TRIBAL COUNCIL ACT 5.2

AN ACT RELATING TO

WORKERS COMPENSATION CLAIMS

BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 – TITLE AND CODIFICATION

This Chapter shall be known as the as the "Workers' Compensation Claim Act" and shall be administered by the Tribal Workers Benefit Advisory Council ("TWBAC"). This Act shall be codified as Title 5, Chapter 2 of the Snoqualmie Tribal Code.

SECTION 2.0 – STATUTORY AUTHORIZATION

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of laws of the Tribe. This authority includes the ability to adopt laws or resolutions to manage the economic affairs and enterprises of the Tribe in accordance with the terms of the Snoqualmie Tribal Constitution and laws of the tribe and to regulate and to license the conduct of business activities within the Tribe's jurisdiction. Snoq. Tr. Const. Art. VIII, §§ (e), (t).

SECTION 3.0 – PURPOSE AND SCOPE

The purpose of this Chapter is to establish the rights and benefits of employees of the Snoqualmie Indian Tribe for on-the-job bodily injuries that are caused by accidents or occupational disease as defined in this Chapter. The Tribe believes that creating a tribal workers' compensation program is an important attribute of sovereignty and necessary to ensure that Tribal employees are protected from harm and treated fairly, while the business interests of the Tribe are not put in jeopardy by frivolous or unwarranted claims for workers' compensation benefits.

SECTION 4.0 – NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Chapter shall be deemed or construed as waiver by the Snoqualmie Tribe and/or any of its affiliated entities of the sovereign immunity of Snoqualmie Tribe, a federally recognized Indian tribe. The State of Washington's statutory workers' compensation system shall not apply to employees of the Snoqualmie Tribe or any of its affiliated entities. The Snoqualmie Tribe does not consent to the jurisdiction of any state's Workers' Compensation Appeals Board or to the jurisdiction of any other court of law or equity.

SECTION 5.0 - INSURANCE

Every Snoqualmie Tribal employer must insure for the benefits provided under this Chapter, but are allowed Self-Insured Retention levels in accordance with the rules of TWBAC. Any insurance company issuing a policy insuring benefits hereunder shall: (1) require a loss prevention/control program sufficient to enable the Snoqualmie Tribe and all Tribal entities to provide a safe workplace

for all tribal workers; (2) assist the employer in reducing hazards in the workplace and in the implementation of continued safety policies and procedures.

SECTION 6.0 - DEFINITIONS

Unless stated otherwise in a specific section of this Chapter, time limits shall be calculated using calendar days.

Unless the context otherwise requires, the definitions which follow govern the construction and meaning of the terms used in this Chapter:

ADMINISTRATOR or **TRIBAL WORKERS BENEFIT SYSTEM CLAIM ADMINISTRATOR** shall mean either the insurance company providing coverage hereunder, any subcontractor appointed by said insurance company, or subcontractor selected by the TWBAC, but shall not mean the TWBAC who shall administer the System.

ATTENDING PHYSICIAN shall mean the designated physician, or other designated approved medical care provider that is responsible for planning, provision, and oversight of medical treatment to a covered worker who sustains a covered injury.

AVERAGE WEEKLY WAGE shall be as follows:

(a) For a covered worker hired to regular full- or part-time position expected to last at least thirteen (13) weeks, the average weekly wage shall be calculated based on the preceding thirteen (13) weeks of the covered worker's actual wage earned from a covered employer. In the case of a worker who has not worked for a covered employer within the immediate preceding thirteen (13) weeks, the average weekly wage shall be calculated based on the salary level the worker was hired at or is currently receiving.

(b) For a covered worker hired on a temporary, emergency or special projects basis who has continuously worked for a minimum of thirteen (13) weeks, the average weekly wage shall be calculated as provided in subparagraph 1, above.

(c) For a covered worker hired on a temporary, emergency, or special projects basis who have not continually worked for the preceding thirteen (13) weeks, the average weekly wage shall be calculated by taking the expected total gross wages and divided by the expected number of work weeks.

(d) For a covered worker serving as a volunteer, the average weekly wage shall be the salary of similarly paid positions for the covered employer performing similar work.

(e) For purposes of this definition, the "work week" shall be defined by the personnel manual or policy applicable to the covered employee at the time of injury.

BENEFITS shall mean the indemnity and medical payments provided by this Chapter. For purposes of this definition, "Indemnity" shall mean total disability and partial disability income benefits and impairment payments; and "Medical" shall mean medical expense, mileage, and other expenses associated with medical treatment.

CHILD includes dependent natural legitimate children, dependent stepchildren, adopted children and acknowledged illegitimate children; but does not include married children unless they are shown to be dependent.

CLAIMANT means the injured covered worker, or in the event of death of the covered worker, dependents of the deceased.

CONSULTING PHYSICIAN shall mean the designated physician, other health care provider or other health care expert that is retained by the Administrator to assist the Administrator in carrying out his duties and responsibilities under this Chapter. Such activities may include, but are not limited to, determination of the validity of a claim; review of an designated attending physician's diagnosis and treatment plans; determination of MMI; and determination of impairment rating. At the discretion and expense of the Administrator, an injured worker may be required to be seen by the designated consulting physician to assist in making any required recommendations to the Administrator.

COURSE AND SCOPE OF EMPLOYMENT shall mean the employer's employment of the covered worker at the time the injury occurred. An injury must arise out of and be in the course and scope of employment, and the worker must be acting in the furtherance of the employer's interest at the time of the incident and/or accident, in order for a claim to be compensable.

COVERED EMPLOYER shall mean the Snoqualmie Tribe, and its agencies, and any Tribal corporations, enterprises and entities.

COVERED WORKER AND WORKER means every person who has entered into the employment of or performs work for a covered employer, works under contract of service, express or implied, or apprenticeship, for a covered employer, every executive offer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the covered employer, including officials (elders) elected or appointed by the Snoqualmie Tribe, compensated monetarily or otherwise, except as hereinafter specified. The terms "covered worker" and "worker" shall not include an independent contractor working under contract for an employer, whether that contract be express or implied. Covered workers shall include all persons employed by the covered employer regardless of where they work, whether it be on or off of Snoqualmie Tribal lands. Covered workers shall include volunteers or other persons providing work for an employer who do so without receiving compensation. Covered workers shall not include persons serving in the Snoqualmie Tribe Police Services Reserve program or volunteer firefighters working for the Tribal Fire Department, or other volunteer positions covered by a tribal accident insurance policy.

DEATH is any fatality of the covered worker proximately and directly caused by work injury or occupational disease.

DEPENDANTS are the following persons, and they shall be deemed to be the only recognizable dependents under the provisions of this Chapter:

(a) The widow or widower, if legally married and living with the deceased at the time of deceased's death and legally entitled to be supported by the deceased as a dependent defined by the most recent federally filed 1040 tax return. For purposes of this Chapter, a covered worker may, in a written self-declaration to be provided by the employer, designate a person as their domestic partner, which person shall be treated as a dependent widow(er) if the person was living with the deceased covered worker at the time of his/her death and listed on the most recently federally filed 1040 tax return.

(b) A child, natural or adopted, under eighteen (18) years of age, or incapable of self-support and unmarried; or a child under twenty-five (25) years of age enrolled as a full-time student in an accredited education institute at the time of the covered worker's death.

DISABILITY means the inability of the covered worker to obtain and/or retain wages equivalent to the pre-injury wage rate as a result of a direct loss of functional capacity compromising that individual's ability to perform the necessary duties of the job. This functional loss must be directly and materially attributable to a compensable work-related injury and/or occupational disease and must be supported by the worker's designated attending physician and, if requested by the Administrator, the designated consulting physician. "Partial Disability" is distinguished as any incapacity less then 100% inability as defined above.

IMPAIRMENT means any anatomic or functional abnormality or loss existing after Maximum Medical Improvement (MMI) as defined herein that results from a compensable injury and/or occupational disease and is reasonably presumed to be permanent based on reasonable medical probability.

INJURY shall mean any physical impairment, including, without limitation, death and/or occupational disease as further herein defined. "Arising out of and in the course of employment" excludes an injury sustained while a covered worker is at home or preparing for work. "Injury" excludes any injury resulting primarily from the natural aging process, or normal daily activities, or an injury sustained during voluntary recreational or social activities. The injury must arise out of and in the course of employment, requiring medical services or resulting in disability or death; and is further defined as a specific, traumatic incident at a definite time and place, while in the course of employment, that produces an immediate onset of pain and is established by medical evidence supported by objective findings.

INTOXICATION means blood alcohol content in excess of .02 percent or conviction of the offense of driving while intoxicated (or words to that effect) by any jurisdiction or, loss of the normal use of one's mental and/or physical faculties resulting from the voluntary introduction into the body of (1) an alcoholic beverage; (2) a controlled substance; (3) a mind-altering drug and/or hallucinogenic; (4) an abusable glue or aerosol paint; or (5) any other similar substance.

MAXIMUM MEDICAL IMPROVEMENT (MMI) means the earlier of:

(a) The point which further material recovery from or last improvement to an injury can no longer reasonably be anticipated, based on the reasonable medical probability; or

(b) The expiration of thirty-six (36) months from the date of occurrence, or in the case of an occupational disease, thirty-six (36) months from the earliest of the first manifestation of the symptoms or notification from a physician that the illness is inherent or related to the worker's occupation.

OCCUPATIONAL DISEASE shall be only those diseases which arise out of an in the course and scope of the covered worker's employment. Such diseases shall have a direct causal connection with the employment and must have followed as a natural incident thereto from injurious exposure occasioned by the nature of the employment. Such disease must be incidental to the character of the business, occupation, or process in which the worker was employed and not independent of the employment. Such disease need not have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have resulted from that

source as an incident and rational consequence. A disease that follows from a hazard to which a worker has or would have been equally exposed outside of said occupation is not compensable as an occupational disease.

POLICY shall mean any Tribal Workers Benefit Policy of Insurance issued to the Snoqualmie Tribe, or other covered employer.

SCHEDULED WEEKS means one hundred and four (104) weeks, which is the maximum number of weeks that a covered worker shall be entitled to Functional Impairment Benefits under this Chapter.

SETTLEMENT shall mean the date the release of all claims is executed and the monetary terms of the agreement met.

SNOQUALMIE TRIBAL LANDS means all property and lands, including running waters, lakes, airspace and natural resources within the exterior boundaries of the Snoqualmie Indian Reservation, and lands now or hereafter held in trust by the Federal government for the Tribe, or any member of the Tribe, so long as those lands are not within the boundaries of the reservation of another Indian Tribe. This term also means all property and territory reserved or granted to the Tribe by treaty or by the Constitution and laws of the United States.

TRIBAL COURT shall mean the Snoqualmie Tribal Court.

TRIBAL MEMBER shall mean any person listed on the Snoqualmie Tribe's enrollment list.

TRIBAL WORKERS BENEFIT ADVISORY COUNCIL (TWBAC), or its successor, shall mean the entity organized to administer the System in accordance with section 13.0 of this Chapter.

TRIBAL WORKERS BENEFIT SYSTEM shall mean this Chapter, any and all rules and regulations promulgated hereunder, as well as the functions of the Administrator and TWBAC.

TRIBE and **TRIBAL** mean to refer to the Snoqualmie Tribe, a federally recognized Indian tribe, and its agencies, and any Tribal corporation, enterprises and entities.

SECTION 7.0- ACKNOWLEDGEMENT OF CHAPTER

(a) All covered workers and persons asserting a claim shall be conclusively presumed to have elected to take workers benefits in accordance with the tenants, conditions, and provisions of this Chapter by virtue of employment with the Snoqualmie Tribe or other employers as defined herein. All covered workers and/or persons asserting a claim for workers benefits acknowledge that the Snoqualmie Tribe is a federally recognized American Indian Tribe and is exercising its inherent sovereign authority in providing workers benefits under this code.

(b) The covered employer shall be responsible for and shall have posted in a conspicuous location a notice as follows:

NOTICE TO TRIBAL GOVERNMENT AND ENTERPRISE EMPLOYEES

AS EMPLOYEES OF THE TRIBE OR ITS ENTERPRISES, YOU ARE INSURED FOR ON-THE-JOB INJURIES UNDER THE TRIBAL WORKERS COMPENSATION CLAIM ACT

If you are injured or sustain an occupational disease while at work, you may be entitled to benefits as provided by the Tribal Workers Compensation Act. NOTIFY YOUR EMPLOYER IMMEDIATELY OF ANY INJURIES, NO MATTER HOW SLIGHT. If you fail to do so, you may lose your benefits under the Tribal Workers Benefits System. In no event shall benefits be paid to a worker who failed to notify their employer within three (3) days after sustaining such work-related injury, except in cases where an extraordinary reason prevented the worker from reporting the injury or occupational disease to the employer in a timely manner.

It is your responsibility to file a claim for benefits under this Chapter with the Administrator of the System. You are required to file a claim for any injuries or occupational disease no more than thirty (30) days after you have knowledge thereof. It is your responsibility to obtain any necessary forms from the Tribal Workers Benefits System Claim Administrator at:

Your exclusive remedy for any work connected injury or disease is through the Tribal Workers Benefits System. The State's Workers Compensation System has no authority to accept a claim from you under the Tribal Workers Benefit Code as you are employed by the Snoqualmie Tribe, a sovereign Indian Nation employer, which is exclusively under the jurisdiction of its own Tribal Workers Benefits System.

SECTION 8.0 - NOTIFICATION TO EMPLOYER OF INJURY BY WORKER

(a) Any covered worker and/or person claiming benefits under this Chapter must notify their supervisor, department director, risk management coordinator, or the human resources director of any and all injuries immediately, and in no even later than three (3) days from the date of occurrence. Failure to report such on-the-job injury shall result in the worker's forfeiture of benefits under this Chapter, unless the claimant can demonstrate an extraordinary reason that prevented the reporting of the injury or occupational disease in a timely manner.

(b) The supervisor/ department director/ risk management coordinator / human resources director receiving the report of the incident or accident shall submit the report to the Administrator within seven (7) days of receipt from the covered worker. In addition, the supervisor/ department director/ risk management coordinator / human resources director receiving the report shall prepare, or have prepared by the covered worker's direct supervisor, and submit an incident report on the circumstances surrounding the on-the-job injury, including the identification of those who may have witnessed the incident or accident.

SECTION 9.0 - TIME LIMIT FOR REPORTING OF INCIDENTS AND FILING OF CLAIMS

(a) The covered worker shall submit claims for injury to the Administrator within thirty (30) days of the date of occurrence. For purposes of this Chapter, a covered worker filing a claim for benefits under this Chapter with the human resources office shall constitute filing a claim with the Administrator.

(b) Claims for occupational disease shall be made by the covered worker to the Administrator within thirty (30) days from the date of first notice to the claimant by a physician or from the date of manifestation of symptoms, whichever is earliest, but in no event longer than thirty (30) days from the date the worker terminates his employment with the Snoqualmie Tribe.

(c) Failure to give notice of injury to the employer as required by this Chapter, or to file a claim with the Administrator, within the time limit set forth in this section shall constitute a forfeiture by

the covered worker, or his representatives in case of death, of all benefits available and payable under this Chapter.

SECTION 10.0 - BURDEN OF PROOF

The burden of proof shall rest upon the covered person, or his dependents in the case of death, to prove:

(a) That the injury alleged was a result of an incident, accident or occupational disease;

(b) That the injury arose out of the covered person's employment;

(c) That the injury arose while in the course and scope of employment and that the injury arose proximately out of covered employment; and

(d) That the injury arose while acting in the furtherance of the employer's interests.

SECTION 11,0- RIGHT TO WAIVE DEFENSES

The Administrator shall have the right and power to waive any and all defenses affecting the compensability of a covered injury under this Chapter.

SECTION 12.0 - GUARDIAN FOR MINOR OR INCOMPETENT

Any person who is mentally incompetent and/or under the age of eighteen (18) and is entitled to receive compensation under this Chapter, shall be appointed a guardian or other representative by the Snoqualmie Tribe if a guardian has not been appointed in a prior action.

SECTION 13.0 – ESTABLISHMENT OF TRIBAL WORKERS BENEFIT ADVISORY COUNCIL

There is hereby established a Tribal Workers Benefit Advisory Council ("TWBAC") whose primary purpose is to administer the Tribal Workers Benefits System by promulgating rules and procedures of operations and to cooperate for the prevention of injuries and occupational diseases to workers and, in the event of injury or occupational disease, their rehabilitation or restoration to health and vocational opportunity.

SECTION 14.0 – MEMBERSHIP OF TRIBAL WORKERS BENEFIT ADVISORY COUNCIL

The TWBAC shall be comprised of five (5) persons holding the following positions:

(a) The Human Resources Director for the government of the tribe, or their designee.

(b) The Tribal Administrator or their designee.

(c) The Tribal Director of Finance or their designee.

(d) The Human Resources Director for the gaming enterprise, or their designee.

A person shall serve on the TWBAC so long as that person holds the position qualifying the employee to serve on the TWBAC, unless removed for any reason by the Snoqualmie Tribal Council.

SECTION 15.0 - POWERS OF TWBAC

The TWBAC shall have the following duties and powers:

(a) To meet on a regular basis to carry out the duties and powers of TWBAC.

(b) To promulgate rules and regulations for the implementation and administration of this Chapter.

(c) To periodically review the benefits provided under this Chapter and to make recommendation to the Snoqualmie Tribal Council for amendments to benefit levels or any other needed revisions to this Chapter deemed advisable by the TWBAC.

(d) To develop programs and to cooperate with the Administrator for the preparations and presentation of information and educational programs designed to prevent injuries and occupational diseases to covered workers.

(e) To take any and all other actions deemed reasonable and necessary for the implementation of this Chapter, including, but not limited to, setting rates and establishing adequate reserve levels.

(f) To retain consultants deemed necessary by the TWBAC in order to carry out its duties as provided herein.

(g) To select the Administrator.

(h) To act as the mediator to adjudicate the disputes regarding benefits provided under this Chapter.

(i) To select the insurance company to provide the workers benefits that are set forth in this Chapter.

SECTION 16.0 - CUSTODIAN DUTIES

The Administrator or its designee shall be the payor of the workers benefits and all authorized disbursements therefrom shall be paid by the Administrator or a representative with its stated authority, and shall be the custodian of all claim files and related documents.

SECTION 17.0 - PAYMENT AND DISTRIBUTION OF BENEFITS

The Administrator shall administer this Chapter in accordance with the express terms and conditions described herein, and any rules promulgated by the TWBAC, and shall remit payment for all matters of benefit claims as provided for in this Chapter. Further, the Administrator shall have the authority to determine the distribution of benefit checks.

SECTION 18.0 - TRIBAL WORKERS BENEFIT SYSTEM ADMINISTRATOR POWERS AND DUTIES

(a) The Administrator for the Tribal Workers Benefit System shall be empowered to request medical reports, police reports, autopsy reports, and special investigations, engage the services of adjusters and consultants, and perform other activities as required to process any claim for benefits or to further this Chapter.

(b) In the case of death of a covered worker, the Administrator shall have the right to request the performance of an autopsy on the decedent from an appropriate official licensed to perform autopsies, and further the Administrator shall have the right to request any and all reports made from such autopsies. If requested, the legal beneficiaries of the deceased worker are entitled to have a representative present at any autopsy ordered by the Administrator.

(c) Retain a designated consulting physician for purposes of assisting the Administrator to carry out the duties and powers of this Chapter.

(d) Complete and accurate administrative records and claim files shall be maintained on all activities relating to the claims made under the applicable insurance policy. All closed files shall be preserved for not less then six (6) years.

SECTION 19.0 - ACCEPTANCE/DENIAL OF CLAIM

Upon receiving a claim for benefits from an injured worker, the Administrator shall promptly investigate the claim and begin payment of compensation within twenty-one (21) days of a valid claim or the Administrator shall send the claimant written notice, within twenty-one (21) days, that further investigation is needed and the reasons for further investigation. The Administrator shall complete its investigation within forty-five (45) days of receipt of the claim and shall commence the payment of benefits or notify the claimant in writing that the claim is denied.

SECTION 20.0 - ENTITLEMENT OF BENEFITS

(a) Any claimant for benefits under this Chapter shall be responsible for filing their claim with the Administrator in accordance with the provisions of this Chapter.

(b) Coverage exists under this Chapter for a covered worker's injury without regard to fault or negligence if the injury arises out of and in the course and scope of employment and if the worker was acting in furtherance of the employer's interest at the time of the injury and/or incident, including, without limitation, any covered worker whose work at the time of injury was subject to the Longshore and Harbor Workers Compensation Act (33 U.S.C. §§ 901-950), the Jones Act (46 U.S.A. appx. § 688), or any other Federal Workers Compensation Acts. If an injury is an occupational disease as defined herein, the employer in whose employ the worker was last injuriously exposed to the hazards of the disease is considered to be the employer of the worker for purposes of obtaining benefits under this Chapter.

SECTION 21.0 - DISCLOSURE OF PRE-EXISTING DISABILITIES/CONDITIONS

(a) All workers shall disclose any pre-existing physical or mental disorder and/or disability that could potentially affect or impair the worker's ability to perform in a reasonable and safe manner the activities involved in the position in which they work. Disclosure shall be made in the employment application or interview before commencing employment or before commencing new job duties after job reclassification, reassignment, promotion, demotion, or other change in job duties. The content of such disclosure shall be made promptly by the covered worker after submitting a claim for benefits under this Chapter.

(b) The Administrator shall deny any claim resulting from an employment-related aggravation of a pre-existing condition which was not disclosed as required under this Chapter if the claimant had

knowledge of the pre-existing condition and failed to disclose such condition pursuant to this section.

SECTION 22.0 - MENTAL TRAUMA INJURIES

(a) Mental traumas, disorders, and/or conditions, even if manifested in physical symptoms and/or related to stress, are not compensable injuries under this Chapter.

(b) Regardless of subsection (a) of this section, a mental trauma or emotional injury that arises principally from a personnel action, including, without limitation, a transfer, promotion, demotion, or termination is not a compensable injury under this Chapter.

SECTION 23.0 - GOING TO AND RETURNING FROM WORK

An accident and/or incident occurring to a worker while on the way to or from work, including lunch break, is not within the course and scope of employment except when such traveling is directly connected with the worker's work and in furtherance of the employer's interest. This exception will not apply if the worker deviates from a reasonably direct route of travel and/or is not acting in the interests of the employer.

SECTION 24.0 - BENEFITS PRECLUDED BY NEGLECT AND/OR REFUSAL OF WORKER TO SUBMIT TO TREATMENT

(a) No benefits shall be payable for the death and/or disability of a worker if the worker's death and/or disability is caused by, or the worker's disability aggravated, caused or continued by, an unreasonable refusal and/or neglect to submit to and/or follow any competent or reasonable surgical or medical treatment, medical aid, or advice. A covered worker who has refused and/or neglected to submit to medical and/or therapeutic treatment, or to take medications prescribed, will be deemed to have reached Maximum Medical Improvement as defined herein. Any such existence of a disability that could have been reasonably treated to success with reasonable medical probability will be discontinued in determining the appropriate incapacity rating as described herein.

(b) Any covered worker entitled to benefits under this Chapter shall be presumed to have reached Maximum Medical Improvement if such claimant has refused and/or neglected to seek appropriate medical treatment within three (3) months from the date of occurrence or from the last date of prior treatment.

SECTION 25.0 - INJURY OR DEATH BY CONSUMPTION AND/OR APPLICATION OF DRUGS AND/OR CHEMICALS

No benefits of any nature shall be payable for injury and/or death caused or contributed to by any drug, including narcotics and hallucinogens, whether organic or chemical in nature, or any gas, vapors, and/or fumes taken and/or inhaled voluntarily, or by voluntarily poisoning, except those drugs prescribed by a physician or other practitioner licensed to prescribe such medication.

SECTION 26.0 - INTOXICATION

No benefits of any nature shall be payable for any covered worker injured or killed while intoxicated, regardless of whether or not the intoxicated condition was the proximate cause of the injury or death. It is only necessary to prove that the covered worker was intoxicated at the time of the incident or accident to deny benefits under this Chapter. All workers accepting employment with

an employer and under this Chapter, agree to submit to post-incident/post-accident drug and alcohol screening as authorized in the applicable Tribal personnel policies, and agree to waive any privilege associated with the results of said tests.

SECTION 27.0 - FALSE STATEMENT OR REPRESENTATION TO OBTAIN COMPENSATION; PENALTY AND FORFEITURE

If, in order to obtain any benefits under the provisions of this Chapter, any person who willfully makes a false statement or representation, shall forfeit all rights to compensation, benefits, or payment upon proof that the offense was committed. Any claim resulting from an employment-related aggravation of a pre-existing condition which was not disclosed as required under this Chapter will be declined by the Administrator.

SECTION 28.0 - INJURIES RESULTING FROM SELF-INFLICTED INJURIES, WILLFUL MISCONDUCT, "HORSEPLAY", OR SAFETY VIOLATION

No benefits of any nature shall be payable for any covered worker's injury or death caused by a covered worker's willful intention to injure himself or another. An injury sustained during "horseplay" is not incurred in the course and scope of employment, and thus such an injury under this Chapter is not compensable. In addition, the willful disregard of a safety order from the employer to the worker to wear or use a safety device and/or to perform work in a certain manner may cause such person to forfeit all rights to compensation, benefits, or payment upon proof that the offense was committed and that such disregard or performance was the direct and proximate cause of the injury, death, and/or occupational disease. A covered worker's willful disabling of safety devices on equipment constitutes a willful intention to injure himself thereby precluding eligibility for his or her benefits under this Chapter.

SECTION 29.0 - INJURIES RESULTING FROM NATURAL CAUSES

No benefits of any nature shall be payable for any covered worker injured or killed when the injury or death results from natural causes, i.e., heart attack, stroke or other natural function failure, which does not arise out of the course and scope of employment while the worker was acting in furtherance of the employer's interest.

SECTION 30.0 - RECREATIONAL, SOCIAL OR ATHLETIC ACTIVITIES

(a) No benefits shall be payable for any covered worker injured or killed if the injury or accident occurred as a result of the worker's voluntary participation in an off-duty, recreational, social, or athletic activity not constituting part of the worker's work-related duties, except where these activities are expressly required by the employment.

(b) No benefits under this Chapter shall be payable to any covered worker if the injury, disease, or death arises from participation in voluntary physical fitness activities during the regular work day, regardless of whether the employee is or is not compensated for the time in which the physical fitness activities take place and regardless of whether the employee is participating in any kind of employer-sponsored fitness challenge or exercise program.

SECTION 31.0 - INJURIES CAUSED BY THIRD PARTIES

No benefits of any nature shall be payable for any covered worker injured or killed as the result of an act of a third party, including co-workers, who intended to injure the worker because of reasons

personal to that worker and not directed at the worker for reasons related/relevant to his employment.

SECTION 32.0 - SECONDHAND SMOKE

No benefits under this Chapter shall be payable to or on behalf of any covered worker injured or killed as a result of exposure to or injury by secondhand smoke.

SECTION 33.0 - RIGHT TO COMPENSATION AND MEDICAL TREATMENT BENEFITS

The dependents of every covered worker who is injured or dies while acting in the course and scope of employment and while acting in furtherance of the employer's interest at the time of the incident and/or accident, shall be entitled to receive, and shall be paid, for loss sustained on account of the injury, death and/or occupational disease, such benefits as provided under this Chapter, unless the injury or death is otherwise limited or excluded by the terms and conditions of this Chapter.

SECTION 34.0 - WORKERS BENEFIT AS EXCLUSIVE REMEDY

The rights and remedies provided by this Chapter for a worker on account of injury or occupational disease for which benefits under this Chapter are recoverable, shall be the exclusive and only rights and remedies of such worker, the worker's personal or legal representative, dependents, or next of kin, at a common law or otherwise, on account of such injury and/or occupational disease against the employer, the employer's representatives, insurer, guarantor or surety, for any matter relating to the occurrence of or payment for an injury or death covered under this Chapter. To that end, all civil causes of action against the covered employer and its employees, arising from said injuries or death, and the jurisdiction of all courts over such causes of action are hereby abolished and barred, except as specifically provided by this Chapter.

SECTION 35.0 - EFFECT OF COMPENSATION PAID IN OTHER JURISDICTIONS OR THIRD PARTY RECOVERY

An injured worker who pursues and recovers compensation under the laws of another jurisdiction or from a third party shall notify the Administrator. The injured worker forfeits compensation under this Chapter in proportion to any recoveries from the other jurisdiction or third party.

SECTION 36.0 - LIABILITY OF THIRD PARTIES - SUBROGATION

(a) The employer and/or their representative, insurer, guarantor, or surety shall be subrogated to the Washington-state recognized common law rights of the worker to pursue any claims for compensation against any third party that is liable for the death of, or injuries to, said worker arising out of and in the course and scope of employment and while the worker was acting in the furtherance of the employer's interest to the extent of the benefits bestowed upon the said worker.

(b) In case of recovery, the Administrator shall enter judgment for distribution of the proceeds thereof as follows:

(1) A sum sufficient to repay the employer and/or the Administrator for the amount of the compensation actually paid to the worker under this Chapter up to that time;

(2) A sum sufficient to pay the employer the present worth, computed at the current legal interest rate for court judgments and decrees, of the future payments of compensation for which the

employer is liable, but the sum is not the final adjudication of the future payments which the worker is entitled to receive and if the sum received by the employer is in excess of the amount required to pay the compensation, the excess shall be paid to the worker.

(3) The balance, if any, shall be paid over to the worker.

(c) For subrogation purposes, any payment made to a covered worker, his guardian, parent, next of kin, or legal representative, by or on behalf of any third party, his or its principal or agent liable for, connected with, or involved in causing an injury to such worker shall be considered as having been so paid as damages resulting from and because said injury was under circumstances creating a legal liability against said third party, whether such payment be made under a covenant not to sue, compromise settlement, denial of liability, or otherwise.

SECTION 37.0 - ASSIGNABILITY OF BENEFITS – ATTACHMENT OF LIENS

Benefits received under this Chapter are not assignable, except that a legal beneficiary may, assign the right to death benefits. Income from death benefits are subject only to the following liens or claims, to the extent of any income or death benefits that are unpaid on the date the Administrator receives written notice of the lien, judgment, or claim in the following order of priority:

(a) Court order of child support issued or recognized by the Snoqualmie Tribe Court;

(b) A subrogation interest established under this Chapter; and

(c) Debts owed to the Snoqualmie Tribe

SECTION 38.0 - AGGRAVATION OF PRE-EXISTING DISEASE OR CONDITION

If a covered worker is suffering from a pre-existing disease and/or injury at the time an occupational incident, accident and /or disease occurs or arises in the course and scope of employment with the worker was acting in furtherance of the employer's interest at the time of the injury and/or incident, and the pre-existing disease and/or injury is aggravated thereby, the aggravation of the disease or injury is, subject to provisions herein, compensable under this Chapter. The amount of the award for that disability as set forth in this Chapter may be reduced or denied in its entirety by the Administrator in consideration of the following:

(a) A prior settlement from any source for the same impairment;

(b) The difference between the degree of impairment of the worker before the covered accident and/or occupational disease and the degree of impairment after the covered accident or occupational disease; or

(c) The benefits to be paid for impairments and/or disabilities would be in excess of 100% of the whole person. For purposes of this subsection, benefits include those benefits or payments made under this Chapter, benefits pursuant to applicable worker's compensation laws of any other jurisdiction, or payments from third parties.

SECTION 39.0 - SCHEDULE OF BENEFITS PAYABLE FOR OCCUPATIONAL DISEASE [CUMULATIVE OR REPETITIVE INJURIES/CONDITIONS]

Benefits for cumulative, repetitive, or occupational disease claims will be reduced if the covered worker has been employed (based on date of hire) for a limited time as follows:

(a) Workers are not eligible for compensation when employed full-time for a period of up to four (4) months.

(b) Workers receive twenty-five percent (25%) of eligible compensation for a claim made while employed full-time for a period of four-eight (4-8) months.

(c) Workers receive fifty percent (50%) of eligible compensation for a claim made while employed full-time for a period of eight-twelve (8-12) months.

(d) Workers receive seventy-five (75%) of eligible compensation for a claim made while employed full-time for a period of twelve-eighteen (12-18) months.

(e) Workers are eligible for full compensation for a claim made after being employed full time more than eighteen (18) months.

The time frames, which are provided above, should be lengthened appropriately for workers who are employed on a part-time basis.

SECTION 40.0 - TERMINATION OF BENEFITS UPON DEATH

Where a covered worker is entitled to compensation under this Chapter for an injury sustained, and death ensues from any cause not resulting from the injury for which he was entitled to the compensation, payments of the unpaid balance for such injury shall cease and all liability for such compensation thereafter shall terminate.

SECTION 41.0 - VOCATIONAL REHABILITATION

Vocational rehabilitation benefits or training are not mandatory under this Chapter, but may, at the discretion of the Administrator, be ordered pursuant to his authority established herein, or as required under rules promulgated by the TWBAC.

SECTION 42.0 - WAITING PERIOD

An initial waiting period of seven (7) consecutive calendar days is to accrue before the covered worker shall be entitled to benefits under this Chapter. If the covered worker misses more than fourteen (14) consecutive calendar days of work, the first seven (7) calendar days may be considered for benefits if the covered worker received no other compensation during this time, including but not limited to, sick time, vacation time, and personal time off (PTO).

SECTION 43.0 - TOTAL DISABILITY AND PARTIAL DISABILITY INCOME BENEFITS

(a) When the worker is disabled from work duty as determined by the designated consulting physician, or in the Administrator's discretion, the designated attending physician, by reason of a compensable injury or occupational disease, benefits shall be payable as follows:

(1) If the covered worker is 100% disabled, benefits are payable at 66-2/3 % of the worker's pre-injury average weekly wage.

(2) If the covered worker is less than 100% disabled, benefits are payable at 66-2/3% of the difference between the worker's pre-injury average weekly wage and the wage the covered worker is earning or capable of earning in his partially disabled condition.

(b) Except as provided herein, such benefits will continue to be paid in accordance with the terms of this Chapter until which time the earliest of the following occur:

(1) The expiration of three (3) months from the date of occurrence, or in the case of an occupational disease, thirty-six (36) months from the earliest of the first manifestation of the symptoms or notification from a physician that the illness is inherent or related to the worker's occupation;

(2) The designated consulting physician, or in the discretion of the Administrator, the designated attending physician, declares that the worker has reached Maximum Medical Improvement;

(3) The claimant is incarcerated;

(4) A full, unrestricted release is provided by the designated consulting physician, or in the discretion of the Administrator, the designated attending physician.

(5) A modified or light duty release is provided by the designated consulting physician, or in the discretion of the Administrator, the designated attending physician, and a bona fide job offer of suitable work consistent with the worker's disability is rejected;

(6) A new or intervening incident is the proximate cause of disability;

(7) Benefits are refused by the worker;

(8) Presumption of MMI or abandonment of medical treatment;

(9) Suspension of benefits by the Administrator for reasons authorized in this Chapter or by the authority of the arbitration panel established under this Chapter;

(10) The worker's earning capacity is reduced for reasons other than the disability from the work-related injury;

(11) The covered worker dies from any cause not resulting from the injury for which he was entitled to compensation under this section, and the covered worker's estate is not entitled to any further benefits as defined by this Chapter.

SECTION 44.0 - IMPAIRMENT BENEFITS

(a) At the expiration of thirty-six (36) months from the date of the incident, accident and/or occupational disease, the worker is presumed to have reached MMI regardless of disability and/or current medical status. The designated consulting physician, or in the discretion of the Administrator, the designated attending physician, is to provide an impairment rating in accordance with the most current edition of the American Medical Association (AMA) based on reasonable

medical probability. In addition, at this time the designated consulting physician, or in the discretion of the Administrator, the designated attending physician, is required to provide a treatment plan for reasonable and necessary future medical needs. The designated attending physician's impairment rating and treatment may be subject to review and revision by the designated consulting physician at the discretion of the Administrator.

(b) For purposes of converting the impairment rating into a monetary figure only, this Chapter will mirror the Washington state award schedule for permanent partial disability.

(c) A rating may not be issued prior to the declaration of MMI. The Administrator may reserve issuance of payment under the following conditions:

(1) Contribution of prior impairment ratings;

(2) Clarification by the Administrator of this Chapter as to the validity of the date for MMI;

(3) Similar rating or MMI issues to be resolved by the designated consulting physician or, if necessary, the arbitration panel established under this Chapter.

(d) The rating recognized by the arbitration panel is binding. The rating will not be retroactively paid for weeks accrued in resolving the rating issue subsequent to the date of MMI. Such benefits will become effective the date of the ruling and commence at that time.

(e) Notwithstanding provisions herein, the Administrator shall retain the right and discretion to order lump sum settlements by way of an accepted compromise and release.

SECTION 45.0 - BENEFIT ISSUANCE PERIOD

(a) All benefits under this Chapter are to be issued bi-weekly.

(b) There shall be no acceleration of benefits under this Chapter.

(c) Any settlement issued on behalf of a covered worker shall be executed by signed memorandum only.

SECTION 46.0 - NOT TO EXCEED PRE-INJURY AVERAGE WEEKLY WAGE

In no event may the covered worker's incapacity income benefits, or other income sources supplement the loss income, exceed 100% of the worker's pre-injury average weekly wage, as may be increased by a cost of living adjustment approved by the Administrator.

SECTION 47.0 - BENEFIT OFFSETS

The Administrator is entitled to reduce benefits payable to covered workers under this Chapter in an amount equal to employee payments paid for by the employer for any pecuniary wages paid in the form of social security, long-term and short term disability, employer elected salary contribution, vacation or sick leave, or any other entitlement of a similar nature paid in whole or in part by the employer. Further, if any overpayment is made under this Chapter to the covered worker of any disability income benefits, the overpayment shall be deducted from any benefits payable under

functional impairment benefits; or in the case where no functional impairment benefits are payable, then the overpayment of benefits may be deducted through payroll deductions.

SECTION 48.0 - DISTRIBUTION OF DEATH BENEFITS

(a) When a covered worker dies due to a compensable injury or occupational disease, benefits shall be payable to the dependents of the covered worker who were dependent on the earnings of the worker for support at the time of his injury, compensation upon the basis of 66-2/3% of the worker's average weekly wage, commencing from the date of death as follows:

(1) If there are no children entitled to benefits, then all of the benefits go to the surviving spouse for the projected probable life span of the decedent based on seventy (70) years of age, or the life of the surviving spouse, or until remarriage, whichever comes first, provided that upon remarriage, two years' benefits shall be paid to the surviving spouse in a lump sum. To be an eligible "surviving spouse" under this Chapter, the surviving spouse must have been married and living with the decedent at the time of the compensable injury. Proof of eligibility may be required by the Administrator. If there are surviving eligible dependents, the surviving spouse shall be entitled to one-half of death benefits and the other half of death benefits shall be paid to each surviving eligible dependent in equal shares.

(2) If there is no surviving spouse, equal shares of the death benefit shall be paid to all dependents as defined in this Chapter.

(b) Where a worker is entitled to compensation under this Chapter for an injury, and death results from any cause not relating to or caused by the injury for which he was entitled to the compensation, payments of the unpaid balance for such injury shall cease and all liability under this Chapter thereafter shall terminate.

SECTION 49.0 - REDISTRIBUTION OF DEATH BENEFITS

(a) If a legal beneficiary as defined in section 48.0 dies or otherwise becomes ineligible for death benefits, benefits shall be redistributed to the remaining legal beneficiaries in accordance with section 48.0.

(b) If all legal beneficiaries cease to be eligible, any duty to pay the remaining death benefits payable under section 48.0 shall cease immediately.

SECTION 50.0 – VERIFICATION OF ELIGIBILITY OF DEATH BENEFITS

Upon request from the Administrator, all persons claiming to be eligible for death benefits shall furnish all necessary documentation to support their claim of eligibility.

SECTION 51.0 - BURIAL BENEFITS

If death results from a compensable injury, the person and/or entity who incurred the liability for the costs of the burial shall be reimbursed for either the actual costs incurred for such reasonable burial expenses, or $5,000, whichever is less.

SECTION 52.0 - ENTITLEMENT TO MEDICAL BENEFITS

All covered workers are entitled to reasonable health care, supplies and reasonably necessary transportation incurred for such services. Medical benefits are payable from the date the compensable injury or accident occurred and will cease effective the date the claim closes.

SECTION 53.0 - RIGHT TO SELECT PHYSICIAN; EMPLOYER SELECTION

(a) Except in an emergency, all health care must be approved or recommended by the employer or Administrator. Health care treatment must be offered promptly and be reasonably suited to treat the injury. If the worker has reason to be dissatisfied with the care offered, they should communicate the basis of such dissatisfaction to the Administrator, in writing, following which the Administrator may agree to alternate care reasonably suited to treat the injury. If the Administrator and the worker cannot agree on alternate care, TWBAC may allow and order alternate care. Any non-authorized treatment of the covered worker is not payable under this section and shall be at the worker's sole expense.

(b) Chiropractic, osteopathic, naturopathic, acupuncture, or other non-traditional forms of treatment must be pre-approved by the Administrator and approved by the designated attending physician. Duration of treatment and/or number of visits to such non-traditional providers shall be subject to the Administrator's approval, who may rely upon the advice of the consulting or designated attending physician.

(c) After notice and opportunity for hearing, TWBAC may issue a decision relieving the Administrator of the duty to pay for health care furnished by a health care provider or any other person selected in a manner inconsistent with the requirements of this Chapter.

SECTION 54.0 - RELEASE OF MEDICAL-RELATED INFORMATION

Any worker, employer or insurance carrier or its agents making or defending a claim for benefits under this Chapter agrees to release all information to which the worker, employer, carrier, or its agents have access to concerning the worker's physical or mental condition relative to the claim and further waives any privilege for the release of such information. The information shall be made available to any party or the party's representative upon request, and includes any third-party health care providers. Any institution or person releasing the information to a party or the party's representative shall not be liable, either criminally or civilly, for any damages incurred due to the release of the information.

SECTION 55.0 - MEDICAL EXPENSES

Expenses shall be limited to those customarily charged in the community, or like community, for similar services. The Administrator may deny charges believed to be excessive or unnecessary. Any institution or person rendering treatment to a worker under this Chapter agrees to be bound by such charges as allowed by the Administrator and shall not recover in law or equity any amount in excess of that set by the Administrator.

SECTION 56.0 - SETTLEMENT OF FUTURE MEDICAL

A covered worker may negotiate settlement of future medical expenses. For purposes of settling the future medical expenses, the basis for settlement will be the value of the current and future medical plan. Settlements under this section are not to exceed $100,000 unless approved by TWBAC.

SECTION 57.0 - APPEALS FROM DECISIONS OF THE ADMINISTRATOR

(a) The Administrator shall administer this Chapter in accordance with the express provisions of this Chapter. Any appeals from final decisions of the Administrator shall follow the procedures as set forth in this Chapter and shall be in accordance with any and all rules and regulations of TWBAC.

(b) First Level – Any claimant may appeal a final decision of the Administrator in writing to the TWBAC within thirty (30) calendar days of the Administrator's final decision. TWBAC will hold a hearing with the claimant and the Administrator present, once all requested documentation from both parties is received. Any claimant appealing the final decision of the Administrator shall bear the burden of proof that the Administrator's decision was not in accordance with, or was in violation of, this Chapter. TWBAC will conduct the hearing in accordance with their established rules and procedures and shall render a written decision resolving the dispute. The decision of TWBAC shall be final and binding on all parties except for an appeal to the Tribal Court as provided herein.

(c) Second Level – Tribal Court. Any claimant may appeal a final decision of the TWBAC to the Snoqualmie Tribal Court within thirty (30) days of the TWBAC's final decision. The TWBAC decision shall be upheld unless the Tribal Court finds the decision was:

(1) Unsupported by evidence;

(2) Arbitrary and capricious;

(3) An abuse of discretion by the Administrator; or

(4) Contrary to the provisions of this Chapter or other applicable law.

SECTION 58.0 - HEARINGS

(a) A claimant and the Administrator shall have the right to be represented by an attorney in all matters presented before TWBAC and/or Tribal Court at their own expense. The parties shall also have the right to confront and cross-examine all witnesses and to review all evidence of any nature, as may be related to the matter under consideration.

(b) A TWBAC hearing under this Chapter shall not be governed by formal rules of evidence or by technical or formal rules of procedure. The TWBAC may conduct hearings in such a manner it deems best calculated to ascertain the substantial rights of the parties and to promote the spirit and the intent of the Tribal Workers Benefits System.

(c) A full and complete record of all TWBAC proceeding shall be kept by the TWBAC and shall be available to any party who requests the record in writing. The TWBAC is authorized to charge a reasonable fee for providing a copy of the record.

SECTION 59.0 - CLAIMANT ATTORNEY'S FEES AND OTHER RELATED COSTS

(a) If TWBAC awards benefits to the claimant in excess of the Administrator's original benefit determination, the claimant is entitled to an award of attorneys' fees with a maximum limit of 10% of the total benefit awarded, or $3,500, whichever is less. The award of attorneys' fees to the claimant shall be in addition to any benefits paid or provided to the claimant pursuant to this Chapter

(b) The claimant or Administrator may engage the services of physicians or experts for hearing purposes at the respective parties' own expense, which are not reimbursable regardless of the ultimate outcome of the dispute. The opinions of such consultants will be considered in a contested case, notwithstanding the provisions of this Chapter limiting the outside or unauthorized treatment.

SECTION 60.0 – SEVERABILITY

If any of the above provisions of this Chapter are found to be unlawful or inoperative, such as due to inconsistency with other Tribal code provisions, the remaining provisions of this Chapter that are not unlawful or inoperative shall remain in effect.

SECTION 61.0 - REPEAL OF INCONSISTENT ACTS AND PROVISIONS

This Chapter shall have the effect of repealing prior laws, resolutions and policies of the Snoqualmie Tribe concerning workers' compensation benefits.

SECTION 62.0 - SAVINGS PROVISIONS

Acts and actions of the Snoqualmie Tribe regarding workers' compensation benefits prior to the approval or amendment of this Chapter shall not be disturbed.

ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 21ST DAY OF AUGUST 2008 IN SESSION DULY MET, WITH 7 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 102-2008.

AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 9TH DAY OF FEBRUARY, 2012 IN SESSION DULY MET, WITH 4 FOR, 0 AGAINST, AND 0 ABSTAINING. TRIBAL COUNCIL RESOLUTION NO. 27-2012

CODIFIED BY THE SECRETARY OF TRIBAL AFFAIRS ON THE 27 **DAY OF** February **2012.**

Lina M. Regin 2/27/12

SECRETARY OF TRIBAL AFFAIRS