United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

AUG 17 2010

Honorable Sherry Treppa
Chairperson, Habematolel Pomo of Upper Lake
375 E. Hwy. 20, Suite 1
P.O. Box 516
Upper Lake, California 95485

Dear Chairperson Treppa:

I am writing to you regarding the proposed Class III Gaming Compact (Compact) between the State of California (State) and the Habematolel Pomo of Upper Lake (Tribe) the Department of the Interior received on July 6, 2010.

The Tribe executed the Compact on August 28, 2009. California Governor Arnold Schwarzenegger signed the Compact on January 7, 2010, following ratification by the State Legislature. The Tribe originally submitted the Compact to the Department for review on January 12, 2010. Following a brief period of communication with the Department, during which the Department posed questions regarding the Compact's revenue sharing provisions, the Tribe and the State agreed to withdraw the Compact and submit information justifying the Compact's revenue sharing provisions.

The Tribe resubmitted the Compact to the Department on February 25, 2010. Prior to the expiration of IGRA's 45-day review period, on April 8, 2010, the Tribe and the State again agreed to withdraw the Compact to provide the Department with more information in support of the Compact's approval.

In the intervening period between the original January 12, 2010 submission and today, my staff and I met with representatives of the Tribe on several occasions to discuss a number of issues related to the Compact. My office has also reviewed numerous documents submitted by the Tribe and the State in support of the Compact. Since the Compact currently under review is the same agreement that was initially submitted on January 12, 2010, we have included all documentation the Tribe and State have sent us since that time in the administrative record for this decision.

Under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2710(d)(8)(C), the Secretary may approve or disapprove the Compact within 45 days of its submission. If the Secretary does not approve or disapprove the Compact within 45 days, IGRA states that the 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). Under IGRA the Department must determine whether the Compact 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.

DECISION

We have completed our review of the Compact, along with the additional material submitted by the Tribe and the State. For the following reasons, the Compact is hereby disapproved under Section 2710(d)(8) of IGRA.

BACKGROUND

The Compact authorizes the Tribe to operate Class III gaming on its lands in northern California, including up to 750 gaming devices (slot machines), 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. Sections 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 requires the Tribe to pay 15 percent of its net win to the State's general fund (revenue sharing) and Section 5.2 (a) requires annual contributions to the Revenue Sharing Trust Fund (RSTF) of $900 for each gaming device the Tribe operates in excess of 349 devices.

In exchange for the Tribe's revenue sharing payments, Section 4.4 (a) of the Compact grants the Tribe exclusivity within the Tribe's "core geographic market" – a zone within a "100-mile radius of the Tribe's Gaming Facility," (Core Geographic Area or CGA). If the State authorizes any person or entity, other than a federally recognized tribe or the State Lottery, to engage in gaming activity authorized by the Compact, and the person or entity engages in those gaming activities within the CGA, the Tribe would be relieved of its obligation to make the 15 percent revenue sharing payments to the State.

The primary justification provided to the Department for the 15 percent revenue sharing provision in the Compact is the State's assertion that under Proposition 1A the Tribe has the exclusive right to operate Class III gaming to the exclusion of non-tribal competitors throughout the State, and in the event Proposition 1A is overturned such exclusivity would be further protected within the CGA. Other revenue-sharing justifications provided by the State and the Tribe included the Tribe's eligibility to continue to receive RSTF payments, and the ability of the Tribe to deduct participation fees from the calculation of its net win.

ANALYSIS

The Secretary may only disapprove a proposed Compact under IGRA where the Compact violates IGRA, any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligation of the United States to Indians. 25 U.S.C. § 2710(d)(8)(B).

The Department is committed to upholding IGRA, which expressly provides that it does not authorize states to levy a tax, fee, 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)(8). IGRA also prohibits states from refusing to negotiate tribal-state gaming compacts based upon the lack of authority to impose such a tax, fee, or other assessment on Indian gaming. *Id.*

We review revenue sharing requirements in gaming compacts with great scrutiny. Our analysis first looks to whether the state has offered meaningful concessions. 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 provides substantial economic benefits to the tribe proportional to the revenue sharing required.

An important part of our analysis is that the United States Court of Appeals for the Ninth Circuit issued an opinion in *Rincon Band of Luiseno Mission Indians of the Rincon Reservation v. Schwarzenegger,* 602 F.3d 1019 (9th Cir. 2010), providing guidance on the extent to which revenue sharing and variations on tribal gaming exclusivity constitute "meaningful concessions" under IGRA. In reaching its decision the Court reiterated that in order to be lawful under IGRA, a 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." *Rincon,* 602 F.3d at 1033 (discussing *In re Indian Gaming Cases* (*Coyote II*), 331 F.3d 1094, 1103 (9th Circ. 2003).

A. The State's Concessions

As noted above, a "meaningful concession" exists where the state concedes something it was not otherwise required to negotiate and to which the tribe is not already entitled.

The State asserts that the Compact provisions allowing for the deduction of participation fees – those fees paid to suppliers for the right to lease gaming devices – from the calculation of net win constitutes a meaningful concession. The State also asserts that permitting the Tribe to continue to participate in the Revenue Sharing Trust Fund (RSTF) constitutes a significant and meaningful concession. Next, the State asserts that permitting the Tribe to operate up to 750 gaming devices is a meaningful concession. Lastly, the State asserts that protection of exclusive Indian gaming rights under Proposition 1A, and the additional protection of the Tribe's exclusive gaming rights within the Tribe's CGA constitute separate and independent meaningful concessions on the part of the State justifying the 15 percent revenue sharing provision. Each of these elements is analyzed below.

1. Deduction of Participation Fees

The National Indian Gaming Commission's definition of operating expenses already allows participation fees to be classified as an operating expense, outside the calculation of net revenue. Therefore, because the State has not provided anything new to which the Tribe is not already entitled, this does not constitute a meaningful concession.

2. Continued Participation in the RSTF

The State does not grant or deny tribal participation in the RSTF. Tribal eligibility is defined in other tribal-state compacts in California and under State law. The State cannot confer a substantial economic benefit upon the tribe by claiming to allow the Tribe to enjoying benefits to which it is already entitled.

Additionally, the Tribe suggested in a July 1, 2010, letter to the Office of Indian Gaming that continued participation in the RSTF will offset a portion of its revenue sharing payments.[1] Permitting the Tribe to draw from the RSTF only to transfer that amount and more back to the State through revenue sharing allows the State to use the Tribe as a conduit to appropriate Indian gaming funds contributed to the RSTF by other gaming tribes to which the State is not entitled.

3. Authority to Operate up to 750 Gaming Devices

In 1999, the State and 61tribes entered into what became known as the "1999 Compacts," which were ratified by the State Legislature after passage of Proposition 1A, and later approved by the Department. Under the 1999 Compacts, each tribe was permitted to operate a minimum of 350 slot machines, or the number of slot machines a tribe was operating on September 1, 1999, whichever was greater. The 1999 Compacts also contained a complex system to seek additional slot machines, but this process has proved cumbersome, difficult to administer, and has resulted in multiple lawsuits against the State. We view this concession as meaningful.

4. Protection of Exclusive Gaming Rights

In 2000, the State's voters approved Proposition 1A, an amendment exempting tribal gaming from the prohibition Section 19 of Article IV of the California Constitution that exempted tribal gaming from the prohibition on Nevada-style casinos. This amendment effectively granted all California tribes a constitutionally protected monopoly on most types of Class III games in California. We recognize that the State's grant of Class III gaming exclusivity to all California tribes, including the Habematolel Pomo of Upper Lake, is a concession.

However, we do not believe the CGA can also count as an independent or separate "meaningful concession" in light of Proposition 1A's tribal exclusivity that now constitutes the law of the State of California, notwithstanding the CGA.

B. Substantial Economic Benefit

We now examine whether the value of the concessions provide substantial economic benefits to the tribe proportional to the revenue sharing required.

The State has asserted that protection of the Tribe's exclusive gaming rights, both generally and specifically within the Tribe's CGA, confer a substantial economic benefit upon the Tribe justifying a revenue-sharing rate of 15 percent.

We have determined that only the tribal exclusivity under Proposition 1A constitutes a meaningful concession on the part of the State. Assuming *arguendo* that the CGA also constitutes a meaningful concession, these provisions do not by themselves or together, confer a substantial economic benefit

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[1] "Moreover, because of the Tribe's continuing eligibility for disbursements from the Revenue Sharing Trust Fund, the Tribe will in fact receive more money from the State each year than it pays pursuant to the terms of the Compact." Letter from Sherry Treppa, Chairperson of Habematolel Pomo of Upper Lake, to Paula Hart, Director of the Office of Indian Gaming. July 1, 2010.

upon the Tribe proportional to the value received by the State through the 15 percent revenue sharing provision.

Today there is one non-Indian gaming facility within the Tribe's CGA, the 101 Club in Petaluma, California, offering 15 poker tables. The 101 Club is the only commercial gaming facility to have operated continuously within the CGA prior to any exclusive tribal gaming rights in California. We believe this demonstrates that the market within the CGA is not conducive to new competition from commercial gaming facilities. Construction of the Tribe's new gaming facility is unlikely to alter this dynamic.

The Tribe and State contend that State foregoing repeal of its constitutional amendment granting tribes in California exclusive authority to operate Las Vegas-style gaming confers a substantial economic benefit upon the Tribe. As support for its position, the Tribe cites efforts by groups within the State that have attempted, albeit unsuccessfully, to gather enough signatures for ballot initiatives aimed at authorizing commercial gaming. Whether such initiatives will ultimately prove successful in repealing the status quo is a difficult question, but the Ninth Circuit has recently addressed the issue, at least in part, in *Rincon*.

The Court wrote that since "passage of a constitutional amendment eliminating tribal gaming exclusivity is highly unlikely, freedom from non-tribal competition in (Rincon's) core geographic market provides no significant additional economic advantages over whatever value the Tribe receives from the statewide exclusivity it already enjoys." *Rincon,* 602 F.3d 1019, 1038 (9th Cir. 2010).[2] While we recognize that some of the facts underlying the *Rincon* decision may be distinguishable from the Tribe's circumstances, we cannot ignore the Ninth Circuit's views on this point.

Moreover, even if commercial gaming was approved by the State, the Tribe would have to continue sharing 15 percent of its net win if extensive commercial gaming started operating in California beyond the CGA. This is true regardless of any negative impact statewide commercial gaming had on the Tribe's net revenues.

In addition, the Tribe's current primary market competitors are existing tribal gaming facilities, none of which are covered by the Compact's CGA exclusivity provisions.[3] There are at least 11 tribal gaming facilities within the CGA operating as few as 92 gaming devices (Cahto Laytonville Rancheria) to as many as 1,300 devices (Dry Creek Rancheria). As many as six of the tribes operating

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[2] *Rincon* also noted that "[s]ince passage of a constitutional amendment eliminating tribal gaming exclusivity it is extremely unlikely . . . [that] the monetary remedies [in the Compact] contingent upon that event have anything more than speculative value . . . ." 602 F.3d at 1038.

[3] While not determinative in this instance, the revenue-sharing provisions contained in the Class III gaming compacts for each of these tribes are illustrative of the value of tribal gaming exclusivity in the CGA. Nearly all of the tribes operating Class III gaming facilities in the Habematolel Pomo of Upper Lake's CGA are party to compacts that provide for tribal payments of 10 percent to the Special Distribution Fund (SDF) for between 501 and 1,000 electronic gaming devices. See, e.g. Class III Gaming Compact of the Middletown Rancheria Band of Pomo Indians (Oct. 12, 1999). Moreover, those same compacts provide for a tribal revenue sharing rate of 7percent to the SDF for between 201 and 500 electronic gaming devices, and for no tribal revenue sharing where the facility contains fewer than 201 electronic gaming devices. In this instance, the Compact would require the Tribe to pay 15 percent of Net Win to the State's general fund beginning with the first electronic gaming device for a similarly-sized facility.

these gaming facilities have received RSTF payments, indicating that they operate 349 gaming devices or less. Most of these tribes have received payments from the RSTF since the first distributions were made in 2004 through June 30, 2010, the most recent date for which data is available.

We find that the exclusivity offered by Proposition 1A, while providing some economic benefit to the Tribe, is not so substantial as to justify a 15 percent revenue sharing provision for the size of the facility agreed upon. And, as discussed above, any value that is arguably added by the CGA is limited in economic benefit to the Tribe in comparison to a 15 percent revenue sharing provision, because the Tribe must compete with other Indian gaming enterprises within the CGA and repeal of Proposition 1A is purely speculative.

CONCLUSION

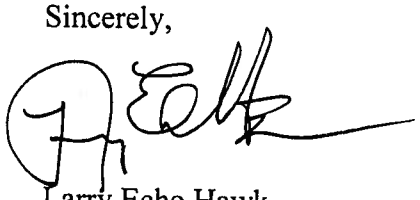
Based on this analysis I find that the Compact is in violation of IGRA. Therefore, I hereby disapprove the Compact.

I deeply regret that this decision is necessary, and understand that it constitutes a significant economic setback for the Tribe. Nevertheless, the Department is committed to upholding IGRA and cannot approve a compact where the State imposes a tax, fee, charge, or other assessment on a tribally-owned gaming facility in violation of IGRA, as set forth above. *See* § 25 U.S.C. 2710(d)(8).

I strongly encourage the State to negotiate a new Class III gaming compact with the Tribe in good faith and in accordance with IGRA so that the Tribe may proceed with its efforts to develop its economy for the benefit of its members.

A similar letter has been sent to the Honorable Arnold Schwarzenegger, Governor of the State of California.

Sincerely,



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

Sec. 1.0. Purposes and Objectives. 2

Sec. 2.0. Definitions. 3

Sec. 3.0. Scope of Class III Gaming Authorized. 7

Sec. 3.1. Authorized and Permitted Class III Gaming. 7

Sec. 4.0. Authorized Location of Gaming Facility, Number of Gaming Devices, and Revenue Contribution. 8

Sec. 4.1. Authorized Number of Gaming Devices. 8

Sec. 4.2. Authorized Gaming Facility. 8

Sec. 4.3.1. Revenue Contribution. 8

Sec. 4.4. Exclusivity. 11

Sec. 5.0. Revenue Sharing With Non-Gaming Tribes. 12

Sec. 5.1. Definitions. 12

Sec. 5.2. Revenue Sharing Trust Fund. 12

Sec. 6.0. Licensing. 13

Sec. 6.1. Gaming Ordinance and Regulations. 13

Sec. 6.2. Tribal Ownership, Management, and Control of Gaming Operation. 13

Sec. 6.3. Prohibitions Regarding Minors. 13

Sec. 6.4. Licensing Requirements and Procedures. 14

Sec. 6.4.1. Summary of Licensing Principles. 14

Sec. 6.4.2. Gaming Facility. 14

Sec. 6.4.3. Gaming Employees. 18

Sec. 6.4.4. Gaming Resource Suppliers. 20

Sec. 6.4.5. Financial Sources. 22

Sec. 6.4.6. Processing Tribal Gaming License Applications. 26

Sec. 6.4.7. Suitability Standard Regarding Gaming Licenses. 27

Sec. 6.4.8. Background Investigations of Applicants. 27
Sec. 6.4.9. Temporary Licensing of Gaming Employees. 29
Sec. 6.5.0. Tribal Gaming License Issuance. 29
Sec. 6.5.1. Denial, Suspension, or Revocation of Licenses. 30
Sec. 6.5.2. Renewal of Licenses; Extensions; Further Investigation. 30
Sec. 6.5.3. Identification Cards. 31
Sec. 6.5.4. Fees for Tribal License. 31
Sec. 6.5.5. Suspension of Tribal Gaming License. 31
Sec. 6.5.6. State Determination of Suitability Process. 32
Sec. 6.6. Submission of New Application. 35
Sec. 7.0. Approval and Testing of Gaming Devices. 35
Sec. 7.1. Gaming Device Approval. 35
Sec. 7.2. Gaming Test Laboratory Selection. 36
Sec. 7.3. Independent Audits. 37
Sec. 7.4. State Gaming Agency Inspections. 37
Sec. 7.5. Technical Standards. 38
Sec. 7.6. State Gaming Agency Designation. 38
Sec. 7.7. Transportation of Gaming Devices. 38
Sec.. 8.0. Inspections. 39
Sec. 8.1. Investigation and Sanctions. 39
Sec. 8.2. Assistance by State Gaming Agency. 39
Sec. 8.3. Access to Premises by State Gaming Agency; Notification; Inspections. 39
Sec. 8.4. Inspection, Copying and Confidentiality of Documents. 40
Sec. 8.5. NIGC Audit Reports. 43
Sec. 8.6. Cooperation with Tribal Gaming Agency. 43
Sec. 8.7. Compact Compliance Review. 43

Sec. 9.0. Rules and Regulations for the Operation and Management of the Gaming Operation and Facility. 43

Sec. 9.1. Adoption of Regulations for Operation and Management; Minimum Standards. 43

Sec. 9.1.1. Minimum Internal Control Standards (MICS). 46

Sec. 9.2. Program to Mitigate Problem Gambling. 49

Sec. 9.3. Enforcement of Regulations. 50

Sec. 9.4. State Civil and Criminal Jurisdiction. 50

Sec. 9.5. Tribal Gaming Agency Members. 50

Sec. 9.6. State Gaming Agency Regulations. 53

Sec. 9.7. Limitations on Adoption of State Gaming Regulations. 54

Sec. 9.8. State Gaming Agency Regulations. 57

Sec. 10.0. Patron Disputes. 57

Sec. 11.0. Off-Reservation Environmental and Economic Impacts. 59

Sec. 11.8.1. Tribal Environmental Impact Report. 59

Sec. 11.8.2. Notice of Preparation of Draft TEIR. 61

Sec. 11.8.3. Notice of Completion of the Draft TEIR. 61

Sec. 11.8.4. Issuance of Final TEIR. 62

Sec. 11.8.5. 63

Sec. 11.8.6. 63

Sec. 11.8.7. Intergovernmental Agreement. 63

Sec. 11.8.8. Arbitration. 65

Sec. 12.0. Public and Workplace Health, Safety, and Liability. 66

Sec. 12.1. General Requirements. 66

Sec. 12.2. Tobacco Smoke. 66

Sec. 12.3. Health and Safety Standards. 66

Sec. 12.4. Tribal Gaming Facility Standards Ordinance. 73

Sec. 12.5. Insurance Coverage and Claims. 74
Sec. 12.6. Participation in State Statutory Programs Related to Employment. 77
Sec. 12.7. Emergency Services Accessibility. 78
Sec. 12.8. Alcoholic Beverage Service. 78
Sec. 12.9. Possession of Firearms. 78
Sec. 12.10. Labor Relations. 78
Sec. 13.0. Dispute Resolution Provisions. 79
Sec. 13.1. Voluntary Resolution. 79
Sec. 13.2. Arbitration Rules. 80
Sec. 13.3. No Waiver or Preclusion of Other Means of Dispute Resolution. 80
Sec. 13.4. Limited Waiver of Sovereign Immunity. 80
Sec. 14.0. Effective Date and Term of Compact. 81
Sec. 14.1. Effective Date. 81
Sec. 14.2. Term of Compact; Termination. 81
Section 15.0. Amendments; Renegotiations. 82
Sec. 15.1. Amendment by Agreement. 82
Sec. 15.2. Requests to Amend or Renegotiate. 82
Sec. 16.0. Notices. 82
Sec. 17.0. Changes To IGRA. 83
Sec. 18.0. Miscellaneous. 83
Sec. 18.1. Third Party Beneficiaries. 83
Sec. 18.2. Complete Agreement. 83
Sec. 18.3. Construction. 83
Sec. 18.4. Successor Provisions. 83
Sec. 18.5. Ordinances and Regulations. 84
Sec. 18.6. Calculation of Time. 84

Sec. 18.7. Representations. 84

EXHIBITS 86

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

TRIBAL-STATE COMPACT
BETWEEN THE STATE OF CALIFORNIA AND THE HABEMATOLEL POMO OF UPPER LAKE

The Habematolel Pomo of Upper Lake ("the Tribe"), 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), and the State of California (hereinafter "the State") enter into this tribal-state compact pursuant to the Indian Gaming Regulatory Act of 1988 (hereinafter "IGRA").

PREAMBLE

WHEREAS, the State and the Tribe have conducted good faith negotiations for the purpose of agreeing upon terms for a 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 has determined that the Tribe met the conditions of the restored lands exception under IGRA, and on November 13, 2008, the United States Department of Interior accepted 11.24 acres of land in the County of Lake held 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

WHEREAS, this Compact will afford the Tribe primary responsibility over the regulation of its Gaming Facility and will enhance tribal economic development and self-sufficiency; and

WHEREAS, the State and the Tribe have therefore concluded that this Compact protects the interests of the Tribe and its members, the surrounding community, and the California public, and will promote and secure long-term stability, mutual respect, and mutual benefits; and

WHEREAS, the State and the Tribe agree that all terms of this Compact are intended to be binding and enforceable;

NOW, THEREFORE, the Tribe and the State agree as set forth herein:

SECTION 1.0. PURPOSES AND OBJECTIVES.

The terms of this Compact are designed to:

(a) Foster a mutually respectful government-to-government relationship that will serve the mutual interests of the parties.

(b) Develop and implement a means of regulating the Class III Gaming to ensure its fair and honest operation in a way that protects the interests of the Tribe, the State, its citizens, and local communities in accordance with IGRA, and through that regulated Class III Gaming, enable the Tribe to develop self-sufficiency, promote tribal economic development, and generate jobs and revenues to support the Tribe's government and its governmental services and programs.

(c) Promote ethical practices in conjunction with that Class III Gaming, through the licensing and control of persons and entities employed in, or providing goods and services to, the Tribe's Gaming Operation, protect against the presence or participation of persons whose criminal backgrounds, reputations, character, or associations make them 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 whether it is part of an interconnected system to such terminals or stations. "Gaming Device" includes, but is not limited to, video poker, but does not include electronic, computer, or other technological aids that qualify as class II gaming (as defined under IGRA).

Sec. 2.9. "Gaming Employee" means any natural person who (a) conducts, operates, maintains, repairs, accounts for, or assists in any Class III Gaming, or is in any way responsible for supervising such Gaming Activities or persons who conduct, operate, maintain, repair, account for, assist, or supervise any such Gaming Activity, (b) is in a category under federal or tribal gaming law requiring licensing, (c) is an employee of the Tribal Gaming Agency with access to confidential information, or (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility that are not open to the public.

Sec. 2.10. "Gaming Facility" or "Facility" means 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 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.

Sec. 2.11. "Gaming Operation" means the business enterprise that offers and operates Gaming Activities, whether exclusively or otherwise.

Sec. 2.12. "Gaming Ordinance" means a tribal ordinance or resolution duly authorizing the conduct of Gaming Activities on the Tribe's Indian lands in California and approved under IGRA.

Sec. 2.13. "Gaming Resources" means any goods or services provided or used in connection with Gaming Activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, Gaming Devices and ancillary equipment, implements of Gaming Activities such as playing cards, furniture designed primarily for Gaming Activities, maintenance or security equipment and services, and Class III Gaming consulting services. "Gaming Resources" does not include professional accounting or legal services.

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 the actual cost of prizes awarded to a player as a result of a wager placed in connection with the play of a Gaming Device resulting in a winning wager, provided that the Tribe maintains adequate and detailed documents to support the cost of the prize, less Participation Fees. "Participation Fees" is defined as payments made to Gaming Resource Suppliers on a periodic basis by the Gaming Operation for the right to lease Gaming Devices that are owned by the Gaming Resource Supplier and which are not generally available for outright purchase by gaming operators. The Tribe assures that it holds no current interest in any company that supplies Gaming Devices and agrees that if it acquires such an interest in the future (except for an interest acquired through an investment in a diversified mutual fund, provided that the mutual fund does not hold a ten percent (10%) or greater interest in the company), it will forego the deduction of such Participation Fees with respect to that supplier in which it holds an interest.

Sec. 2.19. "NIGC" means the National Indian Gaming Commission.

Sec. 2.20. "Project" is 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 construction or planned expansion of any Gaming Facility and any other construction or planned expansion, a principal purpose of which is to serve a 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. For purposes of this definition, section 11.0, and Exhibit A,

"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. 2.21. "Significant Effect(s) on the Off-Reservation Environment" is the same as "Significant Effect(s) on the Environment" and occur(s) if any of the following conditions exist:

(a) A proposed Project has the potential to degrade the quality of the off-reservation environment, curtail the range of the environment, or achieve short-term, to the disadvantage of long-term, environmental goals.

(b) The possible effects of a Project on the off-reservation environment are individually limited but cumulatively considerable. As used herein, "cumulatively considerable" means that the incremental effects of an individual Project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(c) The off-reservation environmental effects of a Project will 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.

Sec. 2.28. "11.24 Acre Parcel" means that certain parcel of land in Lake County, California, that was taken into trust for the Tribe in 2008, as legally described in, and represented on the map at, Exhibit C hereto.

SECTION 3.0. SCOPE OF CLASS III GAMING AUTHORIZED.

Sec. 3.1. Authorized and Permitted Class III Gaming.

(a) The Tribe is hereby authorized to operate only the following Gaming Activities under the terms and conditions set forth in this Compact:

(1) Gaming Devices.

(2) Any banking or percentage card games.

(3) Any devices or games that are authorized under state law to the California State Lottery, provided that the Tribe will not offer such games through use of the Internet unless others in the State are permitted to do so under state and federal law.

(b) Nothing herein shall be construed to preclude the Tribe from offering class II gaming or preclude the negotiation of a separate compact governing the conduct of off-track wagering at the Tribe's Gaming Facility.

(c) Nothing herein shall be construed to authorize the operation of the game known as roulette, whether played with or on a mechanical,

electro-mechanical, electrical, or video device, or any combination of such devices, or any game that incorporates the physical use of dice.

(d) The Tribe shall not engage in Class III Gaming that is not expressly authorized in this section.

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 State, as specified in subdivision (b), fifteen percent (15%) of its Net Win generated from the operation of Gaming Devices from the immediately preceding quarter. 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 fourth quarter).

(2) If the Gaming Activities authorized by this Compact commence during a calendar quarter, the first payment shall be due on the thirtieth day following the end of the first full quarter of the Gaming Activities and shall cover the period from the commencement of the Gaming Activities to the end of the first full calendar quarter.

(3) All quarterly payments shall be accompanied by the certification specified in subdivision (d).

(c) The quarterly payments specified under subdivision (b) shall be accompanied by a certification (the "Quarterly Net Win Payment Report") that specifies the following:

(1) the Net Win calculation reflecting the quarterly Net Win from the operation of Gaming Devices;

(2) the percentage(s) applied to the quarterly Net Win pursuant to subdivision (a) (which percentage is determined by the cumulative total of the Net Win earned since the beginning of the calendar year); and

(3) the total amount of the quarterly payment paid to the State.

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.

(d) (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.

(e) The State Gaming Agency may audit the Net Win calculations (including any Participation Fee deductions) specified in subdivision (c)(1). The State Gaming Agency shall have access to all records deemed necessary by the State Gaming Agency to verify the Net Win calculations, including access to the Gaming Device accounting systems and server-based systems and software and to the data contained therein. If the State Gaming Agency determines that the Net Win is understated or the deductions overstated, it will promptly notify the Tribe and provide a copy of the audit. The Tribe within twenty (20) days will either accept the difference or provide a reconciliation satisfactory to the State Gaming Agency. If the Tribe accepts the difference or does not provide a reconciliation satisfactory to the State Gaming Agency, the Tribe must immediately pay the amount of the resulting deficiency, plus accrued interest thereon at the rate of one percent (1.0%) per month or the maximum rate permitted by state law for delinquent payments owed to the State, whichever is less. If the Tribe does not accept the difference but does not provide a reconciliation satisfactory to the State Gaming Agency, the Tribe, once payment is made, may commence dispute resolution under section 13.0. The parties expressly acknowledge that the certifications provided for in subdivision (d) are subject to section 8.4, subdivision (h).

(f) Notwithstanding anything to the contrary in section 13, any failure of the Tribe to remit the payments referenced in subdivision (a) pursuant to subdivisions (b), (c), (d), and (e) will entitle the State to immediately seek injunctive relief in federal or state court, at the State's election, to compel the payments, plus accrued interest thereon at the rate of one percent (1.0%) per month, or the maximum rate

permitted by State law for delinquent payments owed to the State, whichever is less; and further, the Tribe expressly consents to be sued in either court and waives its right to assert sovereign immunity against the State in any such proceeding. Failure to make timely payment shall be deemed a material breach of this Compact.

(g) This section constitutes a "section 4.3.1" within the meaning of article 6.5 (commencing with section 63048.6) of Chapter 2 of Division 1 of Title 6.7 of the California Government Code.

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) For purposes of this section, the Tribe's core geographic market consists of the geographic area that is within a 100 mile radius of the Tribe's Gaming Facility ("Core Geographic Area").

(b) If the State authorizes any person or entity other than a federally recognized tribe to engage in the Gaming Activities specified in subdivision (a)(1) of section 3.1 of the Compact *and* the person or entity engages in the Gaming Activities specified in subdivision (a)(1) of section 3.1 of the Compact within the Tribe's Core Geographic Area, the Tribe shall be relieved of its obligation to make the payments specified in section 4.3.1, until such time that such Gaming Activities cease.

(c) Notwithstanding the Tribe's cessation of payments under section 4.3.1 pursuant to subdivision (b) of this section, the Tribe shall compensate the State for the actual and reasonable costs of regulation, as determined by the State Director of Finance, or failing agreement on that amount, as determined by arbitration pursuant to section 13.2 of the Compact.

(d) Nothing in this section is intended to preclude the State Lottery from offering any lottery games or devices that are currently or may hereafter be authorized by state law.

SECTION 5.0. REVENUE SHARING WITH NON-GAMING TRIBES.

Sec. 5.1. Definitions.

For purposes of this section 5.0, the following definitions apply:

(a) "Revenue Sharing Trust Fund" is a fund created by the Legislature and administered by the Commission, as trustee, with no duties or obligations except as set forth in this Compact, for the receipt, deposit, and distribution of monies paid by gaming tribes for the benefit of Non-Gaming Tribes and Non-Compact Tribes.

(b) A "Non-Gaming Tribe" is a federally recognized tribe in California, with or without a tribal-state compact, which has not engaged in, or offered, class II, or Class III Gaming 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 "Non-Compact Tribe" is a federally recognized tribe that has a compact with the State but is operating fewer than 350 Gaming Devices.

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 Non-Compact Tribes the following amounts:

Number of Gaming Devices Operated	Annual Payment
350-750 Gaming Devices	$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 for the first quarter, July 30 for the second quarter, October 30 for the third quarter, and January 30 for the fourth quarter).

(c) The Commission shall have no discretion with respect to the use or disbursement of the Revenue Sharing Trust Fund. Its sole authority shall be to serve as a depository of the trust funds and to disburse them on a quarterly basis to Non-Gaming and Non-Compact 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-Compact Tribes and Non-Gaming Tribes are not third party beneficiaries of this Compact.

SECTION 6.0. LICENSING.

Sec. 6.1. Gaming Ordinance and Regulations.

(a) All Gaming Activities conducted under this Compact shall, at a minimum, comply (i) with a Gaming Ordinance duly adopted by the Tribe and approved in accordance with IGRA, (ii) with all rules, regulations, procedures, specifications, and standards duly adopted by the NIGC and the Tribal Gaming Agency, and (iii) with the provisions of this Compact.

(b) The Tribal Gaming Agency shall transmit a copy of the Tribal Gaming Ordinance, and all of its rules, regulations, procedures, specifications, or standards applicable to the Gaming Activities, to the California Gambling Control Commission within twenty (20) days following execution of this Compact, or within twenty (20) days following their adoption or amendment.

(c) The Tribe and the Tribal Gaming Agency shall make available an electronic or hard copy of the following documents to any member of the public upon request and in the manner requested: NIGC minimum internal control standards, the Tribal Gaming Ordinance, this Compact, the rules of each class III game operated by the Tribe, the tort ordinance specified in section 12.5, subdivision (b), and the regulations promulgated by the Tribal Gaming Agency concerning patron disputes.

Sec. 6.2. Tribal Ownership, Management, and Control of Gaming Operation.

The Gaming Operation authorized under this Compact shall be owned solely by the Tribe.

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 renewed every year thereafter. Verification that this requirement has been met shall be provided by the Tribe to the State by sending a copy of the initial license and each renewal license to the California Gambling Control Commission and any State Designated Agency within twenty (20) days after issuance of the license or renewal. The Tribal Gaming Agency's certification that the Gaming Facility is being operated in conformity with these requirements shall be posted in a conspicuous and public place in the Gaming Facility at all times.

(b) In order to assure the protection of the health and safety of all Gaming Facility patrons, guests, and employees, the Tribe shall require the Gaming Facility, any expansion, improvement, modification, or maintenance of such Gaming Facility, and any other construction to meet or exceed the Applicable Codes. In order to determine compliance with the Applicable Codes, in all cases where the Applicable Codes would otherwise require a permit, the Tribe shall

require inspections and, in connection therewith, shall employ appropriate plan checkers or review firms that either are California licensed architects or engineers with relevant experience or are on the list, if any, of approved plan checkers or review firms provided by the County, and shall employ project inspectors that are currently either certified as Class 1 inspectors by the Division of the State Architect or as Class A inspectors by the Office of Statewide Health Planning and Development or their successors. The Tribe agrees to correct any Gaming Facility condition noted in the inspections that does not meet the Applicable Codes (hereinafter "deficiency"). The Tribe shall require all inspectors to maintain contemporaneous records of all inspections and report in writing any failure to comply with the Applicable Codes to the Tribal Gaming Agency and the State Designated Agency. The plan checkers, review firms, and project inspectors shall hereinafter be referred to as "Inspector(s)."

(c) In all cases where the Applicable Codes would otherwise require plan check, the Tribe shall arrange for the following:

(1) The Tribe shall cause the design and construction calculations, and plans and specifications that form the basis for the planned 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 Gaming Agency notice in writing specifying in reasonable detail those alleged circumstances.

(e) Upon final certification by the Inspector that a Gaming Facility meets the Applicable Codes, the Tribal Gaming Agency shall forward the Inspector's certification to the State Designated Agency within ten (10) days of issuance. If the State Designated Agency objects to that certification, the Tribe shall make a good faith effort to address the State's concerns, but if the State Designated Agency does not withdraw its objection, the matter will be resolved in accordance with the dispute resolution provisions of section 13.0.

(f) Any failure to remedy within a reasonable period of time any material and timely raised deficiency shall be deemed a violation of the Compact, and furthermore, any deficiency that poses a serious or significant risk to the health or safety of any occupant shall be grounds for the State Designated Agency to prohibit occupancy of the affected portion of the Gaming Facility pursuant to a court order until the deficiency is corrected. The Tribe shall not allow occupancy of any portion of a Gaming Facility that is constructed or maintained in a manner that endangers the health or safety of the occupants.

(g) Nothing herein shall prohibit the Tribe and the County from negotiating, or having negotiated, additional or more stringent standards in connection with any construction at or modifications to, or improvements to the Gaming Facility.

(h) The Tribe shall also take all necessary steps to reasonably ensure the ongoing availability of sufficient and qualified fire suppression services to the Gaming Facility, and to reasonably ensure that the Gaming Facility satisfies all requirements of Title 19 of the California Code of Regulations applicable to similar facilities in the County as set forth below:

(1) Not less than thirty (30) days before the commencement of the Gaming Activities, and not less than biennially thereafter, and upon at least ten (10) days' notice to the State Designated 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.

(6) Any failure to correct all deficiencies identified in the report within a reasonable period of time shall be deemed a violation of the Compact, and any failure to promptly correct those deficiencies that pose a serious or significant risk to the health or safety of any occupants shall be a violation of the Compact and grounds for the State Gaming Agency or other State Designated Agency to prohibit occupancy of the affected portion of the Gaming Facility pursuant to court order until the deficiency is corrected.

Sec. 6.4.3. Gaming Employees.

(a) Every Gaming Employee shall obtain, and thereafter maintain current, a valid tribal gaming license, and except as provided in subdivision (b), shall obtain, and thereafter maintain current, a State Gaming Agency determination of suitability, which license and determination shall be subject to biennial renewal; provided that in accordance with section 6.4.9, those persons may be employed on a temporary or conditional basis pending completion of the licensing process and the State Gaming Agency determination of suitability.

(b) A Gaming Employee who is required to obtain and maintain current a valid tribal gaming license under subdivision (a) is not required to obtain or maintain a State Gaming Agency determination of suitability if any of the following applies:

(1) The employee is subject to the licensing requirement of subdivision (a) solely because he or she is a person who conducts, operates, maintains, repairs, or assists in Class III Gaming, provided that he or she does not supervise Gaming Activities or persons who conduct, operate, maintain, repair, assist, account for or supervise any such Gaming Activity, *and* is not empowered to make discretionary decisions affecting the conduct of the Gaming Operation.

(2) The employee is subject to the licensing requirement of subdivision (a) solely because he or she is a person whose employment duties require or authorize access to areas of the

Gaming Facility that are not open to the public, provided that he or she does not supervise Gaming Activities or persons who conduct, operate, maintain, repair, assist, account for or supervise any such Gaming Activity, *and* is not 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 Compact, either party to this Compact may request renegotiation of the scope of coverage of subdivision (b).

(f) This section shall not apply to members of the Tribal Gaming Agency.

Sec. 6.4.4. Gaming Resource Suppliers.

(a) Every Gaming Resource Supplier shall be licensed by the Tribal Gaming Agency prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any Gaming Resources to or in connection with the Tribe's Gaming Operation or Facility. Unless the Tribal Gaming Agency licenses the Gaming Resource Supplier pursuant to subdivision (d), the Gaming Resource Supplier shall also apply to, and the Tribe shall require it to apply to, the State Gaming Agency for a determination of suitability at least thirty (30) days prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any Gaming Resources to or in connection with the Tribe's Gaming Operation or Facility, except that for Gaming Devices the period specified under section 7.1, subdivision (a), shall govern. The period during which a determination of suitability as a Gaming Resource Supplier is valid expires on the earlier of (i) the date two (2) years following the date on which the determination is issued, unless a different expiration date is specified by the State Gaming Agency, or (ii) the date of its revocation by the State Gaming Agency. If the State Gaming Agency denies or revokes a determination of suitability, the Tribal Gaming Agency shall deny or revoke the license. 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 Gaming Resource Supplier to update all information provided in the previous application.

(b) Any agreement between the Tribe and a Gaming Resource Supplier shall include a provision for its termination without further liability on the part of the Tribe, except for the bona fide payment of all outstanding sums (exclusive of interest) owed as of, or payment for 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 Gaming Operation or Facility, without applying to the State Gaming Agency for a determination of suitability. The issuance of a license under this subdivision is in all cases subject to any later determination by the State Gaming Agency that the Gaming Resource Supplier is not suitable or to a tribal gaming license suspension or revocation pursuant to section 6.5.1, and does not extend the time during which the determination of suitability relied on by the Tribal Gaming Agency is valid. A license issued under this subdivision expires upon the revocation or expiration of the determination of suitability relied on by the Tribal Gaming Agency. Nothing in this subdivision affects the obligations of the Tribal Gaming Agency, or of the Gaming

Resource Supplier, under section 6.5.2 and section 6.5.6 of this Compact.

(e) Except where subdivision (d) applies, within ten (10) days of the issuance of a license to a Gaming Resource Supplier, 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.

Sec. 6.4.5. Financial Sources.

(a) Every Financial Source shall be licensed by the Tribal Gaming Agency prior to extending any financing in connection with the Tribe's Gaming Operation or Facility. Except as provided in subdivision (e)(4) or section 6.5.6, subdivision (i), every Financial Source shall also apply to, and the Tribe shall require it to apply to, the State Gaming Agency for a determination of suitability pursuant to the following timetable: (i) at least ninety (90) days prior to extending any financing in connection with the Tribe's Gaming Operation or Facility, provided that any Financial Source that applies for such a determination within ten (10) days of the effective date of this Compact is not in violation of this section; and (ii) in the event of a purchase or acceptance of an assignment or participation interest in any financing in connection with the Tribe's Gaming Operation or Facility, at least five (5) days prior to the Financial Source's purchase or acceptance of the assignment or participation interest. Where the 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.

(e) (1) The Tribal Gaming Agency may, at its discretion, exclude from the licensing requirements of this section the following Financial Sources under the circumstances stated:

(A) Any federally-regulated or state-regulated bank, savings and loan association, or other federally- or state-regulated lender and any fund or other investment vehicle which is administered or managed by any such entity.

(B) Any entity described in Uniform Tribal Gaming Regulation CGCC-2, subdivision (f) (as in effect on July 1, 2008) of the California Gambling Control Commission, when that entity is a Financial Source solely by reason of being (i) a purchaser or a holder of debt securities or other forms of indebtedness issued directly or indirectly by the Tribe for a Gaming Facility or for the Gaming Operation or (ii) the owner of a participation interest in any amount of indebtedness for which a Financial Source described in subdivision (e)(1)(A), or any fund or other investment vehicle which

is administered or managed by any such Financial Source, is the creditor.

(C) Any investor who, alone or together with any persons controlling, controlled by or under common control with such investor, holds less than ten percent (10%) of all outstanding debt securities issued directly or indirectly by the Tribe for a Gaming Facility or for the Gaming Operation.

(D) Any agency of the federal, state or local government providing financing, together with any person purchasing any debt securities or other forms of indebtedness of the agency to provide such financing.

(2) Except as provided in subdivision (e)(4), the Tribal Gaming 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 submit an application for a determination of suitability to the State Gaming Agency and shall pay the costs and charges incurred in the investigation and processing of the application, in accordance with the provisions set forth in Business and Professions Code sections 19867 and 19951.

(5) In the event that any Financial Source excluded from the licensing requirements of this section is found unsuitable by the State Gaming Agency, the Tribe must not enter into, or continue to make payments (except for payment of all bona fide obligations (including accrued interest) which remain unpaid as of the date of the finding of unsuitability) to the Financial Source pursuant to, any contract or agreement for the provision of financing.

(6) The following are not Financial Sources for purposes of this section.

(A) An entity identified by Uniform Tribal Gaming Regulation CGCC-2, subdivision (h) (as in effect on July 1, 2008) of the California Gambling Control Commission.

(B) A person or entity whose sole connection with a provision or extension of financing to the Tribe is to provide loan brokerage or debt servicing for a Financial Source at no cost to the Tribe or the Gaming Operation, provided that no portion of any financing provided is an

extension of credit to the Tribe or the Gaming Operation by that person or entity.

(f) In recognition of changing financial circumstances, this section shall be subject to good faith renegotiation by both parties in or after five (5) years from the effective date of this Compact upon the request of either party; provided such renegotiation shall not retroactively affect transactions that have already taken place where the Financial Source has been excluded or exempted from licensing requirements.

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 to any standards set forth in the Tribal Gaming Ordinance, the Tribal Gaming Agency shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Tribe's Gaming Operations are free from criminal and dishonest elements and would be conducted honestly.

(b) A license may not be issued unless, based on all information and documents submitted, the Tribal Gaming Agency is satisfied that the Applicant, and in the case of an entity, each individual identified in section 6.4.6, meets all the following requirements:

(1) The person is of good character, honesty, and integrity.

(2) The person's prior activities, criminal record (if any), reputation, habits, and associations do not pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming, or in the carrying on of business and financial arrangements incidental thereto.

(3) The person is in all other respects qualified to be licensed as provided, and meets the criteria established in this Compact, IGRA, NIGC regulations, the Tribal Gaming Ordinance, and any other criteria adopted by the Tribal Gaming Agency or the Tribe; provided, however, an Applicant shall not be found to be unsuitable solely on the ground that the Applicant was an employee of a tribal gaming operation in California that was conducted prior to May 16, 2000.

Sec. 6.4.8. Background Investigations of Applicants.

(a) The Tribal Gaming Agency shall conduct or cause to be conducted all necessary background investigations reasonably required to determine that the Applicant is qualified for a gaming license under the standards set forth in section 6.4.7, and to fulfill all requirements for 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 to the Tribal Gaming Agency through the California Law Enforcement Telecommunications System (CLETS), subject to a determination by the CLETS advisory committee that the Tribal Gaming Agency is qualified for receipt of such services, and on such terms and conditions as are deemed reasonable by that advisory committee.

Sec. 6.4.9. Temporary Licensing of Gaming Employees.

(a) If the Applicant has completed a license application in a manner satisfactory to the Tribal Gaming Agency, and that agency has conducted a preliminary background investigation, and the investigation or other information held by that agency does not indicate that the Applicant has a criminal history or other information in his or her background that would either automatically disqualify the Applicant from obtaining a tribal gaming license or cause a reasonable person to investigate further before issuing a license, or that the Applicant is otherwise unsuitable for licensing, the Tribal Gaming Agency may issue a temporary tribal gaming license and may impose such specific conditions thereon pending completion of the Applicant's background investigation, as the Tribal Gaming Agency in its sole discretion shall determine.

(b) Special fees may be required by the Tribal Gaming Agency to issue or maintain a temporary tribal gaming license.

(c) A temporary tribal gaming license shall remain in effect until suspended or revoked, or a final determination is made on the application.

(d) At any time after issuance of a temporary tribal gaming license, the Tribal Gaming Agency shall or may, as the case may be, suspend or revoke it in accordance with the provisions of sections 6.5.1 or 6.5.5, and the State Gaming Agency may request suspension or revocation before making a determination of unsuitability.

(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 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.

Sec. 6.5.2. Renewal of Licenses; Extensions; Further Investigation.

(a) Except as provided in section 6.4.4, subdivision (c), the term of a tribal gaming license shall not exceed two (2) years, and application for renewal of a license must be made prior to its expiration. Applicants for renewal of a license shall provide updated material, as requested, on the appropriate renewal forms, but, at the discretion of the Tribal Gaming Agency, may not be required to resubmit historical data previously submitted or which is otherwise available to the Tribal Gaming Agency. At the discretion of the Tribal Gaming Agency, an additional background investigation may be required at any time if the Tribal Gaming Agency determines the need for further information concerning the Applicant's continuing suitability or eligibility for a license.

(b) Prior to renewing a license, the Tribal Gaming Agency shall deliver to the State Gaming Agency copies of all information and documents received in connection with the application for renewal of the tribal gaming license for purposes of the State Gaming Agency's consideration of renewal of its determination of suitability.

(c) At the discretion of the State Gaming Agency, an additional background investigation may be required if the State Gaming Agency determines the need for further information concerning the Applicant's continuing suitability for a license.

Sec. 6.5.3. Identification Cards.

(a) The Tribal Gaming Agency shall require that all persons who are required to be licensed wear, in plain view at chest height at all times while in the Gaming Facility, identification badges issued by the Tribal Gaming Agency.

(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 Gaming Agency's approval of its use, but the approval shall not be unreasonably withheld.

(b) With respect to Gaming Employees, upon receipt of an Applicant's completed license application and a determination to issue either a temporary or permanent license, the Tribal Gaming Agency shall transmit within ten (10) days to the State Gaming Agency for a determination of suitability for licensure under the California Gambling Control Act a notice of intent to license the Applicant, together with all of the following:

(1) A copy of all tribal license application materials and information received by the Tribal Gaming Agency from the Applicant.

(2) A complete set of fingerprint impressions, rolled by a certified fingerprint roller, transmitted electronically.

(3) A current photograph.

(4) Except to the extent waived by the State Gaming Agency, such releases of information, waivers, and other completed and executed forms as have been obtained by the Tribal Gaming Agency.

(c) Upon receipt of a written request from a Gaming Resource Supplier or a Financial Source for a determination of suitability, the State Gaming Agency shall transmit an application package to the Applicant to be completed and returned to the State Gaming Agency for purposes of allowing it to make a determination of suitability for licensure.

(d) Investigation and disposition of applications for a determination of suitability shall be governed entirely by State law, and the State Gaming Agency shall determine whether the Applicant would be found suitable for licensure in a gambling establishment subject to the State Gaming Agency's jurisdiction. Additional information 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 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. If further investigation 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.

(g) Upon completion of the necessary background investigation or other verification of suitability, the State Gaming Agency shall issue a notice to the Tribal Gaming Agency certifying that the State has determined that the Applicant is suitable, or that the Applicant is

unsuitable, for licensure in a Gaming Operation and, if unsuitable, stating the reasons therefor. Issuance of a determination of suitability does not preclude the State Gaming Agency from a subsequent determination based on newly discovered information that a person or entity is unsuitable for the purpose for which the person or entity is licensed. Upon receipt of notice that the State Gaming Agency has determined that a person or entity is or would be unsuitable for licensure, the Tribal Gaming Agency shall deny that person or entity a license and promptly revoke any tribal gaming license that has theretofore been issued to that person or entity; provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person or entity 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.

(h) Prior to denying an application for a determination of suitability, or to issuing notice to the Tribal Gaming Agency that a person or entity previously determined to be suitable had been determined unsuitable for licensure, the State Gaming Agency shall notify the Tribal Gaming Agency and afford the Tribe an opportunity to be heard. If the State Gaming Agency denies an application for a determination of suitability, or issues notice that a person or entity previously determined suitable has been determined unsuitable for licensure, the State Gaming Agency shall provide that person or entity with written notice of all appeal rights available under state law.

(i) The California Gambling Control Commission ("Commission"), or its successor, shall maintain a roster of Gaming Resource Suppliers and Financial Sources that it has determined to be suitable pursuant to the provisions of this section, or through separate procedures to be adopted by the Commission. Upon application to the Tribal Gaming Agency for a tribal gaming license, a Gaming Resource Supplier or 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 Laboratories International, Inc. known as GLI-11, GLI-12, GLI-13, GLI-21, and GLI-26, or the technical standards approved by the State of Nevada, or such other technical standards as the State Gaming Agency and the Tribal Gaming Agency shall agree upon, which agreement shall not be unreasonably withheld;

(3) A copy of the certification by the Gaming Test Laboratory, specified in subdivision (b) above, is provided to the State Gaming Agency by electronic transmission or by mail, unless the State Gaming Agency waives receipt of copies of the certification;

(4) The software for the game authorized for play on the Gaming Device is tested by the Tribal Gaming Agency to ensure each game authorized for play on the Gaming Device has the correct electronic signature prior to insertion into the Gaming Device;

(5) The hardware and associated equipment for each type of Gaming Device has been tested by the Gaming Test Laboratory prior to operation by the public to ensure operation in accordance with the applicable Gaming Test Laboratory standards;

(6) The hardware and associated equipment for the Gaming Device has been tested by the Tribal Gaming Agency to ensure operation in accordance with the manufacturer's specifications; and

(7) The Tribal Gaming Agency shall maintain adequate records that demonstrate compliance with this subdivision (a).

(b) Where either the Tribe or the State Gaming Agency requests new standards for testing, approval, and certification of the software for the game authorized for play on the Gaming Device pursuant to subdivision (a)(2), and the State Gaming Agency and the Tribe fail to agree to new standards within 120 days of the request, the technical 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 and/or certified internal auditor who is not employed by the Tribe, the Tribal Gaming Agency, the Management Contractor, or the Gaming Operation, has no financial interest in any of these entities, and is only otherwise retained by any of these entities to conduct regulatory audits, independent audits of the Gaming Operation, or audits under this section.

Sec. 7.4. State Gaming Agency Inspections.

(a) The State Gaming Agency, utilizing such consultants, if any, it deems appropriate, may inspect the Gaming Devices in operation at the Gaming Facility on a random basis not to exceed four (4) times annually to confirm that they operate and play properly pursuant to the manufacturer's technical standards. The inspections may include all Gaming Device software, hardware, and associated equipment and systems that support the operation of the Gaming Device. The random inspections conducted pursuant to this subdivision shall occur during normal business hours outside of weekends and holidays. Whenever practicable, the State Gaming Agency shall not require removal from play any Gaming Device that the State Gaming Agency determines may be fully and adequately tested while still in play.

(b) The State Gaming Agency shall provide notice to the Tribal Gaming Agency of such inspection at or prior to the commencement of the random inspection, and the Tribal Gaming Agency may accompany the State Gaming Agency inspector(s).

(c) The State Gaming Agency, utilizing such consultants, if any, it deems appropriate, may conduct additional inspections at additional times upon reasonable belief of any irregularity and after informing the Tribal Gaming Agency of the basis for such belief.

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

(4) The final destination is a location within California for testing, repair, maintenance, or storage by a person or entity that has

been licensed by the Tribal Gaming Agency and has been found suitable for licensure by the State Gaming Agency.

(c) Any Gaming Device transported from or to the Tribe's land in violation of this section 7.7, or in violation of any permit issued pursuant thereto, is subject to summary seizure by California peace officers in accordance with California law.

SECTION. 8.0. INSPECTIONS.

Sec. 8.1. Investigation and Sanctions.

(a) The Tribal Gaming Agency shall investigate any reported violation of this Compact and shall require the Gaming Operation to correct the violation upon such terms and conditions as the Tribal Gaming Agency determines are necessary.

(b) The Tribal Gaming Agency shall be empowered by the Tribal Gaming Ordinance to impose fines or other sanctions within the jurisdiction of the Tribe against gaming licensees who interfere with or violate the Tribe's gaming regulatory requirements and obligations under IGRA, NIGC gaming regulations, the Tribal Gaming Ordinance, or this Compact as long as the fines or sanctions comport with federal due process.

(c) The Tribal Gaming Agency shall report violations of this Compact and any failures to comply with its orders to the California Gambling Control Commission and the Bureau of Gambling Control in the California Department of Justice within ten (10) days of discovery.

Sec. 8.2. Assistance by State Gaming Agency.

The Tribe may request the assistance of the State Gaming Agency whenever it reasonably appears that such assistance may be necessary to carry out the 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 (8:00 a.m. to 5:00 p.m.).

(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.

Sec. 8.4. Inspection, Copying and Confidentiality of Documents.

(a) Inspection and copying of Gaming Operation papers, books, and records may occur at any time, immediately after the State Gaming Agency gives notice to the Tribal Gaming Agency, during the hours from 8:00 a.m. to 5:00 p.m. Monday through Friday, and at any other time that a Tribal Gaming Agency employee, a Gaming Facility employee, or a Gaming Operation employee is available onsite with physical access to offices, including off-site facilities, where the papers, books, and records are kept. The Tribe shall cooperate with, and cannot refuse, the inspection and copying, provided that the State Gaming Agency inspectors cannot require copies of papers, books, or records in such volume that it unreasonably interferes with the normal functioning of the Gaming Operation or Facility.

(b) In lieu of onsite inspection and copying of Gaming Operation papers, books, and records by its inspectors, the State Gaming Agency may request in writing that the Tribal Gaming Agency provide copies of such papers, books, and records as the State Gaming Agency deems necessary to ensure compliance with the terms of this Compact. The State Gaming Agency's written request shall describe those papers, books, and records requested to be copied with sufficient specificity to reasonably identify the requested documents. Within ten (10) days after it receives the request, or such other time as the State Gaming Agency may agree in writing, the Tribal Gaming Agency shall provide one copy of the requested papers, books, and records to the requesting State Gaming Agency. An electronic version of the requested papers, books, and records may be submitted to the State Gaming Agency in lieu of a paper copy so long as the software required to access the electronic version is reasonably available to the State Gaming Agency and the State Gaming Agency does not object.

(c) Notwithstanding any other provision of California law, any confidential information and records, as defined in subdivision (d), that the State Gaming Agency obtains or copies pursuant to this Compact shall be, and remain, the property solely of the Tribe; provided that such confidential information and records and copies 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, 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 under subdivision (c), it shall enter a confidentiality agreement with that consultant that meets the standards of this subdivision.

(f) The Tribe may avail itself of any and all remedies under State law for the improper disclosure of confidential information and records. In the case of any disclosure of confidential information and records compelled by judicial process, the State Gaming Agency will endeavor to give the Tribe prompt notice of the order compelling disclosure and a reasonable opportunity to interpose an objection thereto with the court.

(g) The Tribal Gaming Agency and the State Gaming Agency shall confer regarding protocols for the release to law enforcement agencies of information obtained during the course of background investigations.

(h) Confidential information and records received by the State Gaming Agency from the Tribe in compliance with this Compact, or information compiled by the State Gaming Agency from those confidential records, shall be exempt from disclosure under the California Public Records Act.

(i) Notwithstanding any other provision of this Compact, the State Gaming Agency shall not be denied access to papers, books, records, equipment, or places where such access is reasonably necessary to

ensure compliance with this Compact or to conduct or complete an investigation of suspected criminal activity in connection with the Gaming Activities or the operation of the Gaming Facility or the Gaming Operation.

Sec. 8.5. NIGC Audit Reports.

The Tribe shall provide to the California Gambling Control Commission, within twenty (20) days of their submission to the NIGC, copies of the audited financial statements of class III gaming and management letter(s), if any, provided to the NIGC. All submissions to the California Gambling Control Commission made pursuant to this section 8.5 shall be subject to the confidentiality protections and assurances set forth in section 8.4, subdivision (h) of this Compact.

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, 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, rules and regulations governing, at a minimum, the following subjects pursuant to the standards and conditions set forth therein:

(a) The enforcement of all relevant laws and rules with respect to the Gaming Operation and Facility, and the conduct of investigations and hearings with respect thereto, and to any other subject within its jurisdiction.

(b) The physical safety of Gaming Facility patrons and employees, and any other person while in the Gaming Facility. Except as provided in section 12.2, nothing herein shall be construed, however, to make applicable to the Tribe any State laws, regulations, or standards governing the use of tobacco.

(c) The physical safeguarding of assets transported to, within, and from the Gaming Facility.

(d) The prevention of illegal activity within the Gaming Facility or with regard to the Gaming Operation, including, but not limited to, the maintenance of employee procedures and a surveillance system as provided in subdivision (e).

(e) Maintenance of a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and may not be modified without the approval of, the Tribal Gaming Agency. The Tribal Gaming Agency shall have current copies of the Gaming Facility floor plan and closed-circuit television system at all times.

(f) The recording of any and all occurrences within the Gaming Facility that deviate from normal operating policies and procedures (hereinafter "incidents"). The regulations shall provide that the Tribal Gaming Agency shall transmit copies of incident reports to the State Gaming Agency forthwith. The procedure for recording incidents pursuant to the regulations shall also do all of the following:

(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 and/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 Gaming Agency is authorized to make the copies of the list available to other tribal gaming agencies, to licensees of the California Gambling Control Commission, the California Horse Racing Board, and other law enforcement agencies.

(i) The conduct of an audit, at the Tribe's expense, of the annual financial statements of the Tribe's Gaming Activities.

(j) Submission to, and prior approval by, the Tribal Gaming Agency of the rules and regulations of each class III game to be operated by the Tribe, and of any changes in those rules and regulations. No class III game may be played that has not received Tribal Gaming Agency approval.

(k) The obligation of the Gaming Facility and the Gaming Operation to maintain a copy of the rules, regulations, and procedures for each game as played, including, but not limited to, the method of play and the odds and method of determining amounts paid to winners.

(l) Specifications and standards to ensure that information regarding the method of play, odds, and payoff determinations is visibly displayed or available to patrons in written form in the Gaming Facility and to ensure that betting limits applicable to any gaming station is displayed at that gaming station.

(m) Maintenance of a cashier's cage in accordance with industry standards for such facilities.

(n) Specification of minimum staff and supervisory requirements for each Gaming Activity to be conducted.

(o) Technical standards and specifications in conformity with the requirements of this Compact for the operation of Gaming Devices and other games authorized herein to be conducted by the Tribe.

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 accordance with the Tribal Gaming Agency's specific authorization; (vi) recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies; and (vii) functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.

(d) The Tribal Gaming Agency shall provide a copy of its written internal control standards and any changes to those control standards to the State Gaming Agency within thirty (30) days of approval by the Tribal Gaming Agency. The State Gaming Agency will review and submit to the Tribal Gaming Agency written comments or objections, if any, to the internal control standards and any changes to the standards, within thirty (30) days of receiving them, or by another date agreed upon by the Tribal Gaming Agency and the State Gaming Agency. The State Gaming Agency's review shall be for the purpose of determining whether the internal control standards and any changes

to the standards provide a level of control which equals or exceeds the level of control required by the minimum internal control standards set forth in Appendix A, as it exists currently and as it may be revised, and are consistent with this Compact.

(e) The minimum internal control standards set forth in Appendix A to this Compact shall apply to all Tribal Gaming Activities, Gaming Facilities and Gaming Operations; however, Appendix A is not applicable to any activities not expressly permitted in this Compact. Should the terms in Appendix A be inconsistent with this Compact, the terms in this Compact shall prevail.

(f) The Tribal Gaming Agency and the State Gaming Agency shall, every three (3) years after the Tribe commences Class III Gaming Operations, and not later than thirty (30) days after the three (3)-year period, promptly commence negotiations to amend Appendix A to this Compact to continue efficient regulation, foster statewide uniformity of regulation of class III gaming operations, and address future circumstances, including, without limitation, technological advancements and changes in industry standards. The Tribal Gaming 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 on responsible gaming and to identify and manage problem gambling.

(b) It shall make available to patrons at conspicuous locations and ATMs in the Gaming Facility educational and informational materials which aim at the prevention of problem gambling and that specify where to find assistance.

(c) It shall establish self-exclusion programs whereby a self-identified problem gambler may request the halt of promotional mailings, the revocation of privileges for casino services, the denial or restraint on the issuance of credit and check cashing services, and exclusion from the Gaming Facility.

(d) It shall establish an involuntary exclusion program that allows the Gaming Operation to halt promotional mailings, deny or restrain the issuance of credit and cash checking services, and deny access to the Gaming Facility to patrons who have exhibited signs of problem gambling.

(e) It shall display at conspicuous locations and at ATMs within the Gaming Facility signage bearing a toll-free help-line number where patrons may obtain assistance for gambling problems.

(f) It shall make diligent efforts to prevent underage individuals from loitering in the area of the Gaming Facility where the Gaming Activities take place.

(g) It shall assure that advertising and marketing of the Gaming Activities at the Gaming Facility contain a responsible gambling message and a

toll-free help-line number for problem gamblers, where practical, and that it make no false or misleading claims.

(h) It shall adopt a code of conduct, derived, inter alia, from that of the American Gaming Association, that addresses responsible gambling and responsible advertising.

Nothing herein is intended to grant any third party the right to sue based on a 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.

(b) The Tribe shall conduct a background investigation on each prospective member of the Tribal Gaming Agency, who shall meet the background requirements of a management contractor under IGRA; provided that if such member is elected through a tribal election process, that member may not participate in any Tribal Gaming Agency matters under this Compact unless a background investigation has been concluded and the member has been found to be suitable. If requested by the Tribe or the Tribal Gaming Agency, the State Gaming Agency may assist in the conduct of such a background investigation and may assist in the investigation of any possible corruption or compromise of a member of the Tribal Gaming Agency.

(c) In the event that the State Gaming Agency determines that a member of the Tribal Gaming Agency is unsuitable, the State Gaming Agency shall serve upon the Tribe a written notice of its finding of unsuitability and request the removal of the member. Upon receipt of notice that the State Gaming Agency has determined the member to be unsuitable, the Tribe shall either remove that member from the Tribal Gaming Agency or demand an expedited arbitration pursuant to section 13.2.

(d) If the Tribe demands an expedited arbitration of the State Gaming Agency's determination of unsuitability, the arbitrator shall make a de novo determination as to whether the State Gaming Agency's determination of unsuitability is justified using the following bases for such determination.

(1) To be found suitable, the member must be all of the following:

(A) A person of good character, honesty, and integrity.

(B) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of the State, or to the effective regulation and control of controlled gambling, or create 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 involving dishonesty or moral turpitude within the ten (10) year period immediately preceding the beginning of his or her service on the Tribal Gaming Agency, unless the applicant has been granted relief pursuant to section 1203.4, 1203.4a, or 1203.45 of the California Penal Code; provided, however, that the granting of relief pursuant to section 1203.4, 1203.4a, or 1203.45 of the California Penal Code shall not constitute a limitation on the discretion of the arbitrator to determine the person's compliance with the requirements of sections 6.4.7 and 9.5, subdivision (d)(1), of this Compact.

(F) The person has been associated with criminal profiteering activity or organized crime, as defined by section 186.2 of the California Penal Code.

(G) The person has exhibited contumacious defiance of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling, official corruption related to gambling activities, or criminal profiteering activity or organized crime, as defined by section 186.2 of the California Penal Code.

(H) The person is less than twenty-one (21) years of age.

(e) In all cases, in coming to a decision, the arbitrator must give due consideration for the proper protection of the health, safety and welfare of the residents of the State, and must take into account whether membership on the Tribal Gaming Agency would undermine public trust that the Gaming Operation is free from criminal and dishonest elements and would be conducted honestly.

Sec. 9.6. State Gaming Agency Regulations.

(a) Pursuant to the procedures set forth in section 9.7, the State Gaming 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 (a)(1) and (2), shall be effective with respect to the Tribe's Gaming Operation until all of the following procedures have been exhausted:

(1) When the State Gaming Agency suspects, with respect to an aspect of the Gaming Operation, that no such regulation exists, or that an existing regulation is ineffective in addressing a subject, it may so notify the Tribal Gaming Agency, set forth the reasons for its position, and request a meeting for the purpose of considering the adoption of a regulation by the Tribal Gaming Agency or the State Gaming Agency. The notification shall propose a date for the meeting, which shall not be less than ten (10) days following the date the notification is made.

(2) Representatives of the Tribal Gaming Agency shall meet with the representatives of the State Gaming Agency (for purposes of this section, the "parties") on the date proposed in the notification, or such other date as may be mutually agreed. In the absence of agreement upon a different date, the date proposed in the notification shall control. The parties at the meeting shall confer in good faith over the necessity for the adoption of a regulation and ways in which effective regulation may be achieved. Any proposal of a regulation by the Tribal

Gaming Agency, either at or prior to the meeting, shall be without prejudice to its right to dispute either the necessity of a regulation or the effectiveness of a regulation in existence.

(3) Within thirty (30) days following the meeting, the Tribal Gaming Agency may propose a regulation for the purpose of addressing the subject as to which the State Gaming Agency provided notification. The Tribal Gaming Agency may adopt the regulation only after inviting comment or objection by the State Gaming Agency, and the Tribal Gaming Agency must provide at least thirty (30) days for the State Gaming Agency to comment or object by providing a copy of the proposed regulation to the State Gaming Agency at least thirty (30) days prior to the date of its intended adoption. Prior to adoption of 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 Agency under subdivision (a)(3) or by the State Gaming Agency under subdivision (b) of this section or subdivision (a)(3) of section 9.6. Arbitration, when demanded, shall proceed before a single arbitrator, who shall be a retired judge, pursuant to the Comprehensive Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent). Each party shall exchange with the other within fifteen (15) days of the demand for arbitration a single proposal in the form of a regulation that the party proposes to adopt. If either party has adopted a regulation pursuant to subdivisions (a) or (b) of this section or subdivision (a)(3) of section 9.6, that regulation shall constitute the proposal of that party. The arbitrator shall be limited to determining whether the Compact authorizes a regulation to be adopted with respect to the aspect of the Gaming Operation at issue, and if so, which of the proposals before the arbitrator most effectively addresses the subject in light of the purposes and objectives of sections 6.0, 7.0, and 9.1 of this Compact. Unless the arbitrator determines that no regulation is required by the Compact, the arbitrator shall issue an order, effective upon issuance, which shall identify which of the two (2) proposals is to be given effect as a regulation. If requested by a party at the hearing, a reasoned statement of the arbitrator's decision shall be included in the order. Review of the arbitrator's order is waived. In order to effectuate this provision, and in the exercise of its sovereignty, the Tribe agrees to waive, and does hereby 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, or (ii) enforce or confirm any arbitral order rendered in the arbitration.

(e) The proposal identified by the arbitrator's order as the proposal to be given effect shall be effective as follows: If the proposal so identified is in effect on the date the arbitrator's order is issued, it need not be readopted and shall be effective from the date of adoption. If the proposal so identified is not in effect on the date the arbitrator's order

is issued, it shall be adopted as a regulation by the party that proposed it not earlier than thirty (30) days after the date of the arbitrator's order. Any proposal adopted as a regulation pursuant to sections 9.6 and 9.7 prior to the arbitrator's order, which is not adopted by the 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 July 1, 2008), 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, the Tribal Gaming Agency shall conduct an appropriate investigation, shall provide to the patron a copy of its regulations concerning patron

complaints, and shall render a decision in accordance with industry practice extant in Nevada and New Jersey. The decision shall be issued within sixty (60) days of the patron's request, shall be in writing, shall be based on the facts surrounding the dispute, and shall set forth the reasons for the decision.

(c) If the patron is dissatisfied with the decision of the Tribal Gaming Agency, or no decision is issued within the sixty (60)-day period, the patron may request that the dispute be settled by binding arbitration before a single arbitrator, who shall be a retired judge, in accordance with the Streamlined Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent). Upon such request, the Tribe shall consent to such arbitration, and agree to abide by the decision of the arbitrator; provided, however, that if any alleged winnings are found to be a result of a mechanical, electronic or electromechanical failure and not due to the intentional acts or gross negligence of the Tribe or its agents, the arbitrator shall deny the patron's claim for the winnings but shall award reimbursement of the amounts wagered by the patron which were lost as a result of any said failure. To effectuate its consent to the arbitration, the Tribe shall, in the exercise of its sovereignty, waive its right to assert sovereign immunity in connection with the arbitrator's jurisdiction and in any action to (i) enforce the Tribe's or the patron's (for purposes of this section, the "parties") obligation to arbitrate, (ii) confirm, correct, modify, or vacate the arbitral award rendered in the arbitration, or (iii) enforce or execute a judgment based upon the award. The cost and expenses of such arbitration shall be initially borne by the Tribe, but the arbitrator shall award to the prevailing party its costs and expenses (but not attorney fees). Any party dissatisfied with the award of the arbitrator may at that party's election invoke the JAMS Optional Arbitration Appeal Procedure (and if those rules no longer exist, the closest equivalent); provided that the party making such election must bear all the costs and expenses of JAMS and the arbitrators associated with the Appeal Procedure, regardless of the outcome.

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;

(B) Any Significant Effect on the Environment that would be irreversible if the Project is implemented;

(3) Mitigation measures proposed to minimize Significant Effects on the Environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy;

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[1] Sections 11.1 through 11.7 have been deliberately omitted.

(4) Alternatives to the Project; 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;

(5) Whether any proposed mitigation would be feasible;

(6) Any direct growth-inducing impacts of the Project; and

(7) Whether the proposed mitigation would be effective to substantially reduce the potential Significant Effects on the Environment.

(b) In addition to the information required pursuant to subdivision (a), the TEIR shall also contain a statement briefly indicating the reasons for determining that various effects of the Project on the off-reservation environment are not significant and consequently have not been discussed in detail in the TEIR. In the TEIR, the direct and indirect Significant Effects on the Off-Reservation Environment, including each of the items on Exhibit A, shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion of mitigation measures shall describe feasible measures which could minimize significant adverse effects, and shall distinguish between the measures that are proposed by the Tribe and other measures proposed by others. Where several measures are available to mitigate an effect, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. The TEIR shall also describe a range of reasonable 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

(3) The probable off-reservation environmental effects of the Project.

(b) The Notice shall also inform Interested Persons of the preparation of the draft TEIR and shall inform them of the opportunity to provide comments to the Tribe within thirty (30) days of the date of the receipt of the Notice by the State Clearinghouse and the County. The Notice shall also request Interested Persons to identify in their comments the off-reservation environmental issues and reasonable mitigation measures that the Tribe will need to have explored in the draft TEIR.

Sec. 11.8.3. Notice of Completion of the Draft TEIR.

(a) Within no less than thirty (30) days following the receipt of the Notice of Preparation by the State Clearinghouse and the County, the Tribe shall file a copy of the draft TEIR and a Notice of Completion with the State Clearinghouse, the State Gaming Agency, the County, the local city (if any) within which the Project is located, and the California Department of Justice, Office of the Attorney General. The Notice of Completion shall include all of the following information:

(1) A brief description of the Project;

(2) The proposed location of the Project;

(3) An address where copies of the draft TEIR are available; and

(4) Notice of a period of forty-five (45) days during which the Tribe will receive comments on the draft TEIR.

(b) The Tribe will submit ten (10) copies each of the draft TEIR and Notice of Completion to the County, which will be asked to post public notice of the draft TEIR at the office of the County Board of Supervisors and to furnish the public notice to the public libraries serving the County. The County shall also be asked to serve in a timely manner the Notice of Completion to all Interested Persons, which Interested Persons shall be identified by the Tribe for the County, to the extent it can identify them. In addition, the Tribe will provide public notice by at least one of the procedures specified 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 resulting from making the Notice of Preparation, Notice of Completion, and Draft TEIR available to the public under this section 11.0.

Sec. 11.8.6.

The Tribe's failure to prepare a TEIR when required shall be deemed a material breach of this Compact and furthermore shall be grounds for issuance of an injunction or other appropriate equitable relief.

Sec. 11.8.7. Intergovernmental Agreement.

(a) Before the commencement of a Project, and no later than the issuance of the Final TEIR to the County, the Tribe shall offer to commence negotiations 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, including structures appurtenant to the Gaming Facility (hereafter "Impacted City"), and upon the County's and/or any Impacted City's acceptance of the Tribe's offers, shall negotiate with the County and any Impacted City and shall enter into enforceable written agreements with the County and any Impacted City (the "Intergovernmental Agreements") with respect to the matters set forth below:

(1) The timely mitigation of any Significant Effect on the Off-Reservation Environment (which effects may include, but are not limited to, aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, water resources, land use, mineral resources, traffic, noise, utilities and service systems, and cumulative effects), where such effect is attributable, in whole or in part, to the Project unless the parties agree that the particular mitigation is infeasible, taking into account

economic, environmental, social, technological, or other considerations.

(2) Compensation for law enforcement, fire protection, emergency medical services and any other public services to be provided 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).

Sec. 11.8.8. Arbitration.

In order to foster good government-to-government relationships and to assure that the Tribe is not unreasonably prevented from commencing a Project and benefiting therefrom, if an Intergovernmental Agreement with the County or with any Impacted City is not entered within fifty-five (55) days of the submission of the Final TEIR, or such further time as the Tribe and the County or Impacted City (for purposes of this section "the parties") may agree in writing, any party may demand binding arbitration before a single arbitrator, who shall be a retired judge, pursuant to the Comprehensive Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent), as set forth herein with respect to any remaining disputes arising from, connected with, or related to the negotiation:

(a) The arbitration shall be conducted as follows: Each party shall exchange with each other within five (5) days of the demand for arbitration its last, best written offer made during the negotiation pursuant to section 11.8.7. The arbitrator shall schedule a hearing to be heard within thirty (30) days of his or her appointment unless the parties agree to a longer period. The arbitrator shall be limited to awarding only one of the offers submitted, without modification, based upon that proposal which best provides feasible mitigation of Significant Effects on the Environment and on public safety and most reasonably compensates for public services pursuant to section 11.8.7, without unduly interfering with the principal objectives of the Project or imposing environmental mitigation measures which are different in nature or scale from the type of measures that have been required to mitigate impacts of a similar scale of other projects in the surrounding area, to the extent there are such other projects. The arbitrator shall take into consideration whether the Final TEIR provides the data and information necessary to enable the County and Impacted City, if any, to determine both whether the Project may result in a Significant Effect on the Environment and whether the proposed measures in mitigation are sufficient to mitigate any such effect. If the respondent does not participate in the arbitration, the arbitrator shall nonetheless conduct the arbitration and issue an award, and the claimant shall 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 operation, inspection of food and beverage services in the Gaming Facility by State, County, or city health inspectors, whichever inspector would have jurisdiction but for the Gaming Facility being on Indian lands, in order to assess compliance with these standards, unless inspections are routinely made by an agency of the United States government to ensure compliance with equivalent standards of the United States Public Health Service. Any report or other writing by the State, County, city or federal health inspectors shall be transmitted within twenty-four (24) hours to the State Gaming Agency and the Tribal Gaming Agency. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of those State, County, or city health inspectors, but any violations of the standards shall be treated as violations of this Compact and may serve as a basis to issue,

pursuant to section 13.0, orders requiring corrective action, including an order to enjoin the food and beverage operations of the Gaming Facility where warranted to protect public health or safety.

(b) Adopt and comply with federal water quality and safe drinking water standards applicable in California. The Tribe will allow, during normal hours of operation, inspection and testing of water quality at the Gaming Facility by State, County, or city health inspectors, whichever inspector would have jurisdiction but for the Gaming Facility being on Indian lands, in order to assess compliance with these standards, unless inspections and testing are routinely made by an agency of the United States pursuant to federal law to ensure compliance with federal water quality and safe drinking water standards. Any report or other writings by the State, County, city or federal health inspectors shall be transmitted within twenty-four (24) hours to the State Gaming Agency and the Tribal Gaming Agency. Nothing herein shall be construed as submission of the Tribe to the jurisdiction of those State, County, or city health inspectors, but any violations of the standards shall be treated as violations of this Compact and may serve as a basis to issue, pursuant to section 13.0, orders requiring corrective action, including an order to enjoin the use or disposal of water at the Gaming Facility where warranted to protect public health or safety.

(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 insurance policy consistent with industry standards for non-tribal casinos and underwritten by an insurer with an A.M. Best rating of A or higher which provides coverage of at least three million dollars ($3,000,000) per occurrence for unlawful 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. In order to effectuate the insurance coverage, the Tribe, in the exercise of its sovereignty, shall expressly waive, and also waive its right to assert, sovereign immunity and any and all defenses based thereon up to the greater of three million dollars ($3,000,000) or the limits of the employment practices insurance policy, in accordance with the tribal ordinance referenced in subdivision (f)(2) below, in connection with any claim for 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, however, that nothing herein requires the Tribe to agree to liability for punitive damages or to waive its right to assert sovereign immunity in connection therewith. The employment practices liability insurance policy shall

acknowledge in writing that the Tribe has expressly waived, and also waived its right to assert, sovereign immunity and any and all defenses based thereon for the purpose of arbitration of those claims for harassment, retaliation, or employment discrimination up to the limits of such policy and for the purpose of enforcement of any ensuing award or judgment and shall include an endorsement providing that the insurer shall not invoke tribal sovereign immunity up to the limits of such policy; however, such 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 such policy limits or three million dollars ($3,000,000), whichever is greater. Nothing in this provision shall be interpreted to supersede any requirement in the Tribe's employment discrimination complaint ordinance that a claimant must 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 insurance policy limits, whichever is greater.

(D) That the Tribe consents 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), 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 any party dissatisfied with the award of the arbitrator may at the party's election invoke the JAMS Optional Arbitration Appeal Procedure (or if those rules no longer exist, the closest equivalent), provided that the party making such election must bear all costs and expenses of JAMS and the arbitrators associated with the Appeal Procedure, regardless of the outcome. The arbitration shall take place within seventy-five (75) miles of the 11.24 Acre Parcel, or as otherwise mutually agreed by the parties. To effectuate its consent to the foregoing arbitration procedure, the Tribe shall, in the exercise of its sovereignty, waive, and also waive its right to assert, sovereign immunity in connection with the arbitrator's jurisdiction and in any state or federal court action to (i) enforce the parties' obligation to arbitrate, (ii) confirm, correct, or vacate the arbitral award rendered in the

arbitration in accordance with section 1285 *et seq.* of the California Code of Civil Procedure, or (iii) enforce or execute a judgment based upon the award. The Tribe agrees not to assert, and will waive, any defense alleging improper venue or forum non conveniens as to any state court located within the County or any federal court located in the Northern District of California in any such action brought with respect to the arbitration award.

(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 reasoned decision, and shall be rendered within one hundred eighty (180) days from the date the claim was filed, unless the parties mutually agree upon a longer period.

(4) Within fourteen (14) days following notification that a claimant claims that he or she has suffered harassment, retaliation, or employment discrimination, the Tribe shall provide notice by personal service or certified mail, return receipt requested, that the claimant is required within the specified limitation period to first exhaust the Tribe's employment discrimination complaint resolution process, if any exists, and if dissatisfied with the resolution, is entitled to arbitrate his or her claim before a retired judge in a binding arbitration proceeding.

(5) In the event the Tribe fails to adopt the ordinance specified in subdivision (f)(2), persons who claim they have suffered prohibited harassment, retaliation, or employment discrimination may proceed to arbitration as provided in this subdivision (f), in which case California employment discrimination law, including applicable statutes of limitations, shall apply to all such claims 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, and the Tribe shall be deemed to have waived, and also waived its right to assert, sovereign immunity up to the greater of three million dollars ($3,000,000) or the limits of the employment practices insurance 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. Nothing in this subdivision (f)(5), shall be interpreted as a waiver of the Tribe's sovereign immunity or consent to the jurisdiction of any court other than for the purposes set forth in this subdivision (f).

(6) The Tribe shall provide written notice of the employment discrimination complaint ordinance and the procedures for 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 CFR § 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, and shall transmit the ordinance to the State Gaming Agency not later than thirty (30) days after the effective date of this Compact. In the absence of a promulgated tribal standard in respect to a matter identified in those subdivisions, or the express adoption of an applicable federal and/or State statute or regulation, as the case may be, in respect of any such matter, the otherwise applicable federal and/or State statute or regulation shall be deemed to have been adopted by the Tribe as the applicable standard.

Sec. 12.5. Insurance Coverage and Claims.

(a) The Tribe shall obtain and maintain commercial general liability insurance consistent with industry standards for non-tribal casinos in the United States underwritten by an insurer with an A.M. Best rating of A or higher which provides coverage of no less than ten million dollars ($10,000,000) per occurrence for bodily injury, personal injury, and property damage arising out of, connected with, or relating to the operation of the Gaming Facility or Gaming Activities ("Policy"). In order to effectuate the insurance coverage, the Tribe shall waive, and also waive its right to assert, sovereign immunity up to the greater of ten million dollars ($10,000,000) or the limits of the Policy, in accordance with the tribal ordinance referenced in subdivision (b) below, in connection with any claim for 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, however, that nothing herein requires the Tribe to agree to liability for punitive damages or to waive, and also waive its right to assert, sovereign immunity in connection therewith. The Policy shall acknowledge in writing that the Tribe has waived, and also waived its right to assert, sovereign immunity for the purpose of arbitration of those claims up to the greater of ten million dollars ($10,000,000) or the limits of the Policy referred to above and for the purpose of enforcement of any ensuing award or judgment and shall include an endorsement providing that the insurer shall not invoke tribal sovereign immunity up to the limits of the Policy; however, such 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 any party dissatisfied with the award of the arbitrator may at the party's election invoke the JAMS Optional Arbitration Appeal Procedure (or if those rules no longer exist, the closest equivalent), provided that the party making such election must bear all costs and expenses of JAMS and the arbitrators associated with the Appeal Procedure, regardless of the outcome. To effectuate its consent to the foregoing arbitration procedure, the Tribe shall, in the exercise of its sovereignty, waive, and also waive its right to assert, sovereign immunity in connection with the arbitrator's jurisdiction and in any action to (i) enforce the parties' obligation to arbitrate, (ii) confirm, correct, modify, or vacate the arbitral award rendered in the arbitration, or (iii) enforce or execute a judgment based upon the award.

(4) The ordinance may also require that the claimant first exhaust the Tribe's administrative remedies for resolving the claim (hereinafter the "Tribal Dispute Process") in accordance with the following standards: The claimant must bring his or her claim within one hundred eighty (180) days of receipt of written notice of the Tribal Dispute Process as long as 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. The ordinance may provide that any arbitration shall be stayed until the completion of the Tribal Dispute Process or one hundred eighty (180) days from the date the claim is filed in the Tribal Dispute Process, whichever first occurs, unless the parties mutually agree to a longer period.

(c) Upon notice that a claimant claims to have suffered an injury or damage covered by this section, the Tribe shall provide notice by personal service or certified mail, return receipt requested, that the claimant is required within the specified limitation period to first exhaust the Tribal Dispute Process, if any, and if dissatisfied with the resolution, entitled to arbitrate his or her claim de novo before a retired judge.

(d) In the event the Tribe fails to adopt the ordinance specified in 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 that independent contractors doing business with the Tribe are bound by all State workers' compensation laws and obligations.

(b) The Tribe agrees that it will participate in the State's program for providing unemployment compensation benefits and unemployment compensation disability benefits with respect to employees employed at the Gaming Facility, which participation shall include compliance with the provisions of the California Unemployment Insurance Code, and the Tribe consents to the jurisdiction of the State agencies charged with the enforcement of that Code and of the courts of the State of California for purposes of enforcement.

(c) As a matter of comity, with respect to persons, including nonresidents of California, employed at the Gaming Facility or paid items of income by the Tribe or Gaming Operation for work or services conducted at the Gaming Facility, the Tribe shall withhold all taxes due to the State as provided in the California Unemployment Insurance Code and, except for Tribal members living on the Tribe's rancheria or on the 11.24 Acre Parcel, the Revenue and Taxation Code, and the regulations thereunder, and shall forward such amounts

as provided in such Codes to the State. The Tribe shall file with the Franchise Tax Board a copy of any information return filed with the Secretary of the Treasury, as provided in the Revenue and Taxation Code and the regulations thereunder, except those pertaining to Tribal members living on the Tribe's rancheria or on the 11.24 Acre Parcel.

(d) As a matter of comity, the Tribe shall, with respect to the earnings of any person employed at the Gaming Facility, comply with all earnings withholding orders for support of a child, or spouse or former spouse, and all other orders by which the earnings of an employee are required to be withheld by an employer pursuant to Chapter 5 (commencing with section 706.010) of Division 1 of Title 9 of Part 2 of the California Code of Civil Procedure, and with all earnings assignment orders for support made pursuant to Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the California Family Code or section 3088 of the Probate Code.

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 foster a spirit of cooperation and efficiency in the administration and monitoring of the performance and compliance of the terms, provisions, and conditions of this Compact, as follows:

(a) Either party shall give the other, as soon as possible after the event giving rise to the concern, a written notice setting forth the facts giving rise to the dispute and with specificity, the issues to be resolved.

(b) The other party shall respond in writing to the facts and issues set forth in the notice within fifteen (15) days of receipt of the notice, unless both parties agree in writing to an extension of time.

(c) The parties shall meet and confer in good faith by telephone or in person in an attempt to resolve the dispute through negotiation within thirty (30) days after receipt of the notice set forth in subdivision (a), unless both parties agree in writing to an extension of time.

(d) If the dispute is not resolved to the satisfaction of the parties after the first meeting, either party may seek to have the dispute resolved by an arbitrator in accordance with this section, but neither party shall be required to agree to submit to arbitration.

(e) Disagreements that are not otherwise resolved by arbitration or other mutually agreed means may be resolved in the United States District Court in the judicial district where the Tribe's Gaming Facility is located, or in any State court of competent jurisdiction in or over the County. The disputes to be submitted to court action include, but are not limited to, claims of breach of this Compact. The parties are entitled to all rights of appeal permitted by law in the court system in which the action is brought.

(f) In no event may the Tribe be precluded from pursuing any arbitration or judicial remedy against the State on the ground that the Tribe has failed to exhaust its State administrative remedies, and in no event may the State be precluded from pursuing any arbitration or judicial remedy against the Tribe on the ground that the State has failed 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 this Compact, (ii) neither side makes any claim for monetary damages

(except that payment of any money required by the terms of this Compact may be sought, and injunctive relief, specific performance (including enforcement of a provision of this Compact requiring the payment of money to one or another of the parties), and declaratory relief may be sought), and (iii) nothing herein shall be construed to constitute a waiver of the sovereign immunity of either the Tribe or the State with respect to any third party that is made a party or intervenes as a party to the action.

(b) In the event that intervention, joinder, or other participation by any additional party in any action between the State and the Tribe would result in the waiver of the Tribe's or the State's sovereign immunity as to that additional party, the waivers of either the Tribe or the State provided herein may be revoked, except where joinder is required to preserve the court's jurisdiction, in which case the State and the Tribe may not revoke their waivers of sovereign immunity as to each other.

(c) The waivers and consents to jurisdiction expressly provided for under this section 13.0 and elsewhere in the Compact shall extend to all arbitrations and civil actions authorized by this Compact, including, but not limited to, actions to compel arbitration, any arbitration proceeding herein, any action to confirm, modify, or vacate any arbitral award or to enforce any judgment, and any appellate proceeding emanating from any such proceedings. Except as stated herein or elsewhere in this Compact, no other waivers or consents to be sued are granted by either party.

SECTION 14.0. EFFECTIVE DATE AND TERM OF COMPACT.

Sec. 14.1. Effective Date.

This Compact shall not be effective unless and until all of the following have occurred:

(a) The Compact is ratified in accordance with State law; and

(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, 2030.

(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 December 31, 2010, 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.

Sec. 15.2. Requests to Amend or Renegotiate.

All requests to amend or renegotiate this Compact shall be in writing, addressed to the Tribal Chairperson or the Governor, as the case may be, and shall include the activities or circumstances to be negotiated, together with a statement of the basis supporting the request. If the request meets the requirements of this section, the parties shall confer promptly and determine within forty-five (45) days of the request a schedule for commencing negotiations, and both parties shall negotiate in good faith. The Chairperson of the Tribe and the Governor of the State are hereby authorized to designate the person or agency responsible for conducting the negotiations, and shall execute any documents necessary to do so.

SECTION 16.0. NOTICES.

Unless otherwise indicated by this Compact, all notices required or authorized to be served shall be served by first-class mail or facsimile transmission to the following addresses, or to such other address as either party may designate by written notice to the other:

Governor
Attention: Legal Affairs Secretary
Governor's Office
State Capitol
Sacramento, California 95814

Tribal Chairperson
Habematolel Pomo of Upper Lake
P.O. Box 516
Upper Lake, California 95485

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 or set of rules, it also applies to the provision or rules, as they may be amended from time to time, and any successor provision or set of rules.

Sec. 18.5. Ordinances and Regulations.

Whenever the Tribe adopts or amends any ordinance or regulations required to be adopted and/or maintained under this Compact, the Tribe shall provide a copy of such adopted or amended ordinance or regulations to the Governor's Legal Affairs Secretary within thirty (30) days of the effective date of such ordinance or regulations.

Sec, 18.6. Calculation of time.

In computing any period of time prescribed by this Compact, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under the Tribe's laws, State law, or federal law. Unless otherwise specifically provided herein, the term "days" shall be construed as calendar days.

Sec. 18.7. Representations.

(a) The Tribe expressly represents that as of the date of the undersigned's execution of this Compact the undersigned has the authority to execute this Compact on behalf of the Tribe, including any waiver of sovereign immunity and the right to assert sovereign immunity therein, and will provide written proof of such authority and of the ratification of this Compact by the tribal governing body to the Governor no later than thirty (30) days after the execution of this Compact by the undersigned.

(b) The Tribe further represents that it is (i) recognized as eligible by the Secretary of the Interior for special programs and services provided by the United States to Indians because of their status as Indians, and (ii) recognized by the Secretary of the Interior as possessing powers of self-government.

(c) In entering into this Compact, the State expressly relies upon the 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

By Arnold Schwarzenegger
Governor of the State of California

Executed this 2nd day of Sept, 2009, at Sacramento, California

HABEMATOLEL POMO OF UPPER LAKE

By Sherry Bridges
Chairperson of the
Habematolel Pomo of Upper Lake

Executed this 28 day of August, 2009, at Sacramento, California

ATTEST:

Debra Bowen
Secretary of State, State of California