

TITLE 4. COMMERCIAL

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TITLE 4. COMMERCIAL CODE

ARTICLE I

GENERAL PROVISIONS

[Note: Except as otherwise noted, the provisions of Article I, Title 4 were enacted on October 24, 2007 by Res. No. 34-2007]

CHAPTER 1. DEFINITIONS AND CONSTRUCTION

Sec. 4-1101. Title and Purpose.

It being necessary to strengthen the government of the Sac and Fox Tribe of the Mississippi in Iowa (“the Tribe”) by exercising the specific grant of authority contained in Article III, Sections 1 and 2 of the Constitution and Bylaws of the Sac and Fox Tribe of the Mississippi in Iowa, which provide that the governing body of the Tribe is the Tribal Council, and that the object of the Tribal Council is to have authority to represent the Tribe in all matters pertaining to the business of the Tribe, and whereas, Article X, Sections 1(e) and 1(k) together impose a duty on the Tribal Council to protect and preserve the general welfare of the Tribe, the Tribe hereby adopts this Title 4, the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code. This Commercial Code must be liberally construed and applied to promote its underlying purposes and policies, which are to promote economic development and the continued expansion of commercial practices involving the Tribe or Tribal members, and to provide an orderly system of commercial law to the Meskwaki Settlement.

Sec. 4-1102. Jurisdiction.

(a) In accordance with Article I of the Constitution of the Sac and Fox Tribe of the Mississippi in Iowa, the Tribal Council hereby affirmatively declares, asserts, and extends the jurisdiction of the Tribe over all areas within the original exterior boundaries of the territory known as the Sac and Fox Settlement, jurisdiction of which was accepted by the United States by the Act of June 10, 1896 (29 Stat. 331), and to such other land as may be or has been added thereto by or for the Tribe.

(b) The Sac and Fox Tribe of the Mississippi in Iowa shall have jurisdiction over any commercial transaction subject to this Commercial Code or with respect to any claim arising from a transaction subject to this Commercial Code.

Sec. 4-1103. Severability.

If any clause, sentence, paragraph, section, or part of this Commercial Code shall, for any reason be adjudicated by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section; or part thereof directly involved in the controversy in which the judgment shall have been rendered.

Sec. 4-1104. Continuity of Law.

It is hereby declared that the legislative intent of the Tribal Council is that enactment of this Commercial Code shall have prospective effect only.

Sec. 4-1105. Construction.

(a) This Commercial Code shall be interpreted and applied in a manner consistent with all other Codes, Laws, Ordinances, Resolutions, and Regulations of the Sac and Fox Tribe of the Mississippi in Iowa.

(b) Unless expressly provided otherwise, nothing in this Title shall be construed as limiting, waiving or abrogating the sovereignty or the sovereign immunity of the Sac & Fox Tribe of the Mississippi in Iowa or any of its agencies, departments, enterprises, agents, officials or employees.

(c) Inclusion of or reference to language, definitions, procedures, or other statutory or administrative provisions of other jurisdictions in this Title shall not be deemed an action deferring to or consenting to such other jurisdiction by the Sac & Fox Tribe of the Mississippi in Iowa.

(d) In interpreting this Commercial Code, the Judicial Court of the Sac and Fox Tribe of the Mississippi in Iowa may consult where necessary the 2005 Official Comments to the Uniform Commercial Code. The Official Comments to the 2005 Uniform Commercial Code are intended to aid in the use of this Commercial Code, and are not the law.

Sec. 4-1106. Amendments.

This Commercial Code may be amended only upon an affirmative vote of a majority of the Tribal Council.

Sec. 4-1107. Effect of Headings.

Headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any portion of this Commercial Code.

Sec. 4-1108. Effective Date.

The effective date of this Commercial Code shall be October 24, 2007.

TITLE 4. COMMERCIAL CODE**ARTICLE II****UNIFORM COMMERCIAL CODE****CHAPTER 1. GENERAL PROVISIONS****Sec. 4-2201. Short Title, Construction, Application and Subject Matter of the Act.**

Incorporated by this reference as though set forth fully herein, are Sections 1-101 through 1-109 of Article 1, Part 1, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-1-101 through 4-1-109 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2202. General Definitions and Principles of Interpretation.

Incorporated by this reference, as though set forth fully herein, are Sections 1-201 through 1-209 of Article 1, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-1-201 through 4-1-209 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2203. Territorial Applicability and General Rules.

(a) Incorporated by this reference, as though set forth fully herein, are Sections 1-301 through 1-310 of Article 1, Part 3, of the 2005 Official Text of the Uniform Commercial Code (except that Section 1-301(g) shall omit reference to Section 6-103, and all references to “this State” shall be replaced with the term “this jurisdiction”, which shall mean the jurisdiction of the Tribe and as otherwise provided below), renumbered as Sections 4-1-301 through 4-1-310 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

(b) Section 4-1-303(c) is hereby restated as follows: “A ‘usage of trade’ is any practice or method of dealing, including a local custom or tradition of the Tribe, having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage must be proved as facts. If it is established that such a usage is embodied in a trade code or similar record, the interpretation of the record is a question of law.”

Sec. 4-2204. Administration; Authority to Promulgate Regulations.

The [insert name of Tribal department], or its designated successor, is charged with the administration of this Commercial Code. In accordance with applicable administrative and interpretative rules and after review and approval of the Tribal Council, the [insert name of

Tribal department], or its designated successor, may promulgate regulations necessary for the effective implementation and enforcement of this Commercial Code.

CHAPTER 2. SALES

Sec. 4-2201. Short Title, General Construction and Subject Matter.

Incorporated by this reference, as though set forth fully herein, are Sections 2-101 through 2-107 of Article 2, Part 1, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2-101 through 4-2-107 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2202. Form, Formation and Readjustment of Contract.

Incorporated by this reference, as though set forth fully herein, are Sections 2-201 through 2-210 of Article 2, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2-201 through 4-2-210 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2203. General Obligation and Construction of Contract.

(a) Incorporated by this reference, as though set forth fully herein, are Sections 2-301 through 2-328 of Article 2, Part 3, of the 2005 Official Text of the Uniform Commercial Code (except that Section 2-318 shall contain only Alternative C), renumbered as Sections 4-2-301 through 4-2-328 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2204. Title, Creditors and Good Faith Purchasers.

Incorporated by this reference, as though set forth fully herein, are Sections 2-401 through 2-403 of Article 2, Part 4, of the 2005 Official Text of the Uniform Commercial Code (except that Section 2-403 subs. (4) shall read only as “The rights of other purchasers of goods and of lien creditors are governed by the Articles on Secured Transactions (Article 9) and Documents of Title (Article 7).”; and all references to “this State” shall be replaced with the term “this jurisdiction”, which shall mean the jurisdiction of the Tribe), renumbered as Sections 4-2-401 through 4-2-403 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2205. Performance.

Incorporated by this reference, as though set forth fully herein, are Sections 2-501 through 2-515 of Article 2, Part 5, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2-501 through 4-2-515 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2206. Breach, Repudiation and Excuse.

Incorporated by this reference, as though set forth fully herein, are Sections 2-601 through 2-616 of Article 2, Part 6, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2-601 through 4-2-616 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-2207. Remedies.

Incorporated by this reference, as though set forth fully herein, are Sections 2-701 through 2-725 of Article 2, Part 7, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2-701 through 4-2-725 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 3. LEASES**Sec. 4-3101. Short Title, General Construction and Subject Matter.**

Incorporated by this reference, as though set forth fully herein, are Sections 2A-101 through 2A-109 of Article 2A, Part 1, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2A-101 through 4-2A-109 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-3102. Formation and Construction of Lease Contract.

Incorporated by this reference, as though set forth fully herein, are Sections 2A-201 through 2A-216 of Article 2A, Part 2, of the 2005 Official Text of the Uniform Commercial Code (except that Section 2A-216 shall contain only Alternative C), renumbered as Sections 4-2A-201 through 4-2A-216 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-3103. Effect of Lease Contract.

Incorporated by this reference, as though set forth fully herein, are Sections 2A-301 through 2A-311 of Article 2A, Part 3, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2A-301 through 4-2A-311 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-3104. Performance of Lease Contract: Repudiated, Substituted and Excused.

Incorporated by this reference, as though set forth fully herein, are Sections 2A-401 through 2A-407 of Article 2A, Part 4, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2A-401 through 4-2A-407 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-3105. Default.

Incorporated by this reference, as though set forth fully herein, are Sections 2A-501 through 2A-532 of Article 2A, Part 5, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-2A-501 through 4-2A-532 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 4. NEGOTIABLE INSTRUMENTS**Sec. 4-4101. Short Title, General Construction and Subject Matter.**

Incorporated by this reference, as though set forth fully herein, are Sections 3-101 through 3-119 of Article 3, Part 1, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-3-101 through 4-3-119 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-4102. Negotiation, Transfer and Endorsement.

Incorporated by this reference, as though set forth fully herein, are Sections 3-201 through 3-207 of Article 3, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-3-201 through 4-3-207 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-4103. Enforcement of Instruments.

Incorporated by this reference, as though set forth fully herein, are Sections 3-301 through 3-312 of Article 3, Part 3, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-3-301 through 4-3-312 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-4104. Liability of Parties.

Incorporated by this reference, as though set forth fully herein, are Sections 3-401 through 3-420 of Article 3, Part 4, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-3-401 through 4-3-420 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-4105. Dishonor.

Incorporated by this reference, as though set forth fully herein, are Sections 3-501 through 3-505 of Article 3, Part 5, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-3-501 through 4-3-505 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-4106. Discharge and Payment.

Incorporated by this reference, as though set forth fully herein, are Sections 3-601 through 3-605 of Article 3, Part 6, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-3-601 through 4-3-605 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 5. BANK DEPOSIT**Sec. 4-5101. Short Title, General Construction and Subject Matter.**

Incorporated by this reference, as though set forth fully herein, are Sections 4-101 through 4-411 of Article 4, Part 1, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4-101 through 4-4-111 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-5102. Collection of Items: Depository and Collecting Banks.

Incorporated by this reference, as though set forth fully herein, are Sections 4-201 through 4-216 of Article 4, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4-201 through 4-4-216 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-5103. Collection of Items: Payor Banks.

Incorporated by this reference, as though set forth fully herein, are Sections 4-301 through 4-303 of Article 4, Part 3, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4-301 through 4-4-303 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-5104. Relationship between Payor Bank and its Customer.

Incorporated by this reference, as though set forth fully herein, are Sections 4-401 through 4-407 of Article 4, Part 4, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4-401 through 4-4-407 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-5105. Collection of Documentary Drafts.

Incorporated by this reference, as though set forth fully herein, are Sections 4-501 through 4-504 of Article 4, Part 5, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4-501 through 4-4-504 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 6. FUNDS TRANSFERS**Sec. 4-6101. Short Title, General Construction and Subject Matter.**

Incorporated by this reference, as though set forth fully herein, are Sections 4A-101 through 4A-108 of Article 4A, Part 1, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4A-101 through 4-4A-108 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-6102. Issue and Acceptance of Payment Order.

Incorporated by this reference, as though set forth fully herein, are Sections 4A-201 through 4A-212 of Article 4A, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4A-201 through 4-4A-212 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-6103. Execution of Receiver's Payment Order by Receiving Bank.

Incorporated by this reference, as though set forth fully herein, are Sections 4A-301 through 4A-305 of Article 4A, Part 3, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4A-301 through 4-4A-305 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-6104. Payment.

Incorporated by this reference, as though set forth fully herein, are Sections 4A-401 through 4A-406 of Article 4A, Part 4, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4A-401 through 4-4A-406 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-6105. Miscellaneous Provisions.

Incorporated by this reference, as though set forth fully herein, are Sections 4A-501 through 4A-507 of Article 4A, Part 5, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-4A-501 through 4-4A-507 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 7. LETTERS OF CREDIT**Sec. 4-7101. Short Title, General Construction and Subject Matter.**

Incorporated by this reference, as though set forth fully herein, are Sections 5-101 through 5-118 of Article 5 of the 2005 Official Text of the Uniform Commercial Code (except that all references to "this State" shall be replaced with the term "this jurisdiction", which shall mean the jurisdiction of the Tribe), renumbered as Sections 4-5-101 through 4-5-118 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 8. WAREHOUSE RECEIPTS, BILLS OF LADING AND OTHER DOCUMENTS OF TITLE**Sec. 4-8101. Short Title, General Construction and Subject Matter.**

Incorporated by this reference, as though set forth fully herein, are Sections 7-101 through 7-105 of Article 7, Part 1, of the 2005 Official Text of the Uniform Commercial Code (except that all references to “this State” shall be replaced with the term “this jurisdiction”, which shall mean the jurisdiction of the Tribe), renumbered as Sections 4-7-101 through 4-7-105 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-8102. Warehouse Receipts: Special Provisions.

Incorporated by this reference, as though set forth fully herein, are Sections 7-201 through 7-210 of Article 7, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-7-201 through 4-7-210 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-8103. Bills of Lading: Special Provisions.

Incorporated by this reference, as though set forth fully herein, are Sections 7-301 through 7-309 of Article 7, Part 3, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-7-301 through 4-7-309 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-8104. Warehouse Receipts and Bills of Lading: Special Provisions.

Incorporated by this reference, as though set forth fully herein, are Sections 7-401 through 7-404 of Article 7, Part 4, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-7-401 through 4-7-404 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-8105. Warehouse Receipts and Bills of Lading: Negotiation and Transfer.

Incorporated by this reference, as though set forth fully herein, are Sections 7-501 through 7-509 of Article 7, Part 5, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-7-501 through 4-7-509 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-8106. Warehouse Receipts and Bills of Lading: Miscellaneous Provisions.

Incorporated by this reference, as though set forth fully herein, are Sections 7-601 through 7-603 of Article 7, Part 6, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-7-601 through 4-7-603 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 9. INVESTMENT SECURITIES**Sec. 4-9101. Short Title, General Construction and Subject Matter.**

Incorporated by this reference, as though set forth fully herein, are Sections 8-101 through 8-116 of Article 8, Part 1, of the 2005 Official Text of the Uniform Commercial Code (except that all references to “this State” shall be replaced with the term “this jurisdiction”, which shall mean the jurisdiction of the Tribe), renumbered as Sections 4-8-101 through 4-8-116 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-9102. Issue and Issuer.

Incorporated by this reference, as though set forth fully herein, are Sections 8-201 through 8-210 of Article 8, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-8-201 through 4-8-210 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-9103. Transfer of Certificated and Uncertificated Securities.

Incorporated by this reference, as though set forth fully herein, are Sections 8-301 through 8-307 of Article 8, Part 3, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-8-301 through 4-8-307 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-9104. Registration.

Incorporated by this reference, as though set forth fully herein, are Sections 8-401 through 8-407 of Article 8, Part 4, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-8-401 through 4-8-407 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-9105. Security Entitlements.

Incorporated by this reference, as though set forth fully herein, are Sections 8-501 through 8-511 of Article 8, Part 5, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-8-501 through 4-8-511 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

CHAPTER 10. SECURED TRANSACTIONS**Sec. 4-10101. Short Title, Applicability and Definitions**

(a) Incorporated by this reference, as though set forth fully herein, are Sections 9-101 through 9-110 of Article 9, Part 1, of the 2005 Official Text of the Uniform Commercial Code (except that all references to “this State” shall be replaced with “this jurisdiction”, which shall

mean the jurisdiction of the Tribe; and as otherwise provided below), renumbered as Sections 4-9-101 through 4-9-110 Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

(b) For purposes of Chapter 10, perfection of security interests in vehicles and other goods registered under certificate of title laws of a state or other jurisdiction shall be governed by such laws until such time as the Tribe adopts laws creating a system for the issuance of certificates of title.

(c) For purposes of Chapter 10, the term “business day” means a day on which the offices of the government of the Tribe are open for conduct of their ordinary business.

(d) Section 4-9-102(a)(67)(C) is hereby restated as follows: “the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a tribe or state, or is a governmental unit of a tribe or a state.”

(e) Section 4-9-109(a) is hereby restated as follows:

“(a) **[General scope of this Chapter 10.]** Except as otherwise provided in section on excluded transactions (4-9-109 subd. (d)), this Chapter 10 applies to the following, if within the jurisdiction of the Tribe:

(1) any transaction, regardless of its form, that creates a security interest in personal property of fixtures by contract;

(2) a sale of accounts, chattel paper, payment intangibles, or promissory notes;

(3) a consignment; and

(4) any other commercial activities, including sales of goods, leases of goods, other transactions in goods, negotiable instruments, bank deposits and collections, funds transfers, letters of credit, documents of title, and investment securities, to the extent those commercial activities are implicated in clauses (1), (2) or (3) of this subsection (a).”

(f) Section 4-9-109(d) is hereby amended to list “tribal liens” as an excluded transaction.

(g) Section 4-9-109 is hereby amended by adding the following provisions as paragraphs (e) and (f):

“(e) **[No Application to Property Not Alienable.]** This Chapter 10 does not apply to any property interest that is subject to federal restrictions regarding sale, transfer, or encumbrance.

(f) **[No Application to Religious Artifacts or Sacred Objects.]** The creation of a security interest in religious artifacts or sacred objects is prohibited.”

Sec. 4-10102. Effectiveness of Security Agreement; Attachment of Security Interest; Rights of Parties to Security Agreement.

(a) Incorporated by this reference, as though set forth fully herein, are Sections 9-201 through 9-210 of Article 9, Part 2, of the 2005 Official Text of the Uniform Commercial Code, renumbered as Sections 4-9-201 through 4-9-210 Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

(b) Section 4-9-201 is hereby restated as follows:

(a) **[General effectiveness.]** Except as otherwise provided in [the Uniform Commercial Code], a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) **[Applicable consumer laws and other law.]** A transaction subject to this Commercial Code is subject to any applicable rule of law which establishes a different rule for consumers, including:

(1) any applicable Tribal, federal or State rule of law that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit; and

(2) any consumer-protection statute or regulation.

(c) **[Other applicable law controls.]** In case of conflict between this Commercial Code and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation prevails.”

Sec. 4-10103. Perfection and Priority.

(a) Incorporated by this reference, as though set forth fully herein, are Sections 9-301 through 9-339 of Article 9, Part 3, of the 2005 Official Text of the Uniform Commercial Code (except that all references to “this State” shall be replaced with “this jurisdiction”, which shall mean the jurisdiction of the Tribe; and as otherwise provided below), renumbered as Sections 4-9-301 through 4-9-339 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

(b) Section 4-9-301 is hereby restated as follows:

“Except as otherwise provided with respect to goods covered by a certificate of title (Section 4-9-303), the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, the local law of the Tribe governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(A) if the security interest is created pursuant to this Commercial Code;

(B) from the time that the collateral is transferred to a person that thereby becomes a debtor and is subject to the jurisdiction of the Tribe.

(2) Except as provided in paragraph (3), while goods are located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in goods by filing a fixture filing; and

(B) perfection of a security interest in timber to be cut.

(3) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

(4) This section does not determine the law governing matters not expressly referred to herein, including attachment, validity, characterization, and enforcement.”

(c) Section 4-9-316 is hereby restated as follows:

“(a) **[General rule: effect on perfection of change in governing law.]** A security interest to which this Commercial Code becomes applicable that is perfected pursuant to the laws of another jurisdiction remains perfected until the earliest of:

(1) the time perfection would have ceased under the law of that jurisdiction;

(2) the expiration of four months after the debtor becomes subject to the jurisdiction of the Tribe (subsections (d) and (e)); or

(3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is subject to the jurisdiction of the Tribe.

(b) **[Security interest perfected or unperfected under the law of the Tribe.]** If a security interest described in subsection (a) becomes perfected under the law of the Tribe before the end of the applicable period described in that subsection, it remains perfected thereafter until perfection lapses in accordance

with this Commercial Code. Otherwise, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) **[Goods covered by certificate of title from the Tribe.]** A security interest to which this Commercial Code becomes applicable which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from the Tribe remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered. However, the security interest becomes unperfected as against a purchaser of the goods for value, if the applicable requirements for perfection under Section 4-9-311(b) or 4-9-313, dealing with perfection by compliance with other law or by possession, are not satisfied before the earlier of:

(1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from the Tribe; or

(2) the expiration of four months after the goods had become so covered.

(d) **[When debtor subject to jurisdiction of the Tribe for purposes of this section.]** For purpose of Section 4-9-316 only, a debtor becomes subject to the jurisdiction of the Tribe if:

(1) the debtor is an individual whose principal residence comes to be within the jurisdiction or who becomes a member of the Tribe;

(2) the debtor is an organization, other than a registered organization, and its sole place of business or, if it has more than one place of business, its chief executive office, comes to be within this jurisdiction; or

(3) the debtor comes to be:

(A) a registered organization that is organized solely under the law of the Tribe; or

(B) incorporated under a charter issued to an Indian tribe by the United States Secretary of the Interior pursuant to 25 U.S.C. § 477, as the same may be amended from time to time.

The term “registered organization” means an organization organized solely under the law of Tribe, a single State, or the United States and as to which the Tribe, the State, or the United States must maintain a public record showing the organization to have been organized. The term “place of business” means a place where a debtor conducts its affairs.

(e) **[Continuation of jurisdiction: cessation of existence, etc.]** For purpose of subsection (d):

(1) a person other than a registered organization continues to be subject to the jurisdiction of the Tribe notwithstanding the fact that it ceases to exist, have a residence, or have a place of business; and

(2) a registered organization continues to be subject to the jurisdiction of the Tribe notwithstanding:

(A) the suspension, revocation, forfeiture, or lapse of the registered organization's status as such; or

(B) the dissolution, winding up, or cancellation of the existence of the registered organization.”

Sec. 4-10104. Rights of Third Parties.

(a) Incorporated by this reference, as though set forth fully herein, are Sections 9-401 through 9-409 of Article 9, Part 4 of the 2005 Official Text of the Uniform Commercial Code (except as otherwise provided below), renumbered as Sections 4-9-401 through 4-9-409 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

(b) Section 4-9-401 is hereby restated as follows:

“Whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this Commercial Code; however, an agreement between a debtor and a secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect. This section is subject to Section 4-9-408, which invalidates certain legal and contractual restrictions on transferability that generally would be effective under other law.”

(c) Section 4-9-408 is hereby restated as follows:

“(a) **[Commercially harmful restrictions on alienation invalid.]** A commercially harmful restriction on alienation (subsections (b), (c) and (d)) of property is invalid.

(b) **[Commercially harmful defined for certain transactions.]** In an assignment of accounts other than health-care-insurance receivables, an assignment of chattel paper, an assignment of payment intangibles that is not a sale, or a transfer of promissory notes that is not a sale, the term “commercially harmful restriction on alienation” means a term in an agreement between an account debtor and an assignor, or in a promissory note, to the extent that it:

(1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note, to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the affected property; or

(2) provides that such an assignment, transfer, creation, attachment, perfection, or enforcement may give rise to a default or remedy.

(c)(1) **[Commercially harmful defined less broadly for other transactions.]** In an assignment of a health-care-insurance receivable, a sale of promissory notes, a sale of payment intangibles, or a security interest in other general intangibles (including a contract, permit, or license, or franchise) that is not a sale, the term “commercially harmful restriction on alienation” has the same meaning as in subsection (b) except that the references to enforcement of a security interest appearing in subsection (b)(1) and (2) are excluded.

(2) **[Limitation on effect in such other transactions.]** To the extent a commercially harmful restriction on alienation under paragraph (c)(1) would otherwise be effective under law other than this Commercial Code, the creation, attachment, or perfection of the security interest:

(A) does not impose a duty or obligation on the account debtor or person obligated on the promissory note;

(B) is not enforceable against the account debtor or person obligated on the promissory note; and

(C) does not entitle the secured party to:

- (i) use the debtor’s rights in or to the property;
- (ii) have access to trade secrets or confidential information of the account debtor or person obligated on the promissory note; or
- (iii) enforce the security interest.

(d) **[Rule of law as commercially harmful restriction.]** In addition to the meanings set forth in subsections (b) and (c), the term “commercially harmful restriction on alienation” includes a rule of law to the extent that it:

(1) requires the consent of a governmental body or official to the assignment or transfer of, or actions described in subsection (b) or (c), as applicable, regarding a security interest in, the property; or

(2) has any of the effects of a commercially harmful restriction on alienation as defined in subsection (b) or (c), as applicable.

(e) **[Deferral to consumer law, inapplicability.]** This Section 4-9-408 is subject to any different rule in other law for a consumer. In addition this Section 4-9-408 does not apply to any assignment of:

(1) a claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. § 104(a)(1) or (2), as the same may be amended from time to time;

(2) a claim or right to receive benefits under a special needs trust as described in 42 U.S.C. § 1396p(d)(4), as the same may be amended from time to time;

(3) a structured settlement payment right;

(4) a right to payment of winnings in a lottery or other game of chance regulated by law other than this Commercial Code.”

Sec. 4-10105. Filing.

(a) Incorporated by this reference, as though set forth fully herein, are Sections 9-501 through 9-527 of Article 9, Part 5, of the 2005 Official Text of the Uniform Commercial Code (except that Section 9-512 shall contain only Alternative A; Section 9-518 shall contain only Alternative A; Section 9-519 shall contain only Alternative A; Section 9-522 shall contain only Alternative A; Section 9-525 shall contain only Alternative A; all references to “this State” shall be replaced with the term “this jurisdiction”, which shall mean the jurisdiction of the Tribe; and as otherwise provided below), renumbered as Sections 4-9-501 through 4-9-527 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

(b) Filing of all financing statements, security agreements, liens and other encumbrances necessary or desirable to perfect the interests of a secured party pursuant to this Commercial Code shall be made with the Secretary of the Tribe.

(c) The filing office is charged with administration of Sections 4-9-501 through 4-9-527. In accordance with applicable administrative and interpretive rules and after review and approval of the Tribal Council, the filing office shall promulgate and make available the following, in both case consistent with this Commercial Code and with Tribal and commercial policy:

(1) regulations to the extent thought necessary for the effective implementation and enforcement of Sections 4-9-501 through 4-9-527; and

(2) an implementation manual providing guidance to person entering into transactions governed by this Commercial Code.

(d) The Tribal Council may delegate the administration of Sections 4-9-501 through 4-9-527 to a third party, including the filing office or offices of another jurisdiction. No

delegation of performance relieves the filing office of any duty imposed on it by this Commercial Code.

Sec. 4-10106. Default.

(a) Incorporated by this reference, as though set forth fully herein, are Sections 9-601 through 9-624 of Article 9, Part 6, of the 2005 Official Text of the Uniform Commercial Code (except as otherwise provided below), renumbered as Sections 4-9-601 through 4-9-624 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

(b) Section 4-9-609 is hereby restated as follows:

“(a) **[Consent or Judicial Process.]** Unless otherwise agreed a secured party has at the time of or after default the powers described in subsection (b), but such powers may be exercised only pursuant to judicial process or with the debtor’s consent. Such consent is effective only if expressed after default by means of a separate dated and signed personal statement in the debtor’s handwriting, describing the powers to be exercised by the secured party and expressly acknowledging and waiving the debtor’s rights to require that such exercise be pursuant to judicial process.

(b) **[Possession, rendering equipment unusable and assembly of collateral.]** Under the circumstances of subsection (a) the secured party may:

- (1) take possession of the collateral;
- (2) without removal, render equipment unusable and dispose of collateral on a debtor’s premises under Section 4-9-610; and
- (3) require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

(c) **[No breach of the peace.]** A secured party acting pursuant to the debtor’s consent under subsection (a) must proceed without breach of the peace.”

Sec. 4-10107. Transition.

Incorporated by this reference, as though set forth fully herein, are Sections 9-701 through 9-709 of Article 9, Part 7, of the 2005 Official Text of the Uniform Commercial Code (except that all references to “this State” shall be replaced with “this jurisdiction”, which shall mean the jurisdiction of the Tribe), renumbered as Sections 4-9-701 through 4-9-709 of the Sac and Fox Tribe of the Mississippi in Iowa Commercial Code.

Sec. 4-10108. Parties' Power to Choose Applicable Law.

(a) Except as provided in subsection (b) and unless preempted by federal law, if a transaction bears a reasonable relation to the Tribe and also to another Indian tribe or nation, state, or country, the parties may agree that the law either of the Tribe or such other Indian tribe or nation, state, or country governs their rights and duties. The fact that the law of another Indian tribe or nation, state, or country is applicable as provided in this section does not affect the jurisdiction or venue of the Tribe, nor does it waive the sovereign immunity of the Tribe or any agency or instrumentality of the Tribe.

(b) An agreement otherwise effective under subsection (a) is ineffective in any of the following cases:

(1) in a consumer transaction;

(2) to the extent the agreement purports to vary the provisions of Sections 4-9-101 through 4-9-110 and Sections 4-9-301 through 4-9-339, concerning the law governing perfection and priority; or

(3) to the extent that application of the law of the Indian tribe or nation, state, or country designated in the agreement would be contrary to a fundamental policy of the Tribe.

CHAPTER 11. JUDICIAL PROCEDURE; ENFORCEMENT**Sec. 4-11101. One Action to Foreclose Security Interest**

(a) There can be one action in the Sac & Fox Tribe of the Mississippi in Iowa Judicial Court (hereinafter the "Judicial Court") to recover any debt or enforce or foreclose any right secured by a security interest on non-trust property situated or located on the Meskwaki Settlement which action must be in accordance with the procedures set forth herein.

(b) Notwithstanding the provisions above, if the debt for which the encumbrance is held is not all due, but is payable in installments, whether such debt is evidenced by one or more principal notes or otherwise, such encumbrance, installment(s) due or other charges which are to be paid by the mortgagor may be foreclosed, at the election of the encumbrance holder. The Judicial Court may by its judgment direct the sales of the encumbered property or of the equity of the defendants therein or so much thereof as may be necessary to satisfy the amount due. Such encumbrance shall otherwise remain valid and the holder thereof shall have the right to foreclose on the balance or any part thereof.

Sec. 4-11102. Action to Foreclose Interest in Personal Property.

(a) An action to foreclose a security interest in non-trust personal property when the debtor is in default of a security agreement shall be commenced in the Judicial Court.

(b) The creditor must file a complaint for repossession and in said complaint the creditor must include a concise statement of the creditor's claim against the debtor. The debtor may file an Answer to the creditor's complaint at any time prior to the hearing. At the hearing both creditor and debtor may present documentary evidence and witnesses to support their positions in the debt dispute. At the hearing, if the trial judge determines that repossession is in fact justified, the trial judge shall issue an order authorizing the creditor to repossess the personal property involved. Any such order shall direct that a creditor may repossess the property only when accompanied by a Tribal police officer.

(c) The Judicial Court shall direct the sale of the encumbered property, or so much thereof as is necessary, and direct the proceeds of the sale to the payment of the costs of court, the expenses of such sale, and to the amount due the plaintiff. If it appears from the Tribal police officer's return on the sale that the proceeds thereof are insufficient and that an amount still remains due, the Judicial Court shall direct entry of a judgment for such balance against the defendant or defendants.

(d) Sale of property under the Court's judgment shall be conducted in a commercially reasonable manner in accordance with this Commercial Code, if the Judicial Court does not issue instructions for the sale of the property.

Sec. 4-11103. Right of Attachment.

(a) At the time of the issuance of a summons and complaint in a civil action, or at any time prior to final judgment, a creditor may file with the Clerk of the Judicial Court a request for a pre-judgment Order of Attachment. All requests for pre-judgment Order of Attachment shall be accompanied by an affidavit of the creditor which shall contain the following facts:

- (1) that a debt is owed to the creditor by a debtor and the nature and specific amount of the debt;
- (2) that the personal property being attached is specifically identified as non-trust personal property belonging to the debtor; and
- (3) that the creditor has reasonable cause to believe that the specific personal property sought to be attached may be lost, damaged, vandalized or removed off the Meskwaki Settlement prior to payment of a final judgment and such loss, damage, vandalism or removal of the property would jeopardize the ability of the creditor to collect on the judgment that may later be obtained.

(b) If the trial judge is satisfied after reviewing the complaint and affidavit, the trial judge may issue an Order of Attachment of the designated personal property. The Tribal police shall be given the Order of Attachment and the Tribal police shall seize any property identified by the order. Said property shall be kept in storage under the control of the Tribal police. Said personal property shall be held by the police pending any further order of the Judicial Court.

(c) An Order of Attachment shall not be issued until the creditor has filed with the Clerk of the Judicial Court a surety bond or cash bond in the sum of at least \$500. Said bond shall be necessary in the event that the order of attachment was wrongfully issued and the debtor was damaged, or in the event the debtor prevails when final judgment is rendered.

(d) The debtor shall be served with the Order of Attachment at the time the Tribal police seize the personal property of the debtor. If the debtor is not available or present at the time the personal property is seized, said Order of Attachment shall be posted in a conspicuous place on the door of the debtor's house, mobile home or residence and a copy mailed to the debtor's last known address. The service shall be documented for court records.

(e) At any time following the issuance of an Order of Attachment, the debtor shall be entitled to challenge the validity of the issuance of that writ. The debtor may contest the Writ of Attachment by filing a Response to Writ of Attachment. At the time that the Response is filed with the Clerk of the Judicial Court, the Judicial Court shall set a hearing date and notice of said hearing shall be served on the creditor at least five days before that hearing. At the hearing the debtor must establish by a preponderance of the evidence that:

(1) the specific personal property sought to be attached would not be likely to be lost, damaged, vandalized or removed off the Meskwaki Settlement prior to final judgment; or that said loss, damage, vandalism or removal of property would not result in hindering the ability of the creditor to collect on a judgment if one should subsequently be obtained;

(2) that no debt is owed to the creditor; or

(3) that the property sought to be attached is exempt under this Commercial Code or is trust property.

(f) If the court determines that the pre-judgment writ of attachment was wrongfully issued, the court may impose a fine and order payment of the other party's attorney fees and costs.

Sec. 4-11104. Conduct of Sale.

(a) All sales of property under decrees of repossession and orders for sale conducted by the Tribal police must be made at auction, conducted at the Tribal Headquarters, to the highest bidder, between the hours of 9:00 a.m. and 5:00 p.m. on any Tribal business day.

(b) Once sufficient property has been sold to satisfy the judgment plus the costs of court and of the sale, no more property shall be sold.

(c) The person conducting the sale may not be a purchaser or be interested in any purchase at such sale.

(d) If the property being sold consists of several lots or parcels, they may be sold separately. The judgment debtor, if present at the sale, may direct the order in which the property shall be sold when such property consists of several known lots or parcels. If a third persons claims an interest in part of the property to be sold, that party may require that such part be sold separately.

(e) If a purchaser refuses to pay the amount bid for property sold to the bidder at sale, the officer conducting the sale may again sell the property to the highest bidder and if any less be occasioned thereby, the Tribal police officer may recover the amount of such loss, plus costs, from the bidder so refusing, in the Judicial Court. When a purchaser refuses to pay, the Tribal police officer may, in the officer's discretion, thereafter reject any subsequent bid of such person.

Sec. 4-11105. Return on Sale

(a) The Tribal police officer conducting the sale shall make a return thereon to the Judicial Court reciting the details of the sale including the following:

- (1) the name and address of the highest bidder;
- (2) the successful bid price;
- (3) the date and time of sale;
- (4) the name of the officer conducting the sale; and
- (5) any other relevant information.

(b) A certified copy of such return together with a certified copy of the Judicial Court's order directing the sale shall be filed by the purchaser in the Tribal filing records under the name of the original debtor.

Sec. 4-11106. Enforcement.

The Tribal Police of the Sac and Fox Tribe of the Mississippi in Iowa are hereby authorized and empowered to execute judgments entered by the Judicial Court of the Sac and Fox Tribe of the Mississippi in Iowa pursuant to this Commercial Code.