

NON-DISCLOSURE AGREEMENT

This NON-DISCLOSURE AGREEMENT (the “Agreement”) is entered into by and between Downstream Development Authority, an unincorporated instrumentality formed under the laws and on behalf of the Quapaw Nation of Oklahoma, a federally recognized Indian tribe with offices located at 69300 E. Nee Road, Quapaw OK 74363 (“Disclosing Party”) and _____, a _____, located at _____ (“Recipient”) (together, “the Parties”) as of the _____ day of _____, 20__ (the “Agreement Date”) to protect the confidentiality of certain confidential, non-public and/or proprietary information of Disclosing Party to be disclosed under this Agreement solely for use in evaluating or pursuing a future business engagement between Disclosing Party and Recipient (the “Permitted Purpose”). Accordingly, the Parties hereto agree as follows:

- 1. Definition.** “Confidential Information” means proprietary, confidential and non-public information, whether written or oral, which may include, without limitation, information relating to the Disclosing Party’s past, present, or future confidential and proprietary information, whether written or oral, relating to the methods, techniques, ideas, concepts, strategies, inventions, marketing techniques and/or plans, historical data and/or plans and strategies for entertainment, expansion, and/or other business ventures, brands, service marks, trademarks, business development plans and procedures, presentations, business processes, technical data, financial information, marketing and business strategies, matters of a creative or technical nature, released and unreleased software (including software source and object code, data and algorithms used by or for such software) applications, programs, hardware, systems, devices, schematics, technical information, tools, research and development, branding and concept work, results and projections, costs and prices (potential or actual), potential approaches/solutions to customer needs, methodologies, customer lists and other customer data or success stories, supplier lists and other supplier data, proprietary methods and processes and trade secrets related to the products and services of Disclosing Party (whether or not patentable or copyrightable). The definition of Confidential Information may be supplemented or further expanded upon by addendum by the Disclosing Party at a later date and will be effective as of the date of delivery of such addendum by the Recipient. Confidential Information must be either (a) marked or identified as being confidential by the Disclosing Party, or (b) known by the Recipient to be confidential, or reasonably should have been known or understood to be confidential information of the Disclosing Party based on the nature of the information or the circumstances of the disclosure.
- 2. Use; Exclusions.** Confidential Information of the Disclosing Party shall be used by the Recipient only in furtherance of the Permitted Purpose and not in any way detrimental to the Disclosing Party, and will be kept confidential by the Recipient and its representatives. Notwithstanding the foregoing, Recipient may disclose Confidential Information only to those of Recipient’s personnel or authorized representatives having a need to know and who have signed confidentiality agreements or are otherwise bound by confidentiality and non-use obligations at least as restrictive as those contained herein. In addition, the Recipient shall (a) take

reasonable security precautions, at least as great as the precautions it takes to protect its own confidential information, but in no event using less than reasonable care, to keep confidential the Confidential Information, (b) not attempt to reverse engineer the design and function of any of the Confidential Information of the Disclosing Party and (c) be responsible, and shall indemnify the Disclosing Party, for any breach of such obligations by any of its employees and agents.

Confidential Information shall not include information that (a) was in the public domain prior to the time it was disclosed to the Recipient; (b) entered the public domain subsequent to the time it was disclosed to the Recipient, through no fault of the Recipient; (c) was in the Recipient's possession free of any obligation of confidence at the time it was disclosed to Recipient; (d) was rightfully communicated to the Recipient free of any obligation of confidence subsequent to the time it was disclosed to the Recipient; or (e) was developed by employees or agents of the Recipient independently of, and without reference to, any Confidential Information of the Disclosing Party.

3. **Ownership; Copies.** Confidential Information shall at all times remain the property of Disclosing Party and no license under any trade secret, copyright, or other right is granted by this Agreement or any disclosure of Confidential Information hereunder. The Disclosing Party does not warrant the accuracy or completeness of the Confidential Information. Only those representations or warranties which are made by a Disclosing Party in a final definitive agreement regarding a transaction or actual business relationship, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect. Except in furtherance of the Permitted Purpose, Confidential Information of Disclosing Party may not be copied or reproduced by the Recipient without Disclosing Party's prior written consent. Any copies of the Confidential Information will be considered Confidential Information.
4. **Return or Destruction.** All Confidential Information made available hereunder, including all notes, summaries, and abstracts thereof, shall be returned to Disclosing Party or destroyed upon written request by Disclosing Party (and provision of a certificate of destruction executed by an officer of the Recipient); provided, however, that the parties may retain, subject to its confidentiality and non-use obligations hereunder, copies of the Confidential Information required for internal recordkeeping purposes and compliance with applicable professional standards or if return or destruction is not reasonably feasible under the circumstances (e.g., information stored in backup or disaster recovery storage).
5. **Compelled Disclosure.** Notwithstanding the above, the Recipient may disclose certain Confidential Information of Disclosing Party, without violating the obligations of this Agreement, to the extent the disclosure is required by a valid subpoena or order of a court or other governmental body having jurisdiction over the Recipient, provided, that the Recipient provides Disclosing Party with reasonable prior written notice of such disclosure and, at Disclosing Party's expense, makes application to obtain, or to assist Disclosing Party in obtaining, a protective order preventing or

limiting the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

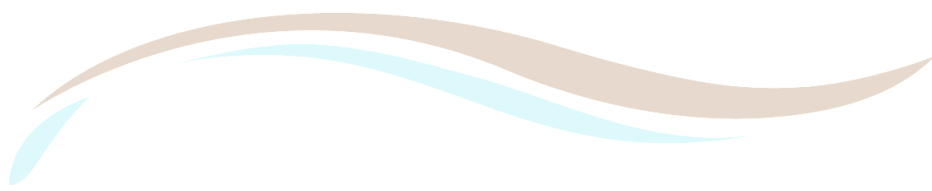
6. **Term.** This Agreement shall terminate one (1) year after the Effective Date, or may be terminated by either party at any time upon thirty (30) days' written notice to the other party. Each party's obligations under this Agreement shall survive termination of the Agreement and shall be binding upon such party's heirs, successors and assigns. Each party's obligations hereunder shall continue in full force and effect with respect to Confidential Information of the other party for three (3) years from the date of disclosure of such Confidential Information; provided, that, all trade secrets shall remain subject to the terms hereof for as long as they are classified as such under applicable law.
7. **Entire Agreement; Waiver; Modifications.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. No waiver or modification of the terms of this Agreement will be binding upon either party unless made in writing and signed by a duly authorized representative of each party.
8. **No Assignment; Effective Date.** Neither party hereto may assign its rights or delegate its duties under this Agreement, and any such purported assignment or delegation shall be void; provided, however, Disclosing Party shall be permitted to assign or transfer this Agreement in connection with any sale of all or substantially all of its assets or any change in control, merger or other sale of Disclosing Party or any part of the business to which this Agreement relates. This Agreement shall become effective as of the date Confidential Information is first delivered to Recipient ("Effective Date").
9. **Remedies.** Recipient acknowledges that its breach of the Agreement may cause irreparable damage to Disclosing Party and hereby agrees that Disclosing Party shall be entitled to seek injunctive relief under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction. In any litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees from the other party, both in the trial court and on appeal. The parties hereby waive their right to a jury trial for any legal or equitable actions arising out of or relating to this Agreement. Some of the Confidential Information furnished pursuant to this Agreement may be subject to certain legal privileges, and the furnishing of any such Proprietary Information is not intended to be, and does not constitute, a waiver of any legal privileges, including the attorney-client privilege and the attorney work product doctrine.
10. **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.

Venue shall be in the Tribal Courts of the Quapaw Nation.

11. Maintenance of Required License(s) 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 Vendor may provide, and all other requirements of relevant governmental authorities applicable thereto, including, without limitation, the National Indian Gaming Commission Minimum Internal Control Standards (“MICS”), and Disclosing Party’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.

12. Binding Effect and Severability This Agreement shall be binding upon the parties hereto, their respective heirs, successors, assigns, legal representatives, transferees and receivers. If a provision of this Agreement is rendered invalid, the remaining provisions shall remain in full force and effect or modified to the limited extent required to permit enforcement of the Agreement.

DOWNSTREAM
CASINO RESORT
SIGNATURE PAGE FOLLOWS.



IN WITNESS WHEREOF, the Parties hereto have caused this Non-Disclosure Agreement to be executed as of the Agreement Date.

**Downstream Development
Authority**

Recipient:

BY: *Stuart Grayson 8260*

BY: _____

NAME: Stuart Grayson

NAME: _____

TITLE: General Manager

TITLE: _____

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