



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUL 31 2014

The Honorable William B. Iyall
Chairman, Cowlitz Indian Tribe
P.O. Box 2547
Longview, Washington 98632

Dear Chairman Iyall:

On June 17, 2014, the Department of the Interior (Department) received the Tribal-State Compact for Class III Gaming (Compact) between the Cowlitz Indian Tribe (Tribe) and the State of Washington (State). Generally, the Compact is very similar to other tribal-state compacts from the State, as amended, that have been in effect for over 20 years.

Decision

We have completed our review of the Compact, and we conclude that it does not violate the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* (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. Therefore, pursuant to my delegated authority and Section 11 of IGRA, I approve the Compact. *See* 25 U.S.C. § 2710 (d)(8)(A). This Compact shall take effect when notice of its approval is published in the Federal Register. *See* 25 U.S.C. § 2710 (d)(3)(B).

Discussion

As noted above, the Compact complies with IGRA, and it is similar to other tribal-state Class III gaming compacts from the State, as amended, that have been approved by the Department since 1991.² These compacts have established a proven, predictable, and successful regulatory and economic development structure and have allowed tribes, the State, nearby non-tribal businesses, and neighboring local governments statewide to benefit from Indian gaming.

¹ While the Compact was pending for review, we received a letter from counsel for Dragonslayer, Inc. and Michels Development LLC (together, “Washington Card Rooms” or “Card Rooms”) urging disapproval of the Compact. Although IGRA does not require consultation with third parties with respect to the Secretary’s approval of compacts, we nevertheless address the main points raised by the Card Rooms in our discussion. *Compare* 25 U.S.C. § 2710 (d)(3) (discussing compact negotiation between Indian tribes and States, and approval of compacts by the Secretary, with no requirement to consult) *with* 25 U.S.C. § 2719 (b)(1)(A) (requiring consultation with “appropriate State and local officials, including nearby Indian tribes” in connection with a Secretarial determination that lands are eligible for gaming when gaming would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community).

² Over twenty-five compacts, as amended, between tribes and the State of Washington have been approved by the Department and are currently in effect under IGRA. *See* <http://www.bia.gov/WhoWeAre/AS-IA/OIG/Compacts/index.htm#Washington> (last accessed on July 29, 2014).

For example, the Compact allows the Tribe to lease (or “transfer”) up to 975 of its “Allocated Player Terminals (APTs) to other Tribes located in Washington.” All of the tribal-state compacts in Washington are in some ways interdependent in that the number of Player Terminals (or gaming devices) each tribe is allocated is limited. Under the Compact, if the Tribe chooses not to operate all 975 of its APTs, it may transfer – or lease – the right to operate some or all of their APTs to another tribe for a specified period of time.³ See Appendix D. A similar system of allocating the number of gaming devices among tribes within a state and governed by a tribal-state compact has been approved in Arizona, as well. There, each tribe is permitted to operate up to 2000 gaming devices, and Tribes may lease a portion or all of their allocation to other tribes for limited periods of time.

In practice, both the Washington and Arizona gaming device allocation and leasing systems create what amounts to a market-driven form of inter-tribal revenue sharing that complies with IGRA’s permissible subjects of compact negotiation because it is a subject that is “directly related to the operation of gaming activities.” 25 U.S.C. § 2710 (d)(3)(C)(vii). Given the financial disparities between tribes that have developed in light of Indian gaming, arrangements that give non-gaming tribes an opportunity to benefit is undoubtedly good and should be accepted when arranged in a legal manner.

We also clarify that although the Secretary has not yet placed land into trust on which Cowlitz can conduct Class III gaming,⁵ the Secretary nevertheless has the authority to approve the compact. IGRA’s compact negotiation, Secretarial review, and approval process set forth at Section 2710 (d) is wholly unrelated to the Secretary’s review and approval of fee-to-trust applications under 25 C.F.R. Part 151.

Between 2005 and 2011, the Department’s policy was that a tribe must have lands eligible for gaming under IGRA before it submitted a proposed compact or the compact would be disapproved.

Known informally as the “Warm Springs policy,” this strained view of IGRA was a departure from the Department’s position and actions since the enactment of IGRA. In fact, the Department had previously approved a number of compacts or amendments for gaming on

³ The APT leasing provisions are unlike those found in a proposed amendment to the compact between Ewiiapaayp Band of Kumeyaay Indians (EBKI) and the State California, which was disapproved in 2008. The terms of the EBKI amendment would have allowed EBKI to operate gaming devices that it owned on another tribe’s lands, whereas here only the *right* to operate a certain number of APTs is transferred to the lessee tribe for a specified time period.

⁴ Using a different mechanism to accomplish revenue sharing, tribal-state compacts in California provide for a “Revenue Sharing Trust Fund” (RSTF) that redistributes up to \$1.1 million per year from tribally-paid gaming device license fees to each non-gaming tribe or tribe that operates less than 350 gaming devices. In *Coyote Valley II*, the Ninth Circuit held that 25 U.S.C. § 2710 (d)(3)(C)(vii) authorized the RSTF. *In re: Indian Gaming Related Cases (Coyote Valley II)*, 331 F.3d 1094, 1111 (9th Cir. 2003). Moreover, the Ninth Circuit found that the RSTF advances IGRA’s goal of promoting tribal economic development, self-sufficiency, and strong tribal governments because all tribes in California – not just those fortunate enough to have land located in populous or accessible areas – can benefit from Class III gaming activities in the State. *Id.*

⁵ The Washington Card Rooms have challenged in Federal district court our April 2013 decision to acquire land in trust for gaming purposes for the Tribe. *Confederated Tribes of the Grand Ronde Community of Oregon et al. v. Jewell et al.*, No. 13-00849 (D.D.C.).

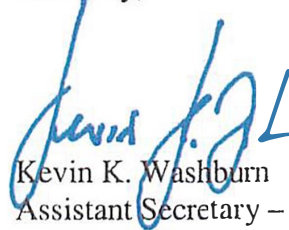
⁶ See Letter to the Honorable Ron Suppah, Chairman, Confederate Tribes of the Warm Springs Reservation of Oregon, from James Cason, Associate Deputy Secretary of the Interior (May 20, 2005).

lands that were not yet eligible under IGRA.⁷ Because it would have precluded the kind of arrangement developed here, we believe that it was misguided. In 2011, the Department withdrew the Warm Springs Policy by approving an amendment authorizing gaming on lands that are the subject of a pending two-part determination.⁸

As we stated in our letter of April 12, 2013, the Department's policy is now that "approval or denial of a gaming compact may precede the completion of other IGRA requirements." In that letter, we noted that before a tribe may conduct gaming on its Indian lands, the tribe must also fully comply with IGRA's other requirements, including (1) lands in trust or restricted fee that are eligible for gaming under IGRA, (2) a Class III gaming ordinance approved by the Chairman of the National Indian Gaming Commission (NIGC), and (3) a facility licensing notification to the NIGC at least 120 days before commencing gaming operations. In other words, approval of this Compact is only one of a number of Federal requirements the Tribe must fulfill before commencing operation of Class III gaming on its lands.

A similar letter is being sent to the Honorable Jay Inslee, Governor of the State of Washington.

Sincerely,



Kevin K. Washburn
Assistant Secretary – Indian Affairs

Enclosure

⁷ See, e.g., Class III gaming compacts or amendments between the Nottawaseppi Huron Band of Potawatomi Indians – State of Michigan, 64 Fed. Reg. 8111 (February 18, 1999), United Auburn Indian Community – State of California, 65 Fed. Reg. 31189 (May 18, 2000), and the Menominee Indian Tribe of Wisconsin – State of Wisconsin, 65 Fed. Reg. 62749 (October 19, 2000).

⁸ See Tribal State Compact for Regulation of Class III Gaming between the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon, 76 Fed. Reg. 11258 (March 1, 2011).



**TRIBAL – STATE COMPACT
FOR CLASS III GAMING**

Between the

Cowlitz Indian Tribe

and the

State of Washington

TABLE OF CONTENTS

COWLITZ INDIAN TRIBE – STATE OF WASHINGTON
CLASS III GAMING COMPACT

INTRODUCTION 1

PARTIES..... 1

DECLARATION OF POLICY AND PURPOSE..... 1

I. TITLE 3

II. DEFINITIONS..... 3

III..NATURE AND SCOPE OF CLASS III GAMING 6

 A... Nature of the Cowlitz Gaming Operation..... 6

 B... Location of the Cowlitz Gaming Facilities..... 6

 C... Ownership of Gaming Facilities and Gaming Operation 7

 D... Construction..... 7

 E... Public Health, Safety and Environmental Protection 7

 F... Alcoholic Beverarage Service 7

 G... Community Contribution..... 8

 H... Forms of Payment..... 9

 I... Size of Gaming Floor 9

 J... Number of Gaming Stations 9

 K... Wagering Limitations 10

 L... “Phase II” Review & Implementation 10

 M... Hours of Operation 11

 N... Prohibited Activities 11

 O... Prohibition on Minors..... 11

 P... Prohibition on Firearms 12

IV..CLASS III GAMING ACTIVITIES 12

 A... Authorized Class III Games 12

 B... Class III Table Games 12

 C... Lottery-type Games 13

 D... Punchboards and Pull Tabs - Separate Locations..... 13

V..LICENSING AND CERTIFICATION REQUIREMENTS..... 13

 A... Gaming 13

B.ooManufacturers and Suppliers of Gaming Services	14
C.ooFinanciers.....	14
D.ooTribal Application Forms	15
E.ooGaming Employees.....	15
F.oo Identification Cards	15
VI. LICENSING AND CERTIFICATION PROCEDURES	15
A.ooProcedures for Tribal License Applications and State Certification	15
B.ooBackground Investigations of Applicants.....	16
F.ooRight to Hearing for Revocation, Suspension, or Denial of State Certification.....	18
G.ooDenial, Suspension, or Revocation of Licenses Issued by Tribal Gaming Agency	18
H.ooDuration and Renewal of Tribal Issued Licenses and State Certifications	18
I.oo Exchange of Tribal Licensing and State Certification Information	19
J.oo Fees for State Certification	19
M.ooSummary Suspension of Tribal License	20
N.ooSummary Suspension of State Certification	20
O.ooSubmission to State Administrative Process	20
VII. TRIBAL ENFORCEMENT OF COMPACT REQUIREMENTS	20
A.ooTribe.....	20
B.ooTribal Gaming Agency	21
C.ooTribal Gaming Agents	21
D.ooInvestigation	22
E.ooReporting of Violations	22
F.oo Tribal Problem-Gambling Program.....	22
VIII. COOPERATIVE ENFORCEMENT OF COMPACT PROVISIONS	22
A.ooMonitoring of Gaming Operation.....	22
C.ooInvestigations.....	23
D.ooTribal Gaming Agency Access to State Gaming Agency Records	24
E.ooCooperation With Tribal Gaming Agency	24
IX. STANDARDS OF OPERATION AND MANAGEMENT.....	24
A.ooAdoption of Standards of Operation and Management	24

B... Additional Standards Applicable.....	26
X...JURISDICTION	29
A... Criminal Matters.....	29
B... Civil Matters	30
C... Sanctions and Civil Fines	30
D... Limited Application of State Law	31
E... Preservation of Tribal Self-Government	31
F... Law Enforcement Coordination	31
XI. REIMBURSEMENT FOR REGULATORY EXPENSES INCURRED BY THE STATE GAMING AGENCY	31
XII. DISPUTE RESOLUTION	31
A... Introduction	31
B... Dispute Resolution Alternatives.....	32
C... Limited Waiver of Sovereign Immunity	33
D... References	34
XIII. REMEDIES	34
A... Injunction Against the State	34
B... Injunction Against the Tribe, the Tribal Gaming Operation, or any Individual.....	34
XIV. LIMITATION OF LIABILITY	35
XV. EFFECTIVE DATE, DURATION, AND AMENDMENTS.....	35
A... Effective Date	35
B... Termination	35
C... Enactment of Compact Provisions	35
D... Revision of State Regulations.....	35
E... Change of State Law.....	35
G... Clarification, Amendments, and Renegotiations	36
XVI...NOTICES.....	38
XVII...SEVERABILITY	38

APPENDIX A – STANDARDS OF OPERATION AND MANAGEMENT FOR CLASS
III ACTIVITIES
APPENDIX B – SATELLITE (OFF-TRACK) WAGERING ON HORSE RACES
APPENDIX C – KENO STANDARDS
APPENDIX D – CLASS III GAMING STATION TRANSFER AGREEMENT
APPENDIX X2 – TRIBAL LOTTERY SYSTEM

INTRODUCTION

This CLASS III TRIBAL-STATE GAMING COMPACT is entered into pursuant to the Indian Gaming Regulatory Act of 1988, P.L. 100-497, codified at 25 U.S.C. §§2701-2721 and 18 U.S.C. §§1166-1168 (hereafter IGRA or Act).

PARTIES

This Tribal-State Compact is made and entered into by and between the Cowlitz Indian Tribe (hereafter Tribe), a federally recognized Indian tribe, possessed of all sovereign powers and rights thereto pertaining; and the State of Washington (hereafter State), a sovereign state of the United States, with all rights and powers thereto pertaining.

DECLARATION OF POLICY AND PURPOSE

The Tribe and the State recognize and respect the laws and authority of the respective parties.

The Congress of the United States has enacted into law the Act, Pub. L. 100-497, 25 U.S.C. §2701-2721 and 18 U.S.C. §1166-1168, which provide in part that a Tribal-State Compact may be negotiated between a tribe and a state to govern the conduct of certain Class III gaming activities on Tribal Lands within the state if the gaming activity is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

The Tribe and the State have negotiated the terms and conditions of this Compact in good faith so as to provide for mutual governmental purposes and to provide a regulatory framework for the operation of certain Class III gaming, which is intended to: (a) ensure the fair and honest operation of such gaming activities; (b) maintain the integrity of all activities conducted in regard to such gaming activities; (c) prevent unsavory and unsuitable persons from having any direct or indirect involvement with gaming activities at any time or in any capacity; (d) establish and maintain responsible accounting practices and procedures; (e) maintain effective control over the financial practices related to gaming activities, including establishing the minimum procedures for internal fiscal affairs and the safeguarding of assets and revenues and reliable recordkeeping; (f) prevent cheating and fraudulent practices; and (g) protect the health, welfare and safety of the citizens of the Tribe and of the State.

The Act provides that an Indian tribe may conduct Class III gaming on Tribal Lands.

The Tribe and the State of Washington have mutually agreed that the conduct of Class III gaming under the terms and conditions set forth below will benefit the Tribe and protect the citizens of the Tribe and of the State consistent with the objectives of the Act.

The parties hereto deem it to be in their respective best interests to enter into this Compact.

A principal goal of federal Indian policy is to promote tribal economic development, tribal self-determination and a strong government to government relationship.

The State recognizes the Tribe's sovereign rights to control gaming activities on Tribal Lands as provided by the Act and this Compact.

It is the policy of the Tribe to exercise and retain its rights to regulate gaming activities upon its lands and reservation for the purposes of encouraging Tribal employment, economic and social development, and funding of Tribal services while ensuring the fair and lawful operation of gaming and the prevention of corrupt and criminal influences. Per 25 U.S.C. §2710(b)(2)(B) the Tribe will utilize net revenues generated by gaming to fund tribal government operations or programs, to provide for the general welfare of the Tribe and its members, to promote tribal economic development, to donate to charitable organizations, or to help fund operations of local government agencies.

This Compact shall govern the licensing, regulation and operation of Class III gaming conducted by the Tribe on Tribal Lands located within the State.

The State and the Tribe are empowered to enter into this Compact due to their inherent power to contract and pursuant to IGRA and state law.

In consideration of the mutual undertakings and agreements hereinafter set forth, the Tribe and the State enter into the following Compact.

I. TITLE

This document will be cited as "The State of Washington Cowlitz Tribe Gaming Compact."

II. DEFINITIONS

For purposes of this Compact:

- (a) "Act" means the Indian Gaming Regulatory Act, Pub.L. 100-497, 25 U.S.C. §2701 et seq.
- (b) "Accounting Department" is that established in the Tribal Gaming Operation's system of organization in accordance with this Compact.
- (c) "Applicant" means any individual who has applied for a Tribal license or State Certification, whether or not such license, Certification, or determination is ultimately granted.
- (d) "Certification" or "State Certification" means the process utilized by the State Gaming Agency to ensure that persons or entities required to be certified are qualified to hold such Certification in accordance with this Compact.
- (e) "Cash Equivalent" means a treasury check, personal check, travelers check, wire transfer of funds, money order, certified check, cashier's check, a check drawn on the Tribal Gaming Operation payable to the patron or to the Tribal Gaming Operation, or a voucher recording cash drawn against a credit card or charge card.
- (f) "Class III Gaming" means all forms of gaming as defined in 25 U.S.C. §2703(8) and authorized under Section IV of this Compact
- (g) "Compact" means the State of Washington - Cowlitz Indian Tribe Gaming Compact and Appendices, as amended.
- (h) "Drop Box" means the container attached to a gaming station, player terminal or kiosk for deposit of cash and certain documents received as provided by this Compact.
- (i) "Gambling Device" means any device or mechanism the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance and any device or mechanism which, when operated for a consideration, does not return the same value or thing of value for the same consideration upon each operation thereof.

- (j) "Gaming" means staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome.
- (k) "Gaming Code" means the Cowlitz Tribal Gaming Ordinance approved by the National Indian Gaming Commission pursuant to IGRA, as amended and any regulations adopted by the Tribe thereunder.
- (l) "Gaming Employee" means any person employed in the operation or management of the Gaming Operation, whether employed by or contracted by the Tribe or by any person or enterprise providing on or off site Gaming Operation or management services to the Tribe regarding any Class III activity, including, but not limited to, Gaming Operation managers and assistant managers; accounting personnel; surveillance personnel; cashier supervisors; dealers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; gaming consultants; management companies and their principals; and any other natural person whose employment duties require or authorize access to restricted areas of the Gaming Facilities not otherwise opened to the public.
- (m) "Gaming Facility" or "Gaming Facilities" means the building or buildings or portions thereof in which Class III Gaming is conducted as authorized by this Compact.
- (n) "Gaming Operation" or "Tribal Gaming Operation" means the enterprise or enterprises operated by the Tribe on Tribal Lands for the conduct of any form of Class III Gaming in any Gaming Facility.
- (o) "Gaming Promotions" means a way to encourage players to participate in a gaming activity. A gaming promotion cannot require the participants to pay any money or other items of value or purchase any service, goods, wares, merchandise, or anything of value to participate in the promotion. Equipment or devices are prohibited from use in a promotion unless authorized within the Compact.
- (p) "Gaming Services" means the providing of any goods or services to the Tribe directly in connection with the operation of Class III Gaming in a Gaming Facility, and involving restricted areas or access. Goods or services include, but are not limited to, equipment, maintenance, management or security services for the Gaming Facilities.
- (q) "Gaming Station" means one gaming table of the general size and scope as commonly used in Nevada.
- (r) "Independent Accountant" means a professional accountant suitably qualified and sufficiently independent to act as auditor of the Tribal Gaming Operation.

- (s) "Individual" means, but is not limited to, natural persons and business entities including business sole-proprietorships, partnerships, corporations, joint ventures, organizations and associations.
- (t) "Internal Controls" means the internal operational system or internal procedures of the Gaming Operation designed to promote efficiency, safeguard assets, and avoid fraud and error.
- (u) "Local Law Enforcement Agency" means any law enforcement agency in the vicinity of the Gaming Operation and which has jurisdiction to enforce local and state laws within the Tribal Lands, or is subject to the terms of a cross-deputization agreement.
- (v) "Management Entity" means any individual with whom, or other business entity with which, the Tribe has entered into a contractual agreement for any Gaming Operation on the Tribal Lands.
- (w) "Net Win" means the total amount of Gaming Station income (gross gaming revenue), i.e., the difference between the total amount wagered or played and the amounts repaid to winners.
- (x) "National Indian Gaming Commission" means the Commission established pursuant to Section 5 of the Act, 25 U.S.C. §2704.
- (y) "Pit" means the area enclosed or encircled by an arrangement of Gaming Stations in which Gaming Facility personnel administer and supervise the games played at the tables by the patrons located on the outside perimeter of the area.
- (z) "Principal" means with respect to any enterprise: (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, or general manager; (iii) each of its owners or partners, if an unincorporated business; (iv) each of its shareholders who own more than ten percent of the shares of the corporation, if a corporation; and (v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent of the total financing of the enterprise.
- (aa) "RCW" means the Revised Code of Washington, as amended.
- (bb) "State" means the State of Washington, its authorized officials, agents and representatives.
- (cc) "State Gaming Agency" means the Washington State Gambling Commission.

- (dd) "Surveillance System" means a recording system with a collection of surveillance cameras in which live signals are viewed and/or recorded within the system and are not publicly distributed or accessible.
- (ee) "Tribal Gaming Agency" means the Cowlitz Tribal Gaming Commission or such other agency of the Tribe as the Tribe may from time to time designate by written notice to the State as the single Tribal agency primarily responsible for regulatory oversight of Class III Gaming as authorized by this Compact. No employee of the Gaming Operation may be a member or employee of the Tribal Gaming Commission.
- (ff) "Tribal Lands" means Indian lands as defined by 25 U.S.C. §2703(4)(A) and (B), which qualify for gaming under the provisions of 25 U.S.C. §2719, which lands are subject to the jurisdiction of the Tribe.
- (gg) "Tribal Law Enforcement" means any police force established and maintained by the Tribe pursuant to the Tribe's powers of self-government to carry out law enforcement within the Tribal Lands.
- (hh) "Tribe" means the Cowlitz Tribe, its authorized officials, agents and representatives.
- (ii) "WAC" means the Washington Administrative Code, as amended.

III. NATURE AND SCOPE OF CLASS III GAMING

A. Nature of the Cowlitz Gaming Operation

- (1) The Tribe possesses Tribal Lands approved by the Department of the Interior for trust acquisition and designation as Initial Reservation of the Cowlitz Tribe pursuant to 25 U.S.C. § 2719(b)(1)(B)(ii). The Tribe desires to conduct gaming on this land as authorized by this Compact. However, a challenge to the Secretary of the Interior's (Secretary) decision to acquire the land in trust and to issue a Reservation Proclamation is currently in litigation. The provisions of this Compact regarding the establishment, operation and regulation of a Gaming Operation and Gaming Facilities shall not apply unless or until a final disposition affirms the Secretary's decisions.
- (2) The Tribe and State agree that the Tribe may lease or transfer any or all of its Allocated Player Terminal rights to another Indian tribe pursuant to Appendix X2 or as subsequently amended in this Compact.

B. Location of the Cowlitz Gaming Facilities

The Tribe may establish up to two Gaming Facilities, to be located on its Tribal Lands, for the operation of any Class III Gaming authorized pursuant to this Compact.

C. Ownership of Gaming Facilities and Gaming Operation

The Gaming Operation, including all Gaming Facilities, shall be owned by the Tribe. The Tribe may, if it chooses, contract with a Management Entity for management of the Gaming Facilities and Gaming Operation. Any such contract shall subject the manager to the terms of this Compact, including annual Certification and licensing.

D. Construction

As with any major development project on the Cowlitz Tribal Lands, any Gaming Facilities will comply with all applicable tribal and federal regulations, including by way of example: zoning, building, environmental review and water quality protection.

E. Public Health, Safety and Environmental Protection

The number of persons permitted at any Gaming Facilities will not exceed the number authorized by applicable fire and building codes. The Tribe shall make provisions for adequate emergency accessibility and service. The Tribe shall comply with and enforce standards no less stringent than those contained in the following laws, regulations and codes:

- (1) Indian Health Service public health standards.
- (2) All Federal laws establishing minimum standards for environmental protection.
- (3) Applicable Environmental Protection Agency program standards and National Environmental Policy Act requirements.
- (4) Federal water quality and safe drinking water standards.
- (5) International Building Code, including codes for electrical, fire and plumbing.
- (6) Public health standards for food and beverage handling in accordance with U.S. Public Health Service requirements.
- (7) Tribal Codes regarding public health, safety and environmental protection standards.

F. Alcoholic Beverage Service

Standards for alcohol service within the Gaming Facilities shall be subject to applicable law or applicable agreement between the Tribe and the Washington State Liquor Control Board.

G. Community Contribution

(1)The Tribe recognizes that activities directly and indirectly associated with the operation of its Gaming Facilities may impact local law enforcement agencies, emergency services, and other services and place an increased burden on them. The Tribe hereby agrees to establish an Impact Mitigation Fund for purposes of providing assistance to impacted non-tribal law enforcement, emergency services, and/or service agencies, including those agencies responsible for traffic and transportation, and water and sanitary sewer. These funds will be distributed based upon evidence of such impacts as demonstrated by each jurisdiction or as otherwise agreed pursuant to Section G.(5) below. The Tribe agrees to withhold and disburse up to two percent (2.0%) of the Net Win from the Gaming Stations, except as otherwise excluded under the provisions of this Compact, for the Impact Mitigation Fund. Except as provided in Appendix X2, Section 14.1, no Tribal Lottery System gaming device revenues, proceeds from a nonprofit station as authorized under Section III.J, Class II gaming revenues, or non-gaming revenues, such as, but not limited to, food, beverage, wholesale or retail sales, shall be included, with the two percent (2.0%) withheld and disbursed as set forth in this section.

(2)A committee consisting of two representatives of the Tribe; a representative of Clark County; a representative of the City of La Center; and a representative of the State Gaming Agency shall be established. The makeup of this committee may be altered by mutual agreement of the Tribe and State Gaming Agency, if necessary.

(3)The committee shall execute a Memorandum of Understanding containing committee rules of order, Impact Mitigation Fund distribution procedures, and establish set factors to be used to determine demonstrated impacts, and unless otherwise agreed, meet at least once every twelve (12) months to discuss the following: 1) impacts within the county, neighboring cities, and on the Tribal Lands; 2) services provided by the Tribe and other agencies; and 3) the distribution of the Impact Mitigation Fund. If the committee determines that the impact mitigation distribution does not meet or exceed the two percent (2.0%) withholding, the remaining funds shall be distributed to the Tribe.

(4)The recipients of the Impact Mitigation Fund shall be paid within thirty (30) days following the meeting of the committee.

(5)The Tribe and impacted jurisdictions may enter into written agreements delineating the anticipated governmental relationships and responsibilities both on and off Tribal Lands with respect to the utilization of the Impact Mitigation Fund. A copy of any such agreements shall be provided to the State Gaming Agency.

(6) Under Tribal Ordinance 07-02, the Tribe is required to compensate Clark County and the local tax districts on a biannual basis in lieu of property taxes for revenues lost due to the removal of the Tribe's trust land from the County tax rolls. The receipt and distribution of these in lieu tax revenues shall be taken into account by the committee when determining demonstrated impacts on these local governments.

(7) Either the State Gaming Agency or the Tribe may request a re-evaluation, and possible adjustment of the community contribution based upon impacts being different than anticipated. In the event the State and Tribe mutually agree, the community contribution shall be adjusted at that time.

H. Forms of Payment

All payment for wagers made in authorized forms of Class III Gaming conducted by the Tribe on its Tribal Lands, including the purchase of chips for use in wagering, shall be made by cash, cash equivalent, credit card or personal check. The Tribal Gaming Operation shall prohibit patrons from using public assistance electronic benefit cards for the purpose of participating in any of the activities authorized by this Compact.

I. Size of Gaming Floor

The actual Class III gaming floor within each Gaming Facility shall be determined by the Tribe.

J. Number of Gaming Stations

The maximum number of Class III Gaming Stations shall not exceed seventy-five (75) gaming stations within one facility and a total of fifty (50) Gaming Stations within a second facility plus, at the option of the Tribe, one (1) additional Gaming Station ("the nonprofit station") for every twenty-five (25) Gaming Stations allowed in each Gaming Facility. The proceeds from all nonprofit stations shall be dedicated to support nonprofit and charitable organizations and their activities located within Clark County or the State of Washington. For purposes of determining "proceeds" from a nonprofit station only, proceeds shall mean the pro rata net profit of the nonprofit station. The Tribal Gaming Code shall require regulations to be adopted concerning the types of bona fide nonprofit and charitable organizations or types of projects of such organizations that shall be supported by a nonprofit station. PROVIDED, that the Tribe is required to obtain transfers of a Class III Gaming Station authorization from another tribe which has entered into a compact with the State for the use of Class III Gaming Stations, as defined in this Compact for any Class III Gaming Stations, except for nonprofit stations, beyond sixty (60) in total for all gaming facilities. PROVIDED FURTHER, that the transfer of Class III Gaming Station authorization from another tribe shall be effectuated through the use of a "Class III Gaming Station Transfer Agreement" substantially in the form appended hereto as Appendix D of this Compact.

K. Wagering Limitations

During the first twelve months of operation, wager limits shall not exceed two hundred fifty dollars (\$250). At the end of twelve (12) months of continued operation, if the Gaming Operation has met the conditions set forth in Section III.L, “phase two” may be implemented, providing for wager limits of up to five hundred dollars (\$500). PROVIDED, that the Tribe may implement wager limits of up to five hundred dollars (\$500) prior to twelve (12) months of continued operation if the State Gaming Agency grants temporary phase two approval, as set forth in subsection III.L(2).

L. “Phase II” Review & Implementation

(I)After twelve months of operation of a Class III Gaming Facility, the State Gaming Agency shall conduct a review of the Class III Gaming Operation to determine Compact compliance and whether the conditions set forth below have been satisfied. If, as a result of the review, the State Gaming Agency determines that the Gaming Operation is in compliance with the conditions set forth below, the Class III Gaming Operation may implement “phase two.” If the State Gaming Agency determines that the Class III Gaming Operation has not satisfied the conditions, any resulting dispute will be resolved through the dispute resolution procedures set forth in section XII.B. of this Compact. Any increase in the wager limits beyond that initially authorized during “phase one” of Class III Gaming Operation shall be conditioned upon the following criteria:

- (i) There have been no violation(s) of the provisions of this Compact which have resulted in sanctions imposed by a Federal District Court or the National Indian Gaming Commission;
- (ii) There have been no violations of the Compact which are substantial or, due to repetition, would be deemed material;
- (iii) There have been no material adverse impacts on the public health, safety or welfare of the surrounding communities in the nature of criminal activities directly related to the operation of the Class III Gaming Facilities;
- (iv) The Tribal Gaming Agency has developed a strong program of regulation and control demonstrating an adequate level of proficiency, which includes hiring of trained Tribal Gaming Agents, an independent Tribal Gaming Agency management and reporting structure separate from that of the Gaming Facilities or Tribal government, a thorough and developed system for the reporting of Compact violations, and a strong and consistent presence within each Class III Gaming Facility; and
- (v) There have been no material violations of Appendices A, B, C, D, or X2 of this Compact.

(2)The Tribe may operate at phase two levels upon the opening of the Gaming Facility or Facilities if the Gaming Operation meets certain criteria for temporary phase two approval by the Director of the State Gaming Agency. In lieu of twelve (12) months of continuous operation, the Tribe must demonstrate its compliance with the following requirements prior to the opening of each facility:

- (i)The Tribe has satisfied the portions of the phase two review that the State Gaming Agency requires prior to the opening of each Gaming Facility.
- (ii) The Tribe has satisfied the requirements set forth in subsection III.L(1)(iv). In addition, the Tribal Gaming Agency has employed Tribal Gaming Agents trained in audit procedures and will establish its own internal audit program. The Tribal Gaming Agency shall be responsible for regular reviews of the gaming station and Tribal Lottery System checklists.
- (iii) If, after granting temporary phase two approval, the Director of the State Gaming Agency determines that the Tribe has failed to demonstrate substantial compliance with the requirements of subsection III.L(1), then the Tribe shall operate at phase one levels until the State Gaming Agency gives subsequent temporary or standard phase two approval.

M. Hours of Operation

Operating hours shall be determined by the Tribe.

N. Prohibited Activities

Any Class III Gaming activities, electronic facsimiles of Gaming activities, and Gambling Devices that are not specifically authorized in this Compact are prohibited.

O. Prohibition on Minors

No person under the age of eighteen (18) shall participate in any Gaming activities authorized by this Compact, or be employed in any Gaming Operation, or be allowed on the Class III gaming floor during actual hours of operation. PROVIDED, that such age limitation shall not apply to an individual accompanied by an adult for the specific and limited purpose of proceeding directly and immediately across the gaming area for legitimate non-gaming purpose, with no gaming area loitering or gaming participation by the underage person or accompanying adults. Persons between the ages of eighteen (18) and twenty (20) may patronize and participate in Class III Gaming activities offered by the Tribe in its Gaming Facilities, so long as such patrons do not purchase or consume alcoholic beverages on the premises in accordance with Washington State liquor laws or an applicable written agreement between the Tribe and Washington State Liquor Control Board.

P. Prohibition on Firearms

The possession of firearms by any person within a Gaming Facility shall be strictly prohibited, and the Tribal Gaming Agency shall post a notice of this prohibition near the entrances to each Gaming Facility. This prohibition shall not apply to authorized agents of the Tribal or State Gaming Agencies. This prohibition shall also not apply to local law enforcement agencies authorized by federal law, tribal law or by a cooperative, mutual aid or cross-deputization agreement.

IV. CLASS III GAMING ACTIVITIES

A. Authorized Class III Games

The Tribe may conduct, subject to the terms and conditions of this Compact, any or all of the following games:

- (1) Keno; subject to Appendix C;
- (2) Satellite (Off-Track) wagering on Horse Races, subject to Appendix B;
- (3) Tribal Lottery Systems. Notwithstanding anything in this Compact which could be construed to be to the contrary, Tribal Lottery Systems operated in conformity with Appendix X2 are hereby authorized;
- (4) Sports Pools, on regularly scheduled athletic contests, of one hundred (100) squares wherein each square is sold for not more than ten (\$10) dollars and all proceeds, less a tribal administrative charge of no more than 50 cents for each \$10 wagered, are awarded as prizes. All other provisions of RCW 9.46.0335 shall be applicable; and
- (5) The sale of Washington State lottery tickets on the Cowlitz Indian Tribe Reservation shall be subject to the provisions of RCW 67.70, WAC 315, and the Tribal Ordinance.
 - (6) Any Gambling Device, as defined herein and the Johnson Act, 15 U.S.C. §1171, that is currently authorized for play in the State of Washington.

B. Class III Table Games

- (1) The Tribe may offer any Class III table game authorized for play in the State of Washington pursuant to the game rules approved at the time of the effective date of this amended compact.
- (2) For any modification to currently authorized Class III table games or Class III table games that are subsequently authorized for play in the State of Washington, the Tribe shall provide the game regulations to the State Gaming Agency at least

thirty (30) days prior to the time play shall begin. If the State takes no action within the 30 days, the Tribe may begin offering the game. If a dispute arises between the Tribe and the State with respect to issues of the legality of the game, rules of the game, manner of play, or training or enforcement associated with regulation, the State and Tribal Gaming Agencies shall meet and resolve the dispute prior to the time play of that game can begin. If either party believes, after negotiations have commenced, that a resolution by the parties cannot be achieved, then either or both parties shall be entitled to have the dispute resolved pursuant to the dispute resolution provisions of Section XII below.

- (3) For any other Class III table games authorized for play in Nevada and played in accordance with applicable Nevada rules, the Tribe shall provide the game regulations to the State Gaming Agency at least thirty (30) days prior to the time play shall begin. Provided, should a dispute arise, the game shall not be utilized until the dispute is resolved in accordance with Section XII.

C. Lottery-type Games

For games including keno-type games, instant tickets, or other lottery-type games authorized for play for any purpose by any person, organization, or entity in the State of Washington that are not otherwise treated as Class II gaming in Washington pursuant to 25 U.S.C. §2703(7), the Tribe will submit the proposed rules, manner of regulation and manner of play to the State Gaming Agency at least sixty (60) days prior to time play shall begin. If the State takes no action within the 60 days, the Tribe may begin offering the game. Provided, should a dispute arise, the game shall not be utilized until the dispute is resolved in accordance with Section XII.

D. Punchboards and Pull Tabs - Separate Locations

In addition to the games authorized by Section IV, the Tribe may utilize punchboards and pull tabs in its Gaming Facilities and at other locations under the jurisdiction of the Tribe subject to regulation and licensing by the Tribe and operated in a manner consistent with the sale of punchboards and pull tabs under IGRA.

V. LICENSING AND CERTIFICATION REQUIREMENTS

A. Gaming Facilities

The Gaming Facilities authorized by this Compact shall be licensed by the Tribal Gaming Agency in conformity with the requirements of this Compact prior to commencement of operation, and at least once every three (3) years thereafter to verify conformity with the requirements of this Compact. Verification that such requirements have been met for any new or additional facilities, or for expansion of an existing facility shall be made by the Tribal Gaming Agency and State Gaming Agency, through a joint pre-operation inspection scheduled at least thirty (30) days prior to the scheduled opening to the public. If a Gaming Facility fails to meet such requirements, the Tribal or State Gaming Agency

must send a written and detailed non-compliance letter and report to the Tribe and the manager, if any, within seven (7) working days after completion of the inspection. If the Tribal and State Gaming Agencies do not agree on whether a Gaming Facility meets the requirements, the agencies will meet within seven (7) working days from receipt of the non-compliance letter and work together to resolve concerns. If a dispute regarding this inspection cannot be resolved by the gaming agencies within sixty (60) days, the parties may seek resolution pursuant to Section XII of this Compact.

B. Manufacturers and Suppliers of Gaming Services

Each manufacturer and supplier of Gaming Services shall be licensed by the Tribal Gaming Agency and shall be certified by the State Gaming Agency prior to the sale of any Gaming Services to the Tribe. If a supplier or manufacturer of the Gaming Services is currently licensed or certified by the State of Washington to supply goods or services to any other tribe in the state, it shall be deemed certified to supply the same goods or services to the Tribe for the purposes of this Compact. The licensing and Certification shall be maintained annually after the initial State Certification. In the event a manufacturer or supplier demonstrates that their anticipated profits from sales will be below the cost of obtaining a State Certification, it may apply for an abbreviated form of State Certification for special sales. Firms or representatives providing professional legal and accounting services, when licensed by the Washington State Bar Association or the Washington State Board of Accountancy, will not be subject to State Certification, and the Tribe will determine if a license is required. In the event a manufacturer or supplier provides or intends to provide less than \$25,000 worth of Gaming Services or goods annually, the licensing requirements may be waived upon the mutual agreement of the Tribal and State Gaming Agencies.

C. Financiers

Any party who extends or intends to extend financing, directly or indirectly, to a Gaming Facility or Gaming Operation shall be subject to the annual Certification and licensing requirements of the State Gaming Agency and the Tribal Gaming Agency. Such party shall be required to obtain State Certification before executing the financing agreement and annually thereafter as long as the financing agreement is in effect. Notwithstanding the foregoing, these licensing and Certification requirements do not apply to financing provided by a federally regulated commercial lending institution, the Tribe, or the federal government. Federally regulated commercial lending institutions are those regulated by the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the United States Federal Reserve System, the National Credit Union Administration, and/or the Washington State Department of Financial Institutions.

D. Tribal Application Forms

All applicants required to be licensed by the Tribe shall complete forms furnished by the Tribal Gaming Agency that, at a minimum, shall include complete name, aliases, social security number, date of birth, current address, and information relating to the applicant's complete criminal history, as well as all civil or administrative violations of gambling laws or regulations.

E. Gaming Employees

Every Gaming Employee shall be licensed by the Tribal Gaming Agency and shall be certified by the State Gaming Agency prior to commencement of employment and annually thereafter. The Tribal Gaming Agency may immediately issue a conditional, temporary license if the employee has a current State Gambling license or Class III gaming Certification issued by the State Gaming Agency, the State Gaming Agency certifies that the prospective employee is in good standing, and the employee consents to disclosure of records to the Tribal Gaming Agency of all information held by the State Gaming Agency. If Class II and Class III table games are combined in the same room in a Gaming Facility, the parties agree that this could impact the regulatory scheme established under this Compact. In such event, the Class II Gaming Employees in such room shall obtain State Certification by the State Gaming Agency as if they were Class III Gaming Employees.

F. Identification Cardsee

The Tribal Gaming Agency shall require all Gaming Employees to wear, in plain view, identification cards issued by the Tribal Gaming Agency which include the Gaming Employee's photo, first name, an identification number unique to the individual's Tribal license and/or State Certification, a Tribal seal or signature, and a date of expiration.

VI. LICENSING AND CERTIFICATION PROCEDURES

A. Procedures for Tribal License Applications and State Certification

Each applicant for a Tribal gaming license and for State Certification shall submit the completed application along with the required information to the Tribal Gaming Agency. Each completed application shall be accompanied by the applicants' fingerprint card(s), current photograph, and the fees required by the State and Tribal Gaming Agencies. Upon receipt, the Tribal Gaming Agency will transmit to the State Gaming Agency a copy of all application materials for each applicant to be certified, together with a set of fingerprint cards, a current photograph, and the fees required. For applicants who are business entities, these provisions shall apply to the principals and spouses of such entities.

B. Background Investigations of Applicants

Upon receipt of a completed application, attachments and the fee required for State Certification, the State Gaming Agency shall conduct the necessary background investigation to ensure the applicant is qualified for State Certification. The State Gaming Agency shall expedite gaming Certification requests submitted by the Tribe. Upon completion of the necessary background investigation, the State Gaming Agency shall either issue a State Certification or deny the application based on criteria set forth in this Compact. If the State Gaming Agency issues a State Certification, the State shall forward the Certification to the Tribal Gaming Agency. If the application for Certification is denied, a statement setting forth the grounds for denial shall be forwarded to the applicant in accordance with the provisions of Chapter 230-17 WAC with a copy forwarded to the Tribal Gaming Agency. After twenty-four (24) months of operation, and upon the Tribe's demonstration of its capacity to conduct background investigations meeting Compact standards for Certifications, the State and the Tribe shall meet and confer regarding the possibility of transferring to the Tribe the primary responsibility for the conduct of background investigations for its tribal member applicants. State Certification of tribal member applicants shall still be required even if the primary responsibility for conducting background investigations is transferred to the Tribe, but Certification fees will be adjusted to reflect the primary background investigation responsibility of the Tribe. The State shall not apply to any applicant for Certification required under this Compact a more rigorous standard than that actually applied in the approval of state licenses or Certifications in non-Tribal gaming activities regulated by the State. All background materials compiled by the State Gaming Agency in connection with the background investigation of any applicant for Certification shall be available to the Tribal Gaming Agency at the State Gaming Agency office upon request, subject to any constraints imposed by the State Gaming Agency's accreditation as a law enforcement agency and status as a member of Law Enforcement Intelligence Unit.

C. Consultation with Tribal Gaming Agency

The State Gaming Agency will consult with the Tribal Gaming Agency prior to denying Certification to an applicant who does not meet the criteria for Certification. For enrolled members of the Tribe who are applicants for Class III gaming Certification and licensing, the State and Tribal Gaming Agencies may waive, by mutual agreement, through a provisional or conditional Certification, certain criteria for such enrolled tribal members if the waiver does not pose an appreciable risk to the public or the lawful operation of the Gaming Facility. If the Tribe can show extenuating circumstances why an enrolled tribal member who does not meet all criteria should be further considered for a provisional or conditional Certification, the Tribal and State Gaming Agencies may agree to a temporary Certification, based on specific conditions and a further detailed review of the applicant. Additional fees may be required to maintain a conditional or provisional Certification, which the Tribe agrees to pay.

D. Grounds for Revocation, Suspension or Denial of State Certification

The State Gaming Agency may revoke, suspend or deny a State Certification under the provisions of RCW 9.46.075, and rules promulgated thereunder, for any reason or reasons it deems to be in the public interest. In addition, these reasons shall include, but shall not be limited to when an applicant or holder of a Certification or principal of an entity:

- (1) Is determined to be a person who because of prior activities, criminal record, if any, or reputation, habits and associations poses a threat to the effective regulation of gaming or creates or enhances the chances of unfair or illegal practices, methods and activities being used in the conduct of the Gaming activities permitted pursuant to this Compact;
- (2) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal-State Compact;
- (3) Has failed to provide any information reasonably required to investigate the application for State Certification or to reveal any fact which the applicant or holder knows or should reasonably know or is material to such application, or has furnished any information which is untrue or misleading in connection with such application; or
- (4) Has had a Tribal or State Gaming license or Certification revoked or denied during the twelve (12) months prior to the date the Tribe received the application; is currently on probation imposed by any jurisdiction; or has demonstrated a willful disregard or failed to comply with the requirements of any gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of any gaming license. For the purpose of reviewing any application for a State Certification or for considering the denial, suspension or revocation of any State Certification, the State Gaming Agency may consider any prior criminal conduct or current probationary status of the applicant or holder of certification and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases.

E. Non-Gambling Related Offenses

Notwithstanding anything herein to the contrary, in the absence of other violations, it shall not automatically be grounds for revocation, suspension or denial of State Certification for an Indian person from a federally recognized Indian tribe to have been charged or convicted under state law for the following non-gambling related offenses if the charge or conviction occurred prior to the United States Supreme Court rulings upholding the state jurisdiction over Indians for such offenses such as, but not limited to: (1) fishing or hunting offenses; (2) cigarette, fireworks or alcohol sales offenses; or (3) cases involving the exercise of trust or treaty rights. In the absence of other violations, activities or factors which would warrant denial, revocation or suspension, these Indian persons shall not be barred solely as a result of such activities from Certification.

F. Right to Hearing for Revocation, Suspension, or Denial of State Certification

Any applicant for State Certification or holder of a State Certification shall be entitled to notice and a full hearing on any action by the State Gaming Agency which may result in the revocation, suspension, or denial of State Certification. The notice and hearing will be conducted in accordance with the procedures contained in the applicable provisions of Chapter 9.46 RCW, Chapter 34.05 RCW and Chapter 230-17 WAC. The State Gaming Agency may, at its discretion, defer such actions to the Tribal Gaming Agency. Nothing herein shall prevent the Tribal Gaming Agency from invoking its own disciplinary procedures and proceedings at any time. The Tribe shall have the right to appear and present argument and/or evidence in any hearings held pursuant to this section. Nothing herein shall be interpreted to preclude the Tribe from invoking the dispute resolution provisions of this Compact to challenge a State Gaming Agency decision to revoke, suspend or deny State Certification.

G. Denial, Suspension, or Revocation of Licenses Issued by Tribal Gaming Agency

The denial, suspension, or revocation of any Tribal gaming license by the Tribal Gaming Agency shall be in accordance with Tribal ordinances and regulations governing such procedures and the grounds for such actions shall not be less stringent than those of Section VI.(D)(1)-(4). The Tribe shall notify the State Gaming Agency of any determination under this paragraph.

H. Duration and Renewal of Tribal Issued Licenses and State Certifications

(1) Any Tribal license, or State Certification shall be effective for one year from the date of issuance unless, in the case of a license or Certification, the holder is otherwise revoked or suspended. The Tribal Gaming Agency shall submit to the State Gaming Agency a renewal for Certification within 5 (five) business days of issuance of the renewed annual Tribal license. A licensed or certified employee or entity that has applied for renewal prior to the expiration date may continue to be employed under the expired Tribal license or State Certification until the Tribal

Gaming Agency or State Gaming Agency takes action on the renewal application or the license or Certification is suspended or revoked.

- (2) Applicants seeking renewal of a license or Certification shall provide information updating originally submitted information as requested, on the appropriate renewal forms, but shall not be required to re-submit historical data already available to the Tribal Gaming Agency or the State Gaming Agency. Additional background investigation shall be required if new information concerning the applicant's continuing suitability or eligibility for a Tribal license, or a State Certification is discovered by either the Tribal or State Gaming Commission. Any updated information received by the State Gaming Agency shall be available to the Tribal Gaming Agency at the State Gaming Agency's office upon request, subject to any of the constraints imposed by the State Gaming Agency's accreditation as a law enforcement agency and status as a member of the Association of Law Enforcement Intelligence Units.

I. Exchange of Tribal Licensing and State Certification Information

In an effort to ensure a qualified work force in all areas of Class III Gaming, and in all types of gambling authorized under the laws of the State, upon completion of any administrative action or legal proceeding against a Tribal license or State Certification, the final disposition shall be forwarded to either the Tribal Gaming Agency or the State Gaming Agency, as applicable.

J. Fees for State Certification

The fees for initial and renewal State Certification shall be determined pursuant to WAC 230-05-035(6) for gaming employees, WAC 230-05-035(4) for service suppliers, WAC 230-05-035(7) for manufacturers, and WAC 230-05-035(2) for distributors. Provided, should actual costs incurred by the State Gaming Agency exceed the stated fees, those costs will be assessed to the applicants during the investigation process. Payment in full to the State Gaming Agency will be required prior to beginning the investigation for the issuance of State Certification. Notwithstanding any other provision of this Compact, the State Gaming Agency may modify any of the above fees consistent with like fees charged by the State Gaming Agency for non-Compact gaming elsewhere in the State by giving the Tribe sixty (60) days notice of intent to modify fees. Should a dispute arise under this Section it shall be resolved pursuant to Section XII of this Compact.

K. Fees For Tribal License

The Tribal Gaming Agency shall establish the fees for Tribal gaming licenses.

L. Temporary Certification of Gaming Employees

Within thirty (30) days of the State Gaming Agency's receipt of the completed application, the State Gaming Agency shall upon request of the Tribal Gaming Agency, issue a temporary Certification to the applicant unless the background investigation undertaken by the State Gaming Agency discloses that the applicant has a criminal history, or unless other grounds sufficient to disqualify the applicant pursuant to this Section are apparent or have been discovered during that period. The temporary Certification shall become void and be of no effect upon either the issuance of a State Certification or upon the issuance of intent to deny, in accordance with the provisions of this Compact.

M. Summary Suspension of Tribal License

The Tribal Gaming Agency, pursuant to the laws of the Tribe, may summarily suspend any Tribal license if the continued licensing of a person or entity constitutes an immediate and potentially serious threat to the public health, safety or welfare.

N. Summary Suspension of State Certification

The State Gaming Agency, pursuant to the laws of the State, may summarily suspend any State Certification if the continued Certification constitutes an immediate and potential serious threat to public health, safety or welfare.

O. Submission to State Administrative Process

Applicants for State Certification agree by submitting such application to submit to State jurisdiction to the extent necessary to determine qualification to hold such Certification, including all necessary administrative procedures, hearings and appeals pursuant to RCW 9.46, WAC 230-17, and the State Administrative Procedure Act, RCW 34.05.

VII. TRIBAL ENFORCEMENT OF COMPACT REQUIREMENTS

A. Tribe

The ultimate responsibility for ensuring the regulation, control, and integrity of the gaming authorized by this Compact shall be that of the Tribe. The Tribe shall provide for and oversee the following functions:

- (1) Ensure the enforcement in the Gaming Operation, including the Gaming Facilities, of all relevant laws;
- (2) Ensure that the Gaming Operation has adequate policies in place for the physical safety of patrons in the establishment; and
- (3) Ensure the physical safety of personnel employed by the establishment.

B. Tribal Gaming Agency

The primary responsibility for the on-site regulation, control and security of the Gaming Operation authorized by this Compact, and for the enforcement of this Compact shall be that of the Tribal Gaming Agency. As part of its structure, the Tribal Gaming Agency shall perform the following functions or ensure that they are being performed by the Tribe or its designee, as related to the regulation and integrity of gaming:

- (1) Ensure the physical safeguarding of Gaming assets transported to and from Gaming Facilities and cashier's cage department;
- (2) Protect the patrons and each facilities' property from illegal activity;
- (3) Temporarily detain, to the extent of its authority, persons who may be involved in illegal acts for the purpose of notifying the law enforcement authorities; and
- (4) Record in a permanent and detailed manner any and all unusual occurrences within each Gaming Facility. If the information is recorded in a computerized system, the system will adequately preserve and protect the integrity and security of the information required. Each occurrence shall be assigned a sequential number. At a minimum, the following information shall be recorded in a permanent record:
 - (i) the assigned number;
 - (ii) the date;
 - (iii) the time;
 - (iv) the nature of the incident;
 - (v) the person involved in the incident; and
 - (vi) the security department or Tribal Gaming Employee assigned.

C. Tribal Gaming Agents

- (1) Tribal Gaming Agents shall be independent of the Tribal Gaming Operation, and shall be supervised and accountable only to the Tribal Gaming Agency.
- (2) A Tribal Gaming Agent shall be present in the Gaming Facilities during all hours of the Gaming Operation authorized under this Compact, and shall have immediate access to any and all areas of the Gaming Operation for the purpose of ensuring compliance with the provisions of this Compact and Tribal ordinances.

D. Investigation

- (1) The Tribal Gaming Agency shall investigate any reported, observed or suspected violation of the Compact provisions or Gaming Code and shall require the Gaming Operation to correct the violation upon such terms and conditions as the Tribal Gaming Agency determines are necessary.
- (2) If requested by the Tribal Gaming Agency, the State Gaming Agency shall assist in any investigation initiated by the Tribal Gaming Agency and provide other related investigation services for which the Tribe agrees to reimburse the State Gaming Agency for its costs.

E. Reporting of Violations

- (1) Any violation(s) of the provisions of this Compact, or of the Gaming Code by the Gaming Operation, a Gaming Employee, Gaming service supplier or any person on the premises whether or not associated with the Gaming Operation shall be reported immediately to the Tribal Gaming Agency. The Tribal Gaming Agency shall notify the State Gaming Agency within seventy-two (72) hours of the time the violation(s) was noted.
- (2) The Tribal Gaming Agency shall make copies of all completed incident and investigation reports and final dispositions available to the State Gaming Agency on a continuing basis.

F. Tribal Problem-Gambling Program

The Tribe recognizes that gambling activities can lead to compulsive behavior that is as severe and has the same negative consequences as other behavioral addictions. The Tribe will work with the State Gaming Agency, who currently maintains an affiliation with a nationally recognized problem gambling organization, to establish an education and awareness program for the Tribal Lands and surrounding communities. The program may be independent or developed as an adjunct to the program with which the State currently works.

VIII. COOPERATIVE ENFORCEMENT OF COMPACT PROVISIONS

A. Monitoring of Gaming Operation

- (1) The State Gaming Agency shall, pursuant to the provisions of this Compact, have the authority to monitor the Tribal Gaming Operation to ensure that it is conducted in compliance with the provisions of this Compact. When reasonable the State Gaming Agency will coordinate inspections or investigations with the Tribal Gaming Agency prior to onsite monitoring of the Tribal Gaming Operation.

- (2) Agents of the State Gaming Agency and, as applicable, the Horse Racing Commission, shall have access equivalent to that exercised by the Tribal Gaming Agency to all areas of the Gaming Facility during all normal operating hours with or without giving prior notice to the Tribal Gaming Operation. Following the investigation, and to the extent such disclosure does not jeopardize the investigation or the personal safety of individuals, the State Gaming Agency shall provide the Tribal Gaming Agency with a report of the investigation, including information about evidence gathered in connection with the investigation. In no event shall the Tribe have access to identifying information regarding confidential informants.
- (3) State agents shall provide proper identification at the time of inspection to the appropriate Tribal representatives; provided the State Gaming Agency Director may assign agents to work in an undercover capacity to assist in monitoring the provisions of this Compact. The Tribal Gaming Agency and the State Gaming Agency shall establish protocol that allows the Tribal Gaming Agency to confirm that the State agent is duly authorized by the State to monitor the Tribal Gaming Operation.

B. Access to Records

- (1) Agents of the State Gaming Agency may review and copy, during all operating hours, all applicable Class III Gaming records maintained by the Tribal Gaming Operation or necessary to verify compliance with provisions of this Compact. However, the State Gaming Agency is mindful of the Tribe's desire for privacy, and agrees to examine all records at the Gaming Facilities, to the extent practical. The State Gaming Agency further agrees that its agents will only retain copies of records necessary for investigative purposes. Any information shall be deemed strictly confidential and proprietary information of the Tribe and shall not be disclosed except as required under law or the terms of this Compact.
- (2) The State Gaming Agency or, as applicable, the Washington Horse Racing Commission, shall notify the Tribe, by certified mail, or by other mutually agreed upon means, of requests for disclosure of the Tribe's information and shall not disclose any such information until the Tribe, the State, or both have had a reasonable opportunity to challenge the request.

C. Investigations

The State Gaming Agency will notify the Tribal Gaming Agency of any alleged violations of the provisions of this Compact and may request the Tribal Gaming Commission take appropriate enforcement and/or corrective action. Failure of the Tribal Gaming Commission to take the action recommended by the State Gaming Agency will constitute a dispute or disagreement between the parties subject to the dispute resolution provisions contained in Section XII of this Compact.

D. Tribal Gaming Agency Access to State Gaming Agency Records

At the completion of any inspection or investigation, copies of the investigative report will be forwarded to the Tribal Gaming Agency along with copies of evidence and information pertinent to the inspection. The Tribal Gaming Agency may inspect and copy records maintained by the State Gaming Agency concerning Class III gaming by the Tribe.

E. Cooperation With Tribal Gaming Agency

- (1) In order to foster a positive and effective relationship in carrying out and enforcing the provisions of this Compact, representatives of the Tribe (including the Tribal Gaming Agency) and the State Gaming Agency shall meet at least annually to discuss these matters. The meetings shall take place at a location mutually agreed upon by the Tribal Gaming Agency and the State Gaming Agency. At least ten (10) days prior to such meetings, the State Gaming Agency and the Tribal Gaming Agency shall disclose to each other any and all suspected activities or pending matters reasonably believed to constitute violations of this Compact by any person or enterprise. Should the Tribe begin operating (Off-Track) wagering on horse races, the Washington Horse Racing Commission shall participate in the agency meetings.
- (2) The State Gaming Agency and, as applicable, the Washington Horse Racing Commission, shall promptly notify the Tribal Gaming Agency of any activity suspected or occurring, whether within a Gaming Facility or not, which adversely affects State, Tribal or public interests relating to the Gaming Facilities and Gaming Operation. Provided, such disclosure shall not compromise the interest sought to be protected.

IX. STANDARDS OF OPERATION AND MANAGEMENT

A. Adoption of Standards of Operation and Management

The Tribal Gaming Agency shall adopt regulations to govern the operation and management of the Gaming Operation conducted under the authority of this Compact. Any regulations adopted by the Tribe shall ensure that the interests of the Tribe and the State relating to Class III Gaming are preserved and protected. The regulations shall maintain the integrity of the Gaming Operation and shall reduce the dangers of unfair or illegal practices in the conduct of the Class III Gaming Operation. The initial regulations to govern the operation and management of the Tribal Gaming Operation shall be the standards set forth in Appendix A.

- (1) The Tribal Gaming Operation shall submit to the Tribal Gaming Agency for approval a description of its system of internal controls, and any changes to those controls, before implementation of the controls. Each such submission shall contain a narrative representation of the internal control system to include copies of the forms to be used.
- (2) The Tribal Gaming Agency shall forward to the State Gaming Agency a copy of any approved system of Internal Controls, and any changes to those controls for review and concurrence.
 - a) Each such proposal shall contain a narrative representation of the Internal Control system, including copies of the forms to be used.
 - b) The Tribal Gaming Agency shall detail how such changes in the provisions adequately preserve and protect the integrity and security of the standard it is replacing.
 - c) The State Gaming Agency concurrence with the Tribal Gaming Agency proposal shall be deemed granted after sixty (60) days of receipt of the Tribal Gaming Agency proposal if no disapproval in writing is received from the State Gaming Agency. The State Gaming Agency shall detail the reasons for disapproval.
 - d) The Tribal Gaming Agency shall ensure a proposal is not implemented until the State Gaming Agency has concurred or sixty (60) days has lapsed and the Tribe did not receive a written disapproval within that time.
- (3) The State Gaming Agency and Tribe may agree on alternative control provisions to those set forth in Appendix A, provided such provisions adequately preserve and protect the integrity and security of the manual control it is replacing and provide enforcement standards for the alternative provision.
- (4) The Tribe may choose to automate any processes, reports, or data collection provided in the minimum operating standards with advance notice to the State Gaming Agency. PROVIDED, that the Tribal Gaming Agency must certify how the automation maintains the integrity of the Gaming Operation, reduces the dangers of unfair or illegal practices in the conduct of the Gaming Operation, adequately preserves and protects the integrity of the original process, reports, or data collection and complies with the Compact. This section cannot be used to modify other sections of the Compact.

B. Additional Standards Applicable

The following additional requirements shall apply to the Gaming Operation conducted by the Tribe:

- (1) The Gaming Operation shall maintain the following departments, at a minimum, in accordance with the regulations set forth in the Appendix A:
 - (a) Gaming Facility including all Class III Gaming activities;
 - (b) Cashier's Cage;
 - (c) Accounting;
 - (d) Security; and
 - (e) Surveillance.

- (2) At the close of the fiscal year, the Gaming Operation shall, at its own expense, have its annual financial statements audited in accordance with generally accepted auditing standards by an Independent Accountant.
 - (a) The annual financial statements shall be prepared on a comparative basis for the current and prior calendar or fiscal year and shall present the financial position and results of operations in conformity with generally accepted accounting principles.
 - (b) The Gaming Operation shall require its Independent Accountant to render the following reports:
 - (i) Audited financial statements, together with an opinion thereon;
 - (ii) A report on material weakness in accounting and internal controls. Whenever, in the opinion of the Independent Accountant, there exists no material weaknesses in accounting and Internal Controls, the report shall say so; and
 - (iii) A report expressing the opinion of the Independent Accountant that, based on his or her examination of the financial statements, the Tribal Gaming Operation has followed, in all material respects, during the period covered by his or her examination, the system of accounting and Internal Controls on file with the Tribal Gaming Agency. Whenever, in the opinion of the Independent Accountant, the Gaming Operation has deviated from the system of accounting and Internal Controls filed with the Tribal Gaming Agency, or the accounts, records, and control procedures examined are not maintained by the

Gaming Operation in accordance with the Compact and these standards, the report shall enumerate such deviations regardless of materiality, the areas of the system no longer considered effective and shall make recommendations in writing regarding improvements in the system of accounting and Internal Controls.

- (c) One copy of each of the reports required by paragraph (b) and copies of any other reports on accounting and Internal Controls, administrative controls, or other matters relating to the Gaming Operation's accounting or operating procedures rendered by the Gaming Operation's Independent Accountant, shall be filed with the Tribal Gaming Agency within 120 days following the end of each fiscal year or within thirty (30) days of receipt whichever is earlier. Notification will be sent to the State Gaming Agency not later than 120 days following the end of the calendar or fiscal year when these statements are available for review. Provided, extensions may be granted for extenuating circumstances by the Tribal Gaming Agency.

(3) Rules of the Games

The Tribal Gaming Agency shall notify the State Gaming Agency of the rules of each game operated by the Tribe and of any change in such rules. Summaries of the rules of each game relevant to the method of play and odds paid to winning bets shall be visibly displayed or available in pamphlet form in the gaming facilities. Betting limits applicable to any Gaming Station shall be displayed at such Gaming Station. Rules for games identified in Section IV(A)-(B) shall be submitted to the State Gaming Agency for review, to determine if the rules fundamentally alter the nature of the game. In the event the State Gaming Agency has concerns in regard to the rules of any game, it shall submit such concerns to the Tribal Gaming Agency for its review and comment. The Tribe will provide the State Gaming Agency with ten (10) days advance notice of the rules of each game and any modification thereof, and will provide adequate notice to patrons of the Gaming Facilities to advise them of the applicable rules in effect.

(4) Minimum Supervisory Requirements

The Gaming Operation shall provide the Tribal Gaming Agency and the State Gaming Agency with a description of its minimum requirements for supervisory staffing for each Gaming Station Pit operated in its Gaming Facilities, and in the event that the State Gaming Agency regards such supervisory staffing as inadequate, the Tribal and State Gaming Agencies shall promptly confer in good faith in an effort to reach agreement on supervisory staffing requirements.

(5) Required Logs

To ensure integrity, the Gaming Operation shall maintain the following logs as written, or computerized records which shall be available for inspection by the Tribal Gaming Agency and the State Gaming Agency in accordance with Section VIII.B of this Compact:

- (a) A surveillance log recording all surveillance activities in the monitoring room of the Gaming Facilities. The log shall be maintained by monitor room personnel and shall include, at a minimum, the following:
 - (i) Date and time of surveillance;
 - (ii) Person initiating surveillance;
 - (iii) Reason for surveillance;
 - (iv) Time of termination of surveillance;
 - (v) Summary of the results of the surveillance; and
 - (vi) A record of any equipment or camera malfunctions.
- (b) A security log recording all unusual occurrences that require an evaluation, investigation, or other decision-making process by a Tribal Gaming Agent.

(6) Floor Plans

The Gaming Operation shall provide the Tribal Gaming Agency with copies of its floor plan and Surveillance System and any modifications thereof for review by the Tribal Gaming Agency. If the floor plan or Surveillance System does not provide unobstructed camera views in accordance with such regulations, the Tribal Gaming Agency shall modify such floor plan or Surveillance System in order to remedy such deficiency. The Tribal Gaming Agency shall make available to the State Gaming Agency the floor plan and Surveillance System for review and consideration.

(7) Surveillance Systems

The Tribal Gaming Operation shall install a surveillance system with specifications no less stringent than those set forth in Appendix A.

(8) Barred List

The Tribal Gaming Agency shall establish a list of persons barred from the Gaming Facilities because their criminal history or association with career offenders or career offender organizations poses a threat to the integrity of the gaming activities of the Tribe. The Tribal Gaming Agency shall employ reasonable efforts to exclude persons on such list from entry into its Gaming Facilities. The Tribal Gaming Agency shall make a copy of its list available to the State Gaming Agency on a continuing basis. Copies of reports will be forwarded to the State Gaming Agency as requested.

(9) Satellite Wagering Activities

Standards for management and operation of the satellite wagering activities shall be consistent with the provisions of this Compact, including Appendix B, and those applicable to non-tribal satellite wagering facilities and activities in the State to the extent not inconsistent with this Compact.

C. Records Retention

- (1) All information required in Section IX will be documented in a permanent form.
- (2) Unless otherwise specified in these standards or exempted by the Tribal Gaming Agency, all forms, records, documents, and required stored data shall:
 - (a) Be located on Tribal Lands or such other location as approved by the Tribal Gaming Agency; and;
 - (b) Be retained for at least two (2) years in a manner and location that assures reasonable access by the Tribal and State Gaming Agencies.

X. JURISDICTION

A. Criminal Matters

(1) Investigative Authority

The Tribal Gaming Agency, Tribal Law Enforcement, the Clark County Sheriff, the Washington State Patrol, Local Law Enforcement Agencies, and the State Gaming Agency will have the authority to investigate and make arrests if necessary for all gambling and related crimes against the laws of the Tribe and applicable laws of the State that occur within the Gaming Facilities or within Tribal Lands.

(2) Jurisdictional Forums

Following investigation and arrest, formal charges will be brought in the appropriate venue. Criminal prosecution of non-Indians will be through the proper State or Federal Courts. Criminal prosecution of Indians will be through the proper Tribal Court, or State or Federal Courts.

B. Civil Matters

(1) Concurrent Jurisdiction

The Tribal Gaming Agency and the State Gaming Agency will have concurrent jurisdiction to investigate violations of the provisions of this Compact and to bring administrative charges in the appropriate forum, in accordance with Tribal Laws or the provisions of Chapter 9.46 RCW and Chapter 230-17 WAC, made applicable by this Compact, against any individual or entity that is licensed by the Tribal Gaming Agency, or Certified by the State Gaming Agency in accordance with the provisions of this Compact.

(2) Tribal Jurisdiction

Civil disputes arising from the conduct of Gaming under the Gaming Code may be heard in the Northwest Intertribal Court or appropriate administrative forum as established by the Gaming Code.

C. Sanctions and Civil Fines

(1) Assessment of Fines

The Tribal Gaming Agency and State Gaming Agency may impose fines and other sanctions against the Gaming Operation, a Gaming Employee, or any other person directly or indirectly involved in, or benefiting from, the Gaming Operation for violations of the Compact provisions or Gaming Code. The Tribal Gaming Agency and the State Gaming Agency shall enter into a Memorandum of Understanding, which may be amended from time to time, to define the schedule of fines and sanctions.

(2) Payment of Fines

Any penalties collected shall be distributed to a non-tribal, bona fide nonprofit or charitable organization in the State of Washington selected by the Tribe. Any civil fines assessed pursuant to the provisions of this Compact shall be paid within thirty (30) days of assessment.

D. Limited Application of State Law

For the purposes of 18 U.S.C. §1166 (d) and enforcing the provisions of this Compact, and of protecting the public health, safety and welfare, and to the extent not inconsistent with other provisions of this Compact, RCW 9.46.0269; 9.46.075; 9.46.140; 9.46.155; 9.46.160; 9.46.170; 9.46.180; 9.46.185; 9.46.190; 9.46.196; 9.46.1961; 9.46.1962; 9.46.198; 9.46.210 (3) & (4); 9.46.215; 9.46.220; 9.46.221; 9.46.222; 9.46.225; 9.46.228; 9.46.231; 9.46.235; 9.46.240; 9.46.410; 10.97.030; 67.16; 67.70; and 74.08.580; as now or hereinafter amended, shall be applicable and incorporated herein as part of this Compact and the Tribe consents to this transfer of jurisdiction to the State with respect to Gaming on Tribal Lands.

E. Preservation of Tribal Self-Government

Nothing in this Compact will be deemed to authorize the State to regulate in any manner the government of the Tribe, or to interfere with the Tribe's selection of its governmental officers, including members of the Tribal Gaming Agency. No licensing or registration requirement contemplated by this Compact will be applicable to such officers with respect to their capacity as officers of the Tribe.

F. Law Enforcement Coordination

In an attempt to foster a spirit of cooperation between the Local Law Enforcement Agencies authorized to enforce the criminal laws of the State and those laws affecting the public health, safety and welfare of the surrounding communities, representatives of those local law enforcement agencies shall meet periodically with the Tribe or as requested by any of the Local Law Enforcement Agencies or the Tribe to discuss mutual concerns and coordinate the enforcement actions necessary to minimize those concerns.

XI. REIMBURSEMENT FOR REGULATORY EXPENSES INCURRED BY THE STATE GAMING AGENCY

The Tribe agrees to pay an annual Regulatory Fee in accordance with Appendix X2, Section 13.

XII. DISPUTE RESOLUTION

A. Introduction

In recognition of, and consistent with, the government-to-government relationship of the Tribe and State, the parties shall make their best efforts to resolve disputes by good faith negotiations whenever possible. Therefore, the parties hereby establish a method of non-judicial dispute resolution in order to foster a spirit of cooperation and efficiency in the administration and monitoring of performance and compliance by each other with the terms, provisions and conditions of this Compact.

B. Dispute Resolution Alternatives

- (1) Meet and Confer In the event of a dispute or disagreement between the parties regarding the implementation and compliance with any terms, conditions, and provisions of this Compact, or otherwise by mutual agreement of the parties, disputes shall be resolved as follows:
 - (a) Either party shall give the other, as soon as possible after the event giving rise to the concern, written notice setting forth the nature of the dispute (including reference to the relevant portions of this Compact), and the issues to be resolved.
 - (b) The parties shall meet and confer in a good faith attempt to resolve the dispute through negotiation not later than twenty (20) business days from receipt of the notice.
- (2) Mediation If the dispute is not resolved to the satisfaction of either party within twenty (20) business days of the first meeting, then the parties, by agreement, may seek and cause to have the dispute resolved by formal mediation, in which event the parties shall use their best efforts to select a mediator as soon as possible. The mediator's fees and attendant costs of mediation shall be borne equally by the parties. The parties understand that informal and formal mediation may not always lead to satisfactory results. In the event either party is dissatisfied with informal and/or formal mediation, they may seek judicial resolution of any disagreement relating to the administration, monitoring of performance and compliance with the terms, provisions and conditions of this Compact. However, the parties are free under this Compact to agree to other alternative dispute resolution mechanisms.
- (3) Arbitration
 - (a) In the event informal and/or formal mediation fails to resolve the dispute between the parties, the parties may choose by mutual agreement to resolve the dispute by arbitration. In no event may the request be made earlier than twenty (20) days after a party has properly notified the other party under the procedures set forth in Section XII(B)(1).
 - (b) Sites for such arbitrations shall alternate between Tribal Lands and the State Gaming Agency or Washington Horse Racing Commission offices after each arbitration dispute, as follows: the first arbitration dispute, until completed, shall be held on Tribal Lands; the next arbitration dispute, until completed, shall be held at the State Gaming Agency or Washington Horse Racing Commission offices; and so forth.

- (c) In the event the parties agree to arbitration, the Tribe and the State Gaming Agency shall, within five (5) days, agree upon an arbitrator to decide the matter at issue, or agree upon a procedure for the selection of an arbitrator. The parties shall also agree on the rules, policies and procedures to be used in the arbitration.
- (d) The arbitration, unless another date is stipulated to by the parties, shall occur no later than fourteen (14) business days from the date an arbitrator is named. The arbitrator may, in his or her discretion, impose a case management schedule on the parties to provide for reasonable time needed for discovery, fact gathering, expert witnesses, etc. Time periods shall be reasonable and necessary as required by the circumstances, without providing undue delay. In all circumstances, however, the Arbitrator shall issue a final decision no later than one (1) year from the initial written request for arbitration. The parties may, by mutual agreement, continue the mediation process set out in Section XII(B)(2) until the arbitration begins.
- (e) The decision of the arbitrator shall be final for the purpose of concluding the non-judicial phase of the arbitration process, but the final decision of the arbitrator may be subject to judicial review.
- (f) The arbitrator shall, consistent with this Compact, have the power to impose fines and award equitable relief in his or her discretion and as the circumstances warrant.
- (g) Each party to the arbitration shall bear its own costs and attorney fees, and the costs of the arbitrator(s) shall be borne equally by the parties.

C. Limited Waiver of Sovereign Immunity

The Tribe and the State agree and understand that waivers of sovereign immunity defenses must be express and unambiguous, and are narrowly construed. Nothing contained in this Compact shall be construed or interpreted to be a consent, grant or waiver of any sovereign right or immunity either the Tribe and/or its members or the State enjoy, except as expressly provided hereinafter:

- (1) The Tribe hereby agrees to a limited waiver of sovereign immunity for the sole purpose, and no other purpose, of consenting to the suits specified in Sections XII and XIII of this Compact, such waiver to be in effect only so long as this Compact is in effect, but in no event shall the limited waiver be construed to allow for monetary relief against assets of the Tribe other than revenue from the Gaming Facilities or from the sale of gaming-related assets.

- (2) The State and the State Gaming Agency represent and acknowledge that the State has waived its sovereign immunity with respect to suits interpreting or enforcing any contract to which the State and/or its subordinate agencies has entered into with a private party, which includes an Indian tribe. *See* RCW 4.92.010 and *Architectural Woods, Inc. v. Washington*, 92 Wn. 2d 521, 598 P.2d 1372 (Wash. 1979). In addition, the State and the State Gaming Agency represent and acknowledge that the State has waived its immunity from those suits set forth in RCW 9.46.36001. Notwithstanding such statutory waivers of immunity, the State hereby reiterates and agrees to a limited waiver of sovereign immunity for the sole purpose, and no other purpose, of consenting to the suits specified in Sections XII and XIII of this Compact, and any other suits set forth in RCW 9.46.36001, such waivers to be in effect only so long as this Compact is in effect.

D. References

The parties are aware that some sections of this Compact contain an explicit reference to Section XII in the event a dispute arises under that section. Notwithstanding such explicit references, and with respect to all other sections of this Compact, it is the parties' intent that any dispute of whatever kind, type or nature arising under this Compact shall be subject to the provisions of Section XII.

XIII. REMEDIES

A. Injunction Against the State

If the Tribe believes the State, whether or not through the State Gaming Agency, is in breach or default or is otherwise acting contrary to or failing to act in the manner required by the provisions of this Compact, the Tribe may bring an action to seek injunctive or other relief in a court of competent jurisdiction. Prior to bringing such action the Tribe will notify the State and State Gaming Agency of the alleged violation(s). For purposes of this remedy, the State consents to this suit and waives any defense it may assert by way of its sovereign immunity.

B. Injunction Against the Tribe, the Tribal Gaming Operation, or any Individual

The State may bring an action to enjoin the Tribe, the Gaming Operation, or any individual if the State determines that any Gaming authorized by the provisions of this Compact is being conducted in violation of the provisions of this Compact, or if any Class III activity is being conducted on Tribal Lands in violation of the provisions of this Compact. Such action will be brought in the U.S. District Court, pursuant to 25 U.S.C. §2710(d) (7) (A) (ii). Prior to bringing such action, the State will notify the Tribe, the Gaming Operation, and the Tribal Gaming Agency of the alleged violation (s). For purposes of this remedy, the Tribe consents to this suit and waives any defense it may assert by way of its sovereign immunity.

XIV. LIMITATION OF LIABILITY

Neither the Tribe nor the State are creating, or intend to create, any rights in third parties which would result in any claims of any nature whatsoever against the Tribe or the State as a result of this Compact. Neither the Tribe nor the State have waived their immunity from third party suits or claims of any kind or nature whatsoever against them, and nothing contained in this Compact shall be construed to effect a waiver, in whole or in part, of said immunity.

XV. EFFECTIVE DATE, DURATION, AND AMENDMENTS

A. Effective Date

This amended Compact will be effective upon publication of notice of approval by the Secretary of the Interior of the United States in the Federal Register in accordance with 25 U.S.C. §2710(d)(3)(B).

B. Termination

This Compact will be in effect until terminated by written agreement of both parties, under the provisions of IGRA. Provided, should the Tribe wish to cease Class III Gaming Operations, the Tribe may unilaterally terminate this Compact by submitting written notice to the Governor of the State sixty (60) days prior to termination of the Compact. Suspension of or an injunction against Class III Gaming activities will not constitute termination for the purpose of this subsection.

C. Enactment of Compact Provisions

Pursuant to the general rule-making authority of the agencies, the Tribal Gaming Agency or the State Gaming Agency may each enact all or part of the provisions of this Compact as part of their regulations or rules governing gambling.

D. Revision of State Regulations

Whenever the State adopts or revises any rule or regulation which corresponds to any provision of the Tribe's Standards of Operations and Management relating to the same type of gaming, the State Gaming Agency may notify the Tribal Gaming Agency that it requests analogous changes in such Standards. The Tribal Gaming Agency will promptly confer with the State Gaming Agency in good faith concerning the appropriateness and applicability of such changes.

E. Change of State Law

If the laws of the State authorizing the activities set forth herein as Class III Gaming activities are repealed, thereby prohibiting such Gaming for any purpose by any person, organization or entity, it is the State's position that the provisions of this Compact providing for such Gaming would not be authorized and the continued operation of such

Gaming would constitute a violation of the Compact for which the State could bring an action in Federal District Court pursuant to 25 U.S.C. §2710(d)(7)(A)(ii).

The Tribe disagrees that such subsequent State legislation would have this effect under the provisions of the IGRA and this Compact, but does agree that such an action, if commenced in that forum, is the appropriate State recourse and for that purpose consents to the suit and waives any defense it may assert by way of its sovereign immunity.

Notwithstanding any other provisions of this Compact, if the laws of the State authorizing any Class III gaming activities are so repealed, the State may bring an action as set forth above only after it provides twenty (20) business days written notice to the Tribe of the State's intention to bring such action and affords the Tribe a reasonable opportunity to meet and confer with the State in a good faith attempt to resolve the issue(s) intended to be addressed by such action.

G. Clarification, Amendments, and Renegotiations

(1) Compact Clarification

The parties recognize that circumstances may arise in implementation, operation, and regulation of the Gaming Facilities that require clarification of Compact provisions. For such mutually agreed-upon clarification, the State and Tribe will execute and sign a Memorandum of Understanding that will be attached to and made part of this Compact.

(2) Amendments

- a. The terms and conditions of this Compact may be amended at any time by the mutual and written agreement of both parties.
- b. The parties will amend through renegotiation the nature and/or scope of Class III Gaming as set forth in this Compact upon written notice and request by the Tribe to the State, if and when:
 1. The laws of the State are amended, expanding Gaming beyond that which is now allowed under the terms of this Compact;
 11. A State or Federal court within the State of Washington or a Federal court interpreting the laws of the State of Washington issues a final and unappealable decision permitting participation in a Gaming activity that was not authorized for any purpose by any person, organization, or entity at the time this Compact was executed or not authorized by this Compact;

111. In the event that the State enters into or amends a compact with another tribe that is approved by the Secretary of the Interior and such agreement gives any such tribe more gaming facilities, activities, Gaming Stations or higher wager limits, or any combination thereof than is provided under the terms of this Compact, the Tribe and the State will immediately move to amend the Compact to include the same terms and conditions granted to the other tribe.

(3) Renegotiation

Nothing in this Compact will be deemed to waive the right of the Tribe to request negotiations for a Tribal-State Compact with respect to a Class III Gaming activity which is to be conducted on Tribal Lands, but is not permitted under the provisions of this Compact, including forms of Class III Gaming which were not permitted by the State for any purpose by any person, organization, or entity at the time when this Compact was negotiated or amended but are subsequently so permitted by the State, in accordance with 25 U.S.C. §2710(d)(3)(A). Either party may in writing request renegotiation of any of the provisions of this Compact at any time. The parties agree that negotiations will commence within thirty (30) days of the request. The terms and provisions of the Compact will remain in effect unless and until the parties agree on the renegotiated terms.

(4) State Authorization of Additional Class III Gaming Activities

In the event the State hereafter authorizes any additional Class III activity, the Tribe will be authorized to conduct such activity prior to completion of the subsequent negotiations as provided in this Compact, if such activity is conducted in accordance with all of the limitations, regulations and requirements of the State.

(5) Process and Negotiation Standards

The parties will confer and the required negotiations will commence within thirty (30) days of a request to amend or renegotiate. All matters involving negotiations or other amendatory processes under this Section will be otherwise governed, controlled and conducted in conformity with the provisions and requirements of 25 U.S.C. §2710(d), except in subsections where a different resolution is specifically provided in the event of an unsettled dispute or where agreement is not reached by the parties.

XVI. NOTICES

All notices required or authorized to be served will be in writing and will be sent by first class or priority mail or be delivered by other expedited service to the following addresses:

Tribal Chairman
Cowlitz Indian Tribe
1055 9th, Suite B
Box 2547
Longview, WA 98632

Governor
State of Washington
State Capitol
Olympia, Washington 98504

With a copy to:
Tribal Attorney
1055 9th, Suite B
Box 2547
Longview, WA 98632

With a copy to:
Director
Washington State Gambling
Commission
P. O. Box 42400
Olympia, Washington 98504-2400

XVII. SEVERABILITY

In the event that any section or provision of this compact is held invalid, or its application to any particular activity held invalid, it is the intent of the parties that the remaining sections of the Compact, and the remaining applications of such section or provision will continue in full force and effect.

IN WITNESS WHEREOF, the Cowlitz Indian Tribe and the State of Washington have executed this Compact.

THE COWLITZ INDIAN TRIBE

STATE OF WASHINGTON

BY: 
WILLIAM B. IYALL
Chairman, Cowlitz Indian Tribe

BY: 
JAY INSLEE
Governor

DATED: June 16, 2014

DATED: June 16, 2014