

Issued in Arlington, Virginia, on August 4, 2011.

Joanna Johnson,
TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2011-20259 Filed 8-9-11; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal-State Class III Gaming Compact taking effect.

SUMMARY: This publishes notice of the Tribal-State Compact between the State of California and the Habematolel Pomo of Upper Lake taking effect.

DATES: Effective Date: August 10, 2011.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

SUPPLEMENTARY INFORMATION: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA) Public Law 100-497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish in the *Federal Register* notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Compact allows for one gaming facility and authorizes up to 750 gaming devices, any banking or percentage card games, and any devices or games authorized under state law to the state lottery. The Compact, also, authorizes limited annual payments to the State for statewide exclusivity. Finally, the term of the compact is until December 31, 2031. This Compact is considered to have been approved but only to the extent that the Compact is consistent with the provisions of the Indian Gaming Regulatory Act.

Dated: August 3, 2011.

Jodi Gillette,
Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2011-20316 Filed 8-9-11; 8:45 am]

BILLING CODE 4310-4N-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Class III Gaming Compact.

SUMMARY: This notice publishes an extension of the Tribal-State gaming compact between the Oglala Sioux Tribe and the State of South Dakota.

DATES: *Effective Date:* August 10, 2011.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the *Federal Register* notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. This amendment allows for the extension of the current Tribal-State Class III gaming compact between the Oglala Sioux Tribe and the State of South Dakota until December 31, 2011.

Dated: August 2, 2011.

Donald E. Laverdure,
Principal Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 2011-20273 Filed 8-9-11; 8:45 am]

BILLING CODE 4310-4N-P

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Under the Clean Water Act

Notice is hereby given that on August 4, 2011, a proposed Consent Decree in *United States, State of Missouri, and the Missouri Coalition for the Environment Foundation v. Metropolitan St. Louis Sewer District*, No. 4:07-CV-01120, was lodged with the United States District Court for the Eastern District of Missouri.

In this action the United States sought civil penalties and injunctive relief for violations of the Clean Water Act ("CWA"), 33 U.S.C. 1251, *et seq.*, in connection with the Metropolitan St. Louis Sewer District's ("MSD's") operation of its sewer system in the City of St. Louis and St. Louis County, Missouri. The Complaint alleged that MSD's discharges of raw sewage from its sanitary sewer system—discharges that often are referred to as Sanitary Sewer Overflows or "SSOs"—and from MSD's combined storm water and sanitary sewer system—discharges that often are referred to as Combined Sewer Overflows or "CSOs"—violate MSD's National Pollutant Discharge

Elimination System ("NPDES") permits and Section 301 of the CWA, 33 U.S.C. 1311. The Complaint also alleged that the chronic and repeated backups of raw sewage into homes, yards, playgrounds, parks, and streets from MSD's sewer system pose an "imminent and substantial endangerment" to human health under Section 504(a) of the CWA 33 U.S.C. 1364(a). The Missouri Coalition for the Environment Foundation moved to intervene as a co-plaintiff in the federal action, and when its motion was granted by the Court, filed its Complaint in Intervention, alleging similar CWA claims against MSD.

The proposed Consent Decree will resolve the United States' CWA claims. Under the proposed Consent Decree, MSD will be required to implement comprehensive injunctive relief to expand and rehabilitate both its combined sewer system and its sanitary sewer system to reduce or eliminate unlawful SSOs and CSOs into various rivers and streams, as well as discharges to basements and from manholes or other discharge points in the St. Louis area. This injunctive relief will be performed over a 23-year period at a project cost of \$4.7 billion. MSD will pay a total civil penalty of \$1.2 million to the United States, and spend \$1.6 million to carry out a program that will enable low income residents to elect to close their septic tanks and connect to the public sewer or to replace leaking private sewer lines. The consent decree also contains provisions pertaining to the claims of the Missouri Coalition for the Environment Foundation against MSD. The proposed Consent Decree has been signed by the United States, the Missouri Coalition for the Environment Foundation, and MSD.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. The comments should refer to *United States, et al. v. Metropolitan St. Louis Sewer District*, D.J. Ref. 90-5-1-1-08111.

During the public comment period, the proposed Consent Decree may be examined on the Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the proposed consent decree may be obtained by mailing a request to the Consent Decree Library, P.O. Box 7611,



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 31 2011

The Honorable Sherry Treppa Bridges
Chairperson, Habematolel Pomo of
Upper Lake
P.O. Box 516
Upper Lake, California 95485

Dear Chairperson Bridges:

On June 17, 2011, the Department of the Interior (Department) received the tribal-state compact (Compact) between the Habematolel Pomo of Upper Lake (Tribe) and the State of California (State). The Compact was executed between the Tribe and the State on March 17, 2011, and was ratified by the California Legislature on June 13, 2011.

Under the Indian Gaming Regulatory Act (IGRA), the Secretary may approve or disapprove a proposed compact within 45 days of its submission. 25 U.S.C. § 2710 (d) (8). If the Secretary does not approve or disapprove the proposed compact within 45 days, IGRA states that the proposed compact is considered to have been approved by the Secretary, "but only to the extent the compact is consistent with the provisions of [IGRA]." 25 U.S.C. § 2710 (d)(8)(C).

APPROVAL BY OPERATION OF LAW

The Tribe submitted additional documentation with the Compact, including a financial analysis and other data. After reviewing the documentation submitted by the Tribe, we did not find it necessary to request additional information from the Tribe or the State.

We undertook a thorough review of the Compact and the additional materials submitted by the Tribe.¹ While we have significant concerns with several provisions in the Compact, we decided to take no action within the prescribed 45-day review period. As a result, the Compact is "considered to have been approved by the Secretary, but only to the extent [it] is consistent with the provisions of [IGRA]." 25 U.S.C. § 2710(d)(8)(C).

The Compact became effective upon the publication of notice in the Federal Register on August 10, 2011, as required by 25 U.S.C. § 2710(d)(3)(8).

We have set forth an explanation of our concerns below.

¹ We also received comments and submissions by individuals and entities that were not parties to the Compact. While those comments highlighted some of the concerns we will express below, our review of the Compact was necessarily limited to the actual agreement submitted to the Department.

BACKGROUND

1. Revenue Sharing Provisions

The Compact authorizes the Tribe to operate Class III gaming on its trust lands in northern California, including up to 750 gaming devices, any banking or percentage card games and any devices or games that are authorized under State law to the California State Lottery until December 31, 2030. Compact, §§ 3.0, 4.1, and 14.2(a).

The Compact contains two provisions requiring the Tribe to share gaming revenues with the State. Section 4.3.1 of the Compact, titled "Revenue Contribution," provides, in part:

- (a) The Tribe shall pay quarterly to the Special Distribution Fund created by the Legislature, in accordance with the following schedule:

Number of Gaming Devices in Quarterly Device Base	Percentage of Average Gaming Device Net Win
1-350	0%
351-600	7%
601-750	15%

Section 5.2(a) of the Compact requires the Tribe to make annual contributions to the Revenue Sharing Trust Fund (RSTF) of \$900 for each gaming device the Tribe operates in excess of 350 devices.

In exchange for the Tribe's payments to the Special Distribution Fund (SDF), the State grants the Tribe the same statewide exclusivity enjoyed by all other tribes located in California pursuant to State law. *See* Compact, § 4.4. In the event the State authorizes any person or entity other than a federally-recognized tribe or the State Lottery to engage in Class III gaming, Section 4.4 establishes a process under which the Tribe may elect to either continue its gaming operations under reduced SDF payments or cease gaming altogether.

2. Mitigation Provisions

Section 11 of the Compact is entitled "Off-Reservation Environmental and Economic Impacts." Under that section, the Tribe must prepare and submit a Tribal Environmental Impact Report (TEIR) "analyzing the potentially significant off-reservation environmental impacts of the Project pursuant to the process set forth [in Section 11]." Compact, § 11.8.1. Section 11 also requires the Tribe to enter into an Intergovernmental Agreement with "the County and any impacted city in which the Gaming Facility is located or whose boundary is within one-quarter (1/4) mile from the border of any portion of the Gaming Facility," prior to the commencement of a "Project." Compact, § 11.8.7.

The Compact defines the term "Project" as:

...any activity occurring on Indian lands, a principal purpose of which is to serve the Tribe's Gaming Activities or Gaming Operation, and which may cause either a direct physical change in the off-reservation environment, or a reasonably foreseeable indirect physical change in the off-reservation environment. This definition shall be understood to include, but not be limited to, the addition of Gaming Devices within an existing Gaming Facility the impacts of which have not previously been addressed in a TEIR, construction or planned expansion of any Gaming Facility, and any other construction or planned expansion, a principal purpose of which is to serve the Gaming Facility, including, but not limited to, access roads, parking lots, a hotel, utility, or waste disposal systems, or water supply, as long as such construction or expansion causes a direct or indirect physical change in the off-reservation environment.

Compact, § 2.20.

The term "Gaming Facility" is defined in Section 2.10 of the Compact as:

...any building in which Gaming Activities or any Gaming Operations occur, or in which the business records, receipts, or other funds of the Gaming Operation are maintained (excluding offsite facilities dedicated to the storage of those records and financial institutions), and all rooms, buildings, and areas, including hotels, parking lots, and walkways, a principal purpose of which is to serve the activities of the Gaming Operation.

ANALYSIS

The Secretary may disapprove a proposed tribal-state compact only when it violates IGRA, any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligations of the United States to Indians. 25 U.S.C. § 2710 (d)(8).

The Department is committed to adhering to IGRA's statutory restrictions on tribal-state gaming compacts. IGRA prohibits the imposition of a tax, fee, charge, or other assessment on Indian gaming except to defray the state's costs of regulating Class III gaming activities. 25 U.S.C. § 2710 (d)(4). IGRA further prohibits using this restriction as a basis for refusing to negotiate tribal-state gaming compacts. *Id.*

IGRA also limits the subjects over which tribes and states may negotiate a tribal-state gaming compact. *See* 25 U.S.C. § 2710 (d)(3)(C).²

² *See also* 134 Cong. Rec. S12643-01, at S12651:

Revenue Sharing

We review revenue sharing requirements in gaming compacts with great scrutiny. Our analysis first looks to whether the State has offered meaningful concessions to the tribe. We view this concept as one where the State concedes something it was not otherwise required to negotiate, such as granting exclusive rights to operate Class III gaming or other benefits sharing a gaming-related nexus. We then examine whether the value of the concessions provide substantial economic benefits to the tribe in a manner justifying the revenue sharing required.

An important part of our analysis of Class III gaming compacts in California involves the decision in *Rincon Band of Luiseno Mission Indians of the Rincon Reservation v. Schwarzenegger*,³ where the Ninth Circuit Court of Appeals provides guidance on the extent to which variations on tribal gaming exclusivity constitute “meaningful concessions” in exchange for revenue sharing under IGRA. In reaching its decision, the Court reiterated that to be lawful under IGRA, the State may request revenue sharing if the revenue sharing provision is (a) for uses “directly related to the operation of gaming activities,” (b) consistent with the purposes of IGRA, and (c) not “imposed” because it is bargained for in exchange for a “meaningful concession.”⁴

Under the first prong of our analysis, we believe that the State has made meaningful concessions. Section 4.4 of the Compact secures the Tribe’s right to engage in Class III gaming exclusive of non-tribal entities throughout the State.

Under the second prong of our analysis, we believe that the State’s concessions provide substantial economic benefits to the Tribe in a manner that likely justifies the revenue sharing required under the Compact. First, the Tribe’s economic analysis reasonably concludes that the Tribe will generate substantial revenues over the 20-year life of the Compact, which will help the Tribe develop its economy and strengthen its government.

Second, if the Tribe operates fewer than 600 gaming devices, the Compact’s effective revenue sharing rate⁵ is actually lower than the effective revenue sharing rate required in the compacts of

Mr. EVANS: On the question of precedent, am I correct that the use of compacting methods in this bill are meant to be limited to tribal-state gaming compacts and that the use of compacts for this purpose is not to be construed to signal any new congressional policy encouraging the subjugation of tribal governments to state authority.

Mr. INOUE: The vice-chairman is correct. No subjugation is intended. The bill contemplates that the two sovereigns address their respective concerns in the most equitable fashion. There is no intent on the part of Congress that the compacting methodology be used in such areas such as taxation, water rights, environmental regulation, and land use.

See also the Committee Report for IGRA, S. Rep. 100-446 at 14:

“The Committee does not intend that compacts be used as subterfuge for imposing state jurisdiction on tribal lands.”

³ 602 F.3d 1019 (9th Cir. 2010), *cert denied*, 2011 U.S. LEXIS 4917 (2011).

⁴ *Id.* at 1033 (discussing *In re Indian Gaming Cases (Coyote Valley II)*, 331 F.3d 1094, 1103 (9th Cir. 2003).

⁵ For purposes of this discussion, the term “effective revenue sharing rate” refers to the actual percentage of total net-win the Tribe shares with the State.

the Tribe's nearest competitors. In the event the Tribe operates the maximum 750 gaming devices permitted under the Compact, the Compact's effective revenue-sharing rate would be nearly equal to those of the Tribe's nearby competitors.⁶

The Tribe will contribute no revenues to the SDF where it operates fewer than 350 gaming devices. At such time that the Tribe expands its gaming operations to include up to 600 gaming devices, it will contribute 7 percent of its net win to the SDF only on those devices in excess of the 350-device mark. Some of the Tribe's nearest competitors make a contribution of 7 percent of their net win to the SDF for between 200-500 gaming devices, and contribute 10 percent of net win to the SDF for between 500 and 1,000 gaming devices. *See, e.g.* Class III Gaming Compact of the Middletown Rancheria of Pomo Indians (October 12, 1999).

We are, however, very concerned by the Compact's provisions requiring the Tribe to contribute 15 percent of its net win to the SDF for between 601 and 750 gaming devices, especially for a gaming facility located in such a highly competitive, but sparsely populated, gaming market. Based upon our understanding of the Class III gaming market in the Tribe's region, we believe it is unlikely that the Tribe's anticipated market will support an operation with more than 600 gaming devices. Only one of the Tribe's nearby competitors offers more than 600 gaming devices, and the majority of its other competitors have received payments from the RSTF, indicating that they operate fewer than 350 gaming devices. In fact, most tribes in the region have continued to receive RSTF payments through June 30, 2011 since the first distributions were made in 2004, the last date for which data is available.⁷

Last year, we disapproved a separate Class III gaming compact submitted by the Tribe (2010 Compact) because it violated IGRA, which expressly prohibits the state from imposing a tax, fee, charge, or other assessment on Indian gaming, except to defray the state's cost of regulating Class III gaming activities. Letter from Larry Echo Hawk, Assistant Secretary Indian Affairs, to Sherry Treppa, Chairwoman of the Habematolel Pomo of Upper Lake (August 17, 2010). Our decision to disapprove the Tribe's previous compact was based largely upon the fact that it required the Tribe to contribute 15 percent of its net win for all gaming devices in exchange for the right to operate Class III gaming in a 100-mile Core Geographic Area exclusive of non-tribal entities.

⁶ If the Tribe operates the maximum 750 gaming devices, revenue sharing will be zero percent on the first 350 gaming devices, 7 percent on the 250 additional gaming devices, and 15% on the 150 additional gaming devices, establishing an effective rate of 6.4 percent. Revenue sharing in the original, model Tribal-State of California Class III gaming compacts approved by the Department in 2000 for operating 750 gaming devices is zero percent on the first 200 gaming devices, 7 percent on the next 300 gaming devices, and 10 percent on the next 250 gaming devices, establishing an effective rate of 6.13 percent. Most of the Tribe's nearby competitors offer Class III gaming under the model compacts described here.

⁷ For purposes of this letter, we are referring to the following tribes as "nearby competitors": Robinson Rancheria, Big Valley Rancheria, Hopland Rancheria, Coyote Valley Rancheria, Dry Creek Rancheria, Sherwood Valley Rancheria, Middletown Rancheria, Colusa Rancheria, Rumsey Rancheria, Laytonville Rancheria-Cahto, Round Valley Rancheria, Paskenta Rancheria, Mooretown Rancheria, Berry Creek Rancheria-Tyme Maidu, Layton Rancheria, and Redding Rancheria.

The Tribe's business projections, combined with our evaluation of certain elements of those projections, prevented us from disapproving the Compact in this instance. It is reasonable for us to conclude that the effective revenue-sharing rate would be much greater if the Compact required the Tribe to contribute 15 percent of the net win to the SDF from more than 150 gaming devices.

Therefore, neither the State of California nor any other state should assume that this Compact's revenue sharing structure may be applied to other tribes in a manner consistent with IGRA. It is also important to note that we review each proposed compact on a case-by-case basis.

Permissible Subjects of Compact Negotiation

Both this Compact and the 2010 Compact contained identical definitions of "Gaming Facility," and similar requirements for TEIRs. Although we did not identify these provisions as a basis for our disapproval of the 2010 Compact, we also were and remain very troubled by the expansive definition of "Gaming Facility" in the Compact. Indeed, when read in conjunction, the definitions of "Gaming Facility" and "Project" may encompass the most expansive range of activities in any compact approved, or considered to have been approved, by the Department since the adoption of IGRA in 1988.

As noted above, IGRA limits the subjects over which tribes and states can negotiate a Class III gaming compact. *See* 25 U.S.C. § 2710 (d)(3)(C) and note 2, *supra*. In particular, a Class III gaming compact may include provisions relating to:

- (i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;
- (ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;
- (iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;
- (iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;
- (v) remedies for breach of contract;
- (vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and
- (vii) any other subjects that are *directly related to the operation of gaming activities*.

25 U.S.C. § 2710(d)(3)(C)(emphasis added).

Earlier this year, we disapproved a proposed tribal-state gaming compact because we determined that it included provisions restricting tribal land use outside the scope of subjects IGRA permits tribes and states to include in Class III gaming compacts. *See*, Letter from Donald E. Laverdure,

Principal Deputy Assistant Secretary – Indian Affairs, to Kimberly Vele, President of the Stockbridge-Munsee Community of Mohican Indians (February 18, 2011). In that instance, the proposed compact restricted the Stockbridge-Munsee Community of Mohican Indians from using the proposed gaming site for any purpose other than Class III gaming. *Id.*

As noted above, the definition of “Gaming Facility” encompasses, “...all rooms, buildings, and areas, including hotels, parking lots, and walkways, a principal purpose of which is to serve the activities of the Gaming Operation.”⁸ Compact, § 2.10. The term “Project,” meanwhile, includes other activities, “a principal purpose of which is to serve the Gaming Facility.” Compact, § 2.20. Such activities may include access roads, water supply systems, and utility systems. *Id.*

The Compact requires the Tribe to prepare a TEIR prior to the commencement of any “Project.” Compact, § 11.8.1. It also requires the Tribe to offer to negotiate an intergovernmental agreement “with the County and any impacted city in which the Gaming Facility is located or whose boundary is within one quarter (1/4) mile from the border of any portion of a Gaming Facility....” Compact, § 11.8.7.

IGRA’s compact negotiation process permits states to negotiate with tribes to address and mitigate the impact of Class III gaming. Nevertheless, IGRA limits the subjects over which parties may negotiate a gaming compact to those that are “directly related to the operation of gaming activities.” 25 U.S.C. §§ 2710(d)(3)(C). As the legislative history of IGRA indicates, “compacts [should not] be used as subterfuge for imposing state jurisdiction on tribal lands.” *See*, Committee Report for IGRA, S. Rep. 100-446 at 14.

In this instance, we have significant concerns about whether Section 11 of the Compact, when coupled with its definition of both “Gaming Facility” and “Project,” exceeds the scope of provisions tribes and states may include in a Class III gaming compact under IGRA. The term “Project” includes activities intended to serve the “Gaming Facility,” which, in turn, encompasses more than just the actual facilities in which gaming activities will be conducted. Arguably, the Compact could even be read to apply to tribal activities far removed from the conduct of gaming, and therefore clearly unrelated to the operation of Class III gaming – such as the development of a tribal power utility or road system. Nothing in IGRA or its legislative history indicates that Congress intended to allow gaming compacts to be used to expand state regulatory authority over tribal activities that are not directly related to the conduct of Class III gaming.

Here again, only the Tribe’s project descriptions and supplemental information, combined with our narrow construction of the provisions discussed here, prevented us from finding that the Compact violated IGRA’s provisions regarding the permissible scope of compact negotiations and disapproving the Compact. In implementing this Compact, we caution the parties to avoid applying these provisions in a manner that does not directly relate to the operation of gaming

⁸ A “Gaming Operation” is defined as the “business enterprise that offers and operates Gaming Activities, whether exclusively or otherwise.” Compact, § 2.11. “Gaming Activity,” is defined as “the Class III Gaming activities authorized under this Compact in section 3.1.”

activities, as doing so would violate the provisions of IGRA limiting the scope of tribal-state gaming compacts.

As with revenue sharing provisions, we will review tribal-state gaming compacts with great scrutiny to ensure that they regulate only those activities directly related to the operation of gaming activities. We cannot approve a tribal-state gaming compact that purports to interfere with tribal regulation of areas not directly related to the operation of gaming activities, such as community planning and land use, or that regulates amenities in a manner that only indirectly relates to tribal gaming operations.

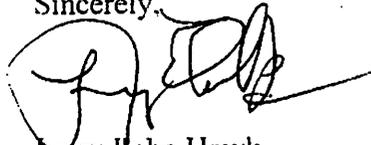
CONCLUSION

We undertook a thorough review of the Compact and the additional materials submitted by the Tribe, and decided to take no action within the prescribed 45-day review period. As a result, the Compact is "considered to have been approved by the Secretary, but only to the extent [it] is consistent with the provisions of [IGRA]." 25 U.S.C. § 2710(d)(8)(C).

The Compact became effective upon the publication of notice in the Federal Register on August 10, 2011, as required by 25 U.S.C. § 2710(d)(3)(8).

A similar letter is being sent to the Honorable Jerry Brown, Governor of the State of California.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Echo Hawk", with a long horizontal line extending to the right.

Larry Echo Hawk
Assistant Secretary -- Indian Affairs

TRIBAL-STATE COMPACT

BETWEEN

THE STATE OF CALIFORNIA

AND THE

HABEMATOLEL POMO OF UPPER LAKE

TABLE OF CONTENTS

PREAMBLE	1
<u>Sec. 1.0. Purposes and Objectives.</u>	3
<u>Sec. 2.0. Definitions.</u>	4
<u>Sec. 3.0. Scope of Class III Gaming Authorized.</u>	9
Sec. 3.1. Authorized and Permitted Class III Gaming.	9
<u>Sec. 4.0. Authorized Location of Gaming Facility, Number of Gaming Devices, and Revenue Contribution.</u>	10
Sec. 4.1. Authorized Number of Gaming Devices.	10
Sec. 4.2. Authorized Gaming Facility.	10
Sec. 4.3.1. Revenue Contribution.	10
Sec. 4.4. Exclusivity.	14
<u>Sec. 5.0. Revenue Sharing With Non-Gaming Tribes.</u>	15
Sec. 5.1. Definitions.	15
Sec. 5.2. Revenue Sharing Trust Fund.	16
<u>Sec. 6.0. Licensing.</u>	17
Sec. 6.1. Gaming Ordinance and Regulations.	17
Sec. 6.2. Tribal Ownership, Management, and Control of Gaming Operation.	17
Sec. 6.3. Prohibitions Regarding Minors.	18
Sec. 6.4. Licensing Requirements and Procedures.	18

<u>Sec. 7.0. Approval and Testing of Gaming Devices.</u>	42
Sec. 7.1. Gaming Device Approval.	42
Sec. 7.2. Gaming Test Laboratory Selection.	44
Sec. 7.3. Independent Audits.	44
Sec. 7.4. State Gaming Agency Inspections.	45
Sec. 7.5. Technical Standards.	46
Sec. 7.6. State Gaming Agency Designation.	46
Sec. 7.7. Transportation of Gaming Devices.	46
<u>Sec.. 8.0. Inspections.</u>	47
Sec. 8.1. Investigation and Sanctions.	47
Sec. 8.2. Assistance by State Gaming Agency.	47
Sec. 8.3. Access to Premises by State Gaming Agency; Notification; Inspections.	48
Sec. 8.4. Inspection, Copying and Confidentiality of Documents.	49
Sec. 8.5. NIGC Audit Reports.	51
Sec. 8.6. Cooperation with Tribal Gaming Agency.	52
Sec. 8.7. Compact Compliance Review.	52

Sec. 11.8.7. Intergovernmental Agreement.	75
Sec. 11.8.8. Arbitration.	77
<u>Sec. 12.0. Public and Workplace Health, Safety, and Liability.</u>	78
Sec. 12.1. General Requirements.	78
Sec. 12.2. Tobacco Smoke.	78
Sec. 12.3. Health and Safety Standards.	78
Sec. 12.4. Tribal Gaming Facility Standards Ordinance.	86
Sec. 12.5. Insurance Coverage and Claims.	87
Sec. 12.6. Participation in State Statutory Programs Related to Employment.	90
Sec. 12.7. Emergency Services Accessibility.	92
Sec. 12.8. Alcoholic Beverage Service.	92
Sec. 12.9. Possession of Firearms.	92
Sec. 12.10. Labor Relations.	92
<u>Sec. 13.0. Dispute Resolution Provisions.</u>	92
Sec. 13.1. Voluntary Resolution.	92
Sec. 13.2. Arbitration Rules.	94
Sec. 13.3. No Waiver or Preclusion of Other Means of Dispute Resolution.	94
Sec. 13.4. Limited Waiver of Sovereign Immunity.	94

EXHIBITS

101

A. Off-Reservation Environmental Impact Analysis Checklist

A-1

B. Tribal Labor Relations Ordinance

B-1

C. Map and Description of 11.24 Acre Parcel

C-1

Appendix A - Minimum Internal Control Standards

WHEREAS, the Special Distribution Fund created by the California Legislature is at risk of experiencing shortfalls in the foreseeable future; and

WHEREAS, the State and the Tribe have conducted good faith negotiations for the purpose of agreeing upon terms for a new Tribal-State class III gaming compact (hereinafter the "Compact"); and

WHEREAS, with respect to a 11.24-acre parcel of land in the County of Lake, the United States Department of Interior determined that the Tribe met the conditions of the restored lands exception under IGRA, and on November 13, 2008, accepted 11.24 acres of land in the County of Lake in trust for the benefit of the Tribe, thus making this 11.24 acre parcel of land eligible for gaming; and

WHEREAS, the State and the Tribe recognize that the exclusive rights that the Tribe will enjoy under this Compact create a unique opportunity for the Tribe to operate a Gaming Facility in an economic environment free of competition from Class III Gaming on non-Indian lands in California and that this unique economic environment is of great value to the Tribe; and

WHEREAS, in consideration of the exclusive rights enjoyed by the Tribe to engage in certain Gaming Activities and to operate the number of Gaming Devices specified herein, and the other meaningful concessions offered by the State in good faith negotiations, the Tribe has agreed, inter alia, to provide to the State, on a sovereign-to-sovereign basis, a fair revenue contribution from the Gaming Devices operated pursuant to this Compact; and

WHEREAS, the Tribe and the State share an interest in mitigating the off-reservation impacts of the Tribe's Gaming Facility, affording meaningful consumer and employee protections in connection with the operations of the Gaming Facility, fairly regulating the Gaming Activities conducted at the Gaming Facility, and fostering a good-neighbor relationship; and

WHEREAS, the Tribe and the State share a joint sovereign interest in ensuring that tribal Gaming Activities are free from criminal and other undesirable elements; and

unsuitable for participation in gaming, thereby maintaining a high level of integrity in tribal government gaming, and protect the patrons and employees of the Gaming Operation and the local communities.

- (d) Achieve the objectives set forth in the preamble.

SECTION 2.0. DEFINITIONS.

Sec. 2.1. “Applicable Codes” means the California Building Code and the California Public Safety Code applicable to the County of Lake, as set forth in Titles 19 and 24 of the California Code of Regulations, as those regulations may be amended during the term of this Compact, including, but not limited to, codes for building, electrical, energy, mechanical, plumbing, fire and safety.

Sec. 2.2. “Applicant” means an individual or entity that applies for a tribal gaming license or for a State Gaming Agency determination of suitability.

Sec. 2.3. “Class III Gaming” means the forms of class III gaming defined in 25 U.S.C. § 2703(8) and by the regulations of the National Indian Gaming Commission.

Sec. 2.4. “Compact” means this compact.

Sec. 2.5. “County” means the County of Lake, California, a political subdivision of the State.

Sec. 2.6. “Financial Source” means any person or entity who, directly or indirectly, extends financing to the Gaming Facility or Gaming Operation.

Sec. 2.7. “Gaming Activity” or “Gaming Activities” means the Class III Gaming activities authorized under this Compact in section 3.1.

Sec. 2.8. “Gaming Device” means any slot machine within the meaning of article IV, section 19, subdivision (f) of the California Constitution. For purposes of calculating the number of Gaming Devices, each player station or terminal on which a game is played constitutes a separate Gaming Device, irrespective of

Sec. 2.14. "Gaming Resource Supplier" means any person or entity who, directly or indirectly, does, or is deemed likely to, manufacture, distribute, supply, vend, lease, purvey, or otherwise provide, to the Tribe's Gaming Operation or Facility at least twenty-five thousand dollars (\$25,000) in Gaming Resources in any twelve (12)-month period, or who, directly or indirectly, receives, or is deemed likely to receive, in connection with the Tribe's Gaming Operation or Facility, at least twenty-five thousand dollars (\$25,000) in any consecutive twelve (12)-month period, provided that the Tribal Gaming Agency may exclude a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with, Gaming Activities, if, but for the purveyance, the purveyor is not otherwise a Gaming Resource Supplier, the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gaming Operation.

Sec. 2.15. "IGRA" means the Indian Gaming Regulatory Act of 1988 (P.L. 100-497, 18 U.S.C. § 1166 et seq. and 25 U.S.C. § 2701 et seq.), and any amendments thereto, as interpreted by all regulations promulgated thereunder.

Sec. 2.16. "Interested Persons" means (i) all local, state, and federal agencies, which, if a Project were not taking place on Indian lands, would have responsibility for approving the Project or would exercise authority over the natural resources that may be affected by the Project, (ii) any city with a nexus to the Project, and (iii) persons, groups, or agencies that request in writing a notice of preparation of a draft Tribal Environmental Impact Report ("TEIR") or have commented on the Project in writing to the Tribe or the County.

Sec. 2.17. "Management Contractor" means any Gaming Resource Supplier with whom the Tribe has contracted for the management of any Gaming Activity or Gaming Facility, including, but not limited to, any person who would be regarded as a management contractor under IGRA.

Sec. 2.18.

(1) "Net Win" is drop, plus the redemption value of expired tickets, less fills, less payouts, less that portion of the Gaming Operation's payments to a third-party wide-area progressive jackpot system provider that is contributed only to the progressive jackpot amount.

cause substantial adverse effects on human beings, either directly or indirectly.

For purposes of this definition, "reservation" refers to the Tribe's Indian lands within the meaning of IGRA or lands otherwise held in trust for the Tribe by the United States.

Sec. 2.22. "State" means the State of California or an authorized official or agency thereof designated by this Compact or by the Governor.

Sec. 2.23. "State Gaming Agency" means the entities authorized to investigate, approve, regulate and license gaming pursuant to the Gambling Control Act (Chapter 5 (commencing with section 19800) of Division 8 of the Business and Professions Code), or any successor statutory scheme, and any entity or entities in which that authority may hereafter be vested.

Sec. 2.24. "State Designated Agency" means the entity or entities designated or to be designated by the Governor to exercise rights and fulfill responsibilities established by this Compact.

Sec. 2.25. "Tribe" means the Habematolel Pomo of Upper Lake, a federally recognized Indian tribe listed in the Federal Register as the Habematolel Pomo of Upper Lake, California (formerly the Upper Lake Band of Pomo Indians of Upper Lake Rancheria, California), or an authorized official or agency thereof.

Sec. 2.26. "Tribal Chairperson" means the person duly elected under the Tribe's Constitution to perform the duties specified therein, including serving as the Tribe's official representative.

Sec. 2.27. "Tribal Gaming Agency" means the person, agency, board, committee, commission, or council designated under tribal law, including, but not limited to, an intertribal gaming regulatory agency approved to fulfill those functions by the NIGC, primarily responsible for carrying out the Tribe's regulatory responsibilities under IGRA and the Tribal Gaming Ordinance. No person employed in, or in connection with, the management, supervision, or conduct of any Gaming Activity may be a member or employee of the Tribal Gaming Agency.

SECTION 4.0. AUTHORIZED LOCATION OF GAMING FACILITY, NUMBER OF GAMING DEVICES, AND REVENUE CONTRIBUTION.

Sec. 4.1. Authorized Number of Gaming Devices. Subject to section 3.1, subdivision (b), and section 4.2, the Tribe is entitled to operate up to a total of 750 Gaming Devices pursuant to the conditions set forth in sections 4.2 and 4.3.1.

Sec. 4.2. Authorized Gaming Facility. The Tribe may engage in Class III Gaming only on eligible Indian lands at a single Gaming Facility located within the boundaries of the 11.24 Acre Parcel as those boundaries exist as of the execution date of this Compact.

Sec. 4.3.1. Revenue Contribution.

(a) The Tribe shall pay quarterly to the Special Distribution Fund created by the Legislature, in accordance with the following schedule:

Number of Gaming Devices in Quarterly Device Base	Percentage of Average Gaming Device Net Win
1-350	0%
351-600	7%
601-750	15%

The payment specified herein has been negotiated between the parties as a fair contribution, based upon the Tribe's market conditions, its circumstances, and the rights afforded under this Compact.

(b) (1) The Tribe shall remit to such agency, trust, fund, or entity, as the State Director of Finance, pursuant to law, from time to time, shall specify to the Tribe in writing, the payments referenced in subdivision (a) in quarterly payments. The quarterly payments shall be based on the Net Win generated during that quarter from the Gaming Devices, which payments shall be due on the thirtieth day following the end of each calendar quarter (i.e., by April 30 for the first quarter, July 30 for the second quarter, October 30 for the third quarter, and January 30 for the

The Quarterly Net Win Payment Report shall be prepared by the chief financial officer of the Gaming Operation and shall also be sent to the State Gaming Agency.

- (e) (1) At any time after the fourth quarter, but in no event later than April 30 of the following calendar year, the Tribe shall provide to the State Gaming Agency and the agency, trust, fund, or entity to which quarterly payments are made pursuant to subdivision (b) an audited annual certification of its Net Win calculation from the operation of Gaming Devices. The audit shall be conducted in accordance with generally accepted auditing standards, as applied to audits for the gaming industry, by an independent certified public accountant who is not employed by the Tribe, the Tribal Gaming Agency, the Management Contractor, or the Gaming Operation, is only otherwise retained by any of these entities to conduct regulatory audits or independent audits of the Gaming Operation, and has no financial interest in any of these entities. The auditor used by the Tribe for this purpose shall be approved by the California Gambling Control Commission, or other State Designated Agency, but the State shall not unreasonably withhold its consent.
- (2) If the audit shows that the Tribe made an overpayment from its Net Win to the State during the year covered by the audit, the Tribe's next quarterly payment may be reduced by the amount of the overage. Conversely, if the audit shows that the Tribe made an underpayment to the State during the year covered by the audit, the Tribe's next quarterly payment shall be increased by the amount owing.
- (3) The State Gaming Agency shall be authorized to confer with the auditor at the conclusion of the audit process and to review all of the independent certified public accountant's work papers and documentation relating to the audit. The Tribal Gaming Agency shall be notified of and provided the opportunity to participate in and attend any such conference or document review.
- (f) The State Gaming Agency may audit the Quarterly Device Base and

- (1) Grants, including any administrative costs, for programs designed to address gambling addiction;
- (2) Grants, including any administrative costs, for the support of state and local government agencies impacted by tribal government gaming;
- (3) Compensation for regulatory costs incurred by the State Gaming Agency and the state Department of Justice in connection with the implementation and administration of the Compact;
- (4) Payment of shortfalls that may occur in the Revenue Sharing Trust Fund; and
- (5) Any other purposes specified by the Legislature. It is the intent of the parties that California Indian tribes with class III gaming compacts with the State obligating them to pay into the Special Distribution Fund will be consulted in the process of identifying purposes for grants made to local governments from the Special Distribution Fund.

Sec. 4.4. Exclusivity.

In recognition of the Tribe's agreement to make the payments specified in section 4.3.1, the Tribe shall have the following rights:

- (a) In the event the exclusive right of Indian tribes to operate Gaming Devices in California is abrogated by the enactment, amendment, or repeal of a state statute or constitutional provision, or the conclusive and dispositive judicial construction of a statute or the state Constitution by a California appellate court after the effective date of this Compact, that Gaming Devices may lawfully be operated by another person, organization, or entity (other than an Indian tribe pursuant to a compact) within California, the Tribe shall have the right to exercise one of the following options:

monies paid by gaming tribes for the benefit of Non-Gaming Tribes and Limited-Gaming Tribes. The Commission shall have no discretion with respect to the use or disbursement by recipient tribes of the Revenue Sharing Trust Fund monies. Its authority shall be to serve as a depository of the trust funds and to allocate and disburse them on a quarterly basis to eligible Non-Gaming and Limited-Gaming Tribes as specified in the tribal-state compacts. In no event shall the State's general fund be obligated to make up any shortfall in the Revenue Sharing Trust Fund or to pay any unpaid claims connected therewith, and Non-Gaming Tribes and Limited-Gaming Tribes are not third party beneficiaries of this Compact.

- (b) A "Non-Gaming Tribe" is a California federally recognized tribe, with or without a tribal-state compact, which has not engaged in, or offered, class II or Class III Gaming in any tribal location whether within or without California as of the date of distribution to such tribe from the Revenue Sharing Trust Fund or during the immediately preceding three hundred sixty-five (365) days.
- (c) A "Limited-Gaming Tribe" is a California federally recognized tribe that has a class III gaming compact with the State but is operating fewer than a combined total of 350 Gaming Devices in all of its gaming operations wherever located.

Sec. 5.2. Revenue Sharing Trust Fund

- (a) The Tribe agrees that it will pay into the Revenue Sharing Trust Fund on January 30 of the following year for distribution on an equal basis to Non-Gaming and Limited Gaming Tribes the following amounts:

<u>Number of Gaming Devices Operated</u>	<u>Annual Payment</u>
1-350	\$0 per Gaming Device
351-750	\$900 per Gaming Device

- (b) The Tribe shall remit the payments referenced in subdivision (a) to the Commission in quarterly payments, which payments shall be due thirty (30) days following the end of each calendar quarter (i.e., by April 30

Sec. 6.3. Prohibitions Regarding Minors.

- (a) The Tribe shall prohibit persons under the age of twenty-one (21) years from being present in any room or area in which Gaming Activities are being conducted unless the person is en route to a non-gaming area of the Gaming Facility.
- (b) If the Tribe permits the consumption of alcoholic beverages in the Gaming Facility, the Tribe shall prohibit persons under the age of twenty-one (21) years from purchasing, consuming, or possessing alcoholic beverages. The Tribe shall also prohibit persons under the age of twenty-one (21) years from being present in any room or area in which alcoholic beverages may be consumed, except to the extent permitted by the State Department of Alcoholic Beverage Control for other commercial establishments serving alcoholic beverages.

Sec. 6.4. Licensing Requirements and Procedures.

Sec. 6.4.1. Summary of Licensing Principles.

All persons in any way connected with the Gaming Operation or Facility who are required to be licensed or to submit to a background investigation under IGRA, and any others required to be licensed under this Compact, including, but not limited to, all Gaming Employees, Gaming Resource Suppliers, Financial Sources, and any other person having a significant influence over the Gaming Operation, must be licensed by the Tribal Gaming Agency. The parties intend that the licensing process provided for in this Compact shall involve joint cooperation between the Tribal Gaming Agency and the State Gaming Agency, as more particularly described herein.

Sec. 6.4.2. Gaming Facility.

- (a) The Gaming Facility authorized by this Compact shall be licensed by the Tribal Gaming Agency in conformity with the requirements of this Compact, the Tribal Gaming Ordinance, IGRA, and any applicable regulations adopted by the NIGC. The license shall be reviewed and

construction (the "Design and Building Plans") to be provided to the State Designated Agency within fifteen (15) days of their final plan check and approval;

- (2) In the event that material changes to a structural detail of the Design and Building Plans will result from contract change orders or any other changes in the Design and Building Plans, the Tribe shall provide such change orders or other changes to the State Designated Agency within five (5) days of the change's execution or approval, and such changes shall be reviewed by the Inspectors for compliance with the Applicable Codes;
 - (3) The Tribe shall maintain during construction all other contract change orders for inspection and copying by the State Designated Agency upon its request; and
 - (4) The Tribe shall maintain the Design and Building Plans for the term of this Compact.
- (d) In all events, the State Designated Agency may designate an agent or agents, who shall be given not fewer than three (3) business days' notice of each inspection required by Section 108 of the California Building Code, and the State agents may accompany the Inspector on any such inspection. The Tribe agrees to correct any Gaming Facility deficiency noted in the inspection. Upon not fewer than three (3) business days' notice to the Tribal Gaming Agency, except in circumstances posing an immediate threat to the life or safety of any person, in which case no advance notice is required, the State Designated Agency shall also have the right to review all records of the Inspectors and conduct an independent inspection of the Gaming Facility to verify compliance with the Applicable Codes before public occupancy and shall report to the Tribal Gaming Agency any alleged deficiency; provided, however, that concurrent with any exercise by the State of its right to inspect without advance notice based upon alleged circumstances posing an immediate threat to the life or safety of any person, the State Designated Agency shall provide to the Tribal

Agency, the Gaming Facility shall be inspected, at the Tribe's expense, by an independent expert for purposes of certifying that the Gaming Facility meets a reasonable standard of fire safety and life safety.

- (2) The State Designated Agency shall be entitled to designate and have a qualified representative or representatives present during the inspection. During such inspection, the State's representative(s) shall specify to the independent expert any condition which the representative(s) reasonably believes would preclude certification of the Gaming Facility as meeting a reasonable standard of fire and life safety.
- (3) The independent expert shall issue to the Tribal Gaming Agency and the State Designated Agency a report on the inspection within fifteen (15) days after its completion, or within thirty (30) days after commencement of the inspection, whichever first occurs, identifying any deficiency in fire or life safety at the Gaming Facility or in the ability of the Tribe to meet reasonably expected fire suppression needs of the Gaming Facility.
- (4) Within twenty-one (21) days after the issuance of the report, the independent expert shall also require and approve a specific plan for correcting deficiencies, whether in fire or life safety at the Gaming Facility or in the Tribe's ability to meet the reasonably expected fire suppression needs of the Gaming Facility, including those identified by the State Designated Agency's representatives. A copy of the report shall be served on the State Designated Agency and the Tribal Gaming Agency.
- (5) Immediately upon correction of all deficiencies identified in the report, the independent expert shall certify in writing to the Tribal Gaming Agency and the State Designated Agency that all deficiencies have been corrected.

employment duties require or authorize access to areas of the Gaming Facility that are not open to the public, provided that this exception shall not apply if he or she supervises Gaming Activities or persons who conduct, operate, maintain, repair, assist, account for or supervise any such Gaming Activity, *and* is empowered to make discretionary decisions affecting the conduct of the Gaming Operation.

- (3) The State Gaming Agency, in consultation with the Tribal Gaming Agency, exempts the Gaming Employee from the requirement to obtain or maintain current a State Gaming Agency determination of suitability.
- (c) Notwithstanding subdivision (b), the State Gaming Agency is authorized to review the tribal license application, and all materials and information received by the Tribal Gaming Agency in connection therewith, for any person whom the Tribal Gaming Agency has licensed, or proposes to license, as a Gaming Employee. If the State Gaming Agency determines that the person would be unsuitable for issuance of a license or permit for a similar level of employment in a gambling establishment subject to the jurisdiction of the State, it shall notify the Tribal Gaming Agency of that determination. Upon receipt of such notification, the Tribal Gaming Agency, in accordance with section 6.5.1, subdivision (d), shall deny that person a tribal gaming license and shall promptly revoke any tribal gaming license theretofore issued to that person, provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in State court conducted pursuant to section 1085 of the California Code of Civil Procedure.
 - (d) The Tribe shall not employ, or continue to employ, any person whose application to the State Gaming Agency for a determination of suitability or for a renewal of such a determination has been denied, or whose determination of suitability has expired without renewal.
 - (e) At any time after five (5) years following the effective date of this

services or materials received up to, the date of termination, upon revocation or non-renewal of the Gaming Resource Supplier's license by the Tribal Gaming Agency based on a determination of unsuitability by the State Gaming Agency. Except as set forth above, the Tribe shall not enter into, or continue to make payments to a Gaming Resource Supplier pursuant to, any contract or agreement for the provision of Gaming Resources with any person or entity whose application to the State Gaming Agency for a determination of suitability has been denied or revoked or whose determination of suitability has expired without renewal.

- (c) Notwithstanding subdivision (a), the Tribal Gaming Agency may license a Management Contractor for a period of no more than seven (7) years, but the Management Contractor must still apply for renewal of a determination of suitability by the State Gaming Agency at least every two (2) years and where the State Gaming Agency denies or revokes a determination of suitability, the Tribal Gaming Agency shall deny or revoke the license. Nothing in this subdivision shall be construed to bar the Tribal Gaming Agency from issuing additional new licenses to the same Management Contractor following the expiration of a seven (7) year license.
- (d) The Tribal Gaming Agency may elect to license a person or entity as a Gaming Resource Supplier without requiring it to apply to the State Gaming Agency for a determination of suitability under subdivision (a) if the Gaming Resource Supplier has already been issued a determination of suitability that is then valid. In that case, the Tribal Gaming Agency shall immediately notify the State Gaming Agency of its licensure of the person or entity as a Gaming Resource Supplier, and shall identify in its notification the State Gaming Agency determination of suitability on which the Tribal Gaming Agency has relied in proceeding under this subdivision (d). Subject to the Tribal Gaming Agency's compliance with the requirements of this subdivision, a Gaming Resource Supplier licensed under this subdivision may, during and only during the period in which the determination of suitability remains valid, engage in the sale, lease, or distribution of Gaming Resources to or in connection with the Tribe's

State Gaming Agency denies the determination of suitability, the Tribal Gaming Agency shall deny or revoke the license. In each instance where licensure or an application for a determination of suitability is required as set forth above, the license and determination of suitability shall be reviewed at least every two (2) years for continuing compliance. For purposes of section 6.5.2, such a review shall be deemed to constitute an application for renewal. In connection with such a review, the Tribal Gaming Agency shall require the Financial Source to update all information provided in the previous application.

- (b) Any agreement between the Tribe and a Financial Source shall include a provision for its termination without further liability on the part of the Tribe, except for the payment of all bona fide obligations (including accrued interest) which remain unpaid as of the date of termination, upon revocation or non-renewal of the Financial Source's license by the Tribal Gaming Agency based on a determination of unsuitability by the State Gaming Agency. Except as provided above, the Tribe shall not enter into, or continue to make payments to a Financial Source pursuant to, any contract or agreement for the provision of financing with any person whose application to the State Gaming Agency for a determination of suitability has been denied or revoked or whose determination of suitability has expired without renewal.
- (c) A Gaming Resource Supplier who provides financing exclusively in connection with the provision, sale, or lease of Gaming Resources obtained from that Gaming Resource Supplier may be licensed solely in accordance with the licensing procedures applicable, if at all, to Gaming Resource Suppliers, and need not be separately licensed as a Financial Source under this section.
- (d) Within ten (10) days of the issuance of a license to a Financial Source, the Tribal Gaming Agency shall transmit to the State Gaming Agency a copy of the license and a copy of all tribal license application materials and information received by it from the Applicant.

Agency's exclusion of any Financial Source from the licensing requirements of this section does not relieve the Financial Source from the requirement of applying to the State Gaming Agency for a determination of suitability pursuant to subdivision (a).

- (3) In any case where the Tribal Gaming Agency elects to exclude a Financial Source from the licensing requirements of this section, the Tribal Gaming Agency shall give immediate notice thereof to the State Gaming Agency, shall give reasonable advance notice of any extension of financing by the Financial Source in connection with the Tribe's Gaming Operation or Facility, and upon request of the State Gaming Agency, shall provide it with all documentation supporting the Tribal Gaming Agency's exclusion of the Financial Source from the licensing requirements of this section.
- (4) (A) Where the Tribal Gaming Agency elects to exclude a Financial Source from the licensing requirements of this section, that Financial Source need not apply to the State Gaming Agency for a determination of suitability if:
 - (i) It is a Financial Source specified in subdivision (e)(1)(A), or
 - (ii) It is a Financial Source specified in paragraph (2) or (3) of subdivision (f) of Uniform Tribal Gaming Regulation CGCC-2, which falls within the description of subdivision (e)(1)(B) of section 6.4.5, and the California Gambling Control Commission has by resolution found that the interest of the State does not require an application for a determination of suitability to be made by such Financial Source prior to the extension of financing covered by subdivision (e)(1)(B).
- (B) Notwithstanding subdivision (e)(4)(A), the State Gaming Agency continues to have the right to find the Financial Source unsuitable, and if the State Gaming Agency finds that an investigation of any Financial Source is warranted, the Financial Source shall be required to

Sec. 6.4.6. Processing Tribal Gaming License Applications.

- (a) Each Applicant for a tribal gaming license shall submit the completed application along with the required information and an application fee, if required, to the Tribal Gaming Agency in accordance with the rules and regulations of that agency.
- (b) At a minimum, the Tribal Gaming Agency shall require submission and consideration of all information required under IGRA, including Part 556.4 of Title 25 of the Code of Federal Regulations, for licensing primary management officials and key employees.
- (c) For Applicants who are business entities, these licensing provisions shall apply to the entity as well as: (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, and general manager; (iii) each of its owners or partners, if an unincorporated business; (iv) each of its shareholders who owns more than ten percent (10%) of the shares of the corporation, if a corporation; and (v) each person or entity (other than a Financial Source that the Tribal Gaming Agency has determined does not require a license under the preceding section) that, alone or in combination with others, has provided financing in connection with any Gaming Operation or gaming authorized under this Compact, if that person or entity provided more than ten percent (10%) of either the start-up capital or the operating capital, or of a combination thereof, over a twelve (12)-month period. For purposes of this subdivision, where there is any commonality of the characteristics identified in clauses (i) to (v), inclusive, between any two or more entities, those entities may be deemed to be a single entity.
- (d) Nothing herein precludes the Tribe or Tribal Gaming Agency from requiring more stringent licensing requirements.

Sec. 6.4.7. Suitability Standard Regarding Gaming Licenses.

- (a) In reviewing an application for a tribal gaming license, and in addition

licensing under IGRA, NIGC regulations, the Tribal Gaming Ordinance, and this Compact. The Tribal Gaming Agency shall not issue a gaming license, other than a temporary license pursuant to section 6.4.9, until a determination is made that those qualifications have been met.

- (b) In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA or the Tribal Gaming Ordinance, the Tribal Gaming Agency may contract with the State Gaming Agency for the conduct of background investigations, may rely on a State determination of suitability previously issued under a Class III Gaming compact involving another tribe and the State, or may rely on a State Gaming Agency license previously issued to the Applicant, to fulfill some or all of the Tribal Gaming Agency's background investigation obligations.
- (c) An Applicant for a tribal gaming license shall be required to provide releases to the State Gaming Agency to make available to the Tribal Gaming Agency background information regarding the Applicant. The State Gaming Agency shall cooperate in furnishing to the Tribal Gaming Agency that information, unless doing so would violate state or federal law, would violate any agreement the State Gaming Agency has with a source of the information other than the Applicant, or would impair or impede a criminal investigation, or unless the Tribal Gaming Agency cannot provide sufficient safeguards to assure the State Gaming Agency that the information will remain confidential.
- (d) If the Tribe adopts an ordinance confirming that Article 6 (commencing with section 11140) of Chapter 1 of Title 1 of Part 4 of the California Penal Code is applicable to members, investigators, and staff of the Tribal Gaming Agency, and those members, investigators, and staff thereafter comply with that ordinance, then, for purposes of carrying out its obligations under this section, the Tribal Gaming Agency may be considered to be an entity entitled to receive state summary criminal history information within the meaning of subdivision (b)(12) of section 11105 of the California Penal Code. In that case, the California Department of Justice shall provide services

- (e) Nothing herein shall be construed to relieve the Tribe of any obligation under Part 558 of Title 25 of the Code of Federal Regulations.

Sec. 6.5.0. Tribal Gaming License Issuance.

Upon completion of the necessary background investigation, the Tribal Gaming Agency may issue a tribal gaming license on a conditional or unconditional basis. Nothing herein shall create a property or other right of an Applicant in an opportunity to be licensed, or in a tribal gaming license itself, both of which shall be considered to be privileges granted to the Applicant in the sole discretion of the Tribal Gaming Agency.

Sec. 6.5.1. Denial, Suspension, or Revocation of Licenses.

- (a) Any Applicant's application for a tribal gaming license may be denied, and any license issued may be revoked, if the Tribal Gaming Agency determines that the application is incomplete or deficient, or if the Applicant is determined to be unsuitable or otherwise unqualified for a tribal gaming license.
- (b) Pending consideration of revocation, the Tribal Gaming Agency may suspend a tribal gaming license in accordance with section 6.5.5.
- (c) All rights to notice and hearing shall be governed by tribal law and comport with federal procedural due process. The Applicant shall be notified in writing of the hearing and given notice of any intent to suspend or revoke the tribal gaming license.
- (d) Notwithstanding anything to the contrary herein, upon receipt of notice that the State Gaming Agency has determined that a person would be unsuitable for licensure in a gambling establishment subject to the jurisdiction of the State Gaming Agency, the Tribal Gaming Agency shall deny that person a tribal gaming license and promptly revoke any tribal gaming license that has theretofore been issued to that person; provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person following

- (b) Identification badges must display information, including, but not limited to, a photograph and the person's name, which is adequate to enable members of the public and agents of the Tribal Gaming Agency to readily identify the person and determine the validity and date of expiration of his or her license.
- (c) The Tribe shall monthly provide the State Gaming Agency with the name, badge identification number (if any), and job title of all Gaming Employees.

Sec. 6.5.4. Fees for Tribal Gaming License.

The fees for all tribal gaming licenses shall be set by the Tribal Gaming Agency.

Sec. 6.5.5. Suspension of Tribal Gaming License.

The Tribal Gaming Agency shall summarily suspend the tribal gaming license of any employee if the Tribal Gaming Agency determines that the continued licensing of the person could constitute a threat to the public health or safety or may summarily suspend the license of any employee if the Tribal Gaming Agency determines that the continued licensing of the person may violate the Tribal Gaming Agency's licensing or other standards. Any right to notice or hearing in regard thereto shall be governed by tribal law and comport with federal procedural due process.

Sec. 6.5.6. State Determination of Suitability Process.

- (a) The State Gaming Agency and the Tribal Gaming Agency (together with tribal gaming agencies under other gaming compacts) shall cooperate in developing standard licensing forms for tribal Gaming Employee license applications, on a statewide basis, that reduce or eliminate duplicative or excessive paperwork, which forms and procedures shall take into account the Tribe's requirements under IGRA and the expense thereof. To facilitate the State Gaming Agency's ability to obtain any criminal information that may relate to the Applicant, each application form shall be printed showing the State

may be required by the State Gaming Agency to assist it in its background investigation, to the extent permitted under State law for licensure in a gambling establishment subject to the State Gaming Agency's jurisdiction.

- (e) The Tribal Gaming Agency shall require a licensee to apply for renewal of a determination of suitability by the State Gaming Agency at such time as the licensee applies for renewal of a tribal gaming license.

- (f) Upon receipt of completed license or license renewal application information from the Tribal Gaming Agency, the State Gaming Agency may conduct a background investigation pursuant to state law to determine whether the Applicant is suitable to be licensed for association with Class III Gaming operations. While the Tribal Gaming Agency shall ordinarily be the primary source of information, the State Gaming Agency is authorized to directly seek application information from the Applicant. The Tribal Gaming Agency and State Gaming Agency may also meet and confer from time-to-time to discuss the Tribal Gaming Agency's licensing determinations. If further investigation by the State Gaming Agency is required to supplement the investigation conducted by the Tribal Gaming Agency, the Applicant will be required to pay the application fee charged by the State Gaming Agency pursuant to California Business and Professions Code section 19951, subdivision (a), but any deposit requested by the State Gaming Agency pursuant to section 19867 of that Code shall take into account reports of the background investigation already conducted by the Tribal Gaming Agency and the NIGC, if any. Failure to provide information reasonably required by the State Gaming Agency to complete its investigation under State law or failure to pay the application fee or deposit can constitute grounds for denial of the application by the State Gaming Agency. The State Gaming Agency and Tribal Gaming Agency shall cooperate in sharing as much background information as possible, both to maximize investigative efficiency and thoroughness, and to minimize investigative costs.

Financial Source that appears on the Commission's suitability roster may be licensed by the Tribal Gaming Agency in the same manner as a Gaming Resource Supplier under subdivision (d) of section 6.4.4, subject to any later determination by the State Gaming Agency that the Gaming Resource Supplier or Financial Source is not suitable or to a tribal gaming license suspension or revocation pursuant to section 6.5.1; provided that nothing in this subdivision exempts the Gaming Resource Supplier or Financial Source from applying for a renewal of a State determination of suitability.

Sec. 6.6. Submission of New Application.

Nothing in section 6.0 shall be construed to preclude an Applicant who has been determined to be unsuitable for licensure by the State Gaming Agency, or the Tribe on behalf of such Applicant, from later submitting a new application for a determination of suitability by the State Gaming Agency in accordance with section 6.0.

SECTION 7.0. APPROVAL AND TESTING OF GAMING DEVICES.

Sec. 7.1. Gaming Device Approval.

- (a) No Gaming Device may be offered for play unless all the following occurs:
- (1) The manufacturer or distributor which sells, leases, or distributes such Gaming Device (i) has applied for a determination of suitability by the State Gaming Agency at least fifteen (15) days before it is offered for play, (ii) has not been found to be unsuitable by the State Gaming Agency, and (iii) has been licensed by the Tribal Gaming Agency;
 - (2) The software for the game authorized for play on the Gaming Device has been tested, approved and certified by an independent gaming test laboratory or state governmental gaming test laboratory (the "Gaming Test Laboratory") as operating in accordance with the standards of Gaming

standards shall be those approved by the State of Nevada.

Sec. 7.2. Gaming Test Laboratory Selection.

- (a) The Gaming Test Laboratory shall be an independent or state governmental gaming test laboratory recognized in the gaming industry which (1) is competent and qualified to conduct scientific tests and evaluations of Gaming Devices, and (2) is licensed or approved by any of the following states: Arizona, California, Colorado, Illinois, Indiana, Iowa, Michigan, Missouri, Nevada, New Jersey, or Wisconsin. The Tribal Gaming Agency shall submit to the State Gaming Agency documentation that demonstrates the Gaming Test Laboratory satisfies (1) and (2) herein at least thirty (30) days before the commencement of Gaming Activities pursuant to this Compact, or if such use follows the commencement of Gaming Activities, within fifteen (15) days prior to reliance thereon. If, at any time, the Gaming Test Laboratory license and/or approval required by (2) herein is suspended or revoked by any of those states or the Gaming Test Laboratory is found unsuitable by the State Gaming Agency, then the State Gaming Agency may reject the use of such Gaming Test Laboratory, and upon such rejection, the Tribal Gaming Agency shall ensure that such Gaming Test Laboratory discontinues its responsibilities under this section.
- (b) The Tribe and the State Gaming Agency shall inform the Gaming Test Laboratory in writing that irrespective of the source of payment of its fees, the Gaming Test Laboratory's duty of loyalty runs equally to the State and the Tribe.

Sec. 7.3. Independent Audits.

The Tribal Gaming Agency shall ensure that compliance with section 7.1 is audited annually by an independent auditor and shall provide the results of such audits to the State Gaming Agency within five (5) business days of completion. For purposes of this section, an independent auditor shall be a certified public accountant licensed in the state of California to practice as an independent certified accountant or hold a California Practice Privilege, as provided in the California

Sec. 7.5. Technical Standards.

The Tribal Gaming Agency shall provide to the State Gaming Agency copies of its regulations for technical standards applicable to the Tribe's Gaming Devices at least thirty (30) days before the commencement of the Gaming Operation and at least thirty (30) days before the effective date of any revisions to the regulations.

Sec. 7.6. State Gaming Agency Designation.

For purposes of sections 7.1 to 7.5, the State Gaming Agency shall be the California Gambling Control Commission, unless the Governor provides otherwise by written notice pursuant to section 16.

Sec. 7.7. Transportation of Gaming Devices.

- (a) Subject to the provisions of subdivision (b), the Tribal Gaming Agency shall not permit any Gaming Device to be transported to or from the Tribe's land except in accordance with procedures established by agreement between the State Gaming Agency and the Tribal Gaming Agency and upon at least ten (10) days' notice to the Sheriff's Department for the County.
- (b) Transportation of a Gaming Device from a Gaming Facility within California is permissible only if:
 - (1) The final destination of the Gaming Device is a gaming facility of any tribe in California that has a compact with the State which makes lawful the receipt of such Gaming Device;
 - (2) The final destination of the Gaming Device is any other state in which possession of the Gaming Device is made lawful by state law or by tribal-state compact;
 - (3) The final destination of the Gaming Device is another country, or any state or province of another country, wherein possession of the Gaming Device is lawful; or

purposes described in section 8.1, or otherwise to protect public health, safety, or welfare.

Sec. 8.3. Access to Premises by State Gaming Agency; Notification; Inspections.

- (a) Notwithstanding that the Tribe and its Tribal Gaming Agency have the primary responsibility to administer and enforce the regulatory requirements of this Compact, the State Gaming Agency, including but not limited to any consultants retained by it, shall have the right to inspect the Tribe's Gaming Facility, and all Gaming Operation or Facility records relating to Class III Gaming, including such records located in off-site facilities dedicated to their storage subject to the conditions in subdivisions (b), (c), and (d).
- (b) Except as provided in section 7.4, the State Gaming Agency may inspect public areas of the Gaming Facility at any time without prior notice during normal Gaming Facility business hours.
- (c) Inspection of areas of the Gaming Facility not normally accessible to the public may be made at any time the Gaming Facility is open to the public, immediately after the State Gaming Agency's authorized inspector notifies the Tribal Gaming Agency of his or her presence on the premises, presents proper identification, and requests access to the non-public areas of the Gaming Facility. The Tribal Gaming Agency, in its sole discretion, may require a member of the Tribal Gaming Agency to accompany the State Gaming Agency inspector at all times that the State Gaming Agency inspector is in a non-public area of the Gaming Facility. If the Tribal Gaming Agency imposes such a requirement, it shall require such member to be available at all times for those purposes and shall ensure that the member has the ability to gain immediate access to all non-public areas of the Gaming Facility.
- (d) Nothing in this Compact shall be construed to limit the State Gaming Agency to one inspector during inspections.

may be retained by the State Gaming Agency as is reasonably necessary to assure the Tribe's compliance with this Compact or to complete any investigation of suspected criminal activity; and provided further that the State Gaming Agency may provide such confidential information and records and copies to federal law enforcement and other state agencies or consultants that the State deems reasonably necessary in order to assure the Tribe's compliance with this Compact, in order to renegotiate any provision thereof, or in order to conduct or complete any investigation of suspected criminal activity in connection with the Gaming Activities or the operation of the Gaming Facility or the Gaming Operation.

- (d) "Confidential information and records" means information and records treated as confidential or protected from disclosure under California state law, including, but not limited to, trade secrets, non-public financial data, player tracking data, video recordings, internal controls, and internal reports related to security and prevention of theft. The Tribe shall designate as confidential each page of each record it believes to be confidential under California state law, and in all such cases the State shall treat the record as confidential until such time that the designation is removed. If the State objects to such designation with respect to any record or page(s) of a record, the matter will be resolved in accordance with the arbitration procedures under section 13.2. The State need not treat as confidential any page or record not so designated.
- (e) The State Gaming Agency and all other state agencies and consultants to which it provides information and records obtained pursuant to subdivisions (a) or (b) of this section, which are deemed confidential pursuant to subdivision (d), will exercise care in the preservation of the confidentiality of such information and records and will apply the highest standards of confidentiality provided under California state law to preserve such information and records from disclosure until such time as the confidential designation may be removed by the Tribe, by mutual agreement, or pursuant to the arbitration procedures under section 13.2. Before the State Gaming Agency provides confidential information and records to a consultant as authorized

Sec. 8.6. Cooperation with Tribal Gaming Agency.

The State Gaming Agency shall meet periodically with the Tribal Gaming Agency and cooperate in all matters relating to the enforcement of the provisions of this Compact and its Appendix.

Sec. 8.7. Compact Compliance Review.

The State Gaming Agency is authorized to conduct an annual comprehensive Compact compliance review of the Gaming Operation, Gaming Facilities, and Gaming Activities to ensure compliance with all provisions of this Compact, any exhibits and appendices hereto, including, without limitation, minimum internal control standards set forth in Appendix A, and with all laws, ordinances, codes, rules, regulations, policies, internal controls, standards, and procedures that are required to be adopted, implemented, or complied with pursuant to this Compact. The State Gaming Agency may conduct additional periodic reviews of any part of the Gaming Operation, Gaming Facility, and Gaming Activities and other activities subject to this Compact in order to ensure compliance with all provisions of the Compact and its appendix. Nothing in this section shall be construed to supersede any other audits, inspections, investigations, and monitoring authorized by this Compact.

SEC. 9.0. RULES AND REGULATIONS FOR THE OPERATION AND MANAGEMENT OF THE GAMING OPERATION AND FACILITY.

Sec. 9.1. Adoption of Regulations for Operation and Management; Minimum Standards.

It is the responsibility of the Tribal Gaming Agency to conduct on-site gaming regulation and control in order to enforce the terms of this Compact, of IGRA, of NIGC gaming regulations, of State Gaming Agency regulations, and of the Tribal Gaming Ordinance, to protect the integrity of the Gaming Activities and the Gaming Operation for honesty and fairness, and to maintain the confidence of patrons that tribal governmental gaming in California meets the highest standards of fairness and internal controls. To meet those responsibilities, the Tribal Gaming Agency shall be vested with the authority to promulgate, and shall promulgate,

- (1) Specify that security personnel record all incidents, regardless of an employee's determination that the incident may be immaterial (all incidents shall be identified in writing).
- (2) Require the assignment of a sequential number to each report.
- (3) Provide for permanent reporting in indelible ink in a bound notebook from which pages cannot be removed and in which entries are made on each side of each page or in electronic form, provided the information is recorded in a manner so that, once the information is entered, it cannot be deleted or altered and is available to the State Gaming Agency pursuant to sections 8.3 and 8.4.
- (4) Require that each report include, at a minimum, all of the following:
 - (A) The record number.
 - (B) The date.
 - (C) The time.
 - (D) The location of the incident.
 - (E) A detailed description of the incident.
 - (F) The persons involved in the incident.
 - (G) The security department employee assigned to the incident.
- (g) The establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like, consistent with industry practice.
- (h) Maintenance of a list of persons barred from the Gaming Facility who, because of their past behavior, criminal history, or association with persons or organizations, pose a threat to the integrity of the Gaming Activities of the Tribe or to the integrity of regulated gaming within the State. The Tribal Gaming Agency shall transmit a copy of the list to the State Gaming Agency quarterly and shall make a copy of the current list available to the State Gaming Agency upon request. Notwithstanding anything in this Compact to the contrary, the State

Sec. 9.1.1. Minimum Internal Control Standards (MICS).

- (a) The Tribe shall conduct its Gaming Activities pursuant to an internal control system that implements minimum internal control standards for Class III Gaming that are no less stringent than those contained in the Minimum Internal Control Standards of the NIGC (25 C.F.R. Part 542), as they existed on October 19, 2006, and as they may be amended from time to time, without regard to the NIGC's authority to promulgate, enforce, or audit the standards. This requirement is met through compliance with the provisions set forth in this section and in section 9.1.
- (b) Before commencement of Class III Gaming Operations, the Tribal Gaming Agency shall, in accordance with the Tribal Gaming Ordinance, establish written internal control standards for the Gaming Facility that shall: (i) provide a level of control that equals or exceeds the minimum internal control standards set forth in Appendix A to this Compact, as it exists currently and as it may be revised; (ii) contain standards for currency transaction reporting that comply with 31 C.F.R. Part 103, as it exists currently and as it may be amended; (iii) satisfy the requirements of section 9.1; (iv) be consistent with this Compact; and (v) require the Gaming Operation to comply with the internal control standards.
- (c) The Gaming Operation shall operate the Gaming Facility pursuant to a written internal control system. The internal control system shall comply with and implement the internal control standards established by the Tribal Gaming Agency pursuant to subdivision (b) of this section 9.1.1. The internal control system, and any proposed changes to the system, must be approved by the Tribal Gaming Agency prior to implementation. The internal control system shall be designed to reasonably assure that: (i) assets are safeguarded and accountability over assets is maintained; (ii) liabilities are properly recorded and contingent liabilities are properly disclosed; (iii) financial records including records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable; (iv) transactions are performed in accordance with the Tribal Gaming Agency's general or specific authorization; (v) access to assets is permitted only in

Agency or the State Gaming Agency may, at any time, request negotiations to amend Appendix A to this Compact for the purposes described in this subdivision (f). Such revisions to Appendix A shall not be considered to be an amendment to this Compact. Any disputes regarding the contents of future amendments to Appendix A shall be resolved in the manner set forth in section 13.0 of this Compact.

- (g) The Tribe shall cause, at its own expense and not less than annually at the Tribe's fiscal year end, an independent certified public accountant to be engaged to perform "Agreed-Upon Procedures" to verify that the Gaming Operation is in compliance with the internal control standards at each Gaming Facility operated by the Tribe. The independent certified public accountant shall perform the Agreed-Upon Procedures in accordance with Part 542.3, subdivision (f), in Appendix A, as it may be revised. The independent certified public accountant shall issue a report of its findings to the Tribal Gaming Agency within one hundred twenty (120) days after the Gaming Operation's fiscal year end. Promptly upon receipt of the Agreed-Upon Procedures report, and in no event later than fifteen (15) days after receipt of the report, the Tribal Gaming Agency shall provide a complete copy of the Agreed-Upon Procedures report to the State Gaming Agency, along with a copy of any supporting reports or documents the independent certified public accountant has prepared, and any replies the Tribe has prepared in response to the independent certified public accountant's report.
- (h) For purposes of this section 9.1.1, the State Gaming Agency shall be the California Gambling Control Commission, unless the State provides otherwise by written notice pursuant to section 16.0 of the Compact.

Sec. 9.2. Program to Mitigate Problem Gambling.

The Tribal Gaming Agency shall establish a program to mitigate pathological and problem gambling by implementing the following measures:

- (a) It shall train Gaming Facility supervisors and gaming floor employees

perceived violation of these standards.

Sec. 9.3. Enforcement of Regulations.

The Tribal Gaming Agency shall ensure the enforcement of the rules, regulations, and specifications promulgated under this Compact, including under section 9.1.

Sec. 9.4. State Civil and Criminal Jurisdiction.

Nothing in this Compact impairs the civil or criminal jurisdiction of the State under Public Law 280 (18 U.S.C. § 1162; 28 U.S.C. § 1360) or IGRA to the extent applicable. Except as provided below, all State and local law enforcement agencies and State courts shall exercise jurisdiction to enforce the State's criminal laws on the Tribe's Indian lands, including the Gaming Facility and all related structures, in the same manner and to the same extent, and subject to the same restraints and limitations, imposed by the laws of the State and the United States, as is exercised by State and local law enforcement agencies and State courts elsewhere in the State, to the fullest extent permitted by decisions of the United States Supreme Court related to Public Law 280. The Tribe hereby consents to such criminal jurisdiction. However, no Gaming Activity conducted by the Tribe pursuant to this Compact may be deemed to be a criminal violation of any law of the State. Except for such Gaming Activity conducted pursuant to this Compact, criminal jurisdiction to enforce State gambling laws on the Tribe's Indian lands, and to adjudicate alleged violations thereof, is hereby transferred to the State pursuant to 18 U.S.C. § 1166(d).

Sec. 9.5. Tribal Gaming Agency Members.

- (a) The Tribe shall take all reasonable steps to ensure that members of the Tribal Gaming Agency are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their duties under this Compact; shall adopt a conflict-of-interest code to that end and shall ensure its enforcement; and shall ensure the prompt removal of any member of the Tribal Gaming Agency who is found to have acted in a corrupt or compromised manner or to have a conflict of interest.

or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

- (C) A person that is in all other respects qualified to be licensed as provided in section 6.4.7 of this Compact.
- (2) A member is deemed unsuitable if any of the following apply:
- (A) The person, any partner, or any officer, director, or shareholder of any corporation in which the person has a controlling interest, has any financial interest in any business or organization that is engaged in any form of gambling prohibited by section 330 of the California Penal Code, whether within or without the State of California, unless such gambling is lawful within the jurisdiction in which it is being conducted.
 - (B) The person fails to clearly establish eligibility and qualification in accordance with section 6.4.7 of this Compact.
 - (C) The person fails to provide information, documentation, and assurances required by sections 6.4.7, 6.4.8, subdivision (c), or 6.5.6 of this Compact or requested by the Tribal Gaming Agency, or fails to reveal any fact material to qualification, or supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria.
 - (D) The person has been convicted of a felony, including a conviction by a federal court or by a court in another state for a crime that would constitute a felony if committed in California.
 - (E) The person has been convicted of any misdemeanor

Agency may adopt regulations governing matters encompassed in sections 6.0, 7.0, and 9.1 under the following circumstances:

- (1) The State Gaming Agency may adopt regulations that apply to any aspect of the Gaming Operation that is not addressed by a regulation of the Tribal Gaming Agency, as long as the regulations are not inconsistent with the terms of this Compact.
 - (2) The State Gaming Agency may adopt regulations that apply to any subjects covered by sections 6.0, 7.0, and 9.1 when it deems that the regulations adopted by the Tribal Gaming Agency in connection with the subject are ineffective in addressing it, as long as they are not inconsistent with the terms of this Compact.
 - (3) In circumstances that present an imminent threat to public health or safety, the State Gaming Agency may adopt a regulation that becomes effective immediately, regardless of whether the Tribe or Tribal Gaming Agency has enacted a regulation on the subject and regardless of whether the tribal regulation is deemed ineffective. Any such regulation shall be accompanied by a detailed, written description of the exigent circumstances, and shall be submitted immediately to the Tribal Gaming Agency. A regulation adopted by the State Gaming Agency pursuant to this subdivision shall be subject to the provisions governing arbitration under subdivision (d) of section 9.7.
- (b) Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the California Government Code does not apply to regulations adopted by the State Gaming Agency under this section.

Sec. 9.7. Limitations on Adoption of State Gaming Regulations.

- (a) To promote respectful relations between the Tribe and the State, except as provided in section 9.6, subdivision (a)(3), no regulation of the State Gaming Agency adopted under section 9.6, subdivisions

any regulation under this paragraph, the Tribal Gaming Agency shall respond in writing to each comment and objection of the State Gaming Agency.

- (4) If the Tribal Gaming Agency adopts a regulation as provided in subdivision (a)(3), the State Gaming Agency may, if dissatisfied with the regulation, make a demand for binding arbitration upon the Tribal Gaming Agency, in which case arbitration shall proceed as provided in subdivision (d).
- (b) If the Tribal Gaming Agency does not propose a regulation within thirty (30) days following the meeting specified in subdivision (a)(2) and adopt a regulation as provided in subdivision (a)(3) within seventy (70) days of the meeting specified in subdivision (a)(2), the State Gaming Agency may adopt a regulation for the purpose of addressing the subject as to which it provided the Tribal Gaming Agency notification pursuant to subdivision (a)(1). Except as provided in section 9.6, subdivision (a)(3), the State Gaming Agency shall adopt no regulation under this subdivision without first providing the proposed regulation to, and inviting comment or objection by, the Tribal Gaming Agency at least thirty (30) days prior to the date of the intended adoption of the regulation. The Tribal Gaming Agency shall provide its comments or objections, if any, to the State Gaming Agency at least ten (10) days prior to the date of the intended adoption of the regulation. Prior to adoption of any regulation under this subdivision, the State Gaming Agency shall respond in writing to each comment and objection of the Tribal Gaming Agency.
- (c) If the State Gaming Agency adopts a regulation as provided in subdivision (b), the Tribal Gaming Agency may, if dissatisfied with the regulation, make a demand upon the State Gaming Agency for binding arbitration, in which case the arbitration shall proceed as provided in subdivision (d).
- (d) Neither a demand for arbitration nor the pendency of arbitration shall impair the effect of a regulation adopted by the Tribal Gaming

arbitrator pursuant to subdivision (d), shall cease to be effective upon adoption of the proposal identified by the arbitrator's order.

- (f) Nothing in this section 9.7 shall be deemed to preclude either the State or the Tribe from seeking, under section 13.1, a resolution of the question whether a regulation adopted under section 9.0 conflicts with a final published regulation of the NIGC.

Sec. 9.8. State Gaming Agency Regulations

Notwithstanding section 9.6 and section 9.7, Uniform Tribal Gaming Regulations CGCC-1, CGCC-2, and CGCC-7, (as in effect on January 1, 2011), adopted by the State Gaming Agency and approved by the Association of Tribal and State Gaming Regulators, shall apply to the Gaming Operation until amended or repealed, without further action by the State Gaming Agency, the Tribe, the Tribal Gaming Agency or the Association of Tribal and State Gaming Regulators.

SECTION 10.0. PATRON DISPUTES.

The Tribal Gaming Agency shall promulgate regulations governing patron disputes over the play or operation of any game, including any refusal to pay to a patron any alleged winnings from any Gaming Activities, which regulations must meet the following minimum standards:

- (a) A patron who makes a complaint to personnel of the Gaming Operation over the play or operation of any game within seven (7) days of the play or operation shall be notified in writing of his or her right to request, within fifteen (15) days of the written notification, resolution of the dispute by the Tribal Gaming Agency, and if dissatisfied with the resolution, to seek binding arbitration of the dispute before a retired judge pursuant to the terms and provisions in subdivision (c). If the patron is not provided with the aforesaid notification within thirty (30) days of the patron's complaint, the deadlines herein shall be removed, leaving only the relevant statutes of limitations under California law that would otherwise apply.
- (b) Upon request by the patron for a resolution of his or her complaint,

SECTION 11.0. OFF-RESERVATION ENVIRONMENTAL AND ECONOMIC IMPACTS.

Sec. 11.8.1.¹ Tribal Environmental Impact Report.

- (a) Before the commencement of any Project as defined in section 2.20 herein, the Tribe shall cause to be prepared a tribal environmental impact report, which is hereinafter referred to as a TEIR, analyzing the potentially significant off-reservation environmental impacts of the Project pursuant to the process set forth in this section 11.0; provided, however, that information or data which is relevant to such a TEIR and is a matter of public record or is generally available to the public need not be repeated in its entirety in the TEIR, but may be specifically cited as the source for conclusions stated therein; and provided further that such information or data shall be briefly described, that its relationship to the TEIR shall be indicated, and that the source thereof shall be reasonably available for inspection at a public place or public building. The TEIR shall provide detailed information about the Significant Effect(s) on the Off-Reservation Environment which the Project is likely to have, including each of the matters set forth in Exhibit A, shall list ways in which the Significant Effects on the Environment might be minimized, and shall include a detailed statement setting forth all of the following:
- (1) All Significant Effects on the Environment of the proposed Project;
 - (2) In a separate section:
 - (A) Any Significant Effect on the Environment that cannot be avoided if the Project is implemented;

¹ Sections 11.1 through 11.7 have been deliberately omitted.

alternatives to the Project or to the location of the Project, which would feasibly attain most of the basic objectives of the Project and which would avoid or substantially lessen any of the Significant Effects on the Environment, and evaluate the comparative merits of the alternatives; provided that the Tribe need not address alternatives that would cause it to forgo its right to engage in the Gaming Activities authorized by this Compact on its Indian lands. The TEIR must include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison. The TEIR shall also contain an index or table of contents and a summary, which shall identify each Significant Effect on the Environment with proposed measures and alternatives that would reduce or avoid that effect, and issues to be resolved, including the choice among alternatives and whether and how to mitigate the Significant Effects on the Environment. Previously approved land use documents, including, but not limited to, general plans, specific plans, and local coastal plans, may be used in cumulative impact analysis. The Tribe shall consider any recommendations from the County concerning the person or entity to prepare the TEIR.

Sec. 11.8.2. Notice of Preparation of Draft TEIR.

- (a) Upon commencing the preparation of the draft TEIR, the Tribe shall issue a Notice of Preparation to the State Clearinghouse in the State Office of Planning and Research ("State Clearinghouse") and to the County for distribution to the public. The Notice shall provide all Interested Persons, as defined in section 2.16, with information describing the Project and its potential Significant Effects on the Environment sufficient to enable Interested Persons to make a meaningful response or comment. At a minimum, the Notice shall include all of the following information:
- (1) A description of the Project;
 - (2) The location of the Project shown on a detailed map, preferably topographical, and on a regional map; and

below:

- (1) Publication at least one time by the Tribe in a newspaper of general circulation in the area affected by the Project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas; or
- (2) Direct mailing by the Tribe to the owners and occupants of property adjacent to, but outside, the Indian lands on which the Project is to be located. Owners of such property shall be identified as shown on the latest equalization assessment roll.

Sec. 11.8.4. Issuance of Final TEIR.

The Tribe shall prepare, certify and make available to the County, the local city (if any) within which the Project is located, the State Clearinghouse, the State Gaming Agency, and the California Department of Justice, Office of the Attorney General, at least fifty-five (55) days before the completion of negotiations pursuant to section 11.8.7 a Final TEIR, which shall consist of:

- (a) The draft TEIR or a revision of the draft;
- (b) Comments and recommendations received on the draft TEIR either verbatim or in summary;
- (c) A list of persons, organizations, and public agencies commenting on the draft TEIR;
- (d) The responses of the Tribe to significant environmental points raised in the review and consultation process; and
- (e) Any other information added by the Tribe.

Sec. 11.8.5.

The Tribe shall reimburse the County for copying and mailing costs

by the County and its special districts to the Tribe for the purposes of the Tribe's Gaming Operation, including the Gaming Facility, as a consequence of the Project.

- (3) Reasonable compensation for programs designed to address gambling addiction.
 - (4) Mitigation of any effect on public safety attributable to the Project, including any compensation to the County as a consequence thereof.
- (b) The Tribe shall not commence a Project until the Intergovernmental Agreements specified in subdivision (a) are executed by the parties or are effectuated pursuant to section 11.8.8.
 - (c) Before the commencement of a Project, and no later than the issuance of the Final TEIR to the State Gaming Agency, the Tribe shall negotiate with the State Department of Transportation or the State Designated Agency (if one is designated) and shall enter into an enforceable written agreement with the State Department of Transportation or the State Designated Agency to provide for timely mitigation of all direct traffic impacts of the Project on the State highway system and facilities and to pay the Tribe's fair share of cumulative traffic impacts of the Project on the State highway system and facilities where such impacts are attributable, in whole or in part, to the Project. The agreement shall provide that any mitigation for direct impacts shall be completed prior to commencement of operations of any Gaming Facility, Gaming Facility expansion, or other facility constructed as part of the Project. An Encroachment Permit issued by the State Department of Transportation shall be required for any work performed within the State highway right-of-way, for any required access to the State highway system, or for any change-in-use to an existing access or Encroachment Permit.
 - (d) Nothing in this section 11.8.7 requires the Tribe to enter into any other intergovernmental agreements with a local governmental entity other than as set forth in subdivision (a).

submit such evidence as the arbitrator may require therefor. Review of the resulting arbitration award is waived.

- (b) In order to effectuate this section, and in the exercise of its sovereignty, the Tribe agrees to waive its right to assert sovereign immunity in connection with the arbitrator's jurisdiction and in any action to (i) enforce the other party's obligation to arbitrate, (ii) enforce or confirm any arbitral award rendered in the arbitration, or (iii) enforce or execute a judgment based upon the award.
- (c) The arbitral award will become part of the written agreement required under section 11.8.7.

SECTION 12.0. PUBLIC AND WORKPLACE HEALTH, SAFETY, AND LIABILITY.

Sec. 12.1. General Requirements.

The Tribe shall not conduct Class III Gaming in a manner that endangers the public health, safety, or welfare, provided, however, that nothing herein shall be construed to make applicable to the Tribe any State laws or regulations governing the use of tobacco.

Sec. 12.2. Tobacco Smoke.

Notwithstanding section 12.1, the Tribe agrees to provide a non-smoking area in the Gaming Facility and to utilize a ventilation system throughout the Gaming Facility that exhausts tobacco smoke to the extent reasonably feasible under existing state-of-the-art technology, and further agrees not to offer or sell tobacco to anyone under eighteen (18) years of age.

Sec. 12.3. Health and Safety Standards.

For the purposes of this Compact, the Tribe shall:

- (a) Adopt and comply with State public health standards for food and beverage handling. The Tribe will allow, during normal hours of

- (c) Comply with the building and safety standards set forth in section 6.4.2.
- (d) Adopt and comply with federal and State workplace and occupational health and safety standards. The Tribe will allow inspection of Gaming Facility workplaces by State inspectors, during normal hours of operation, to assess compliance with these standards, and consents to the jurisdiction of the State agencies charged with the enforcement of those laws, including the Division of Occupational Safety and Health, the Occupational Safety and Health Standards Board and Occupational Safety and Health Appeals Board, and of the courts of the State of California for purposes of enforcement; provided that there is no right to inspection by State inspectors where an inspection has been conducted by an agency of the United States pursuant to federal law during the previous calendar quarter and the Tribe has provided a copy of the federal agency's report to the State Gaming Agency within ten (10) days of the federal inspection.
- (e) Adopt and comply with tribal codes to the extent consistent with the provisions of this Compact and other applicable federal law regarding public health and safety.
- (f) Adopt and comply with standards no less stringent than federal laws and state laws forbidding harassment, including sexual harassment, in the workplace, forbidding employers from discrimination in connection with the employment of persons to work or working for the Gaming Operation or in the Gaming Facility on the basis of race, color, religion, ancestry, national origin, gender, marital status, medical condition, sexual orientation, age, or disability, and forbidding employers from retaliation against persons who oppose discrimination or participate in employment discrimination proceedings (hereinafter "harassment, retaliation, or employment discrimination"); provided that nothing herein shall preclude the Tribe from giving a preference in employment to members of federally-recognized Indian tribes pursuant to a duly adopted tribal ordinance.
 - (1) The Tribe shall obtain and maintain an employment practices

exhaust administrative remedies as a prerequisite to arbitration.

- (2) The standards shall be subject to enforcement pursuant to an employment discrimination complaint ordinance which shall be adopted by the Tribe prior to the effective date of this Compact and which shall continuously provide at least the following:
 - (A) That California law shall govern all claims of harassment, retaliation, or employment discrimination arising out of the claimant's employment in, in connection with, or relating to the operation of, the Gaming Operation, Gaming Facility or Gaming Activities; provided that California law governing punitive damages need not be a part of the ordinance. Nothing in this provision shall be construed as a submission of the Tribe to the jurisdiction of the California Department of Fair Employment and Housing or the California Fair Employment and Housing Commission.
 - (B) That a claimant shall have one year from the date that an alleged discriminatory act occurred to file a written notice with the Tribe that he or she has suffered prohibited harassment, retaliation, or employment discrimination.
 - (C) That, in the exercise of its sovereignty, the Tribe expressly waives, and also waives its right to assert, sovereign immunity with respect to the binding arbitration of claims for harassment, retaliation, or employment discrimination, but only up to the greater of three million dollars (\$3,000,000) or the limits of the employment practices insurance policy referenced in subdivision (f)(1) above; provided, however, such waiver shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for any portion of the claim that exceeds three million dollars (\$3,000,000) or the

- (3) The employment discrimination complaint ordinance required under subdivision (f)(2) may require, as a prerequisite to binding arbitration under subdivision (f)(2)(D), that the claimant exhaust the Tribe's administrative remedies, if any exist, in the form of a tribal discrimination complaint resolution process, for resolving the claim in accordance with the following standards:
- (A) Upon notice that the claimant alleges that he or she has suffered prohibited harassment, retaliation, or employment discrimination, the Tribe or its designee shall provide notice by personal service or certified mail, return receipt requested, that the claimant is required to proceed with the Tribe's employment discrimination complaint resolution process in the event that the claimant wishes to pursue his or her claim.
 - (B) The claimant must bring his or her claim within one hundred eighty (180) days of receipt of the written notice ("limitation period") of the Tribe's employment discrimination complaint resolution process as long as the notice thereof is served personally on the claimant or by certified mail with an executed return receipt by the claimant and the one hundred eighty (180)-day limitation period is prominently displayed on the front page of the notice.
 - (C) The arbitration may be stayed until the completion of the Tribe's employment discrimination complaint resolution process or one hundred eighty (180) days from the date the claim was filed, whichever first occurs, unless the parties mutually agree upon a longer period.
 - (D) The decision of the Tribe's employment discrimination complaint resolution process shall be in writing, shall be based on the facts surrounding the dispute, shall be a

bringing a complaint in its employee handbook. The Tribe also shall post and keep posted in prominent and accessible places in the Gaming Facility where notices to employees and applicants for employment are customarily posted, a notice setting forth the pertinent provisions of the employment discrimination complaint ordinance and information pertinent to the filing of a complaint.

- (g) Adopt and comply with State laws prohibiting a gambling enterprise from cashing any check drawn against a federal, state, county, or city fund, including but not limited to, Social Security, unemployment insurance, disability payments, or public assistance payments.
- (h) Adopt and comply with State laws, if any, prohibiting a gambling or other enterprise from providing, allowing, contracting to provide, or arranging to provide alcoholic beverages, or food or lodging, for no charge or at reduced prices at a gambling establishment, lodging facility, or other enterprise as an incentive or enticement.
- (i) Adopt and comply with State laws, if any, prohibiting extensions of credit.
- (j) Comply with provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, insofar as such provisions and reporting requirements are applicable to gambling establishments.
- (k) Adopt and comply with standards no less stringent than the standards of the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., and the United States Department of Labor regulations implementing the Fair Labor Standards Act (29 C.F.R. § 500, et seq.).

Sec. 12.4. Tribal Gaming Facility Standards Ordinance.

The Tribe shall adopt in the form of an ordinance the standards described in subdivisions (a) through (j) of section 12.3 to which the Gaming Operation is held,

endorsement or acknowledgement shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for any portion of the claim that exceeds ten million dollars (\$10,000,000) or the Policy limits, whichever is greater.

- (b) The Tribe shall adopt, and at all times hereinafter shall maintain in continuous force, an ordinance that provides for all of the following:
- (1) The ordinance shall provide that California tort law, including all applicable statutes of limitations, shall govern all claims of bodily injury, personal injury, or property damage arising out of, connected with, or relating to the operation of the Gaming Facility or the Gaming Activities, including but not limited to injuries resulting from entry onto the Tribe's land for purposes of patronizing the Gaming Facility or providing goods or services to the Gaming Facility, provided that California law governing punitive damages need not be a part of the ordinance.
 - (2) The ordinance shall expressly waive the Tribe's sovereign immunity and its right to assert sovereign immunity with respect to the arbitration of such claims but only up to the greater of ten million dollars (\$10,000,000) or the limits of the Policy; provided, however, such waiver shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for any portion of the claim that exceeds ten million dollars (\$10,000,000) or the Policy limits, whichever is greater.
 - (3) The ordinance shall provide for the Tribe's consent to binding arbitration before a single arbitrator, who shall be a retired judge, in accordance with the Comprehensive Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent) to the extent of the limits of the Policy, that discovery in the arbitration proceedings shall be governed by section 1283.05 of the California Code of Civil Procedure, that the Tribe shall initially bear the cost of JAMS and the arbitrator, but the arbitrator may award costs to the prevailing party not to exceed those allowable in a suit in California Superior Court, and that

subdivision (b), the tort law of the State of California, including applicable statutes of limitations, shall apply to all claims of bodily injury, personal injury, and property damage arising out of, connected with, or relating to the operation of the Gaming Facility or the Gaming Activities, including but not limited to injuries resulting from entry onto the Tribe's land for purposes of patronizing the Gaming Facility or providing goods or services to the Gaming Facility; and the Tribe shall be deemed to have waived, and also waived its right to assert, sovereign immunity up to the greater of ten million dollars (\$10,000,000) or the limits of the Policy in connection with the arbitration of any such claims, any court proceedings based on such arbitration, including the arbitral award resulting therefrom, and any ensuing judgments.

- (e) Employees or authorized agents of the Tribe may not invoke, and the Tribe shall not invoke on behalf of any employee or agent, the Tribe's sovereign immunity in connection with any claim for, or any judgment based on any claim for, intentional injury to persons or property committed by the employee or authorized agent, without regard to the Tribe's liability insurance limits. Nothing in this subdivision prevents the Tribe from invoking sovereign immunity on its own behalf or authorizes a claim against the Tribe or a tribally owned entity.

Sec. 12.6. Participation in State Statutory Programs Related to Employment.

- (a) The Tribe agrees that it will participate in the State's workers' compensation program with respect to employees employed at the Gaming Facility. The workers' compensation program includes, but is not limited to, state laws relating to the securing of payment of compensation through one or more insurers duly authorized to write workers' compensation insurance in this State or through self-insurance as permitted under the State's workers' compensation laws. All disputes arising from the workers' compensation laws shall be heard by the Workers' Compensation Appeals Board pursuant to the California Labor Code. The Tribe hereby consents to the jurisdiction of the Workers' Compensation Appeals Board and the courts of the State of California for purposes of enforcement. The parties agree

Sec. 12.7. Emergency Services Accessibility.

The Tribe shall make reasonable provisions for adequate emergency fire, medical, and related relief and disaster services for patrons and employees of the Gaming Facility.

Sec. 12.8. Alcoholic Beverage Service.

Purchase, sale and service of alcoholic beverages shall be subject to state law.

Sec. 12.9. Possession of Firearms.

The possession of firearms by any person in the Gaming Facility is prohibited at all times, except for federal, State, or local law enforcement personnel, or tribal law enforcement or security personnel authorized by tribal law and federal or State law to possess firearms at the Facility.

Sec. 12.10. Labor Relations.

The Gaming Activities authorized by this Compact may only commence after the Tribe has adopted an ordinance identical to the Tribal Labor Relations Ordinance attached hereto as Exhibit B, and the Gaming Activities may only continue as long as the Tribe maintains the ordinance. The Tribe shall provide written notice to the State that it has adopted the ordinance, along with a copy of the ordinance, before commencing the Gaming Activities authorized by this Compact.

SECTION 13.0. DISPUTE RESOLUTION PROVISIONS.

Sec. 13.1. Voluntary Resolution.

In recognition of the government-to-government relationship of the Tribe and the State, the parties shall make their best efforts to resolve disputes that arise under this Compact by good faith negotiations whenever possible. Therefore, except for the right of either party to seek injunctive relief against the other when circumstances are deemed to require immediate relief, the Tribe and the State shall seek to resolve disputes by first meeting and conferring in good faith in order to

exhaust any tribal administrative remedies.

Sec. 13.2. Arbitration Rules.

Unless otherwise specified in this Compact, arbitration shall be conducted before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and shall be held in the federal judicial district in which the Tribe's Gaming Facility is located at a location selected by the arbitrator. Each side shall initially bear one-half the costs and expenses of the American Arbitration Association and the arbitrator, but the arbitrator shall award the prevailing party its costs, including the costs of the American Arbitration Association and the arbitrator; however, the parties shall bear their own attorney fees. The provisions of section 1283.05 of the California Code of Civil Procedure shall apply, provided that no discovery authorized by that section may be conducted without leave of the arbitrator. The decision of the arbitrator shall be in writing, shall give reasons for the decision, and shall be binding. Judgment on the award may be entered in any federal or State court having jurisdiction thereof.

Sec. 13.3. No Waiver or Preclusion of Other Means of Dispute Resolution.

This section 13.0 may not be construed to waive, limit, or restrict any remedy that is otherwise available to either party, nor may this section be construed to preclude, limit, or restrict the ability of the parties to pursue, by mutual agreement, any other method of dispute resolution, including, but not limited to, mediation.

Sec. 13.4. Limited Waiver of Sovereign Immunity.

- (a) For the purpose of actions or arbitrations based on disputes between the State and the Tribe that arise under this Compact and the enforcement of any judgment or award resulting therefrom, the State and the Tribe expressly waive their right to assert their sovereign immunity from suit and enforcement of any ensuing judgment or arbitral award, and consent to the arbitrator's jurisdiction, and further consent to be sued in federal or state court, as the case may be, provided that (i) the dispute is limited solely to issues arising under

- (b) Notice of approval or constructive approval is published in the Federal Register as provided in 25 U.S.C. § 2710(d)(3)(B).

Sec. 14.2. Term of Compact; Termination.

- (a) Once effective, this Compact shall be in full force and effect for State law purposes until December 31, 2031.
- (b) Either party may bring an action in federal court, after providing a thirty (30)-day written notice of an opportunity to cure any alleged breach of this Compact, for a declaration that the other party has materially breached this Compact or that a material part of this Compact has been invalidated. Unless the declaration is stayed, upon issuance of such a declaration by the trial court, the complaining party may unilaterally terminate this Compact upon service of written notice on the other party. In the event a federal court determines that it lacks jurisdiction over such an action, the action may be brought in the Superior Court for Lake County. The parties expressly waive their immunity from suit for purposes of an action under this subdivision, subject to the qualifications stated in section 13.4.
- (c) If this Compact does not take effect by January 1, 2012, it shall be deemed null and void unless the Tribe and the State agree in writing to extend the date.

SECTION 15.0. AMENDMENTS; RENEGOTIATIONS.

Sec. 15.1. Amendment by Agreement.

The terms and conditions of this Compact may be amended at any time by the mutual and written agreement of both parties during the term of this Compact set forth in section 14.2, provided that each party voluntarily consents to such negotiations in writing. Any amendments to this Compact shall be deemed to supersede, supplant and extinguish all previous understandings and agreements on the subject.

SECTION 17.0. CHANGES TO IGRA.

This Compact is intended to meet the requirements of IGRA as it reads on the effective date of this Compact, and when reference is made to IGRA or to an implementing regulation thereof, the referenced provision is deemed to have been incorporated into this Compact as if set out in full. Subsequent changes to IGRA that diminish the rights of the State or the Tribe may not be applied retroactively to alter the terms of this Compact, except to the extent that federal law validly mandates retroactive application without the State's or the Tribe's respective consent.

SECTION 18.0. MISCELLANEOUS.

Sec. 18.1. Third Party Beneficiaries.

Except to the extent expressly provided under this Compact, this Compact is not intended to, and shall not be construed to, create any right on the part of a third party to bring an action to enforce any of its terms.

Sec. 18.2. Complete Agreement.

This Compact, together with all exhibits, appendices, and approved amendments, sets forth the full and complete agreement of the parties and supersedes any prior agreements or understandings with respect to the subject matter hereof.

Sec. 18.3. Construction.

Neither the presence in another tribal-state compact of language that is not included in this Compact, nor the absence in another tribal-state compact of language that is present in this Compact shall be a factor in construing the terms of this Compact.

Sec. 18.4. Successor Provisions.

Wherever this Compact makes reference to a specific statutory provision,

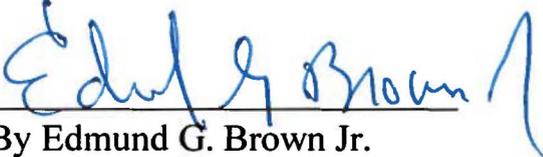
foregoing representations by the Tribe, and the State's entry into the Compact is expressly made contingent upon the truth of those representations as of the date of the Tribe's execution of this Compact through the undersigned. If the Tribe fails to timely provide written proof of the undersigned's aforesaid authority to execute this Compact or written proof of ratification by the Tribe's governing body, the Governor shall have the right to declare this Compact null and void.

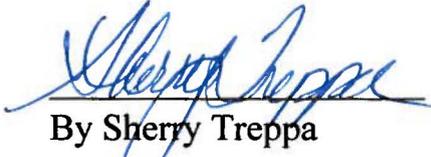
- (d) This compact shall not be presented to the California State Legislature for ratification until the Tribe has provided the written proof required in subdivision (a) to the Governor.

IN WITNESS WHEREOF, the undersigned sign this Compact on behalf of the State of California and the Habematolel Pomo of Upper Lake.

STATE OF CALIFORNIA

Habematolel Pomo of Upper Lake


By Edmund G. Brown Jr.
Governor of the State of California


By Sherry Treppa
Chairperson of the
Habematolel Pomo of Upper Lake

Executed this 17 day of March
2011, at Sacramento, California

Executed this 9th day of March
2011, at Sacramento, California
Deemed Approved

ATTEST:


Debra Bowen
Secretary of State, State of California



AUG - 1 2011