

TRIBAL SECURED TRANSACTIONS ORDINANCE
Ordinance # 04-800-01

Article I. Purpose; Scope

1.01. *Purpose.* The purpose of this Ordinance is to establish tribal laws governing secured transactions entered into by Tribal Parties; to provide that the proper office for filing a financing statement against any Tribal Party shall be with the Tribal Court and in the office specified by Michigan law as if such Tribal Party were located in Michigan; and to provide that a security interest in Pledged Revenues may be perfected by the filing of an initial financing statement.

1.02. *Scope.* This Ordinance may be applied to all property subject to a security interest within the jurisdiction of the Band; provided, that except as otherwise provided in Article 5 hereof, this Ordinance shall apply only with respect to those security interests that are

- (i) granted by a Tribal Party where either
 - (a) the security documents executed by the Tribal Party contain an effective waiver of the Tribal Party's sovereign immunity which waiver has been properly approved by the Tribal Council, or
 - (b) the Tribal Party (if other than the Tribe) has been delegated by Tribal Council the right to waive sovereign immunity with regard to enforcement of such security interests; and
- (ii) expressly stated to be granted in reliance on this Ordinance.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This Ordinance is adopted by resolution # 04-0709-293

2.02. *Amendment.* This Ordinance shall remain in effect as to any security interest to which it applies until all obligations secured thereby have been fully and finally discharged or otherwise satisfied, except that this Ordinance may be amended in any manner that is not adverse to any secured party with respect to any such security interest.

2.03. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

2.04. This Ordinance may be cited as the Little River Band of Ottawa Indians Governmental Secured Transactions Ordinance.

Article III. Definitions.

3.01. *Definitions.* For purposes of this Ordinance, certain terms are defined in this Article. The word "shall" is always mandatory and not merely advisory. Any undefined terms that are defined in the Michigan UCC are used in this Ordinance with the meanings that apply in the Michigan UCC.

3.02. *Michigan UCC* means, with respect to any particular transaction, the Uniform Commercial Code of the State of Michigan, as amended from time to time.

3.03. *Contract UCC* means, with respect to any particular transaction, the Uniform Commercial

Code (as amended from time to time) of the state of the United States that is stated to apply in a writing signed by a Tribal Party with respect to such transaction, or if none is so stated to apply, the Michigan UCC.

3.04 *Pledged Revenues* means all or any part of a Tribal Party's money, earnings, income and revenues, and the rights to receive the foregoing, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest in a writing signed by such Tribal Party.

3.05. *Tribal Party* means the Tribe or any subdivision, agency, department, board, committee, commission, instrumentality, or entity wholly owned or wholly controlled by the Tribe, or the successors and assigns of each of them, as applicable.

3.06 *Tribe* means the Little River Band of Ottawa Indians, a federally recognized Indian tribe.

Article IV. Laws Applicable to Security Interests

4.01. Except as provided elsewhere in Article IV of this Ordinance to the contrary, with respect to any security interest to which this Ordinance applies, the rights and obligations of any person shall be governed by the Contract UCC, including those rights and obligations related to enforcement of a security interest or arising after a default with respect to collateral located on the reservation of the Tribe or on lands subject to the sovereign powers of the Tribe.

4.02. Except as provided elsewhere in Article IV of this Ordinance to the contrary, the perfection, effect of perfection or nonperfection and priority of any security interest to which this Ordinance applies shall be determined in accordance with the Michigan UCC as if each Tribal Party were (for purposes of Sections 9-301 through 9-307 of the Michigan UCC) located in the State of Michigan and as if the reservation were located in the State of Michigan.

4.03. Notwithstanding any other provision of this Ordinance or, to the extent applicable, the Michigan UCC, the office in which to file a financing statement to perfect any security interest requiring the filing of a financing statement to become applicable is the Tribal Court and the Office of the Secretary of State for the State of Michigan.

4.04. Notwithstanding any other provision of the Contract UCC, the Michigan UCC or this Ordinance to the contrary, a security interest granted in Pledged Revenues in which the applicable Tribal Party has rights shall be created and attach upon the giving of value and the granting of such security interest by such Tribal Party in a writing executed by that Tribal Party, and such security interest may be perfected only by the filing of an initial financing statement with respect to such security interest with the Tribal Court and in the Office of the Secretary of State for the State of Michigan as if all of such Pledged Revenues were accounts.

4.05. The provisions of Section 9-109(c) of the Michigan UCC and the Contract UCC, respectively, shall be ineffective to limit the application of Michigan UCC and the Contract UCC to Tribal Parties in accordance with this Ordinance.

4.06. Notwithstanding any other provisions of this Ordinance, or to the extent applicable, the Michigan UCC, prior to exercising any non-judicial remedy any secured creditor shall first notify the Tribal Police and the Tribal Court in writing of its intent to exercise non-judicial remedies regarding security interests in collateral located on Reservation or trust lands of the Tribe.

Article V. Effective Date and Repealer

5.01. This Ordinance is effective upon the date of its enactment by the Tribal Council.

5.02. The intent of this Ordinance is to replace Ordinance # 01-800-01 (the “2001 Tribal Uniform Commercial Code”), and the 2001 Tribal Uniform Commercial Code is hereby deemed null and void with regard to the granting of any security interests after the effective date of this Ordinance; provided, however, that any security interests granted pursuant to the 2001 Tribal Uniform Commercial Code shall continue to be governed by the provisions of the 2001 Tribal Uniform Commercial Code until such security interests are properly terminated pursuant to the terms of any relevant security agreements.

5.03. To the extent any provision of any law, ordinance, resolution, motion or any other action of any Tribal Party heretofore taken (other than the 2001 Tribal Uniform Commercial Code) is in conflict with any provision of this Ordinance, the provision of this Ordinance shall supercede and the conflicting provision shall be and hereby is repealed as it shall apply to a security interest to which this Ordinance applies.

5.04. To the extent such annulment is lawful, any prior security interest in Pledged Revenues, other than any interest granted pursuant to the 2001 Tribal Uniform Commercial Code, purported to be granted by a Tribal Party, is hereby annulled and of no further force or effect.