

## GENERAL TERMS AND CONDITIONS OF PURCHASE ORDER

1. **Conditional Offer of Acceptance.** If this Purchase Order is construed as an offer to purchase goods and/or services (the "Goods" and/or the "Services" as applicable) described on the face hereof, acceptance of such offer is expressly limited to the terms and conditions set forth in this Purchase Order or incorporated herein by reference. If this Purchase Order is construed as an acceptance of Seller's offer, such acceptance is expressly conditional upon Seller's assent to all the terms and conditions set forth in this Purchase Order. To the extent that the provisions of this Purchase Order conflict with any of the terms, conditions, or provisions set forth in any proposal, quotation, sales agreement, acknowledgement, invoice, or other document, the provisions of this Purchase Order shall prevail.
2. **Entire Agreement Modification & Amendment.** Upon acceptance by Seller, this Purchase Order and any attachments hereto, together with Seller's acknowledgement, if any, embodies the entire and complete agreement between the Parties (the "Contract") with respect to the subject matter hereof and supersedes all prior agreements or understandings, oral or written, relating thereto. DOWNSTREAM DEVELOPMENT AUTHORITY, an unincorporated instrumentality formed under the laws of the Quapaw Nation ("DDA"), shall be bound by the terms of any document of Seller which are in conflict with this Purchase Order *only if* expressly agreed to in a signed writing by DDA.
3. **Price.** The price to be paid for the Goods and/or Services shall be as stated on the face hereof. Such price shall not be increased without the prior written consent of DDA.
4. **Payment.** Payment of the price for the Goods and/or Services shall be made within the terms stated on the face hereof. Cash discounts, if any, shall be calculated from the latter of {a} the date on which invoice is received, or {b} the date on which the Goods and any required certifications are received at DDA's premises.
5. **Delivery.** All prices for Goods are F.O.B. DDA's premises, freight prepaid, unless otherwise stated on the face hereof. Delivery shall be accomplished by the means specified on the face hereof. Timely delivery of the Goods and/or Services is the essence of this Contract. Seller acknowledges that, if delivery of the Goods, Services, and any required certifications is not made on or before the date specified, DDA may suffer severe consequential and special damages and Seller shall be liable to DDA for such damages sustained by it. In the event DDA reasonably believes that complete delivery will not be made in accordance with the Contract, DDA shall have the option to avail itself of any remedy provided by law including, without limitation, the right to procure substitute goods and recover from Seller the difference between the cost of such recovery and the price stated on the face hereof, together with incidental or consequential damages related to such recovery.
6. **Inspection and Acceptance.** Satisfaction of Seller's obligations under this Contract is expressly conditional upon DDA's inspection and acceptance of the Goods and/or Services within a reasonable time following delivery thereof. DDA shall have the right to return (at Seller's cost and expense), and receive full credit for, any Goods which DDA determines to be unacceptable. Title to the Goods shall be deemed to be conveyed to DDA upon its acceptance of the Goods. DDA inspection may be required prior to shipment from Seller's facility. If such inspection is required, notice will be provided prior to Seller's acceptance of said PO. When material is ready for shipment or inspection, and, if practical, ten (10) days in advance thereof, notify DDA's Purchasing Department so the Parties may establish an agreed upon time for inspection.
7. **Invoices.** Each invoice of Seller relating to the Goods and/or Services shall include the Purchase Order number on the face hereof as assigned thereto by DDA.
8. **Warranty.** Seller expressly warrants and represents to, and covenants with, DDA that {a} the Goods and/or Services furnished hereunder shall be of the quantity and quality specified, and {b} all the Goods and/or Services conform in all respects to all specifications and descriptions incorporated herein and to all representations, oral or written of Seller, and {c} all the Goods and/or Services conform to, have been manufactured, and are being sold in accordance with all applicable laws, rules, regulations and directives of each government entity having jurisdiction over the Goods and/or Services and the delivery thereof, and {d} all the Goods and/or Services are fit for any ordinary or known particular purpose.
9. **Insurance.** During the performance of this Contract and for a period of three years after delivery of the Goods and/or Services, Seller shall procure and maintain policies of insurance with reputable companies covering such risks and in such amounts as are customarily insured in Seller's industry, but, in any event, such policies shall include product liability coverage. Upon request, Seller shall furnish to DDA

acceptable evidence of the existence of such polices.

10. **Indemnification.** Seller agrees to, on demand, defend, indemnify, and hold DDA, its owner, directors, officers, representatives, agents, and employees harmless from and against any and all losses, claims, liabilities, costs, and expenses {including attorney's fees} (hereinafter "Claims") incurred or suffered by DDA arising out of, in connection with, or based upon the design, use, or operation of any of the Goods and/or Services, including, but not limited to Claims of third Parties alleging infringement of any patents, trademarks and/or other intellectual property rights, Claims related to any environmental harm resulting from such design, use, or operation of the Goods and/or Services, and any Claims associated with the personal injury, death, or damage to third Party property resulting from such design, use, or operation of the Goods and/or Services.
11. **Assignment.** This Contract may not be assigned by Seller without the prior written consent of DDA.
12. **Notices.** Any notice required or permitted hereunder shall be in writing, signed by the Party giving notice, and shall be deemed to have been given when delivered by personal delivery, by telegraph, E-mail, or fax transmission, by overnight courier, or by registered or certified mail, postage prepaid, addressed to the Party to receive such notice at the address set forth on the face page hereof.
13. **Waivers.** No delay on the part of either Party hereto in exercising any right hereunder nor any act or omission (other than by agreement evidenced by a written instrument signed by the Party to be bound) shall operate as a waiver thereof, and no single or partial exercise of any such right shall preclude any other or further exercise thereof, or be deemed to establish a custom or course of dealing or performance between the Parties hereto.
14. **Governing Law and Venue.** The Parties agree that this Agreement shall be governed by the laws of the State of Oklahoma as applied in courts in Ottawa County, Oklahoma, without regard to any conflicts of laws provision. The Parties acknowledge that the primary sites where the Goods and/or Services will be used or installed and the performance of this Agreement will occur on Indian Lands as defined by the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq., under the jurisdiction of the Nation. Venue shall be in the Tribal Courts of the Quapaw Nation.
15. **License Required.** At all times during the term of this Agreement, the Parties, as may be necessary for each of them, shall maintain all licenses and permits required for the lawful

operation of the Facility and shall abide by all laws, regulations, standards, rules, and requirements of the Quapaw Nation and the Quapaw Nation Gaming Agency, including, without limit, all licensing requirements and technical standards applicable to the Goods and Services the Supplier is providing, and all other requirements of relevant governmental authorities applicable thereto, including, without limitation, the National Indian Gaming Commission Minimum Internal Control Standards ("MICS"), and DDA's policies and procedures. The Parties' performance of this Agreement is contingent upon obtaining any and all necessary initial and continuing approvals required by any regulatory agency with jurisdiction over the subject matter of this Agreement.

16. **LIMITATION OF LIABILITY. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR CONTINGENT DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR PROFIT OR THE USE OF EITHER. ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, APART FROM THOSE SET OUT ELSEWHERE IN THIS AGREEMENT ARE EXCLUDED FROM THIS AGREEMENT, INCLUDING THOSE THAT MAY ARISE UNDER USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE.**
17. **IMPROPER PAYMENTS.** Supplier will not use any funds received under this Agreement for illegal or otherwise improper purposes. Supplier will not pay any commissions, fees, or rebates to any employee of DDA nor favor any employee of DDA with gifts or entertainment of significant cost or value. If DDA has reasonable cause to believe that the provisions of the preceding sentences have been violated, DDA, or its representative, or the Quapaw Nation's regulatory agencies or authorities may audit the records of Supplier, for the sole purpose of establishing compliance with such requirements.
18. **AUDIT.** Supplier shall keep such books and records on a consistent basis which shall readily disclose information with regard to the following matters: a) Services that are characterized as maintenance performed on or scheduled for any gaming device or system on DDA's premises; b) upgrades for software embedded on any gaming

device or system on DDA's premises; c) data uploads from any gaming device or system on DDA's premises and the standards for retrieving those uploads; and d) copies of payment schedules and/or invoices created by Supplier. These books and records shall be made available for a period of two (2) years after the term of this Agreement. When requested in writing by DDA, the Supplier shall permit DDA's personnel or its duly authorized agent or representative access during normal working hours and with no less than five (5) business days' notice, to the Supplier's personnel, property and records necessary to conduct DDA's audit. In the event that the audit rights set forth in this Section conflict with any other terms of the Agreement, this Section shall control. Supplier further agrees to include this right to audit clause in all subcontracts for Goods and/or Services furnished under the terms of this Contract, if any, entitling DDA to a right to inspect books and records to validate subcontractor performance of the above-mentioned items.

19. **DDA Termination due to Regulatory Concerns.**

DDA may immediately terminate this Agreement with no liability in the event one or more of the following occurs: (a) The termination of the Compact or its modification to exclude gaming on the Indian Lands of the Quapaw Nation; (b) The determination that the land on which any of DDA's premises is located are not Indian lands; (c) Any gaming authority determines that this Agreement or the performance by either

Party of any actions required herein may jeopardize any gaming licenses of either Party or negatively impact either Party's suitability or good standing with any regulatory authority; or (d) Upon a final non-appealable determination by the National Indian Gaming Commission or any court, or regulatory entity with applicable jurisdiction on Indian lands, that any gaming provided by DDA violates applicable law.

20. **No Tax Liability.** Supplier shall pay or otherwise discharge, to the reasonable satisfaction of DDA, all taxes of every kind and nature assessed against Supplier or DDA, if any, arising out of, or occurring in connection with, the Goods and/or Services provided hereunder. Supplier shall secure all permits and licenses necessary for the performance of the services due hereunder and pay all fees and make all deposits pertaining thereto. Supplier understands and agrees that as a wholly-owned economic arm of a sovereign nation, DDA is not liable for the payment of tax to other sovereigns, including any state sales tax, franchise tax, taxes measured by the net income of Supplier, or gaming device licensing fees. Accordingly, Supplier will not invoice for, withhold or remit any such payment on behalf of DDA and shall defend and hold DDA harmless against any and all attempts to collect such payments on behalf of DDA.