

TITLE XXX

CHITIMACHA TRIBAL DEVELOPMENT CORPORATION

CHAPTER 1. FINDINGS AND PURPOSE

Findings and Purpose. The primary purpose of the Corporation is to promote Tribal self-government and self-sufficiency through Tribal economic development. The Tribal Council finds that it is in the best interest of the Tribe to create the Corporation as an instrumentality and agency of the Tribe to carry out the critical function of generating governmental revenue. The Corporation will develop businesses, assets, and investments in order to generate revenues to fund the Tribe's delivery of core, governmental services. The Corporation will also provide employment opportunities for Tribal members and may support member-owned businesses with investment and other economic opportunities.

CHAPTER 2. DEFINITIONS

Sec. 201 Terms Defined. For purposes of interpreting and applying this Ordinance, the following definitions apply:

- (A) "Board of Directors" or "Board" means the governing body of the Chitimacha Tribal Development Corporation vested with management of the affairs of the Corporation
- (B) "Corporation" means the Chitimacha Tribal Development Corporation.
- (C) "Ordinance" means this Title XXX of the Chitimacha Tribe of Louisiana Comprehensive Codes of Justice.
- (D) "Tribal assets" means assets of the Tribe other than those owned through the Corporation.
- (E) "Tribal Council" means the Tribal Council of the Chitimacha Tribe of Louisiana.
- (F) "Tribal enterprise" means business and subsidiaries owned or operated by the Corporation, but and does not include any Tribally- owned business in existence prior to January, 2021, unless the Tribal Council takes action to transfer such business to the Corporation.
- (G) "Tribe" means the Chitimacha Tribe of Louisiana.

Sec. 202 Other terms. All other terms in this Ordinance are to be give their plain meaning, and in the event any ambiguity should arise, are to be interpreted to carry out the purpose of this Ordinance and in the best economic and political interest of the Tribe.

CHAPTER 3. ESTABLISHMENT OF THE CHITIMACHA DEVELOPMENT CORPORATION

Sec. 301 Creation and Establishment as an Instrumentality of the Tribe. Under the authority vested in the Tribal Council by Article VII, Sec. 1(f), (g), and (h) of the Tribe's Constitution, there is hereby established and created a public body corporate and politic known as the Chitimacha Development Corporation, which shall be wholly-owned by the Tribe and will exercise public powers of the Tribe as an instrumentality and agency thereof, including all powers necessary or appropriate to carry out and effectuate the purposes of this Ordinance.

Sec. 302 Repeal of Conflicting Provisions. This Act will be construed to repeal all former resolutions, ordinances, and codes upon the same subject adopted by the Tribe. The repeal of any such law will not affect any right accrued or duty imposed by virtue of the law repealed.

Sec. 303 Sovereign Immunity.

- (A) As an instrumentality of the Tribe, the Corporation is entitled to all privileges and immunities of the Tribe, including immunity from unconsented suit and other legal process. It is the Tribe's express intent to vest the Corporation with the privileges and immunities possessed by the Tribe.
- (B) The Corporation possesses the same status and immunities with respect to taxation under federal and state law as the Tribe. The Corporation and its Directors, Officers, employees, and agents, while acting in their official capacities, have immunity from suit to the maximum extent permitted under federal law. The assets and other property of the Corporation are exempt from levy or execution.
- (C) Notwithstanding the foregoing provisions, the Board of Directors, on behalf of the Corporation, may enter into limited waivers of such immunity in accordance with the procedures established in Chapter 4, Section 403.

CHAPTER 4. POWERS OF THE CORPORATION

Sec. 401 General Authority to Conduct Business. The Corporation shall have the authority to develop, acquire, and manage Tribal enterprises that are either located off-Reservation or conduct business that is located primarily off-Reservation.

Sec. 402 Specific Powers. The Corporation's powers shall include, but not be limited to, the following (except insofar as it would conflict with another provision of this Ordinance or other law):

- (A) Enact bylaws and other such organizing documents that may be needed to carry out the business of the Corporation, consistent with this Ordinance;
- (B) Form subsidiary and affiliate entities under the laws of the Tribe or any other jurisdiction, with notice to the Tribal Council;
- (C) Enter joint venture and equity agreements relating to Tribal enterprises and provide for ownership interests in Tribal enterprises by entities other than the Corporation;

- (D) Open accounts with banks and other financial institutions, with notice to the Tribal Council;
- (E) Acquire and dispose of assets;
- (F) Enter into, perform, and carry out contracts of any kind necessary to, in connection with, convenient to, or incidental to the accomplishment of the purpose of the Corporation;
- (G) Adopt one or more trade names for purposes of conducting business;
- (H) Hire and dismiss employees of the Corporation, including executives;
- (I) Borrow money and issue evidence of indebtedness and secure the same by a mortgage, pledge, or other lien on the assets of the Corporation;
- (J) Lend money to, borrow from, and act as surety, guarantor, or endorser for, provide collateral for, and transact other business with third parties, including affiliates of the Corporation;
- (K) Lend, invest, and reinvest funds that are not required for immediate disbursements to the Tribe, take and hold real and personal property for the payment of funds so loaned or invested;
- (L) Make, execute, acknowledge, and file any and all documents or instruments necessary, convenient, or incidental to the accomplishment of the purpose of the Corporation;
- (M) Purchase insurance from any stock or mutual company for any property or against any risk or hazards, and, as necessary, the sovereign immunity of the Corporation may be waived to the limit of the scope and extent of such insurance as may be in force as to any claim payable by such insurance, provided that such waiver is consistent with all other provisions of this Ordinance relating to such waiver;
- (N) Select agents and such professional consultants as in the opinion of the Board of Directors may be needed from time to time, define their duties, and fix their compensation;
- (O) Retain legal counsel at the Corporation's expense to represent the Corporation and provide legal advice and guidance to the Board of Directors and Officers;
- (P) Initiate and defend against litigation, with notice to the Tribal Council, and consultation with Tribe's General Counsel (or principal legal counsel) before initiating any litigation;
- (Q) Pay, collect, compromise, litigate, arbitrate, or otherwise adjust or settle any and all other claims or demands of or against the Corporation or hold such proceeds against the payment of contingent liabilities;

- (R) Take such further actions, not inconsistent with this Ordinance, as are commonly engaged by a public body corporate and politic as the Corporation may deem necessary or convenient to effectuate the purpose of the Corporation.

Sec. 403 Authority for Limited Waiver of Sovereign Immunity.

- (A) The Corporation may waive its sovereign immunity, and the immunity of any of its subsidiaries or affiliates, subject to the limitations and procedures set forth in this Section.
- (B) The Board of Directors may waive sovereign immunity under this Section by resolution of the Board, provided that such resolution specifies:
 - (1) the duration of waiver, which may be defined as a time certain in days, months, or years, or may be defined by reference to an underlying contractual relationship or obligations under a contract;
 - (2) the specific grantee or grantees of such waiver, and whether the waiver is assignable by the grantee(s);
 - (3) the transaction or other subject matter of such waiver;
 - (4) the corporate assets that may be subject to judgment and levy under such waiver, but the Corporation cannot obligate any Tribal assets under such waiver.
- (C) No officer of the Corporation or its subsidiaries has authority to waive the sovereign immunity of the Corporation or its subsidiaries.
- (D) An officer of the Corporation or its subsidiaries with authority to execute a contract on behalf of the Corporation or a subsidiary may execute such contract that includes a waiver of sovereign immunity only if such waiver is authorized by a Board resolution under this Section, and the contractual terms are consistent with the terms of such Resolution. The terms of the authorizing resolution shall govern over the terms of a contract.
- (E) No waiver of sovereign immunity in any contract executed by the Corporation or its subsidiaries or an officer thereof is valid unless authorized by resolution of the Board under this Section. An invalid waiver may be severed from the other terms of such contract.

Sec. 404 Limitations. The assets of the Corporation are to remain separate from Tribal assets. The Corporation does not have the authority to encumber or dispose of Tribal assets.

CHAPTER 5. POWERS RETAINED BY TRIBAL COUNCIL

Sec. 501 Retained Powers. Notwithstanding any provision in this Ordinance to the contrary, the Tribal Council retains the following powers over the Corporation:

- (A) Set maximum compensation levels (salary, bonus, and benefits) for executives of the Corporation;
- (B) Remove Board Members by unanimous vote (any Board member removed pursuant to this Chapter shall be replaced pursuant to Chapter 7 of this Ordinance);
- (C) Initiate investigations or audits of the Corporation by majority vote, in addition to those that may be regularly conducted, of the Corporation's financials.

Sec. 502 Dissolution. The Tribal Council shall have the power, by majority vote, to merge, dissolve, or convert the Corporation. Dissolution under this Section shall be conducted pursuant to Chapter 11 of this Ordinance.

Sec. 503 Role of Council-Appointee. A Tribal Council member serving on the Board of Directors shall not be precluded solely by reason of their Board membership from participation in Tribal Council matters relating to the Board or the Corporation, including voting related to such matters. Such Tribal Council member may be precluded from participation in matters relating to the Board or Corporation by reason of conflict-of-interest rules as may be enacted by Tribal Council.

CHAPTER 6. DISPUTE RESOLUTION

Sec. 601 Suit by Corporation. The Corporation may bring suit for declaratory or injunctive relief against the Tribal Council in Tribal Court to compel compliance with a legal duty or restraint imposed on the Tribal Council by this Ordinance, or by governing documents created pursuant to this Ordinance. Actions by the Corporation for monetary judgments against the Tribal Council or Council members are expressly prohibited.

Sec. 602 Suit by Tribal Council. Tribal Council may bring suit against the Corporation for declaratory or injunctive relief against the Corporation and its subsidiaries in Tribal Court to compel compliance with a legal duty or restraint imposed on the Corporation by this Ordinance, or by governing documents created pursuant to this Ordinance. The Tribal Council may bring an action for monetary judgment against the Corporation and its subsidiaries.

CHAPTER 7. JOINT VENTURES UNRESTRICTED

Notwithstanding any other provision of Tribal law, including Title XII, Article 9, Section 901 of the Chitimacha Comprehensive Codes of Justice, the Corporation shall have the authority to enter into joint venture with or otherwise become a member of a corporation, business concern, or enterprise irrespective of the Corporation's ownership interest in such concern.

CHAPTER 8. BOARD OF DIRECTORS

Sec. 801 Composition and Appointment.

- (A) The Board of Directors shall be comprised of five members.
- (B) At least three of the five members of the Board of Director shall be enrolled members of the Chitimacha Tribe of Louisiana, and one of the five members of the Board of Directors shall be a sitting member of the Tribal Council.
- (C) The Tribal Council shall form an Executive Appointment Committee, comprising no fewer than three current executive leaders of tribal enterprises. The Executive Appointment Committee shall be vested with the authority to appoint the initial Board Members, other than the Board position reserved for a sitting member of Tribal Council.
- (D) The Tribal Council shall appoint, by majority vote, one sitting Tribal Council Member to serve as a Board Member (“the Council-Appointee”).

Sec. 802 Officers of the Board of Directors. The Directors will select amongst themselves officer positions consisting of a President, Vice-President, and Secretary at the initial meeting described in Chapter 9. Thereafter all officers will be selected for a term of one (1) year or until their successors have been selected by the Board of Directors at the Annual Meeting of the Corporation.

Sec. 803 Duties.

- (A) The President will preside at all meetings of the Board of Directors.
- (B) The Vice-President will assume the duties of the President in the President’s absence.
- (C) The Secretary will prepare or coordinate the preparation of complete and accurate records of all meetings and actions taken by the Board of Directors. The Secretary will submit a copy of all draft meeting minutes to the Tribal Council within five business days of any Regular or Special Meeting to ensure that the Tribal Council is timely informed of actions taken and decisions made by the Board.

Sec. 804 Qualifications of Board Members.

- (A) A person shall not be qualified or eligible for appointment to the Board if, prior to the time of their appointment, they have been convicted of a felony or a crime of theft or fraud according to the results of the same or similar background check administered for persons seeking to become a candidate under Tribal law for an office of the Tribal Council.
- (B) At the time of their appointment to the Board, all Board Members except the Tribal Council Member (or the Council-Appointee) shall have either: (i) a business-related degree and at least 5 years experience serving a business in an executive

capacity or on the business' board of directors; or (ii) at least ten years experience serving a business in an executive capacity or on the business' board of directors.

- (C) Any serving Board Member convicted of a felony or crime of theft or fraud shall immediately notify the Tribal Council.

Sec. 805 Term of Office.

- (A) Subject to subsections (B) and (C), Board Members shall serve three-year terms.
- (B) The initial term of the Board Members shall be as follows: (i) one Member shall be appointed to a 1 year term; (ii) two Members shall be appointed to 2 year terms; (iii) one Member shall be appointed to a 3 year term; and, (iv) the Council-Appointee shall be appointed to a term equal to the remainder of that Member's term on the Tribal Council.
- (C) The Council-Appointee shall serve a term on the Board of Directors concurrent with their term on Council. The Council-Appointee's term on the Board of Directors shall end even if the Council-Appointee is reelected to Council, but the Council-Appointee shall be eligible for re-appointment to the Board following reelection to Council.

Sec. 806 Resignation. A Board Member may resign by providing notice of such resignation to the Board President (or, if the President is resigning, to the Vice-President), thirty days before such resignation is to be effective, unless exigent circumstances require a shorter notice period.

Sec. 807 Removal. The Board may remove a Board Member for good cause by unanimous vote of the Board Members not subject to the removal proceeding.

Sec. 808 Filling of Vacancies. The Board shall fill vacancies on the Board of Directors by majority vote of all serving Board Members. A Board Member who is retiring or whose term is expiring may vote on the appointment of their successor. A Board Member removed for cause shall not be permitted to vote on the appointment of their successor.

- (A) In the event that fewer than three (3) Board Members are in office, the Tribal Council shall reconstitute the Executive Appointment Committee to appoint additional Board Members as needed to ensure that there are at least three (3) Board Members in office.
- (B) In the event that currently serving Board Members are unable to reach a majority vote for appointment to a vacant Board position, the Board shall request that the Tribal Council reconstitute the Executive Appointment Committee to appoint additional Board Members as needed to ensure that all Board positions are filled.

Sec. 809 Compensation. Directors will be compensated for serving on the Board of Directors and reimbursed for actual expenses, including travel and lodging expenses, incurred in the discharge of their duties. The Tribal Council will establish annually the rate of compensation for Directors.

Sec. 810 Standard of Care. Each Director will perform his or her duties as a Director, including any duties as a member of any committee of the Board of Directors upon which he or she may serve, in good faith, in a manner the Director reasonably believes to be in the best interests of the Corporation, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing their duties, Directors will be fully protected in relying in good faith upon the records required to be maintained under Chapter 11 and upon such information, opinions, written reports, or statements of its agents, or by any person, as to matters the Directors reasonably believe are within such other person's profession or expert competence and who has been selected with reasonable care by or on behalf of the Corporation, including information, opinions, written reports, or statements as to the value and amount of the assets, liabilities, profits, or losses of the Corporation or any other facts pertinent to the existence and amount of assets from which distribution to the Tribe might properly be paid.

CHAPTER 9. BOARD MEETINGS

Sec. 901 Regular Meetings. The initial date and time of Regular Meetings will be established at the initial meeting of the Board of Directors. Thereafter, the Board of Directors will hold Regular Meetings on a monthly basis at the time and place established by the Board of Directors.

Sec. 902 Special Meetings. Special Meetings may be called by the President or upon the request of a quorum of the Directors then in office. The President must provide at least 24 hours actual notice of a Special Meeting. Unless otherwise noted in the notice, any and all business may be transacted at a Special Meeting.

Sec. 903 Annual Meetings. The Annual Meeting of the Corporation with the Tribal Council will be held each year at a time and place to be determined by the Tribal Council in consultation with the Board of Directors.

Sec. 904 Committees.

- (A) The Board may form Committees comprising two (2) or more Board Members. Committees may be formed for any purpose consistent with the Board's duties and functions, and may submit recommendations or reports to the full Board for the Board to consider and act on.
- (B) Board Committees may include advisory members who are not Board Members, but only Board Members may submit a Committee recommendation or report to the Board.

Sec. 905 Quorum.

- (A) A majority of the total number of Directors then in office will constitute a quorum for the transaction of business at any duly called meeting of the Board of Directors or a Committee. Once established, the quorum will continue until the meeting is adjourned.
- (B) The act of the majority of Directors present at duly called meeting at which a quorum is present will be the official act of the Board of Directors or Committee.
- (C) Board Members may not vote by proxy on Board matters.

Sec. 906 Means of Participation in Meeting. Directors may participate in Meetings of the Board and any Board committee by telephone, video conference, or similar communication equipment, provided that all persons participating in the meeting can hear each other. Participation in a meeting in such manner will constitute presence in person at such meeting.

Sec. 907 Closed Meetings. Meetings of the Board shall be closed to the public unless the Board directs otherwise.

Sec. 908 Action without Meeting.

- (A) Action without Meeting Permitted. Any action that may be taken by a vote may be taken without a meeting if the Board unanimously determines, by written consent, to do so. Whenever possible, action by unanimous written consent of the Directors should be limited to transaction of routine business, or for the approval of specific actions that have already been fully discussed at a prior meeting of the Board of Directors. The President shall give prompt notice of proposals for action without a meeting to all Directors who have not yet consented in writing. The written consents will be filed with the minutes of the Board of Directors.
- (B) Written Consent.
 - (1) Written consent for purposes of this Section shall include ink-signed paper, any electronic signature protocol, and email messages from any account used by the consenting Director for Board business.
 - (2) The President may require enhanced verification measures for written consent, or written consent in a specified form, if such measures are desirable in light of security concerns or the significance of the business being undertaken. The Board may adopt bylaws requiring enhanced verification measures for written consent or more stringent requirements for the form of written consent than is provided in this Ordinance.

CHAPTER 10. MANAGEMENT OF THE CORPORATION

Sec. 1001 Officers.

- (A) The Board shall have the authority to hire a Chief Executive Officer (“CEO”) and Chief Financial Officer (“CFO”) of the Corporation and terminate their employment with or without cause, subject to any contract provisions barring termination for a specific term of employment or without cause.
- (B) The Board of Directors may appoint, or empower the CEO to appoint, such other subordinate officers as the business of the Corporation may require.
- (C) Officers may resign at any time by giving written notice to the Board of Directors and such resignation will be effective on the date specified in the notice, subject to any employment contract provisions governing such resignation.

Sec. 1002 Duties of Chief Executive Officer.

- (A) To the extent consistent with this Act, the CEO will have the authority to perform and will perform the duties set forth below:
 - (1) Be responsible for the management of day-to-day business and affairs of the Corporation;
 - (2) Have general supervision, direction, and control of businesses owned or controlled by the Corporation;
 - (3) Hire any professional staff, advisors or consultants necessary and appropriate to further the purpose of the Corporation;
 - (4) Communicate with and carry out directives of the Board of Directors;
 - (5) Sign and deliver in the name of the Corporation all checks, drafts, notes, and other negotiable instruments, security agreements, and financing statements;
 - (6) Negotiate, execute, renew, terminate, or modify contracts and leases; and
 - (7) Perform other duties commonly incident to the office of CEO and perform such other duties and have such powers as the Board of Directors may designate from time to time.
- (B) Any decision or act of the CEO within the scope of the CEO’s authority granted under this Act will control and bind the Corporation. The CEO may, at the CEO’s sole discretion, delegate duties and responsibilities hereunder to other Officers.

Sec. 1003 Duties of Chief Financial Officer.

- (A) To the extent consistent with this Act, the CFO will have the authority to perform and will perform the duties set forth below:

- (1) Access and evaluate the financial performance of Corporation with regard to long-term operational goals, budgets, and forecasts;
- (2) Communicate with the CEO and Board of Directors as required;
- (3) Implement policies, procedures, and processes as deemed appropriate by the CEO or Board of Directors;
- (4) Prepare monthly financial budgeting reports, including monthly profit and loss statements for Corporation-owned business and any subsidiaries;
- (5) Oversee preparation of financial statements, in accordance with the requirements of this Ordinance and applicable law;
- (6) Make recommendations regarding the selection and engagement of consultants, auditors, and investors;
- (7) Interview and supervise finance, accounting, and payroll staff as required;
- (8) Identify and implement approved systems and software to provide critical financial and operational information;
- (9) Receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies, or other depositories as may be designated by the Board of Directors;
- (10) Endorse for deposit all notes, checks, and drafts received by the Corporation, making proper vouchers therefore;
- (11) Disburse funds of the Corporation and issue checks and drafts in the name of the Corporation in accordance with policies and procedures adopted by Board of Directors Resolution; and
- (12) Perform other duties commonly incident to the office of CFO and perform other duties and have such powers as the Board of Directors may designate from time to time.

Sec. 1004 Standard of Conduct. Officers will discharge the duties of the position of Officer in good faith, in a manner the Officer reasonably believes to be in the best interests of the Corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. The Corporation will be entitled to rely on the provisions of this Ordinance, and the Officers will not be liable to the Corporation for any action or refusal to act taken in good faith in reliance on the provisions of this Act.

Sec. 1005 Salaries and Compensation. The Board of Directors will fix the compensation of the CEO and CFO, subject to any maximum salary or bonus limitations that Tribal Council may impose. Subject to approval by the Board of Directors, the CEO will fix all salaries or other compensation for employees or delegate such duties to a manager.

Sec. 1006 Hiring of Employees. The CEO will hire, or empower a manager to hire, all employees who may be required for the day-to-day operation of the Corporation and its businesses.

CHAPTER 11. AUDITS, RECORDS, AND REPORTS

Sec. 1101 Records.

- (A) The Corporation shall, at either its Principal Office or at such place or places as designated by the Board of Directors, keep all records required by this Ordinance, applicable law, or generally accepted accounting practice, including without limitation, books of account, financial statements, annual audits, budgets, financial policies, Board of Director Resolutions, minutes, or other records that should be kept within reasonable commercial standards.
- (B) Each subsidiary of the Corporation shall keep at its Principal Office or at such place or places as designated by the Board of Directors, the records described in subsection (A).
- (C) Nothing in this Chapter shall be construed to prohibit the Corporation, its subsidiaries, or affiliates from keeping records in electronic format as may be appropriate, including on off-site computer servers, cloud storage services, or by using other networked computer services. Such records shall be accessible from the Principal office of the Corporation, subsidiary, or affiliate.

Sec. 1102 Annual Report and Meeting with the Tribal Council.

- (A) Each fiscal year, the Board shall submit to the Tribal Council an annual report containing financial statements, the final budget approved by the Board, and a strategic plan and/or its vision for the business(es). The financial statements shall be signed by the CEO and CFO, and include a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position of the Corporation and its businesses for the fiscal year.

- (B) Following the submission of the annual report described in this Section, at a time to be determined by the Tribal Council, the Board shall conduct its Annual Meeting with the Tribal Council to report on and discuss the following subjects:
- (1) Overview of the Corporation's businesses;
 - (2) Review of the business performance of the Corporation and its businesses over the past year and other information that would be beneficial to the Tribe, such as plans for growth and development, marketing efforts, and business acquisitions; and
 - (3) Review the Corporation's financial statements to show whether the Corporation and its business made a profit or loss in the last year, and profit margins and proportion of revenues to operational expenses, including a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position for the fiscal year.

Sec. 1103 Audits.

- (A) The Board shall cause to be conducted an independent external audit of the Corporation's financials at least once per year.
- (B) The Board shall cause to be conducted all audits of the Corporation and its subsidiaries as may be required by applicable law or regulations.

CHAPTER 12. PROFITS OF THE CORPORATION; DISTRIBUTION OF PROFITS

Sec. 1201 Net Profits. The net profits of the Corporation (consolidated with its wholly-owned subsidiaries), for purposes of this Chapter, shall be determined on a monthly, quarterly, and annual basis, by the following formula: gross revenue (including any distributions to the Corporation from non-controlled affiliates), less required payments of principal and interest on debt, less operating expenses.

Sec. 1202 Formation of Tribal Trust.

- (A) The Council shall form a trust for the benefit of the Tribe ("Tribal Trust") consistent with the provisions of this Chapter. The Tribal Trust shall be formed under the common law of trusts, unless the Tribe enacts a trust ordinance, in which case the Tribal Trust shall be formed, or re-formed, under such ordinance.
- (B) The Council shall designate the Trustee(s) of the Tribal Trust. Any Trustee(s) so designated shall have a fiduciary obligation to manage the Tribal Trust for the benefit of the Tribe and in accordance with the terms and conditions of this Ordinance.
- (C) The Council may not require distributions from the Tribal Trust that are not made in accordance with this Ordinance.

Sec. 1203 Use of Net Profits. Subject to the limitations of this Chapter, the Corporation may use net profits for purposes of capital expenditure and investment, including without limitation, acquisition or creation of businesses, investment in minority holdings of other companies, maintaining cash reserves, and maintenance of unencumbered assets, provided that the Corporation retains the ability to secure financing.

Sec. 1204 Distribution of Net Profits. The Corporation shall distribute a portion of its net profits for each fiscal year to the Tribe, subject to the following:

- (A) The amount of the required distribution for each fiscal year will be determined by the Tribal Council in consultation with the Board of Directors; provided, however, that no required distribution for any fiscal year may exceed twenty five percent (25%) of Net Profits for that year. The Tribal Council shall not increase the amount of the required distribution that it has determined for any given fiscal year.
- (B) After determining its total net profits for a fiscal year, the Corporation shall hold the required distributions for that fiscal year in the Tribal Trust for the benefit of the Tribe for a period of five years, after which the Trustees of the Tribal Trust shall convey the required distributions for that fiscal year to the Tribe. The Corporation may borrow from the funds held in the Tribal Trust, or use Tribal Trust assets as collateral for borrowing, provided that doing so does not preclude the Trustees from making the required distributions to the Tribe, and subject to any limitations imposed by contract or law on the debt-to-income ratio of the Corporation.
- (C) Assets of the Tribal Trust, if not loaned to the Corporation, shall only be:
 - (1) Invested in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or
 - (2) Deposited in accounts that are insured by an agency or instrumentality of the United States, or accounts that are fully collateralized to ensure protection of the deposit, even in the event of bank failure.
- (D) Interest income on assets in the Tribal Trust shall be treated as Net Profits for purposes of distribution or use by the Corporation.

CHAPTER 13. LIABILITY AND INDEMNIFICATION

Sec. 1205 “Claim” defined. For the purpose of this Chapter, “Claim” means any threatened, pending, or completed action, suit, proceeding, or alternative dispute resolution mechanism, or any hearing, inquiry, or investigation that Indemnitee in good faith believes might lead to the institution of any such action, suit, proceeding, or alternative dispute resolution mechanism, whether civil, criminal, or administrative, whether formal or informal, investigative or other.

Sec. 1206 No Liability. No current or former Director, Officer, employee, or agent of the Corporation will be liable to the Corporation for monetary damages for any act or omission made in his or her capacity as Director, Officer, employee, or agent, when acting in an official capacity on behalf of the Corporation, within the scope of his or her authority and employment, and where such act or omission was in good faith and reasonably believed by the Director, Officer, employee or agent to be in the best interests of the Corporation.

Sec. 1207 Indemnification. Subject to approval by the Tribal Council, the Corporation will indemnify any Director, Officer, employee, or agent of the Corporation if such person is threatened to be made a party to, witness to, or other participant in any Claim by reason of being, or having been such a director, officer, employee, or agent of the Corporation. The Tribal Council, in its discretion, may advance expenses to the indemnified person in connection with a Claim, provided that such person agrees to repay such amounts advanced if it is determined ultimately by a court having jurisdiction in the matter that such person was not entitled to indemnification because of the limitations set forth in paragraph (a) above.

CHAPTER 14. DISSOLUTION

Sec. 1208 Dissolution of Corporation. The Corporation may be dissolved, its assets distributed, and its affairs wound up, upon Tribal Council Resolution and in accordance with this Section.

Sec. 1209 Dissolution of Subsidiaries. Subsidiaries of the Corporation may be dissolved, their assets distributed, and their affairs wound up, upon Resolution by the Board of Directors, and consistent with any applicable law under the jurisdiction where such subsidiary is formed.

Sec. 1210 Winding Up. Upon dissolution, the Corporation or subsidiary will cease carrying on the Corporation business. However, the Corporation or subsidiary’s legal existence shall continue for as long as necessary to wind up the affairs the affairs of the Corporation or subsidiary.

- (A) Upon the winding up of the Corporation, the assets of the Corporation will be distributed: first, to creditors in satisfaction of the Corporation’s liabilities; and second, to the Tribe.
- (B) The winding up of the Corporation will be completed when all debts, liabilities, and obligations of the Corporation have been paid and discharged, or reasonably

adequate provisions for payment have been made, and all of the remaining assets of the Corporation have been distributed to the Tribe.

CHAPTER 15. AMENDMENT

Sec. 1301 Amendment. The provisions of this Act may be amended, modified, supplemented, or rescinded by Tribal Council Resolution at any time.