

**TITLE XXXVII**

(37)

**ARBITRATION CODE**

**Ordinance No. 323 - 15**

**Standing Rock Sioux Tribal Code of Justice**



**Resolution No. 285-15**

**Approved  
June 23, 2015**

**BY**

**\*\*\***

**Standing Rock Sioux Tribal Council**

**ORDINANCE NO. 323-15**  
**RESOLUTION NO. 285-15**

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934 [48 Stat. 984], with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and

WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the amended Constitution of the Standing Rock Sioux Tribe, Article IV, Section 1[c], 1[m], and Article V, is authorized to promote and protect the health, education and general welfare of the members of the Tribe, to engage in any business that will further the economic development of the Tribe and its members, and to propose and enact ordinances, provided they are posted for not less than ten (10) days prior to final adopting by the Tribal Council; and

WHEREAS, on June 5, 2015, the Tribal Council approved to post for public comments, for ten (10) days, pursuant to Section 19-108 of the Code of Justice, the all new **ARBITRATION CODE**.

NOW THEREFORE BE IT RESOLVED, that the new **ARBITRATION CODE** amends the Standing Rock Sioux Tribal Code of Justice, and is hereby established as new **ORDINANCE No. 323-15**,

BE IT FURTHER RESOLVED, that by the power vested in the Standing Rock Sioux Tribal Council, under the Constitution of the Standing Rock Sioux Tribe, the foregoing new **ARBITRATION CODE** is hereby established in the Standing Rock Sioux Tribal Code of Justice as TITLE Thirty Seven (37).

BE IT FINALLY RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

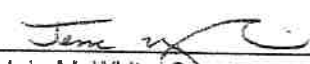
**CERTIFICATION**

WE, the undersigned Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [17] of whom 11 constituting a quorum, were hereby present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 23<sup>rd</sup> day of JUNE, 2015, and that the foregoing resolution was duly adopted by the affirmative vote of 9 members, with 1 opposing and with 1 not voting. THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF A TIE.

DATED THIS 23 DAY OF JUNE 2015.

ATTEST:

  
Dave Archambault II, Chairman  
Standing Rock Sioux Tribe

  
Adele M. White, Secretary  
Standing Rock Sioux Tribe

[OFFICIAL TRIBAL SEAL]

Meeting Date: 06/23/2015  
Motion No.: 15

**TITLE XXXVII (37) ARBITRATION CODE  
ORDINANCE NO. 323-15**

**TABLE OF CONTENTS**

Section 1. Short Title and Purpose.....	Page 1
Section 2. Scope of Arbitration Law and Repeal of Inconsistent Provisions.....	Page 1
Section 3. Enforceability of Agreements to Arbitrate .....	Page 1
Section 4. Law to be Applied .....	Page 1
Section 5. Stay of Proceedings in Tribal Court and Order to Proceed with Arbitration .....	Page 2
Section 6. Advice of the Court on Tribal, State or Federal Law .....	Page 2
Section 7. Time That Award Shall Be Rendered .....	Page 2
Section 8. Application for Order Confirming Award; Record to be Filed with the Tribal Court; Effective and Enforcement of Judgment .....	Page 3
Section 9. Arbitration Award Not Appealable .....	Page 4
Section 10. Jurisdiction of the Tribal Court .....	Page 4
Section 11. Police Powers and Judgment Enforcement Remedies .....	Page 5
Section 12. Severability .....	Page 5
Section 13. No Waiver of Sovereign Immunity .....	Page 5
Section 14. Effective Date and Repealer .....	Page 5

## STANDING ROCK ARBITRATION CODE

### Section 1. Short Title and Purpose

- (a) This law shall be known as the “Arbitration Law.”
- (b) The purpose of this law is to authorize the arbitration of disputes in contractual agreements of the Standing Rock Sioux Tribe (the “**Tribe**”) and the Shakopee Mdewakanton Sioux Community (the “**Community**”) and to provide for the enforcement of agreements to arbitrate and resulting arbitration awards, by any dispute resolution forum of the Tribe, whether a tribal court, the Tribal Council, or other body or forum now or hereafter established by the Tribe (collectively, the “**Tribal Court**”).

### Section 2. Scope of Arbitration Law and Repeal of Inconsistent Provisions

- (a) This Arbitration Law applies to any written contract, agreement, and/or other instrument entered into by the Tribe (each, a “**Contract**”) or by any subdivision, instrumentality, enterprise, wholly owned entity or affiliate of the Tribe, relating to any financial transaction with the Community, including the Credit Agreement to be entered into between the Tribe and the Community (as the same may be amended, restated, modified or supplemented from time to time, the “**Credit Agreement**”) and all Loan Documents (as defined in the Credit Agreement) (collectively, the “**Transaction Documents**”).
- (b) This Arbitration Law only applies to the Transaction Documents, the Community, the Depository (as defined in the Credit Agreement) and any persons expressly entitled to benefit from the Transaction Documents to whom the Tribe has waived its sovereign immunity in any Transaction Document to permit arbitration, and shall be the law of the Tribe so long as any obligation pursuant to the Transaction Documents remains unpaid or unperformed.
- (c) This law shall expire when the Obligations (as defined in the Credit Agreement) are satisfied in full.

### Section 3. Enforceability of Agreements to Arbitrate

Any Contract by the Tribe or by any authorized subdivision, instrumentality, component or agency of the Tribe, validly entered into pursuant to all applicable law and in accordance with Section 2 hereof (each an “**Authorized Agreement**”) shall be valid, irrevocable, and enforceable.

### Section 4. Law to be Applied

- (a) In any Authorized Agreement, the parties may agree upon the jurisdiction whose substantive law shall govern the interpretation and enforcement of the Authorized Agreement or controversy. Such choice of law shall be valid and enforceable, and not subject to revocation by one party without the consent of the other party or parties thereto.

- (b) In any proceeding under this Arbitration Law, whenever the Authorized Agreement sets forth a choice of law provision, the Tribal Court shall apply the procedural rules of the Tribal Court and the substantive law of the jurisdiction selected in such choice-of-law provision; provided, that no procedural rule of the Tribal Court shall bar, delay or impair any action, proceeding or remedy where such action, proceeding or remedy would not be barred, delayed or impaired by the procedural rules of the courts of the jurisdiction whose substantive law applies.
- (c) In any proceeding under this Arbitration Law whenever such Authorized Agreement does not set forth a choice of law provision, the Tribal Court shall apply the substantive law of the Tribe, including any applicable choice-of-law principles.

**Section 5. Stay of Proceedings in Tribal Court and Order to Proceed with Arbitration**

- (a) If any action for legal or equitable relief or other proceeding is brought in the Tribal Court by any party to any Authorized Agreement, the Tribal Court shall not review the merits of the pending action or proceeding, but shall stay the action or proceeding until arbitration has been had in compliance with the Authorized Agreement.
- (b) A party to any Authorized Agreement claiming the neglect or refusal of another party thereto to proceed with arbitration thereunder may make application to the Tribal Court for an order directing the parties to proceed with arbitration in compliance with the Authorized Agreement. In such event, the Tribal Court shall order the parties to arbitration in accordance with the provisions of the Authorized Agreement and the question of whether an obligation to arbitrate the dispute at issue exists shall be decided by the arbitrator(s).

**Section 6. Advice of the Court on Tribal, State or Federal Law**

At any time during an arbitration, upon request of all the parties to the arbitration, the arbitrator(s) may make application to the Tribal Court for advice on any question of tribal law arising in the course of the arbitration, so long as such parties agree in writing that the advice of the Tribal Court shall, if issued, be final as to the question presented and addressed and that it shall bind the arbitrator(s) in rendering any award. The arbitrator(s) may make application to any state or federal court of competent jurisdiction for advice on any question of state or federal law arising in the course of the arbitration so long as such parties agree in writing that the advice of such state or federal court, if issued, shall be final as to the question presented and addressed, and that it shall bind the arbitrator(s) in rendering any award.

**Section 7. Time That Award Shall Be Rendered**

- (a) If the time in which an award is rendered has not been fixed in the arbitration law, the arbitrator(s) shall render the award within thirty days from the date the arbitration has been completed. The parties may expressly agree to extend the time that the award may be made by an extension or ratification thereof in writing.

- (b) An arbitration award shall be in writing and signed by the arbitrator(s). The arbitrator(s) shall provide written notice of the award to each party as required by applicable law or rule or, if not otherwise so specified, by certified or registered mail, return receipt requested.

**Section 8. Application for Order Confirming Award; Record to be Filed with the Tribal Court; Effect and Enforcement of Judgment**

- (a) At any time within one year after an arbitration award has been rendered in accordance with this Arbitration Law and the parties thereto notified thereof, any party to the arbitration may make application to the Tribal Court for an order confirming the award if permitted in the Authorized Agreement.
- (b) Any party applying for an order confirming an arbitration award shall, at the time the order is filed with the clerk (or other appropriate representative) of the Tribal Court for entry of a judgment, file true and correct copies of the following papers with the clerk (or other appropriate representative):
  - (1) the agreement to arbitrate;
  - (2) the Tribal Council resolution approving this Arbitration Law;
  - (3) the selection or appointment, if any, of the arbitrator(s);
  - (4) any written agreement requiring or agreeing to the reference of any question provided in Section 6 hereof;
  - (5) each written extension of the time, if any, in which to make the award;
  - (6) the award;
  - (7) each notice and other paper used to confirm the arbitration award; and
  - (8) written identification of all parties to the arbitration.
- (c) Except as provided in Section 8(d) below, an arbitration award shall be confirmed strictly as provided by the arbitrator; provided that the Tribal Court may nevertheless decline to enforce any arbitration award if it finds that any of the following occurred:
  - (1) the award was procured by corruption, fraud, or undue means;
  - (2) there was evident partiality or corruption on the part of the arbitrator(s);
  - (3) the arbitrator(s) were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or were guilty of any other misbehavior by which the rights of any party have been prejudiced; or

- (4) the arbitrator(s) exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made.

Where an arbitration award is so vacated, the Tribal Court may, in its discretion, direct a rehearing by the arbitrator(s).

- (d) In any of the following cases where the Tribal Court is authorized to make an order regarding arbitration, the Tribal Court may make an order modifying or correcting the arbitration award upon the application of any party to the arbitration:
  - (1) where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the award;
  - (2) where the arbitrator(s) have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted; or
  - (3) where the arbitration award is imperfect in matter of form not affecting the merits of the controversy.

The order may modify and correct the award, so as to effect the intent thereof and promote justice between the parties.

- (e) The judgment confirming or order modifying and correcting an award shall be docketed as if it were rendered in a civil action in Tribal Court. The judgment so entered shall have the same force and effect in all respects as, and be subject to all the provisions of law relating to, a judgment in a civil action, and it may be enforced as if it has been rendered in a civil action in the Tribal Court. When the award requires the performance of any act (other than or in addition to the payment of money), the Tribal Court may direct the enforcement thereon in the manner provided by law.

### **Section 9. Arbitration Award Not Appealable**

No further appeal may be taken from an order issued by the Tribal Court pursuant to this Arbitration Law enforcing an agreement to arbitrate or an award issued by an arbitrator.

### **Section 10. Jurisdiction of the Tribal Court**

- (a) The Tribal Court shall have jurisdiction over any action to enforce an agreement to arbitrate, to compel arbitration pursuant to such an agreement to arbitrate, and to enforce an award made by an arbitrator pursuant to such agreement to arbitrate, contained in any Authorized Agreement.
- (b) To the extent allowed by federal law and the parties' Authorized Agreement, the jurisdiction of the Tribal Court under this Arbitration Law shall be concurrent with the jurisdiction of any state or federal court over such contract, agreement or other instrument. Any consent to the jurisdiction of a state or federal court or the Tribal Court

contained in an Authorized Agreement, and any waiver of the obligation of the parties to exhaust Tribal Court remedies, shall be valid and enforceable in accordance with its terms.

### **Section 11. Police Powers and Judgment Enforcement Remedies**

The Tribe shall comply with and observe each arbitration award to the extent not judicially vacated or modified in accordance herewith by any court whose jurisdiction is authorized in the Authorized Agreement. The Tribe and the Tribal Court shall give full faith and credit to any award, order, decree, or judgment rendered in any arbitration or by any federal or state court, and, to the extent reasonably necessary, shall issue such orders and exercise such legal powers as may reasonably be necessary in order to effectuate the same. The Tribe's police powers shall be available to secure and support any such enforcement and collection efforts, and all police or other law enforcement officials of the Tribe shall carry out any order directing them to assist in enforcement and collection efforts that may be entered by the Tribal Court in order to enforce and collect the judgment rendered as a result of the arbitration award.

### **Section 12. Severability**

If any section or part thereof of this Arbitration Law or the application thereof to any party shall be held invalid for any reason whatsoever by a court of competent jurisdiction or by federal legislative action, the remainder of the relevant section or part of this Arbitration Law shall not be affected thereby and shall remain in full force and effect.

### **Section 13. No Waiver of Sovereign Immunity**

Nothing in this Arbitration Law is or shall be interpreted to constitute a waiver of the sovereign immunity of the Tribe or any of its officers, employees or agents acting within the scope of their authority.

### **Section 14. Effective Date and Repealer**

- (a) Any prior legislation or other laws of the Tribe that are inconsistent with the purpose and procedures established by this Arbitration Law are hereby repealed to the extent of any such inconsistency. Any prior Tribal Laws whose principal purpose was to authorize the arbitration of disputes in contractual arrangements or to provide for the enforcement of agreements to arbitrate are hereby repealed in their entirety. Upon the expiration of this agreement in accordance with Section 2(c) above, any previous law of the Tribe repealed by this law will be reinstated.
- (b) This Arbitration Law is effective upon the date of its enactment by Tribal Resolution.