

**PONCA TRIBE OF NEBRASKA  
TRIBAL COUNCIL**

**RESOLUTION 24- 09**

**WHEREAS:** The Ponca Tribe of Nebraska is a federally recognized Indian Tribe (P.L. 101-484) whose business affairs are conducted by the Ponca Tribal Council as defined in the Constitution approved July 22, 1994 by the Acting Deputy Commissioner of Indian Affairs; and

**WHEREAS:** Pursuant to the Constitution of the Ponca Tribe of Nebraska, the Ponca Tribal Council exercises legislative powers to enact and promulgate resolutions and ordinances subject to all express restrictions upon such powers contained in the constitution; and

**WHEREAS:** The Ponca Tribe of Nebraska established the Ponca Gaming Enterprise on November 20, 2010 as a subordinate economic enterprise of the Ponca Tribe of Nebraska; and

**WHEREAS:** The Ponca Tribe of Nebraska Tribal Council has determined that the Charter of Ponca Gaming Enterprise requires certain amendments to reflect the establishment of a new board, among other changes designed to enhance governance structure and operational efficiency.

**WHEREAS:** The Ponca Tribe of Nebraska Tribal Council has reviewed the Amended and Restated Charter of the Ponca Gaming Enterprise; and

**WHEREAS:** The purpose of the Ponca Gaming Enterprise and the Amended and Restated Charter is to engage in economic development activities for the benefit of the Tribe and its members.


**THEREFORE, BE IT RESOLVED** that the Ponca Tribe of Nebraska Tribal Council hereby adopts the Amended and Restated Charter of the Ponca Gaming Enterprise.


**BE IT FURTHER RESOLVED** that the Amended and Restated Charter shall be filed with the Office of the Secretary in accordance with the Business Entities Code.

**CERTIFICATION**

**THIS IS TO CERTIFY AND AFFIRM** that the above and foregoing Resolution was duly authorized and passed by the Ponca Tribe of Nebraska Tribal Council on the 17 day of February, 2024 at a duly called meeting held via Lifesize by a vote of 7 Ayes; 0 Nays; 0 Abstained; 1 Absent. Chairperson \_\_\_\_\_ voting ✓ not voting. A Quorum of 8 was present.

**ATTEST**

  
\_\_\_\_\_  
Candace Schmidt, Chairwoman  
Ponca Tribe of Nebraska

  
\_\_\_\_\_  
Susan Baker, Secretary  
Ponca Tribe of Nebraska

**AMENDED AND RESTATED CHARTER  
OF THE  
PONCA GAMING ENTERPRISE**

**ARTICLE 1.  
FORMATION.**

Section 1.01 On November 20, 2010, the Tribal Council of the Ponca Tribe of Nebraska (the “**Tribal Council**”) formed the Ponca Gaming Enterprise (the “**Enterprise**”) as an instrumentality and commercial enterprise of the Ponca Tribe of Nebraska, a federally recognized Indian tribe (the “**Tribe**”), and adopted the Charter of the Enterprise (the “**Original Charter**”) pursuant to the Constitution of the Ponca Tribe of Nebraska (the “**Constitution**”). The formation of the Enterprise and the Original Charter were approved by the Tribal Council pursuant to Tribal Council Resolution No. 10-70.

Section 1.02 On July 27, 2019, the Tribal Council determined that it was in the best interest of the Enterprise to amend the Original Charter to provide: (i) for the elimination of the requirement of approval of 2/3<sup>rds</sup> of the Tribal Council for removal of any Director, and (ii) that the members of the Tribal Council serve as the Board of Directors of the Enterprise (the “**Board**”).

Section 1.03 On March 18, 2023, the Tribal Council determined that the Charter should be amended to remove provisions which conflict with statutory enactments of the Tribe governing Tribal business entities.

Section 1.04 On February 17, 2024, the Tribal Council determined that it was in the best interest of the Enterprise to amend the Charter to re-establish a Board appointed by the Tribal Council.

Section 1.05 The Tribal Council, pursuant to Section 16.05 of the Charter, as amended March 18, 2023, approved the amendment of the Charter and adopted this Amended and Restated Charter (the “**Charter**”) effective as of April 2, 2024 (the “**Effective Date**”).

**ARTICLE 2.  
OFFICES.**

Section 2.01 The principal office of the Enterprise shall be located at Niobrara, Nebraska, in the territory of the Tribe or at such other location on Tribal Lands as may be determined by the Board.

Section 2.02 The registered agent of the Enterprise shall be the person designated as the Chairperson of the Board as provided in this Charter.

**ARTICLE 3.  
BUSINESS.**

Section 3.01 The business of the Enterprise shall be to take any and all actions in furtherance of developing, constructing, furnishing, equipping, owning, leasing, operating, managing, maintaining, promoting, and financing all gaming, resort, and hospitality businesses of the Tribe on lands within the jurisdiction of the Tribe (“*Tribal Lands*”), and engaging in any other lawful activity in furtherance thereof (the “*Business*”).

Section 3.02 The purpose of the Enterprise shall be to create and stimulate the economy of the Tribe, create employment opportunities for Tribal members, and generate tax and other revenues for the use by the Tribal government in providing governmental, social, and other services to members of the Tribe and residents of the territory of the Tribe.

**ARTICLE 4.  
RELATION TO TRIBE; SOVEREIGN IMMUNITY.**

Section 4.01 The Enterprise shall constitute an unincorporated business enterprise of the Tribe, having autonomous existence separate and distinct from the Tribe. The Enterprise shall be wholly-owned by the Tribe and a Tribal business entity under and subject to Title XIV of the Ponca Tribe of Nebraska Code (the “*Business Entities Code*”). In accordance with the Business Entities Code, the ownership interest of the Tribe will be exercised by the Tribal Council acting on behalf of the Tribe as the Tribe’s representative (“*Owner’s Representative*”).

Section 4.02 In accordance with the Business Entities Code, the Enterprise shall be deemed a subordinate arm and governmental instrumentality of the Tribe and shall be entitled to all the privileges and immunities of the Tribe, including all such immunities related to taxation, civil jurisdiction, and regulatory jurisdiction.

Section 4.03 The Enterprise shall have no power to exercise any regulatory or legislative power of any kind; the Tribe reserves from the Enterprise all regulatory, legislative, and other governmental power, including, but not limited to the power to grant, issue, revoke, suspend, or deny licenses, conduct background investigations, and enact legislation regulating gaming on Tribal Lands.

Section 4.04 The Enterprise shall be exempt from all federal or state income taxes or other impositions to the same extent as the Tribe, and for purposes of all federal, state, or local taxes shall not be deemed to be a taxable entity separate from the Tribe.

Section 4.05 Except as expressly authorized by the Tribal Council, as governing body of the Tribe, and permitted by applicable law, all real property, and any interest therein, used in the Business shall belong to the Tribe.

Section 4.06 As provided in the Business Entities Code, the Enterprise shall have and enjoy the Tribe’s sovereign immunity from unconsented suits and other legal process and claims,

together with all other rights and privileges arising from tribal sovereignty, to the fullest extent that the Tribe enjoys sovereign immunity and the rights and privileges of tribal sovereignty.

Section 4.07 No waiver of sovereign immunity by the Tribe or any branch, subdivision, department, commission, agency, board, committee, or controlled entity of the Tribe (each, a “*Tribal Party*”), or any other person or entity, other than the Enterprise, shall ever permit or allow, or be construed or interpreted to permit or allow, any enforcement or recourse as against the Enterprise, its assets, revenues, or activities. Any waiver of sovereign immunity by the Enterprise, in exercise of the power specified in Section 9.01(p), shall be valid and will permit recourse against the assets, revenues, or activities of the Enterprise only if it meets all requirements under the laws of the Tribe and each of the following requirements:

(a) the waiver in no way extends to any action against the Tribe or any Tribal Party, other than the Enterprise, nor in any way is construed as or deemed a waiver of any of the rights, privileges, and immunities of the Tribe or any Tribal Party, other than the Enterprise;

(b) any recovery against the Enterprise is limited to the assets, revenues, or activities of the Enterprise (or such portion of the Enterprise’s assets, revenues, or activities limited by the waiver), and neither the Tribe nor any Tribal Party, other than the Enterprise, shall be liable for the payment or performance of any of the obligations of the Enterprise, and no recourse shall be had against any assets, revenues, or activities of the Tribe or any Tribal Party, other than the Enterprise, in order to satisfy the obligations of the Enterprise; including assets of the Tribe leased, loaned, or assigned to the Enterprise for its use, without transfer of title;

(c) the waiver is granted by a resolution adopted by the Board of the Enterprise for the specific purpose of granting a waiver, the language of the waiver is explicit, and the waiver is contained in a written contract or commercial document to which the Enterprise is a full party;

(d) the waiver is necessary to secure a substantial advantage or benefit to the Enterprise;

(e) the waiver is specific and limited as to duration, grantee, transaction, property or funds of the Enterprise subject to the waiver, court and/or arbitration body having jurisdiction and applicable law; and

(f) the waiver meets all other requirements under the laws of the Tribe.

## **ARTICLE 5. ABILITY TO SUE AND BE SUED.**

Section 5.01 Subject to any requirements of this Charter, the Business Entities Code, and any other law of the Tribe, the Enterprise, by resolution duly adopted by the Board, shall

have the authority to (a) consent to sue and to be sued in its name or to submit to arbitration or other alternative dispute resolution any dispute, controversy, or claim arising out of its Business; and (b) agree by contract to waive its immunity from suit; but the Tribe shall not be liable for the debts and obligations of the Enterprise, and the Enterprise shall not have the power to pledge or encumber the assets of the Tribe other than the personal property of the Enterprise, including assets of the Tribe leased, loaned, or assigned to the Enterprise for its use, without transfer of title. This provision does not constitute a waiver of any immunity of the Tribe or a delegation to the Enterprise to make such a waiver.

Section 5.02 Subject to any requirements of this Charter, the Business Entities Code, and any other law of the Tribe, the Enterprise, by resolution duly adopted by the Board, shall have the authority to consent (a) to the exercise of jurisdiction over any suit or over the Enterprise, as the case may be, by the courts of the Tribe or by the courts of a foreign jurisdiction, including the federal and state courts of the United States or another Indian tribe, and (b) to arbitration or other alternative dispute resolution.

Section 5.03 The Tribe, by adoption of this Charter and the establishment of the Board, is not waiving its sovereign immunity in any respect or consenting to the jurisdiction of any court, arbitrator, or tribunal. The provisions of this Charter shall be strictly construed with a view toward protecting Tribal assets from the reach of creditors and others.

## **ARTICLE 6. ENFORCEMENT OF CLAIMS; SEPARATION OF LIABILITIES, ASSETS, ETC.**

Section 6.01 In accordance with the Business Entities Code, all liabilities of the Enterprise arising out of, or incurred in connection with, its operations have been and shall continue to be the sole and exclusive obligation of the Enterprise, and shall be enforceable only as against the Enterprise, its assets, revenues, or activities (but only to the extent the Enterprise waives its sovereign immunity as permitted herein). No liability or obligation of the Enterprise shall be enforceable as against real property of the Tribe, as owner or otherwise, or any other Tribal Party or as against any other assets, revenues, or activities of the Tribe or any other Tribal Party that are not assets of the Enterprise held or used in connection with the Business, all without a written resolution of the Tribal Council, as governing body of the Tribe, as required by the Business Entities Code. As provided in the Business Entities Code, no liabilities or obligations of the Tribe or any Tribal Party, other than the Enterprise, shall be enforceable as against the assets, revenues, or activities of the Enterprise.

Section 6.02 In accordance with the Business Entities Code, all assets used in the development and operation of the Business, together with all income and earnings therefrom and all assets acquired therewith, shall be owned by the Enterprise, separate and apart from the assets of the Tribe or any other Tribal Party; provided, however that nothing in this Section 6.02 shall be interpreted to convey any ownership interest in any Tribal Lands.

**ARTICLE 7.  
JUDGMENT PROOF PROPERTY.**

Section 7.01 Except as applicable either as (a) provided in applicable laws or regulations or (b) expressly consented to by the Enterprise, all property including funds acquired or held by the Enterprise pursuant to this Charter shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Enterprise be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of lenders or obligees to pursue any remedies for the enforcement of any pledge or lien given by the Enterprise on its assets, fees, or revenues, nor to any explicit waiver of immunity specifically subjecting the Enterprise's assets, fees, or revenues to levy, execution, or judicial process which is contained in a contract and approved by resolution of the Board as provided in this Charter; provided, however that such limit or right of lenders, etc. as aforesaid shall in no event exceed the scope of any consent to be sued approved by the Board and, in any event, shall be limited as provided for in this Charter.

**ARTICLE 8.  
OPERATION OF THE ENTERPRISE.**

Section 8.01 The Enterprise shall conduct and manage its Business in accordance with the Business Entities Code and the provisions of this Charter, and pursuant to the policies and procedures adopted by the Board. If there is any conflict between the provisions of such policies and procedures and this Charter, the provisions of this Charter shall control to the extent not in conflict with the Business Entities Code or the laws of the Tribe. If there is any conflict between this Charter and the Business Entities Code or other law of the Tribe, the provisions of the Business Entities Code or other law of the Tribe shall control.

**ARTICLE 9.  
ENUMERATED POWERS.**

Section 9.01 Subject to the limitations set forth in this Charter or the laws of the Tribe, the Board shall oversee and administer all Business, operations, and affairs of the Enterprise and shall have the full power to act for and bind the Enterprise. Such authority shall be exercised pursuant to the policies and procedures adopted by the Board and subject to the laws of the Tribe. Any exercise by the Enterprise of any powers or authority in accordance with this Charter shall constitute the exercise of the powers of the Tribal government. Subject to any limitations or requirement of Owner approval in this Charter or the laws of the Tribe, the Board shall have the power:

(a) to cause the Enterprise to engage in gaming operations on Tribal Lands which are placed under the control of the Enterprise by the Tribal Council, as governing body of the Tribe;

(b) to cause the Enterprise to engage in hotel, resort, hospitality, restaurant, alcoholic beverage service, performance entertainment, retail sales, and other business

activities on Tribal Lands to the extent determined by the Board to be ancillary to the business of gaming conducted by the Enterprise;

(c) to cause the Enterprise to adopt, amend, or repeal policies and procedures of the Enterprise, including personnel policies and the terms and conditions of employment relating to the Business;

(d) to cause the Enterprise to prescribe the duties of, and fix the compensation for, officers, employees, and other agents of the Enterprise, and indemnify directors, officers, employees, and agents;

(e) to cause the Enterprise to enter into, make, perform and carry out, cancel, and rescind contracts, agreements, and understandings for any lawful purpose pertaining to the Business or incidental to the purposes for which the Enterprise was established with any Tribal or foreign governmental agency or authority or with any person, partnership, limited partnership, corporation, limited liability company, Indian tribe, Tribal Party, or other entity;

(f) to cause the Enterprise to lease property from the Tribe, any Tribal Party, or others for such periods as are authorized by law, and to hold, mortgage, manage, or sublease the same to the extent permitted by the lease;

(g) to cause the Enterprise to give guarantees and incur liabilities;

(h) to cause the Enterprise to obtain financing and refinancing, to borrow money at rates of interest as the Enterprise may determine, to issue temporary or long term indebtedness, and to repay the same;

(i) to cause the Enterprise to mortgage or pledge assets and receipts of the Enterprise as security for debts;

(j) to cause the Enterprise to purchase; receive; take by grant, devise, bequest, or otherwise; lease or otherwise acquire; own, hold, improve, employ, or use; and otherwise enjoy all powers necessary or appropriate to deal in and with, property, or an interest in property, wherever situated for use in the Business;

(k) to cause the Enterprise to sell, convey, lease, exchange, transfer, or otherwise dispose of, or mortgage or pledge, or create a security interest in, any property or an interest in property of the Enterprise, wherever situated, excluding property of the Tribe leased, loaned, or assigned to the Enterprise for its use, without transfer of title;

(l) to cause the Enterprise to purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, pledge, use, and otherwise deal in and with, bonds and other obligations, shares, or other securities or interests issued by others, whether engaged in

similar or different business, governmental, or other activities, including banking corporations and trust companies;

(m) to cause the Enterprise to employ, and to approve the employment by the Enterprise of contractors, consultants, attorneys, and accountants;

(n) to cause the Enterprise to undertake and carry out studies and analyses of existing operations and potential new resort enterprises;

(o) to cause the Enterprise to purchase or authorize the purchase of insurance from any stock or mutual company for any property or against any risk or hazards;

(p) to allow the Enterprise to sue and be sued in its name, upon any contract, claim, or obligation arising out of its activities under this Charter, and to agree by contract to waive the Enterprise's immunity from suit, but only to the extent expressly permitted by, and in accordance with the requirements of, this Charter and the laws of the Tribe;

(q) to cause the Enterprise to establish and maintain such bank accounts and other depository relationships as may be necessary or convenient;

(r) to consent to the exercise of jurisdiction over any suit or over the Enterprise by the courts of the Tribe or the courts of a foreign jurisdiction, or to arbitration or other alternative dispute resolution;

(s) to cause the Enterprise to declare and pay to the Tribe, as sole owner of the Enterprise, when requested by valid action of the Owner's Representative dividends and distributions, subject to compliance with any existing contractual obligations and provisions of applicable law, regulation, and rule;

(t) to enjoy the sovereign immunity of the Tribe, to the same extent as the Tribe; and

(u) to take all such other actions and do all such other things that are not prohibited by or in violation of this Charter, the Business Entities Code, or any other applicable law.

#### **ARTICLE 10. ENUMERATED LIMITATIONS.**

Section 10.01 Notwithstanding any other provision in this Charter, the Enterprise shall not take any of the following actions without the affirmative vote or written consent of the Owner's Representative:



(a) waive or purport to waive the sovereign immunity of the Tribe or any Tribal Party, except as expressly authorized in Section 9.01(p) with respect to the Enterprise; or

(b) pledge as security for any debt or other obligation any revenues or assets of the Tribe or any Tribal Party, other than the Enterprise, including assets of the Tribe leased, loaned, or assigned to the Enterprise for its use, without transfer of title; or

(c) bind or create any obligation or liability of the Tribe or any Tribal Party, other than the Enterprise; or

(d) authorize, issue, or exchange, or obligate itself to authorize, issue, or exchange, any equity securities or ownership interest in the Enterprise or the Business to any person other than the Tribe; or

(e) expend any amount in excess of the amounts provided in the annual budget approved by the Owner's Representative or an amendment or supplement thereto approved by the Owner's Representative, including stipends or other compensation paid to Directors;

(f) expend or contract or agree to expend any amount greater than \$50,000.00 as annual compensation or payment for any employee, consultant, or individual contractor; or

(g) expend or contract or agree to expend any amount greater than \$50,000.00 in a single transaction or under any contract; or

(h) borrow or incur any indebtedness in any amount greater than \$25,000.00; or

(i) enter into, make, or perform and carry out any contract for construction of new or expanded buildings or facilities, including the design thereof; or

(j) sell, exchange, or otherwise dispose of (other than the mortgage, pledge, or other grant as security interest as provided in this Charter) all or substantially all of the assets of the Enterprise; or

(k) effect any liquidation, dissolution, or winding up of the Enterprise; any consolidation or merger involving the Enterprise; any conversion or division of the Enterprise; or the domestication of the Enterprise in any jurisdiction other than the Tribe; or

(l) create any subsidiary of the Enterprise or purchase or acquire any business or other entity; or

(m) enter into, make, perform and carry out, cancel, or rescind any Management Contract (as that term is defined in the Indian Gaming Regulatory Act and its implementing regulations); or

(n) amend this Charter; or

(o) take any other action requiring approval of the owner under the Business Entities Code or resolution of the Owner's Representative.

## **ARTICLE 11. BOARD OF DIRECTORS.**

Section 11.01 Powers. In accordance with Section 14-4-8 of the Business Entities Code and subject to the provisions of this Charter, the business and affairs of the Enterprise shall be overseen and administered, and all business enterprise powers shall be exercised, by or under the direction of the Board. The Board shall in all cases act as a group, with a majority vote or consent of the Board required to take action

Section 11.02 Duties. Each Director shall participate in the direction, administration, and control of the activities of the Enterprise to the best of their ability. In accordance with the Business Entities Code, all Directors shall have and owe fiduciary duties to the Enterprise and the Tribe as owner. Each Director shall be responsible for discharging the Director's duties in good faith, in a manner the Director believes to be in the best interest of the Enterprise, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in accordance with the Business Entities Code. A Director shall not be required to serve the Enterprise as their sole and exclusive function and, subject to the Director's duties to the Enterprise and Tribe as owner under the laws of the Tribe, a Director may have business interests and may engage in other activities in addition to those relating to the Enterprise.

Section 11.03 Board of Directors. The Board shall consist of five (5) individuals appointed by the Owner's Representative (each a "**Director**"). The number may be changed from time to time by the affirmative vote of the Owner's Representative, but in no instance shall there be less than three (3) Directors. A majority of the Directors shall be enrolled members of the Tribe; provided, however, that this requirement shall not apply if a vacancy occurs resulting in the majority of the Directors not being enrolled members of the Tribe so long as such vacancy is filled by an enrolled member of the Tribe within a timely manner. Directors who are not members of the Tribe shall have substantial business, legal, financial, government contracting, or industry experience. Each Director shall have a vote on matters before the Board, except the Chairperson or other Director presiding over the Board shall only vote on a matter in the event of a tie. Upon the selection of initial appointed Directors, the Owner's Representative shall choose, by lot, a majority of appointees who will serve an initial term of three (3) years with the remaining appointees serving an initial term of two (2) years. Thereafter, the term of each appointee shall be for three (3) years and each Director shall hold office until the Director's successor shall have been appointed and qualified.

Section 11.04 Qualifications of Directors. Directors must meet the following requirements:

- (a) Be at least twenty-five (25) years of age;
- (b) Either (1) possess a Bachelor's Degree in business or a related field, or (2) possess a high school diploma (or a General Equivalency Diploma) and have at least five (5) years of business, financial, legal, government contracting, tribal government, or industry experience;
- (c) Not have been convicted of, or pled guilty or no contest to, any felony in any jurisdiction;
- (d) Not have been convicted of, or pled guilty or no contest to, or otherwise found or admitted to committing any crime or civil violation in any jurisdiction involving tax evasion, tax fraud, theft, or embezzlement, of moral turpitude, or against the Tribe;
- (e) Not have been recalled or removed for cause from any elected or appointed office of the Tribe or any business entity of the Tribe;
- (f) Be willing and able to perform the Director's duties in compliance with the Business Entities Code and all other laws of the Tribe;
- (g) Not be an employee of the Enterprise, provided that an employee may be selected as a Director on the condition the employee shall resign as an employee of the Enterprise upon commencement of service as a Director;
- (h) Obtain or be able to obtain any and all required licenses and authorizations from all gaming regulatory bodies with jurisdiction over the activities of the Enterprise; and
- (i) Any other qualifications of Directors set forth in the Business Entities Code.

Section 11.05 Chairperson of the Board. One Director shall be designated by the Owner's Representative as the Chairperson of the Board (the "**Chairperson**"). The Chairperson shall, if present, preside at all meetings of the Board and exercise and perform such other powers and duties as may be from time to time assigned to the Chairperson by the Board.

Section 11.06 Resignations. Any Director may resign at any time by giving written notice to the Owner's Representative and also to the Chairperson or the Secretary or Assistant Secretary of the Enterprise. Such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 11.07 Vacancies. Any vacancy occurring for any reason on the Board shall be filled by appointment by the Owner's Representative. A Director appointed to fill a vacancy shall be appointed for the unexpired term of their predecessor in office and shall hold office until the expiration of such term and until their successor is appointed and qualified or until their earlier death, resignation, or removal. The existence of a vacancy on the Board shall not affect the ability of the Board to conduct business or take actions.

Section 11.07 Removal. All or any lesser number of Directors may be removed at any time, with or without cause, by the Owner's Representative at an owner's meeting. A Tribal Council member who also serves as a Director and is subject to removal shall abstain from voting on the subject of their removal. Directors may also be removed as provided in the Business Entities Code. Any Director who cannot obtain, loses, or otherwise cannot maintain any required license or authorization from any gaming regulatory body with jurisdiction over the activities of the Enterprise shall be automatically removed upon the denial, revocation, or other event leading the loss or inability to maintain the required license or authorization.

Section 11.08 Place of Meeting.

(a) The Board may hold its meetings at such place or places as the Board may from time to time appoint, or as may be designated in the notice calling the meeting.

(b) Meetings may be held by means of telephone conference or similar communications equipment by which all persons participating in the meeting can hear each other and participation in such a meeting shall constitute presence in person at such meeting.

Section 11.09 Regular Meetings. Regular meetings of the Board shall be held as often as necessary to conduct its business, but no less frequently than quarterly at such time and place as shall be designated from time to time by resolution of the Board. If the date fixed for any regular meeting is a legal holiday under the laws of the Tribe, then the meeting shall be held on the next succeeding business day, not a Saturday or Sunday, or at such other time as may be determined by resolution of the Board. At regular meetings, the Board shall transact such business as may properly be brought before the meeting. Notice of regular meetings need not be given; provided, however that notices of the resolution setting the date, time, and place for regular meetings shall be served upon the Owner's Representative promptly after being enacted by the Board. Members of the Owner's Representative and its designated representatives shall be at all times privileged to attend all regular meetings of the Board, whether held in executive session or otherwise, and to be heard at such meeting in respect of any business that the Owner's Representative or its designated representatives shall desire to bring to the attention of the Board.

Section 11.10 Special Meetings. Special meetings of the Board shall be held whenever called by the Chairperson of the Board, the Chief Operating Officer of the Enterprise, or two (2) or more of the Directors. Notice of each such meeting shall be given to the Owner's Representative and each Director by telephone or in writing at least 24 hours (in the case of notice by telephone) or 48 hours (in the case of notice by electronic transmission) or three (3) days (in the case of notice

by mail) before the time at which the meeting is to be held. Every such notice shall state the time and place of the meeting and the purpose of, or the business to be transacted at, such meeting. Each member of the Owner's Representative and its designated representatives shall be privileged to attend all special meetings of the Board, whether held in executive session or otherwise, and to be heard at such meeting in respect of any business that the Owner's Representative or its designated representatives deem to be appropriate to the purpose of, or the business transacted at, such special meeting.

#### Section 11.11 Quorum, Manner of Acting, and Adjournment.

(a) A majority of the Directors then serving shall constitute a quorum for the transaction of business.

(b) Except as otherwise specified in this Charter or the Business Entities Code, the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. The Directors shall act only as the Board and the individual Directors shall have no power as such. The Board shall act only by motion or resolution of the Board in a meeting; provided, however, that any action which may be taken at a meeting of the Board or of a committee thereof may be taken without a meeting if all Directors or committee members then serving, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions (or paper reproductions thereof) are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. The Secretary of the Enterprise shall serve upon the Owner's Representative, promptly following enactment, any written consent in lieu of a meeting, duly enacted by the Board. Such consent shall have the same effect as a unanimous vote.

(c) ***“Electronic transmission”*** means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, including but not limited to transmission by telex, facsimile telecommunication, electronic mail, telegram, and cablegram.

#### Section 11.12 Committees.

(a) Subject to the provisions of Section 11.12(d), the Board, by resolution adopted by a majority of the Directors, may designate from time to time such committees of the Board, with such delegated powers, as it shall deem appropriate.

(b) The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of any committee, and the

alternate or alternates, if any, designated for such member, the member or members thereof present at any meeting and not disqualified from voting, whether or not they constitute a quorum, may unanimously appoint a qualified Director to act at the meeting in the place of any such absent or disqualified member.

(c) Except as otherwise provided in this section, a committee designated by the Board may only exercise such authority as has been delegated by the Board by resolution. The Board, with or without cause, may dissolve any such committee or remove any member thereof at any time.

(d) No committee of the Board shall have the authority of the Board to:

(i) approve or recommend to the Owner's Representative any action that requires the Owner's Representative's approval; or

(ii) fill vacancies on any of the committees of the Board; or

(iii) adopt, amend, or repeal bylaws or policies and procedures of the Enterprise; or

(iv) fix the compensation of any person serving on any committee of the Board; or

(v) waive, or grant a waiver of, the sovereign immunity of the Enterprise or consent to jurisdiction in any court; or

(vi) perform any act that would be a violation of any applicable law or of any agreement to which the Enterprise is a party; or

(vii) declare or pay any dividend or distribution to the Tribe.

(e) Section 11.9, Section 11.10 and Section 11.11 shall be applicable to all committees of the Board.

Section 11.13 Compensation. The compensation of the Directors shall be proposed by the Board to the Owner's Representative, and, after review of the basis for the compensation proposed, the Owner's Representative shall, if acceptable, approve said compensation as proposed. All Directors shall be entitled to reimbursement of expenses incurred in course of performing Board duties to the extent permitted by Enterprise policy.

Section 11.14 Minutes. The Enterprise shall keep minutes of the proceedings of its Board and committees thereof and shall report approved meeting minutes to the Owner's Representative within thirty (30) days.

Section 11.15 Limits on Liability. Except as otherwise expressly provided in the Business Entities Code or other law of the Tribe, no Director shall be liable to any creditor or employee of the Enterprise or to any Tribal Party or any member of the Tribe by reason of the Director's status as a Director, or by reason of acts done in the course of the Director's official duties under this Charter.

Section 11.16 Immunity. Except as otherwise provided in the Business Entities Code or other law of the Tribe, each Director shall be absolutely immune from civil suit in all actions at law or in equity for any actions taken and statements made in good faith within the scope of the Director's authority as a Director, or in a good faith belief that the Director's actions and statements were within the scope of the Director's authority, provided that nothing herein shall be construed as granting any immunity to a Director for breach of or failure to perform a duty imposed by this Charter or the laws of the Tribe in an action brought by the Tribe.

Section 11.17 Indemnification. In addition to indemnification required or provided in the Business Entities Code, the Board may arrange for the indemnification of current and former Directors, and may elect to arrange for the indemnification of certain current and former officers, employees and agents of the Enterprise (jointly and severally, the "*Indemnitees*"), against reasonable expenses actually and necessarily incurred by Indemnitees in connection with the defense of any action, suit, or proceeding in which such Indemnitee is made a party by reason of being, or having been such director, officer, employee, or agent except in relation to matters as to which such Indemnitee may not be indemnified under the Business Entities Code or shall be adjudged in such action, suit, or proceeding to be liable for gross negligence, willful misconduct, or breach of or failure to perform a duty, or except in relation to matters in which such Indemnitee was acting beyond the scope of the Indemnitee's employment or duties and responsibilities. The Board may also arrange for directors and officers liability insurance for the benefit and protection of the Indemnitees, to the extent that such insurance can be procured at regular or otherwise reasonable rates and may further arrange to reimburse any Indemnitee for the reasonable costs of settlements of any such action, suit, or proceeding if it shall be found by a majority of the Board other than the Director(s) involved in such action, suit, or proceeding (whether or not a quorum exists), that it is in the best interest of the Enterprise and the Tribe that such settlement be made and that such Indemnitee was not guilty of gross negligence or willful misconduct, did not breach or fail to perform a duty to the Enterprise or the Tribe, and was not acting beyond the scope of the Indemnitee's employment or duties and responsibilities. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights which such Indemnitee may be entitled to receive.

## **ARTICLE 12. NOTICE-WAIVERS.**

Section 12.01 Notices. Whenever written notice to any person is required by this Charter, it may be given to such person either personally or by sending a copy thereof by (i) commercial overnight delivery service or through the mail to such person's address appearing on the books of the Enterprise, or supplied by such to the Enterprise for the purpose of notice, or (ii) by means of facsimile telecommunication or other form of electronic transmission, to such

person's facsimile transmission number or electronic mail address appearing on the books of the Enterprise, or supplied by such to the Enterprise for the purpose of notice. A notice to a Director will be deemed given as follows: (a) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the Director at the Director's address appearing on the records of the Enterprise, (b) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the Director at the Director's address appearing on the records of the Enterprise, (c) if sent by facsimile telecommunication, when sent to the facsimile transmission number for such Director appearing on the records of the Enterprise, (d) if sent by electronic mail, when sent to the electronic mail address for such Director appearing on the records of the Enterprise, or (e) if sent by any other form of electronic transmission, when sent to the address, location, or number (as applicable) for such Director appearing on the records of the Enterprise.

#### Section 12.02 Waiver of Notice.

(a) Whenever any notice is required to be given to any Director or other person by this Charter, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

(b) Attendance of a person at any meeting shall constitute a waiver of notice of such meeting, except when a person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

### **ARTICLE 13. OFFICERS.**

Section 13.01 Number, Qualifications, and Designation. The initial officers of the Enterprise shall consist of a Chief Operating Officer, a Chief Financial Officer, a Secretary, a Treasurer, and such additional officers as may be elected or appointed in accordance with Section 13.02 as may be necessary to enable the Enterprise to sign instruments and conduct its Business, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in this Charter, or as the Board from time to time may determine.

Section 13.02 Additional Officers. The Board, at its discretion, may appoint a President, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, one or more Comptrollers, or such other officers or agents as the business of the Enterprise may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in this Charter, or as the Board from time to time may determine.



Section 13.03 Election and Term of Office. The officers of the Enterprise shall be appointed by the Board, and each such officer shall hold office until such officer's death, resignation, or removal by the Board (with or without cause).

Section 13.04 Resignations. Any officer or agent may resign at any time by giving written notice to the Chairperson of the Board, or to the Chief Operating Officer or Secretary. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

Section 13.05 Removal. Any officer or agent of the Enterprise may be removed by the Board at any time with or without cause. Such removal shall not prejudice the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not itself create contract rights.

Section 13.06 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled through appointment by the Board.

Section 13.07 General Powers. All officers and agents of the Enterprise, as between themselves and the Enterprise, shall have such authority and perform such duties in the management of the Enterprise as may be provided in this Charter or as may be determined by resolution of the Board.

Section 13.08 Chief Operating Officer. Subject to such supervisory powers, if any, as may be given by the Board to another officer by the Board, if there be such an officer, the Chief Operating Officer shall, subject to the control of the Board, have general supervision, direction, and control of the day to day operations of the Enterprise, subject to the oversight and authority of the Board. The Chief Operating Officer shall have the general executive powers and duties of management comparable to those general executive powers and duties of management usually vested in the office of the Chief Operating Officer of a comparable-sized business corporation and shall have such other powers and duties as may be prescribed by the Board and this Charter.

Section 13.09 Chief Financial Officer. The Chief Financial Officer shall report on a day to day basis to, and shall be subject to the control and general supervision of, the Chief Operating Officer or such other officer designated by the Board, subject in all cases to the ultimate supervision of the Board. The Chief Financial Officer shall have general supervision, direction, and control of the financial affairs of the Enterprise and shall have such other powers and duties as may be prescribed by this Charter. In the absence of a named Treasurer, the Chief Financial Officer shall also have the powers and duties of the Treasurer as hereinafter set forth and shall be authorized and empowered to sign as Treasurer in any case where such officer's signature is required.

Section 13.10 Secretary. The Secretary shall, to the extent possible, (a) attend all meetings of the Board (b) record all the votes of the Directors and the minutes of the meetings of the Board and committees thereof in a book or books to be kept for that purpose, (c) see that

notices are given and records and reports are properly kept and filed by the Enterprise as required by law, (d) be the custodian of the seal of the Enterprise, and, in general, (e) perform all duties incident to the office of Secretary, and such other duties as from time to time may be assigned by the Board.

Section 13.11 Treasurer. The Treasurer shall (a) have or provide for the custody of the funds or other property of the Enterprise and keep a separate book account of the same, (b) collect and receive, or provide for the collection and receipts of, monies earned by or in any manner due to or received by the Enterprise, (c) deposit all funds in the Treasurer's custody as Treasurer in such banks or other places of deposit as the Board from time to time may designate, (d) whenever so required by the Board, render an accounting showing the Treasurer's transactions as Treasurer and the financial condition of the Enterprise, and, in general, (e) discharge such other duties as from time to time may be assigned by the Board or the Chief Operating Officer.

Section 13.12 Vice Presidents. The Vice Presidents shall have such duties as from time to time may be assigned by the Board or the Chief Operating Officer.

Section 13.13 Salaries. The salaries of the officers elected by the Board shall be fixed from time to time by the Board or by such officer or committee as may be designated by resolution of the Board.

#### **ARTICLE 14. RECORDS, AUDITS, AND REPORTS.**

Section 14.01 Proper and complete records and books of account shall be kept or shall be caused to be kept by the Board in which shall be entered fully and accurately all transactions and other matters relating to the Enterprise's activities in such detail and completeness as is customary and usual for a businesses of the type engaged in by the Enterprise and otherwise as required by the Business Entities Code, any provision of any duly enacted gaming ordinance of the Tribe (the "***Gaming Ordinance***"), any provision of a duly promulgated regulation of the National Indian Gaming Commission (the "***NIGC***") (including, but not limited to, the Minimum Internal Control Standards), or by any other applicable legal requirement. Such books and records shall be maintained in accordance with Generally Accepted Accounting Principles ("***GAAP***"). Additionally, the Enterprise shall cause annual audits of the Business to be conducted and performed in compliance with generally accepted auditing procedures and the preparation of financial statements based thereon in accordance with GAAP, consistently applied, the Indian Gaming Regulatory Act, the regulations of the NIGC, and any other applicable laws.

Section 14.02 The Board shall maintain and preserve at the principal office of the Enterprise all relevant Enterprise documents including, but not limited to (a) a current list of the full name and last known business address of Directors, (b) the original or a copy of this Charter and all amendments thereto and restatements thereof, (c) the original or a copy of all other organizational documents of the Enterprise, documents filed with the Office of the Secretary, and

all amendments thereto and restatements thereof, (d) an original or duplicate record of the proceedings of the Directors, (e) copies of all records and books of account maintained pursuant to Section 14.01; (f) copies of all audits and financial statements for the three (3) most recent years, and (g) any other documents required by the Business Entities Code or resolution of the Owner's Representative. The Owner's Representative, or its designee, shall have the right to inspect and copy Enterprise documents during regular business hours.

Section 14.03 The Board shall provide and present, or cause to be provided and presented, to the Owner's Representatives regular annual and quarterly reports and plans, including the following:

(a) Copies of any periodic financial statements (including monthly or quarterly balance sheets, profit and loss statements, and cash flow statements) as may be prepared in the ordinary course of business, promptly after such statements are furnished to Enterprise management;

(b) Annual audit statements;

(c) A full report of the business activities of the Enterprise describing progress against Enterprise goals in the past year within one hundred twenty (120) days after the close of each fiscal year;

(d) A proposed annual operating plan for the following fiscal year, including budgets and any proposed funding from the Tribe as owner or anticipated distributions to the Tribe as owner; and

(e) Such other reports required by Section 14-4-15 of the Business Entities Code or as reasonably requested by the Owner's Representatives.

## **ARTICLE 15. OWNER**

### Section 15.01 Owner Meetings.

(a) In accordance with the Business Entities Code, an annual meeting of the owner shall be held at the Enterprise's principal office or at such other place designated by the Owner's Representative, on the third Monday of May each year or at such other time as designated by the Owner's Representative.

(b) In addition to any method for calling a special meeting of the owner provided in the Business Entities Code, a special meeting of the owner may be called by the Chairperson of the Tribal Council on three (3) business days notice to the other members of the Tribal Council, as members of the Owner's Representative.

Section 15.02 Notice of Meetings. Written notice stating the place, day, and hour of a meeting of the owner and, if a special meeting, the purpose or purposes for which the meeting is called shall be delivered at least ten (10) but not more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the Board or person calling the meeting, to each member of the Owner's Representative entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered within three (3) days of mailing unless proof of delivery provides a different date.

Section 15.03 Consent to Meeting of Owner. If a majority of the members of the Owner's Representative shall meet at any time and place, either on or outside of Tribal Lands, and consent to the holding of a meeting of the owner at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken.

Section 15.04 Quorum. A majority of the members of the Owner's Representative, excluding any vacancies on the Tribal Council, shall constitute a quorum at any meeting of the owner. In the absence of a quorum at any such meeting, a majority of those present may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if the adjournment is for more than sixty (60) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of the Owner's Representative entitled to vote at the meeting.

At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The members of the Owner's Representative present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal during such meeting of that number of representatives whose absence would cause less than a quorum.

Section 15.05 Manner of Acting. An act adopted or rejected by the majority vote of the members of the Owner's Representative present and voting at a duly held meeting of the owner where a quorum is present shall be the act of the Tribe as owner, provided that if the Business Entities Code or this Charter requires a greater number of votes than a majority, the vote of the Owner's Representative shall require that greater number. The written consent of the majority of the members of the Owner's Representative, which may include the written consent of Chairperson of the Tribal Council, shall also be the act of the Tribe as owner taken by written consent, provided that if written consent of more than a majority of the members of the Owner's Representative is required by the Business Entities Code or this Charter, the written consent of that greater number of members of the Owner's Representative shall be required.

Section 15.06 Owner Voting. Meetings of the owner will be held in the same manner as and in accordance with the procedures of Tribal Council meetings. In accordance with Section 14-4-9 of the Business Entities Code, the Tribal Council shall vote the Tribe's ownership interests in accordance with the Tribal Council's procedures for voting and passing motions or resolutions and each member of the Tribal Council, excluding any vacancies on the Tribal Council, shall be deemed to vote a single ownership interest. The ownership interest held by the Chairperson of the Tribal Council may only be voted in the event of a tie.

Section 15.07 Proxies. Each member of the Owner's Representative must directly vote the membership interest they represent. No proxy voting, voting trusts, or voting agreements shall be allowed.

Section 15.08 Telephonic Meetings. The members of the Owner's Representative may participate in any meeting of the owner by any means of communication by which all persons participating in the meeting can hear each other during the meeting and participation in a meeting by such means shall constitute attendance and presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 15.09 Withdrawal of Owner; Transfer of Ownership. The Tribe does not have the power or right to withdraw as owner of the Enterprise. Neither the Enterprise nor any other person may purchase or in any manner obtain the Tribe's ownership or any right arising therefrom. The Enterprise shall not allow any additional new owners. No ownership interest in the Enterprise may be assigned, in whole or in part, without the express approval as set forth in a duly adopted resolution of the Owner's Representative. An assignment does not entitle the assignee to participate in the management and affairs of the Enterprise or to exercise any rights of an owner. An assignee of the Tribe's ownership interest may not become an owner of the Enterprise. Such an assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. The pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of the interest of the Tribe shall not cause the Tribe to cease to be the owner and not deprive the Tribe of the power to exercise any rights or powers as owner.

Section 15.10 Limitation Upon Distributions. No distribution shall be declared and paid if, after the distribution is made: (1) the Enterprise would be unable to pay its debts as they become due in the usual course of business, or (2) the Enterprise's total assets would be less than the sum of its total liabilities.

Section 15.11 Loans to Enterprise. Nothing in this Agreement shall prevent the Tribe, as owner, from making secured or unsecured loans to the Enterprise by agreement with the Enterprise.

## **ARTICLE 16. DISSOLUTION OR LIQUIDATION**

Section 16.01 Dissolution. The Enterprise shall be dissolved upon the occurrence of any of the following events:

- (a) Upon affirmative vote of the Owner's Representative;
- (b) Upon the withdrawal or expulsion of the Tribe as owner or the occurrence of any other event, except assignment of ownership interest voluntarily or by operation of law, that terminates the continued ownership of the Tribe in the Enterprise; or

(c) Upon the occurrence of any other event requiring dissolution under the Business Entities Code.

Subject to any other requirements of the Business Entities Code, in the event of the dissolution or final liquidation of the Enterprise, (i) none of the property of the Enterprise nor any proceeds thereof shall be distributed to or divided among any of the Directors or officers of the Enterprise or inure to the benefit of any individual, and (ii) the Tribe shall be successor to the Enterprise for all purposes, including pursuant to any contracts entered into by the Enterprise and any security grant provided by the Enterprise in any such contracts shall be binding on the Tribe as if made directly by the Tribe on the date of the original grant.

Section 16.02 Distribution of Assets Upon Dissolution. After all liabilities and obligations of the Enterprise have been paid, satisfied and discharged, or adequate provision made therefor, all remaining property and assets of the Enterprise shall be distributed to the Tribe or, at the Owner's Representative's direction, to one or more organizations designated pursuant to a plan of distribution approved by the Owner's Representative.

## **ARTICLE 17. MISCELLANEOUS.**

Section 17.01 Fiscal Year. The fiscal year of the Enterprise shall end on December 31<sup>st</sup> or on such other date as may be prescribed by the Owner's Representative or, in the absence thereof, by the Board.

Section 17.02 Checks. All checks, notes, bills of exchange, or other orders in writing for the payment of money shall be signed by such person or persons as the Board from time to time may designate; provided however that in no event shall fewer than two (2) signatures of officers of the Enterprise or other persons by resolution of the Board authorized to sign such instruments, be required for any one or related series of checks, notes, bills of exchange, or other orders for the payment of money of the Enterprise in excess of one thousand dollars (\$1,000.00).

Section 17.03 Contracts. The Board may authorize any officer or officers or agent or agents to enter into any contract or to execute or deliver any instrument on behalf of the Enterprise, and such authority may be general or confined to specific instances, but if any such contract or instrument requires approval of the Owner's Representative under this Charter, the Business Entities Code, the Gaming Ordinance, or other law of the Tribe, the same shall be valid and enforceable against the Enterprise only if the Owner's Representative's prior written approval thereof is first had and obtained. No officer or agent of the Enterprise may execute an agreement that includes a waiver of the Enterprise's sovereign immunity or provides consent to suit unless such agreement has been approved by the Board pursuant to Section 4.07.

Section 17.04 Application of Tribal Law. This Charter and the application and interpretation hereof shall be governed exclusively by its terms and by the laws of the Tribe, and specifically the Business Entities Code. Unless the context requires otherwise, terms not defined

in this Charter but defined in the Business Entities Code or Title I of the Ponca Tribe of Nebraska Code have the meaning provided therein.

Section 17.05 Creditors. None of the provisions of this Charter shall be for the benefit of or enforceable by any creditors of the Enterprise.

Section 17.06 Effectiveness. This Charter shall be deemed effective as of date the resolution adopting this Charter is approved by the Tribal Council.

Section 17.07 Amendment. This Charter may only be amended by approval of the Owner's Representative on behalf of the Tribe. Any amendment to this Charter may be proposed to the Owner's Representative by a majority of the Board or any member of the Owner's Representative. A proposed amendment shall become effective only at such time as it has been approved by the Owner's Representative.

CERTIFICATE REGARDING ADOPTION OF  
CHARTER BY TRIBAL COUNCIL

This is to certify:

That I am the duly elected and acting secretary of the Tribal Council of the Ponca Tribe of Nebraska, a federally recognized Indian tribe (the "*Tribal Council*"); and

That the foregoing charter constitutes the amended and restated charter of the Ponca Gaming Enterprise, an instrumentality and commercial enterprise of the Ponca Tribe of Nebraska, a federally recognized Indian tribe, as duly adopted by the Tribal Council on February 17, 2024, pursuant to Section 16.05 of the charter of the Ponca Gaming Enterprise originally adopted on November 20, 2010, as amended on March 18, 2023.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17<sup>th</sup> day of February, 2024.

  
\_\_\_\_\_  
Susan Baker, Secretary