



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

SEP 10 2021

The Honorable Rodney Butler
Chairman, Mashantucket Pequot Indian Tribe
2 Matt's Path
P.O. Box 3060
Mashantucket, Connecticut 06338

Dear Chairman Butler:

On July 27, 2021, the Mashantucket Pequot Indian Tribe (Tribe) and the State of Connecticut (State) submitted to the Department of the Interior (Department) the Amendments to the Final Mashantucket Pequot Gaming Procedures (56 Fed. Reg. 24996, May 31, 1991) as amended, (Amendment) and the amendments to the Memorandum of Understanding between the Tribe and the State of Connecticut, (MOU) providing for the regulation of class III gaming activities on the Tribe's Indian lands. I am pleased to approve the Amendment and MOU for the reasons stated below.

I commend the Tribe, the Mohegan Tribe of Indians of Connecticut, and the State for engaging in good-faith negotiations to arrive at the Amendment. Together, the Amendment, the amended Memorandum of Understanding (MOU) and the State of Connecticut House Bill No. 6451 (State Gaming Act) address the collective interests of the Mohegan Tribe, the Mashantucket Pequot Tribe, and the State, and provide the Tribes with: exclusivity for online casino gaming in the State, two of three licenses for off-reservation sports wagering, and online on-reservation casino gaming and sports wagering. These new provisions will allow the Tribes' gaming operations more flexibility to respond to situations like the COVID-19 pandemic. The third license for sports wagering will go to the State Lottery which will allow for 15 retail sports wagering locations no closer than 25 miles from the Tribes' respective reservations, one skin for online sports wagering, and online keno.

Each class III gaming compact uniquely responds to the particular interests and relative bargaining power of the parties to the agreement. As part of the trust obligation to tribes, the Department must consider these unique factors as it undertakes its review pursuant to 25 U.S.C. § 2710.

BACKGROUND

When Congress enacted the Indian Gaming Regulatory Act (IGRA) in 1988, it authorized state governments to play a limited role in the regulation of class III Indian gaming. Congress also recognized that this limited expansion of state influence over matters historically left to tribal self-government could be used to undermine tribal sovereignty. Congress, therefore, required states to negotiate class III gaming compacts in good faith, provided a remedy in the event that

states refused to negotiate in good faith, limited the scope of bargaining for class III gaming compacts, and prohibited states from using the process to impose taxes on tribal gaming operations.

Pursuant to IGRA, the Secretary is vested with the discretionary authority to disapprove a proposed class III compact when it violates IGRA, any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligations of the United States to Indians. See 25 U.S.C. §2710(d)(8). The IGRA limits the subjects over which states, and tribes may negotiate a tribal-state gaming compact, and prohibits the imposition of a tax, fee, charge, or other assessment on Indian gaming except to defray the state's cost of regulating class III gaming activities. *Id.*; §2710(d)(3)(C); §2710(d)(4). In fulfilling the United States' trust obligations to tribes, the Department reviews compacts to ensure that they comply with Federal law, were the product of bilateral good-faith negotiations, and that they respect the boundaries of tribal sovereignty that Congress altered when it enacted IGRA.

Congress also required tribes and states to submit class III gaming compacts to the Department for a final review before a compact may take effect. In undertaking this review, the Department ensures that the compact is not used to diminish tribal sovereignty at the expense of accreting state power and preserves symmetry in the bargaining power of tribes and states.

ANALYSIS

The Department adheres to the statutory limitations imposed by IGRA but must avoid a paternalistic approach by balancing its review through acknowledgment of the inherent sovereign authority of tribes to engage in economic development and make business decisions that respond to their unique circumstances and are in the best interests of their citizens. As you know, the Department reviews revenue sharing provisions with great scrutiny. Because IGRA sharply limits the circumstances under which an Indian tribe can make direct payments to a state, we begin with the premise that a Tribe's payments to a state or local government for anything beyond the costs of regulating class III gaming activities are a prohibited "tax, fee, charge, or other assessment." 25 U.S.C. § 2710(d)(4).

Thus, we analyze revenue sharing by first determining whether the State has offered meaningful concessions to the Tribe that it was otherwise not required to negotiate. We then examine whether the value of the concessions provide substantial economic benefits to the Tribe in a manner justifying the revenue sharing required by the compact. See *Rincon Band of Luiseno Mission of the Rincon Reservation v. Schwarzenegger*, 602 F. 3rd 1019 (9th Cir. 2010), cert. denied, 113 S. Ct. 3055 (2011) (an increase in revenue sharing from current levels must be accompanied by additional meaningful concessions that provide substantial economic benefit to the tribe).

In this case, the Amendment does not require an increase in revenue sharing. Pursuant to the Tribes' 1994 Memorandum of Understanding with the State, as amended by the MOU the Tribes will each still pay 25 percent of gross operating revenues from video facsimile games operated by the respective Tribes in exchange for a general prohibition in the State on the operation of video facsimiles or other commercial casino games.

However, the Amendment does provide for an encroachment on the exclusivity or meaningful concession that the State provided in the first instance. Because an expansion of other casino games in the State is a diminishment of the meaningful concession provided to the Tribes, the diminishment must be offset by a relief on the amount of revenue shared by the Tribes or it will become a prohibited tax, fee, charge, or other assessment under IGRA. If the State offers additional new concessions, we then analyze the continued revenue sharing against the combined value of the State's concessions.¹

While the State's position is that the Tribes' exclusivity remains unchanged—even with the State's participation in sports wagering²—the Department takes a different view. The State's expansion into retail and mobile sports wagering is an encroachment into the Tribes' exclusivity for class III gaming.³ However, since the State's encroachment is offset by new concessions, we must examine whether the value of the new concessions provide substantial economic benefits to the Tribes in a manner justifying the revenue sharing payments.

The State's expansion of commercial casino gaming comes through the authorization of the State Lottery to operate sports wagering in 15 retail outlets and via one online/mobile platform. In exchange, the Tribes receive the ability to operate on-reservation sports wagering, on-reservation mobile casino gaming, State-licensed statewide sports wagering and exclusive State licenses to operate statewide mobile casino games. There is a projected increased substantial economic benefit⁴ due to the ability of the Tribes to exclusively engage in State-wide online casino gaming and such benefit meets the requirements of the meaningful concession necessary to justify the continued revenue sharing payment.

This Amendment opens the door to significant new revenues for the Tribe and creates statewide exclusivity for the Tribes online casino gaming, both for the Tribe's brick and mortar facilities and for the Tribe's off-reservation state licensed gaming. The Department understands the significant impact COVID-19 has had on Indian country and acknowledges the inherent sovereign authority of tribes to engage in economic development and make business decisions that respond to their unique circumstances and are in the best interests of their citizens. We understand the revenue generated from this compact will allow the Tribe to better serve its citizens.

¹See e.g. Letter from Bryan Newland, Principal Deputy Assistant Secretary Indian Affairs, to the Honorable Robert Miguel, Chairman, Ak-Chin Indian Community, dated May, 21, 2021. (the Department's approval of the 2021 Arizona Compacts analyzed the changes in the revenue sharing scheme as well as the changes in meaningful concessions from the State which included reserving 10 State Gaming licenses for the Tribes.)

²Connecticut Attorney General Opinion 18-01 (Apr. 17, 2018), available at https://portal.ct.gov/-/media/AG/Opinions/2018/2018-01_Casino_Issues_Speaker.pdf, at 4 "Although it is our view that sports wagering is not a video facsimile, whether it is a 'commercial casino game' is an open question. That term is not defined in the MOUs or Compacts. How a court might resolve that question is uncertain."

³The Department and the National Indian Gaming Commission have consistently stated sports wagering is a class III game for the purposes of IGRA, and therefore fits within the Department's understanding of the term "other commercial casino games." See 25 C.F.R. 502.4(c); NIGC Bulletin No. 2020-1 *Sports Betting Models*, dated Jan. 29, 2020.

⁴The Tribes submitted an economic and legal justification which substantiates the projected economic value of these concessions.

CONCLUSION

We have completed our review of the Amendment and the MOU and conclude that they do not violate the Indian Gaming Regulatory Act, any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligations of the United States to Indians. 25 U.S.C. § 2710(d)(8)(B). Therefore, pursuant to Section 2710(d)(7)(vii) of IGRA, I approve the Amendment and the MOU. By this letter, we hereby notify the Tribe that the enclosed Amendments to the Final Mashantucket Pequot Gaming Procedures (56 Fed. Reg. 24996, May 31, 1991) as amended, and the amendments to the Memorandum of Understanding between the Tribe and the State of Connecticut are prescribed and in effect.

A similar letter is being sent to the Honorable Ned Lamont, Governor of Connecticut.

Sincerely,



Bryan Newland
Assistant Secretary -Indian
Affairs

Enclosure

AGREEMENT
BETWEEN
THE MASHANTUCKET PEQUOT TRIBE
AND
THE STATE OF CONNECTICUT

The Mashantucket Pequot Tribe (the "MPT") is the owner and operator of a gaming facility on the Mashantucket Pequot Reservation pursuant to the Final Mashantucket Pequot Gaming Procedures (the "Procedures"), 56 Fed. Reg. 24996 (May 31, 1991), as amended from time to time (the "Procedures") and the provisions of the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. §§ 2701 et seq. (the "Act"); and

The MPT and the State of Connecticut (the "State") hereby enter into this Agreement (the "Agreement") to (A) amend certain provisions of the Procedures pursuant to Section 17(c) of the Procedures to authorize retail and online sports wagering and fantasy contests on the Mashantucket Pequot Reservation subject to the terms and conditions of this Agreement, and (B) provide that, subject to the terms and conditions of this Agreement, a change in State law to authorize each of (i) the MPT and the Mohegan Tribe of Indians of Connecticut (the "Mohegan Tribe") to operate online sports wagering, online casino gaming, and fantasy contests outside of its respective reservation and (ii) the Connecticut Lottery Corporation to operate retail sports wagering and online sports wagering, online sale of lottery draw games, retail and online keno, and fantasy contests subject to the terms and conditions of this Agreement shall not terminate the moratorium established under Section 15(a) of the Procedures.

1. The MPT and the State agree to amend Section 2 of the Procedures to add the following as new definitions:

(dd) "Electronic wagering platform" means the combination of hardware, software, and data networks used to manage, administer, offer or control online sports betting or any other authorized games.

(ee) "Entry fee" means the amount of cash or cash equivalent that is required to be paid by a fantasy contest player to participate in a fantasy contest.

(ff) "E-sports" means electronic sports and competitive video games played as a game of skill.

(gg) "Fantasy contests" means any online fantasy or simulated game or contest with an entry fee, conducted over the Internet, including through an Internet web site or a mobile device, in which (A) the value of all prizes and awards offered to a winning fantasy contest player is established and made

known to the players in advance of the game or contest; (B) winning outcomes reflect the knowledge and skill of the players and are determined predominantly by accumulated statistical results of the performance of participants in events; and (C) no winning outcome is based on the score, point spread or any performance of any single team or combination of teams or solely on any single performance of a contestant or player in any single event. "Fantasy contests" do not include lottery games.

(hh) "Keno" means a lottery game in which a subset of numbers are drawn from a larger field of numbers by a central computer system using an approved random number generator, wheel system device or other drawing device.

(ii) "Lottery draw game" means any game in which one or more numbers, letters or symbols are randomly drawn at predetermined times, but not more frequently than once every four minutes, from a range of numbers, letters or symbols and prizes are paid to players possessing winning plays, as set forth in each game's official game rules. "Lottery draw game" does not include keno, any game for which lottery draw tickets are not available through a State lottery sales agent or any game that simulates online casino gaming.

(jj) "Online sports wagering" means sports wagering conducted over the Internet, including through an Internet web site or a mobile device, through an electronic wagering platform that does not require a sports bettor to be physically present at a facility that conducts retail sports wagering.

(kk) "Permitted intercollegiate tournament" means an intercollegiate e-sports, sporting or athletic event involving four or more intercollegiate teams that involves one or more Connecticut intercollegiate teams and the wager on the tournament is based on the outcome of all games within the tournament.

(ll) "Retail sports wagering" means sports wagering using any system or method of wagering requiring a sports bettor to be physically present at a facility.

(mm) "Sporting event" means any (A) sporting or athletic event at which two or more persons participate, individually or on a team, and receive compensation in excess of actual expenses for such participation in such sporting or athletic event; (B) sporting or athletic event sponsored by an intercollegiate athletic program of an institution of higher education or an association of such programs, except for those in which one of the participants is a Connecticut intercollegiate team and the event is not in connection with a permitted intercollegiate tournament; (C) Olympic or international sports competition event; or (D) e-sports event, except for those events in which one of the participants is a

Connecticut intercollegiate team and the event is not in connection with a permitted intercollegiate tournament. "Sporting event" does not include horse racing, jai alai or greyhound racing.

(nn) "Sports wagering" means risking or accepting any money, credit, deposit or other thing of value for gain contingent in whole or in part, (A) by any system or method of wagering, including, but not limited to, in person or through an electronic wagering platform, and (B) based on (1) a live sporting event or a portion or portions of a live sporting event, including future or propositional events during such an event, or (2) the individual performance statistics of an athlete or athletes in a sporting event or a combination of sporting events. "Sports wagering" does not include the payment of an entry fee to play a fantasy contest or an entry fee to participate in e-sports.

2. The MPT and the State agree to amend Section 2 of the Procedures to delete the definition of "gaming facility" under subsection (j) and replace it with the following:

"(j) "Gaming facility" means any room or rooms in which Class III Gaming as authorized by this Compact is conducted on the Reservation, provided that a room shall not be considered a gaming facility based solely on the conduct of online sports betting or any other authorized game conducted over the internet or an intranet through an electronic wagering platform."

3. The MPT and the State agree to amend Section 3(a) of the Procedures to add the following as new subsections (xii) and (xiii):

"(xii) sports wagering, including retail sports wagering and online sports wagering; and

(xiii) fantasy contests, to the extent the same are class III gaming."

4. The MPT and the State agree to amend Section 3(b) of the Procedures to add the following as a new subsection (viii):

"(viii) the Tribe may establish gaming facilities on the Reservation for the operation of any retail sports wagering, online sports wagering, and fantasy contests, including any simulcasting of any such events."

5. The MPT and the State agree to amend Section 3(e) of the Procedures to read as follows:

"(e) Prohibition of attendance of minors. No person under the minimum age for purchase of alcoholic beverages under the laws of the State shall be admitted into any gaming facility other than facilities limited to the play of bazaar games or fantasy contests, nor be permitted to place any wager, directly or indirectly, other than on bazaar games and fantasy contests; provided, however, that minors may receive lottery tickets or chances as gifts; and further provided, however, that a person over the age of majority (eighteen years) may be employed in the gaming facilities provided that they are licensed in

accordance with the provisions of section five and are not employed in the service of intoxicating liquors. Notwithstanding the foregoing, (i) in the event that the age for placing a sports wager through retail sports wagering or online sports wagering or for placing a wager through online casino gaming conducted under the laws of the State is reduced to less than the minimum age for the purchase of alcoholic beverages under the laws of the State, then the age for admission into the gaming facility and for placing a wager shall automatically reduce to such age for placing a sports wager or for placing a wager through online casino gaming under State law, and (ii) no person may participate in any fantasy contests unless such person has attained the age of majority (eighteen years)."

6. The MPT and the State agree to amend Section 6(d) of the Procedures to read as follows: "(d) Temporary registration. Any applicant for a gaming service registration who may file a copy of a current valid gaming service industry registration issued by the State of New Jersey together with its completed application shall be immediately issued a temporary gaming service registration by the State gaming agency pending determination of such applicant's suitability or eligibility for a gaming service registration pursuant to subsection (e) of this section. For the avoidance of doubt, 'registration' includes 'license' or other similar designation under applicable law or regulation."

7. The MPT and the State hereby agree to amend Section 7(b)(ii) of the Procedures to add the following as a new sentence at the end thereof: "Further, the Tribal gaming agency shall establish procedures for persons to self-exclude from the gaming facilities and from placing any wager in-person or online on the Reservation, which procedures shall be no less rigorous than the self-exclusion process in regulations adopted by the State gaming agency pursuant to the State Public Act No. 21-23, consistent with a shared objective of a uniform process across jurisdictions."

8. The MPT and the State hereby agree that a change in State law to authorize each of the MPT (or an instrumentality or an affiliate wholly-owned by MPT) and the Mohegan Tribe (or an instrumentality or an affiliate wholly-owned by the Mohegan Tribe) to operate online sports wagering, online casino gaming and fantasy contests outside of its respective reservation and to authorize the Connecticut Lottery Corporation to operate retail sports wagering and online sports wagering, a program to sell lottery tickets for lottery draw games online, retail and on line keno, and fantasy contests shall not terminate the moratorium established under Section 15(a) of the Procedures, for so long as each provision of subsections (a) and (b) below have been and remain satisfied:

(a) Each of the MPT and the Mohegan Tribe are authorized to operate outside of its respective reservation (i) one skin for online sports wagering, (ii) one skin for online casino gaming, and (iii) fantasy contests; provided that (y) the cessation of the MPT's authority to conduct online sports wagering, online

casino gaming and fantasy contests outside of its Reservation as a result of its violation of the conditions of such authority under State Public Act No. 21-23 granting such authority, and the continued authorization of the Mohegan Tribe, the Connecticut Lottery Corporation, or both to conduct the activities set forth in this paragraph 8, or (z) the cessation of the Mohegan Tribe's authority to conduct online sports wagering, online casino gaming and fantasy contests outside of its reservation as a result of its violation of the conditions of such authority under State Public Act No. 21-23 granting such authority, and the continued authorization of the MPT, the Connecticut Lottery Corporation, or both to conduct the activities set forth in this paragraph 8, shall not itself terminate the moratorium established under Section 15(a) of the Procedures. For purposes of this paragraph 8 only, "online casino gaming" means slots, blackjack, craps, roulette, baccarat, poker and video poker, bingo, live dealer and other peer-to-peer games and any variations of such games, and any games authorized by the State gaming agency, conducted over the Internet, including through an Internet web site or a mobile device, through an electronic wagering platform that does not require a person placing a bet to be physically present at a facility; and

(b) The Connecticut Lottery Corporation's authorization to operate, and the operation by the Connecticut Lottery Corporation of the following, is limited to (i) retail sports wagering at not more than fifteen (15) facilities located in the State, provided that no facility shall be located within twenty-five (25) miles of the reservation of either tribe; (ii) one skin for online sports wagering outside of the reservation of either tribe, provided that such skin is not branded along with an entity or brand that operates a physical casino in any jurisdiction, and such skin does not directly market or promote a physical casino that operates in any jurisdiction, including through awarding of players' points or free play, promotions or other marketing activities; (iii) a program to sell lottery tickets for lottery draw games through the Connecticut Lottery Corporation's Internet web site, online service or mobile application, provided that such lottery drawings do not take place on such Internet web site, online service or mobile application and occur not more frequently than once every four minutes; (iv) keno both through retail lottery sales agents of the Connecticut Lottery Corporation and through the Connecticut Lottery Corporation's internet web site, online service or mobile application, provided drawings occur not more frequently than once every three minutes and the State makes payments to the MPT and the Mohegan Tribe each in the amount of twelve and one-half per cent (12.5%) of the gross gaming revenue from keno; and (v) fantasy contests outside of the reservation of either tribe; and further provided that (vi) while the Connecticut Lottery Corporation may contract for the provision of services for its skin for online sports wagering with an entity that operates in a physical casino in any jurisdiction, if the Connecticut Lottery Corporation contracts with an entity that is owned by an operator of a physical casino in any jurisdiction, such entity

may not utilize any patron information collected as a result of such contract with such operator for purposes of marketing or any other purposes related to acquiring patrons. In this paragraph 8(b), the most recently published U.S. Census maps will be used for purposes of designating the boundaries of the State and the reservations of the MPT and the Mohegan Tribe.

The MPT and the State agree that nothing in this paragraph 8 shall be deemed to confer upon the State any jurisdiction over any Class II gaming conducted by the MPT on the Reservation or to alter the jurisdiction of the State over Class III Gaming conducted by the MPT on the Reservation.

9. This Agreement shall become effective upon the occurrence of all of the following:

(a) The Mohegan Tribe has authorized and entered into an agreement with the State in substantially the same form hereof (the "Mohegan Agreement");

(b) The MPT has adopted a tribal council resolution authorizing the execution of this Agreement and the amendments to the Procedures herein, including the waiver of sovereign immunity set forth in paragraph 12 hereof;

(c) The General Assembly of the State has approved this Agreement and the Mohegan Agreement, or this Agreement and the Mohegan Agreement are considered approved by State legislation, pursuant to C.G.S. Section 3-6c; and

(d) This Agreement and the Mohegan Agreement are approved or deemed approved by the United States Secretary of the Interior pursuant to the Act and its implementing regulations and notice thereof is published in the Federal Register.

10. This Agreement shall have an initial term of ten (10) years from the effective date of this Agreement and a renewal term of an additional five (5) years thereafter, provided that the renewal term shall be effective only if mutually consented to by the State and the MPT and provided that the Mohegan Agreement is also extended for a five (5) year renewal term. Notwithstanding any expiration of this Agreement as set forth in this paragraph 10 or any cessation of effectiveness of this Agreement as set forth in paragraph 11, the Connecticut Lottery Corporation may continue to operate keno through retail lottery sales agents only provided that the State makes payments to each of the MPT and the Mohegan Tribe as set forth in paragraph 8(b)(iv) hereof.

11. This Agreement shall cease to be effective if (a) any provision hereof or of the amendments to the memorandum of understanding between MPT and the State of even date herewith is held to be invalid by a court of competent jurisdiction in a final judgment which is not appealable, (b) any authorization under State law, including any amendment to existing State law pursuant to such authorization, for the MPT or the Mohegan Tribe to operate online sports wagering, online casino gaming

or fantasy contests outside of its respective reservation or of the Connecticut Lottery Corporation to operate retail sports wagering, online sports wagering or fantasy contests as contemplated under paragraph 8 hereof is held to be invalid by a court of competent jurisdiction in a final judgment which is not appealable, or (c) any provision of the Mohegan Agreement or of the amendments to the Mohegan Tribe's memorandum of understanding with the State entered into simultaneously herewith is held to be invalid by a court of competent jurisdiction in a final judgment which is not appealable.

12. The MPT hereby waives any defense that it may have by virtue of its sovereign immunity to enable the State to enforce, in the United States District Courts, without the need to exhaust tribal remedies, the provisions of this Agreement and to enforce, in the United States District Courts, any award of injunctive relief or damages resulting therefrom, and the MPT further consents to the exercise of jurisdiction over such action and over the MPT by the United States District Courts with respect to such actions.

13. Except as modified by this Agreement, the Procedures remain in full force and effect.

STATE OF CONNECTICUT

MASHANTUCKET PEQUOT TRIBE

By: *Ned Lamont*

By: *Rodney Butler*

Name: Ned Lamont

Name: Rodney Butler

Title: Governor, CT

Title: Chairman

Date: 7-26-2021

Date: 7-23-2021

Name: *Bryan Newland*

Date: SEP 10 2021

Bryan Newland
Assistant Secretary - Indian Affairs

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MASHANTUCKET PEQUOT TRIBE
AND
THE STATE OF CONNECTICUT

The State of Connecticut (the "State") and the Mashantucket Pequot Tribe (the "MPT") entered into a Memorandum of Understanding on January 13, 1993, as amended by agreements dated April 30, 1993, April 25, 1994, and July 20, 2017 (the "MOU"), to set forth certain matters regarding implementation of the final Mashantucket Pequot Gaming Procedures, 56 Fed. Reg. 24996 (May 31, 1991), as amended from time to time (the "Procedures"¹¹); and

The State and the MPT agree that: (a) any agreements entered by the State with each of the MPT and the Mohegan Tribe of Indians of Connecticut (the "Mohegan Tribe") pursuant to Public Act No. 21- 23, Section 2(a)(1) regarding the operation of in person sports wagering, online sports wagering, and fantasy contests on its respective reservation; (b) the enactment of any State law to authorize (i) each of the MPT and the Mohegan Tribe to operate online sports wagering, online casino gaming, and fantasy contests outside of its respective reservation and (ii) the Connecticut Lottery Corporation to operate retail sports wagering and online sports wagering, online sales of lottery draw games, retail and online keno, and fantasy contests, subject to the conditions set forth below; and (c) for the avoidance of doubt, the operation of in person sports wagering, online sports wagering and fantasy contests by the Mohegan Tribe on its reservation under the provisions of the Indian Gaming Regulatory Act and by amendments to the Mohegan Tribe's Tribal-State Compact dated May 17, 1994 (the "Compact," as thereafter amended) of even date herewith, shall not affect the rights and responsibilities of the MPT or the State under the MOU or any benefits derived by any party therefrom. Terms used in this agreement but not defined herein or in the MOU shall have the meanings ascribed to them in the Procedures, including the amendments thereto of even date herewith.

1. The MPT and the State hereby agree that a change in State law to authorize the following activities shall not affect the parties' rights and obligations under the MOU, including, without limitation, the MPT's obligation to make the Contribution to the State in accordance with the MOU: (A) the operation outside of its respective reservation by each of the MPT (or an instrumentality or an affiliate wholly-owned by MPT) and the Mohegan Tribe (or an instrumentality or an affiliate wholly-owned by the Mohegan Tribe) of (i) one skin for online sports wagering, (ii) one skin for online casino gaming, and (iii) fantasy contests; and (B) the operation by the Connecticut Lottery Corporation of (i) sports wagering if limited to retail sports wagering at no more than fifteen (15) facilities located in the State, provided that no facility shall

be located within twenty-five (25) miles of the reservation of either tribe; (ii) one skin for online sports wagering outside of the reservation of either tribe, provided that such skin is not branded along with an entity or brand that operates a physical casino in any jurisdiction, and such skin does not directly market or promote a physical casino that operates in any jurisdiction, including through awarding of players' points or free play, promotions or other marketing activities; (iii) a program to sell lottery tickets for lottery draw games through the Connecticut Lottery Corporation's Internet web site, online service or mobile application, provided that such lottery drawings do not take place on such Internet web site, online service or mobile application and occur not more frequently than once every four minutes; (iv) keno both through retail lottery sales agents of the Connecticut Lottery Corporation and through the Connecticut Lottery Corporation's Internet web site, online service or mobile application, provided drawings occur not more frequently than once every three minutes and the State makes payments to the MPT and the Mohegan Tribe each in the amount of twelve and one-half per cent (12.5%) of the gross gaming revenue from keno; and (v) fantasy contests outside of the reservation of either tribe; and (C) the contracting by the Connecticut Lottery Corporation for the provision of services for its skin for online sports wagering with an entity that operates in a physical casino in any jurisdiction, provided that if the Connecticut Lottery Corporation contracts with an entity that is owned by an operator of a physical casino in any jurisdiction, such entity may not utilize any patron information collected as a result of such contract with such operator for purposes of marketing or any other purposes related to acquiring patrons. Further, the MPT and the State agree that the cessation of the MPT's authority to conduct online sports wagering, online casino gaming and fantasy contests outside of its reservation as a result of its violation of the conditions of such authority under State Public Act No. 21-23 granting such authority, and the continued authorization of the Mohegan Tribe, the Connecticut Lottery Corporation, or both to conduct the activities set forth in this paragraph 1, shall not itself, affect the parties' rights and obligations under the MOU, including the MPT's obligation to make the Contribution to the State in accordance with the MOU.

2. The MPT and the State hereby agree that the operation of retail sports wagering, online sports wagering and fantasy contests by the Mohegan Tribe on its reservation under the provisions of the Indian Gaming Regulatory Act and by amendments to the Compact of even date herewith shall not affect the parties' rights and obligations under the MOU, including, without limitation, the MPT's obligation to make the Contribution to the State in accordance with the MOU.

3. For the avoidance of doubt, the MPT and the State agree that, so long as no change in State law is enacted to permit the operating of video facsimiles or other commercial casino games by any person other than as specifically set forth in the MOU as amended by this agreement, and no person within the State other than as set forth in the MOU as amended by this agreement lawfully operates video

facsimile games or other commercial casino games, if the operation of online casino gaming contemplated herein by the MPT takes place on or is deemed to take place on the MPT reservation, the MPT will make a contribution to the State in a sum equal to (i) eighteen percent (18%) of the gross gaming revenue from such online casino gaming during the five (5) year period after the effective date of this agreement and issuance of the master wagering licenses contemplated in section 3 of State Public Act No. 21-23 or (ii) twenty percent (20%) of the gross gaming revenue from such online casino gaming during the sixth and each succeeding year after the effective date of this agreement and issuance of the master wagering licenses contemplated in section 3 of State Public Act No. 21-23. For purposes of this paragraph, "gross gaming revenue" shall have the meaning ascribed thereto in section 17(b) of State Public Act No. 21-23. Any such payment shall be payable on or before the fifteenth day of the month following the month in which the MPT began the operation of any such online casino gaming and on the fifteenth day of each succeeding month while such online casino gaming takes place on the MPT reservation.

4. This agreement shall be co-terminus with the term of the amendments to the Procedures of even date herewith, including the renewal term thereof. Notwithstanding any expiration of this agreement as set forth in this paragraph 4 or any cessation of effectiveness of this agreement as set forth in paragraph 5 hereof, the Connecticut Lottery Corporation may continue to operate keno through retail lottery sales agents only as provided in paragraph 6 of the amendments to the Procedures of even date herewith.

5. This agreement shall cease to be effective if (a) any provision hereof or of the amendments to Procedures of even date herewith is held to be invalid by a court of competent jurisdiction in a final judgment which is not appealable, (b) any authorization under State law, including any amendment to existing State law pursuant to such authorization, for the MPT or the Mohegan Tribe to operate in person sports wagering or online sports wagering, online casino gaming or fantasy contests outside of its respective reservation or of the Connecticut Lottery Corporation to operate retail sports wagering, online sports wagering or fantasy contests as contemplated under paragraph 1 hereof is held to be invalid by a court of competent jurisdiction in a final judgment which is not appealable, or (c) any provision of the amendments to the Compact or of the Mohegan Agreement, hereafter defined, entered into simultaneously herewith, is held to be invalid by a court of competent jurisdiction in a final judgment which is not appealable.

6. The MPT and the State agree that the amendments to the MOU shall only be effective if:
a. The Mohegan Tribe has authorized and entered into an agreement with the State in substantially the same form hereof ("Mohegan Agreement");

b. The MPT has adopted a tribal council resolution authorizing the execution of this agreement and the amendments to the MOU herein;

c. The General Assembly of the State has approved this agreement to amend the MOU and the Mohegan Agreement, or this agreement and the Mohegan Agreement are considered approved by State legislation, under section 3-6c of the Connecticut general statutes; and

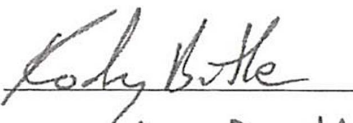
d. This agreement, the Mohegan Agreement and the amendments to the Procedures and Compact, of even date herewith, are approved or deemed approved by the United States Secretary of the Interior pursuant to the Indian Gaming Regulatory Act and its implementing regulations and notice of approval of the amendments to the Compact and Procedures is published in the Federal Register.

7. Except as modified by this agreement, the MOU remains in full force and effect.

STATE OF CONNECTICUT

MASHANTUCKET PEQUOT TRIBE

By: 

By: 

Name: Ned Lamont


Name: Rodney Butler

Title: Governor CT

Title: Chairman

Date: 7-26-2021

Date: 7-23-2021

By: 
Bryan Newland
Assistant Secretary - Indian Affairs

Date: SEP 10 2021