with the authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of penal, criminal, traffic, or highway laws, including certified supervisory and command personnel whose duties include the supervision, training, guidance, and management responsibilities of law enforcement officers, but does not include support personnel or a law enforcement officer suspended from duties or currently subject to any other disciplinary action.

3. "Premises of the Tribe" means lands, grounds, or property of the Tribe and any building, facility, or vehicle of the Tribe, whether owned by, leased by, or held in trust for the Tribe.

4. "Weapon" means a firearm, deadly weapon, or dangerous instrument.

Section 1-10-3. Prohibition of Weapons; Exceptions.

1. No person shall go armed with, carry, or transport a weapon of any kind, whether concealed or not, on the premises of the Tribe.

2. The Tribe has and reserves the right to inspect any person entering or found on the premises of the Tribe as well as any articles and property in any person's possession to detect weapons and entering or being present on premises of the Tribe is consent to such inspection.

3. Notwithstanding any other authorization to go armed with, carry, or transport a weapon on the premises of the Tribe, the Tribe may, and reserves the right to, confiscate any weapon found on the premises of the Tribe and entering or being present on premises of the Tribe is consent to such confiscation.

4. Except as otherwise provided in this Section, this Section, other than the right of the Tribe to inspect, shall not apply to:

a. Authorized individuals being armed with, carrying, or transporting weapons which such authorized individuals are authorized to carry on the premises of the Tribe in the course of their official or normal duties;

b. Law enforcement officers being armed with, carrying, or transporting weapons which such law enforcement officers use or are authorized to carry as part of their duties, on the premises of the Tribe in the course of their official duties;

c. A member of the armed forces of the United States or of the national guard, when the individual's duties or lawful activities require or permit being armed with, carrying, or transporting weapons on the premises of the Tribe; or

d. Any natural person of at least the age of majority who has in such person's immediate possession a valid and lawfully issued license or permit to carry a firearm which has been issued under the laws of a foreign jurisdiction, provided such individual shall carry the firearm in compliance with the laws of the Tribe.

5. Except as otherwise provided in this Section, this Section shall not apply to lands or property owned by the Tribe and used for the purpose of a private residence when the person

armed with, carrying, or transporting the weapon is the authorized resident of the land or property and no other law or policy of the Tribe prohibits the person from being armed with, possessing, carrying, or transporting the weapon on such land or property.

6. Except as otherwise provided in this Section, this Section shall not apply to the use of weapons while hunting on premises of the Tribe in accordance with the laws of the Tribe.

7. Notwithstanding anything to the contrary in this Section, persons otherwise permitted to go armed with, carry, or transport a weapon on the premises of the Tribe, including authorized individuals and law enforcement officers of foreign jurisdictions, shall be subject to this Section if such person:

a. Has been convicted or pleaded guilty or no contest in any court of a crime punishable by imprisonment for a term exceeding one (1) year;

b. Is intoxicated or under the influence of alcohol or any controlled substance;

c. Has been adjudicated an incapacitated person or committed to a mental institution;

d. Is subject to a court order issued after a hearing in which such person participated or of which such person received notice and had an opportunity to participate that:

i. Is a protection order issued under the laws of the Tribe, or equivalent thereto; or

ii. Otherwise restrains the person from contacting, harassing, stalking, or threatening a person or prohibits the use, attempted use, or threatened use of physical force against such person; or

e. Has been convicted of, pleaded guilty or no contest to, or otherwise found in violation of a crime or offense of domestic violence in any court of any jurisdiction.

8. A person who violates this Section may:

a. Immediately be forced to leave the premises of the Tribe and unless and until such person returns without any weapon;

b. Lose services from the Tribe for a time period set by the Tribal Council;

c. Be excluded or banned from the premises of the Tribe for a time period set by the Tribal Council; or

d. May be referred to appropriate law enforcement agencies for criminal charges, including trespass.

9. In addition to any other consequences for violating this Section, a person who violates this Section shall be subject to a civil fine for each violation of up to one percent (1%) of the person's gross income for the twelve (12) months immediately preceding the violation. A civil fine may be imposed under this Section by any Tribal government entity with offices on or authority over the premises of the Tribe where the violation occurred and thereafter enforced and collected through a civil cause of action brought by such Tribal government entity on behalf of the Tribe in the Tribal Court or through any other method of imposing or enforcing civil fines under the laws of the Tribe.

Section 1-10-4. Authorization to Carry Weapons.

1. The Tribal Council may designate a natural person as an authorized individual to carry weapons on the premises of the Tribe when such natural person:

a. Needs to carry a weapon on the premises of the Tribe as part of the individual's duties as a Tribal official, such as fish and game wardens, security personnel, Tribal Court officers, and natural persons specifically authorized to possess weapons on premises of the Tribe for ceremonial purposes;

b. Submits to a comprehensive background investigation designated by the Tribal Council, including criminal and mental health evaluations;

c. Has not been convicted or pleaded guilty or no contest in any court of a crime punishable by imprisonment for a term exceeding one (1) year;

d. Is not a fugitive from justice;

e. Is not an unlawful user of or addicted to any controlled substance;

f. Has not been adjudicated an incompetent person or been committed to a mental institution;

g. Has not been discharged from the armed forces or national guard of any jurisdiction under dishonorable conditions;

h. Is not subject to a court order issued after a hearing in which such person participated or of which such person received notice and had an opportunity to participate that:

i. Is a protection order issued under the laws of the Tribe, or equivalent thereto; or

ii. Otherwise restrains the person from contacting, harassing, stalking, or threatening a person or prohibits the use, attempted use, or threatened use of physical force against such person;

i. Has not been convicted of, pleaded guilty or no contest to, or otherwise found in violation of a crime or offense of domestic violence in any court of any jurisdiction; and

j. Otherwise meets any standards or conditions required by the Tribal Council.

2. An authorized individual's authorization to carry weapons on the premises of the Tribe shall automatically terminate at any time the authorized individual no longer meets the requirements set forth in this Section. The Tribal Council may revoke an authorized individual's authorization to carry weapons on the premises of the Tribe at any time, with or without good cause. The termination or revocation of authorization pursuant to this subsection shall be final and not subject to appeal or challenge in any court or tribunal.

3. The Emergency Management Office of the Tribe or other staff designated by Tribal Council shall maintain a list of all currently authorized individuals which shall be available for review at all times by Tribal officials.

Section 1-10-5. Disorderly Conduct.

1. It shall be a violation for any person to:

a. Engage in fighting or otherwise threatening or violent behavior on premises of the Tribe;

b. Use language, an utterance, or gesture or engage in a display or act that is physically threatening or menacing or done in a manner that is likely to inflict injury or incite an immediate breach of the peace on the premises of the Tribe or person located thereon;

c. By threat or physical action, place or attempt to place an employee\ of the Tribe or another person on the premises of the Tribe in fear of bodily injury or harm or with the purpose to terrorize such employee or person;

d. Commit or threaten to commit any act to cause evacuation of a building, place of assembly, or facility on the premises of the Tribe; or

e. To refuse or knowingly or willfully fail to comply with any rules of the Tribe governing the conduct of persons on the premises of the Tribe.

2. In addition to any other consequences for a violation, a person who commits a violation of this Section shall be subject to a civil fine for each violation of up to one percent (1%) of the person's gross income for the twelve (12) months immediately preceding the violation. A civil fine may be imposed under this Section by any Tribal government entity with offices on or authority over the premises of the Tribe where the violation occurred or where the person against whom the violation was directed primary works or was located when the violation occurred and thereafter enforced and collected through a civil cause of action brought by such Tribal government entity on behalf of the Tribe in the Tribal Court or through any other method of imposing or enforcing civil fines under the laws of the Tribe.

Section 1-10-6. Denial of Access.

1. The Tribe may limit, restrict, or deny access to any facilities or services of the Tribe by any person who violates the provisions of this Chapter, provided that, in the case of an individual receiving public or governmental services from the Tribe, any such limitation, restriction, or denial of access shall not prevent such individual from receiving necessary or required services and shall otherwise be narrowly tailored to prevent the conduct subject of the violation while protecting the individual's right to services.

2. A limitation, restriction, or denial of access pursuant to this Section may be imposed through written order or decision by any Tribal government entity with offices on or authority over the premises of the Tribe where the violation occurred or where the person against whom the violation was directed primary works or was located when the violation occurred. Any such written or decision may be appealed to the Tribal Council, provided the Tribal Council may provide for an intermediate appeal to an appropriate official in the Tribal administration.

3. Any limitation, restriction, or denial of access to any facilities or services of the Tribe pursuant to this Section shall be deemed an exclusion of the person pursuant to the Tribe's power to exclude and other inherent powers and authority of the Tribe.

Section 1-10-7. Savings. Nothing in this Chapter, including being an authorized individual, shall be construed as establishing or creating any right or entitlement to be armed with, carry, or transport a weapon of any kind, concealed or not, on the premises of the Tribe. Any designation as an authorized individual or other authorization to be armed with, carry, or transport a weapon on the premises of the Tribe shall be solely a privilege subject to revocation or cancellation at any time.

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