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**Record: 1054**

**Proposition 5**

#

**Title**            Tribal-State Gaming Compacts. Tribal Casinos. Initiative Statute.

**Year**             1998

**Proposition type**    Initiative Statute

**Popular vote**        Yes: 5,090,452 (62.4%); No: 3,070,358 (37.6%)

**Pass/Fail**        Pass

**Summary**            **Official Title and Summary prepared by the Attorney General**

**TRIBAL-STATE GAMING COMPACTS. TRIBAL CASINOS. INITIATIVE STATUTE.**

. Specifies terms and conditions of mandatory compact between state and **Indian** tribes for gambling on tribal land. Mandates Governor to sign compact upon request by tribe. Permits alternative compacts only if consistent with prescribed compact.

. Permits gambling devices and lotteries at tribal casinos.

. Amends California law to allow slot machines and banked card games at tribal casinos.

. Provides for contributions to trust funds benefiting nongaming tribes, statewide emergency medical care programs, and programs benefiting communities near tribes, if tribes retain monopoly on authorized gambling.

. Provides for reimbursement of state regulatory costs.

**Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

. Uncertain impact on state and local revenues, depending on the extent of expansion of gambling on **Indian** lands in California and the amount of gambling diverted from outside the state.

. Fiscal effect could range from little impact on revenues to significant annual increases.

**Analysis****Analysis by the Legislative Analyst****Background****Gambling in California**

The State Constitution and various other state laws limit the types of legal gambling that can occur in California. The State Constitution specifically:

- . Authorizes the California State Lottery, but prohibits any other lottery. Allows horse racing and wagering on the result of races.

- . Allows bingo for charitable purposes (regulated by cities and counties).

- . Prohibits Nevada- and New Jersey-type casinos (although this phrase is not defined).

Other state laws allow gambling in card rooms. Card games (such as poker) can be played only if the card room does *not* have a stake in the outcome of the game. State law specifically prohibits many games (such as twenty-one), and it also prohibits the operation of any slot machine or other gambling device.

**Gambling on Indian Land**

The federal **Indian** Gaming Regulatory Act of 1988 (IGRA) governs gambling operations on **Indian** land. The IGRA puts gambling activities into three classes and places restrictions on **Indian** tribes who want to conduct these activities. In general, **Indian** tribes may offer:

- . Class I gambling without restriction. Class I gambling includes social games and traditional/ceremonial games. Class II gambling that is allowed throughout the state in which the **Indian** land is located.

- . Class II gambling includes bingo and many card games. Class II gambling, however, specifically *excludes* all card games in which the operator has a stake in the amount wagered or the outcome of the game.

- . Class III gambling activities only if the tribe and the state sign an agreement (referred to as a tribal-state compact) that allows the specific gambling activities. Class III gambling consists of all activities that are not in Class I or II. Thus, Class III gambling includes lotteries, slot machines or other gambling devices, and horse race wagering.

If the state allows any type of Class III gambling and an **Indian** tribe asks to negotiate a compact for operation of those gambling activities on tribal land, then the state is required to negotiate in good faith for a compact.

**Gambling on Indian Land in California.** Currently, there are 41 **Indian** gambling operations in California which offer a variety of gambling activities. These include bingo, card games (including a type of blackjack), and electronic (video) gambling devices. To date, California has entered into compacts with five **Indian** tribes allowing parimutuel

wagering on horse racing. (Parimutuel betting is where all wagers go into a common prize pool, less a specific "take-out" for management.) In addition, the Governor has negotiated a compact with the Pala Band of Mission Indians for other forms of Class III gambling (other tribes have also agreed to this compact). To date, however, legislation concurring with this agreement has not been passed.

Actions are currently pending in federal court regarding the continued operation of many gambling activities on **Indian** land. Consequently, the future status of some activities is uncertain.

### **Proposal**

This measure requires the state to enter into a specific compact allowing certain Class III gambling activities on **Indian** lands for those tribes that agree to sign the agreement. The measure also requires the Governor to negotiate a separate tribal-state compact with any tribe that wants a different compact.

### **Tribal-State Compact**

The following are the basic provisions of the tribal-state compact established by the measure:

***Class III Activities Allowed.*** The following Class III gambling activities could be conducted in **Indian** gambling establishments in California:

. *Parimutuel horse race wagering* (consistent with an existing tribal-state compact).

. *Electronic gambling devices* (a type of slot machine) that allow the individual to play any game of chance. The device, however, could not dispense coins or currency and could not be activated with a handle. In addition, the device must pay prizes solely in accordance with a "player's pool prize system"--defined to be a prize system where all wagers collected from players are eventually returned to the winners with no opportunity for the establishment to win.

. *Any card game* that was played in any California tribal gambling operation on or before January 1, 1998. Prizes would have to be paid solely in accordance with a player's pool prize system.

. *Any lottery game.*

It is unclear if the games authorized by this compact would result in "Nevada- or New Jersey-type casinos" and therefore violate the State Constitution. Since there is no current definition of this phrase, the question would almost certainly have to be decided by a court. Additionally, the measure would set 18 as the minimum age to gamble in an **Indian** establishment. Currently, the minimum age to gamble in California is 18 for the state lottery and 21 for all other legal forms of gambling.

***Trust Funds.*** Tribes would be required to establish three trust funds to be funded from a portion of gambling proceeds. The amounts contributed to the trust funds would vary by fund and would be based on a percent (ranging from 0.5 percent to 3 percent) of

the "net win" (defined as the total wager less any prize payouts) from electronic gambling devices. The obligation to make trust fund contributions remains in effect only if the tribes continue to have the exclusive right to operate electronic gambling devices as specified in the compact.

The trust funds would be distributed annually (1) to tribes that had not recently had gambling operations; (2) throughout the state, by county, for emergency medical needs and for compulsive gambling programs (based on each county's population of persons over 55 years of age); and (3) to cities and counties which have **Indian** gambling operations and to tribes within affected counties.

**Tribal Regulation.** Under the compact, each tribe must have a tribal gambling agency responsible for regulating its gambling facilities and operations.

**State Regulation.** The Attorney General and the Gambling Control Commission would be responsible for state regulation of the tribal gambling operations. State regulation, however, would be limited to: (1) conducting background checks of nontribal employees of a gambling operation, (2) reviewing specified information submitted by the tribal gambling agency, and (3) advising the tribal agency that the state objects to certain actions taken by the agency.

#### **Other Provisions of the Measure**

**Other Compacts.** The measure requires the Governor to negotiate with an **Indian** tribe for a compact that differs from the one defined in the measure if so requested by a tribe. The measure states that an alternative compact does not require legislative approval unless it expands the scope of Class III gambling, grants certain responsibilities to state agencies, or authorizes the spending of state funds.

**Tribal Reimbursement of State Regulation Costs.** The measure provides for tribal reimbursement of all reasonable costs associated with state regulation of any compact.

#### **Fiscal Effect**

#### **State and Local Revenue Impact**

Passage of the measure would likely result in an increase in economic activity in California. The magnitude of the increase would depend primarily on (1) the extent to which tribal gambling operations expanded as a result of the measure's passage and (2) the degree to which new gambling activity in California came from spending diverted from Nevada and other out-of-state sources (as compared to spending diverted from other California activities).

While the measure would likely result in additional economic activity in California, its impact on state and local revenues is less clear. This is because **Indian** tribes, as sovereign governments, are exempt from certain forms of taxation. For example, profits earned by gambling activities on tribal lands would not be subject to state corporate income taxes. Furthermore, gambling on tribal lands is not subject to certain wagering taxes or fees that are currently levied on other forms of gambling in California (for example, horse race wagers and card rooms). Finally, wages paid to tribal members

employed by the gambling operation and living on **Indian** land would not be subject to personal income taxes.

Even with these exemptions, tribal operations still generate tax revenues. For example, wages paid to nontribal employees of the operations are subject to income taxation and certain nongambling transactions related to the operations (such as purchases in restaurants and gift shops) are subject to state and local sales and use taxes. However, on average, each dollar spent in tribal operations generates less tax revenue than an equivalent dollar spent in other areas of the California economy.

Given these factors, the *net* impact of this measure on state and local government revenues is uncertain. For example, revenues could increase significantly if the measure were to result in a large expansion in gambling operations *and* a large portion of the new gambling were spending that would have otherwise occurred outside of California (such as in Nevada). On the other hand, if the expansion resulting from the measure were relatively limited or if most of the new gambling represented spending diverted from other areas in the local economy that are subject to taxation, the state could experience smaller gains or potentially revenue losses.

**Trust Fund Revenue.** State and local governments would receive grants from certain trust funds established by the measure. The amount of revenue available would depend on the net win of the different gambling operations and the number of machines operated by each tribe. Based on available information, revenue to the trust funds could total in the low tens of millions of dollars annually. State and local governments would receive a portion of these funds.

### **Other Governmental Impacts**

The measure could result in a number of other state and local fiscal impacts, including: an increase in law enforcement costs, potential savings in welfare assistance payments, and an increase in local infrastructure costs. We can not estimate the magnitude of these impacts.

### **State Regulatory Costs**

The state would incur costs for regulatory activity associated with the measure. These costs would vary depending on the number and size of **Indian** gambling establishments. As these state regulatory costs would be charged to the regulated tribes, the measure would result in no net increased costs to the state.

For

### **Argument in Favor of Proposition 5**

*We are Native Americans representing a coalition of over 80 California **Indian** Tribes--the vast majority of Tribes in California.*

California's Native Americans are asking you to vote YES on Proposition 5 so we can keep the types of gaming we now have on our reservations.

We are not asking for hand-outs. We are asking to take care of ourselves and get off welfare. And we are asking voters to support economic activity which benefits all Californians.

Today California **Indian** casinos:

- . provide nearly 50,000 jobs for Indians and non-Indians;
- . reduce California taxpayers' welfare payments by \$50 million per year;
- . generate \$120 million annually in state and local taxes.

Historically, California Tribes have lived in poverty and welfare dependency because our small reservations have almost no natural resources and are too remote to support conventional economic development.

But when federal law recognized our right to conduct limited gaming on Tribal lands, it gave us our first real opportunity to become economically self-reliant and begin to realize the American dream.

*Since then, **Indian** gaming has greatly improved conditions on many reservations. Tribal governments use casino revenues to provide health care, housing, better educations for **Indian** children, cultural preservation, environmental protection and care for our elders.*

After generations of poverty, despair and dependency, our lives are better. We're pulling our own weight and paying our own way. On reservations with casinos, unemployment has dropped nearly 50%; welfare has been cut by 68%, and in some cases eliminated entirely.

Now, big Nevada casinos are trying to shut down **Indian** gaming in California, because they want to kill competition from California's Indians. Their weapon is a backroom deal--cut in Sacramento--that would force the shutdown of our gaming. Unless Proposition 5 passes, this deal would result in the shutdown of video machines which provide 75% of our revenues.

If that were to happen, it would be devastating for California **Indian** Tribes--and bad for California's taxpayers.

*Proposition 5 creates a responsible and reasonable plan for **Indian** gaming now and for the future.*

Proposition 5 will:

- . strictly limit **Indian** casinos to Tribal lands;
- . allow Tribes to keep the limited types of gaming we now have and allow other tribes to set up similar limited gaming;
- . share **Indian** gaming revenues with non-gaming Tribes for use in education, housing, health care and other vitally needed services;
- . dedicate revenues to support emergency medical services for all Californians, and to local communities near **Indian** casinos.

Nevada interests are spending millions on a misleading anti- **Indian** campaign against Proposition 5. We urge California voters to reject Nevada's scare tactics, and stand with us against the big Nevada casinos.

*We urge you to vote YES on Proposition 5 to preserve the American dream for Native Americans.*

- FOR(au)** DANIEL TUCKER |t Chairman, Californians for **Indian** Self- Reliance
- FOR(au)** MARY ANN ANDREAS |t Tribal Chairperson, Morongo Band of Mission Indians
- FOR(au)** DAVID R. EDWARDS |t Tribal Chairman, Tyme-Maidu Tribe
- Rebuttal** **Rebuttal to Argument in Favor of Proposition 5**

The proponents of Proposition 5 are playing to your emotions to pass their flawed initiative. Rather than discuss the SPECIFICS of their proposal, they are raising phony strawmen issues like Nevada casinos. Here are the facts:

. The claim that **Indian** casinos will be shut down if Proposition 5 is defeated is false. Numerous **Indian** tribes have already negotiated gaming agreements with California to operate casinos on their own land. Federal law GUARANTEES that EVERY tribe wishing to operate gaming may negotiate an agreement with the state. No tribe needs Proposition 5 to operate **Indian** casinos.

. This initiative MANDATES the terms of a gaming agreement between tribes and California, with NO negotiation, NO compromise and NO local vote of citizens.

. This initiative would allow the promoters to vastly EXPAND their casino operations. Huge **Indian** casinos could open throughout California.

. Moreover, these casinos are EXEMPT from virtually all state regulations including environmental, health and worker safety rules.

. These casinos pay NO federal, state or local taxes on the massive profits they make.

Most Californians want to help Native Americans become self- sufficient. However, less than 15% of California Indians will receive benefits from this initiative. Proposition 5 is a GRAB FOR ADVANTAGE by a few wealthy **Indian** tribes at the expense of all Californians.

That's why an extremely broad-based coalition of groups-- Business, Labor, Seniors, Educators, Law Enforcement, Environmental, Local Government--oppose Proposition 5. UNREGULATED, UNTAXED, and UNLIMITED casinos are UNFAIR to California. Please Vote NO!

- Rebuttal (au)** JOHN K. VAN DE KAMP |t Former Attorney General of California
- Rebuttal (au)** JUANITA HAUGEN |t Pacific Region Director, National School Boards Association
- Rebuttal (au)** BILL CAMPBELL |t President Emeritus, California Manufacturers Association

**Against****Argument against Proposition 5**

Most people want to help native Americans, but enacting a flawed ballot initiative is the WRONG approach. The groups behind Proposition 5 want you to think it is about helping American Indians keep limited gambling on their reservations, but they don't need a ballot initiative for that! Prop. 5 would result in a dramatic expansion of UNREGULATED and UNTAXED casino gambling throughout California. Here's what this initiative is REALLY about:

. California has over 150 recognized or pending tribes that could operate multiple casinos in communities throughout the state. Incredibly, the Governor is MANDATED to sign the agreement contained in this initiative allowing casinos with NO NEGOTIATION, discussion or changes! If the Governor refuses to sign the deal, then it takes effect anyway!

. Moreover, **Indian** tribes could purchase land OFF their reservations and open huge casinos wherever they want in California. All they need is the approval of two politicians - the Governor and Secretary of Interior. There is NO LOCAL VOTE of citizens to authorize or reject these casinos!

. These casinos would operate outside our state's tough environmental laws that protect us against air and water pollution, toxic waste dumping and damage to our fragile coast.

Here's what the PLANNING AND CONSERVATION LEAGUE says in opposing this initiative:

"**Indian** casinos are exempt from ALL state environmental quality laws, including Coastal Commission regulations, air and water pollution laws, and toxic waste provisions. This initiative could result in great environmental damage to California."

. California is prohibited from taxing the \$1.5 BILLION these casinos take in each year. What other business in the state is allowed to operate free of state and local taxes? California taxpayers would pay for all the transportation and law enforcement problems caused by **Indian** casinos, but not a penny in tax revenue is dedicated to solving those problems.

. The casinos are also exempt from California WORKER PROTECTION laws. They don't even have to pay the state minimum wage or provide workers' compensation insurance to their employees.

. Local law enforcement officials are prohibited from enforcing state laws against gambling crimes in these **Indian** casinos. It would be almost impossible for California to stop organized crime, prevent money laundering and make sure that the gambling is conducted fairly.

. Because these casinos pay no income taxes and are EXEMPT from virtually all state health and safety and business regulations, they have an UNFAIR advantage over businesses that do follow the rules and pay their fair share in taxes.



This ballot initiative simply goes too far. That's why a broad coalition of groups OPPOSE Proposition 5, including ENVIRONMENTAL organizations, LABOR groups, BUSINESS leaders, LAW ENFORCEMENT organizations, SENIORS, LOCAL GOVERNMENT, and SMALL BUSINESS owners. This diverse coalition probably couldn't agree on the time of day, but we all agree that Proposition 5 is a FLAWED ballot initiative.

Proposition 5 is ALL PAIN and NO GAIN for California. UNREGULATED, UNTAXED, UNLIMITED casino gambling with NO LOCAL CONTROL is UNFAIR for California.

Please, check it out for yourself and then join us in voting "No."

**Against(au)** GRISELDA BARAJAS |t Small Business Owner

**Against(au)** JACK GRIBBON |t California Political Director, Hotel Employees and Restaurant Employees International Union, AFL-CIO

**Against(au)** SHERIFF GLEN CRAIG |t Former President, California Police Officers' Association

**Rebut  
Against**                    **Rebuttal to Argument against Proposition 5**

*MISLEADING SCARE TACTICS.* THAT'S WHAT THE BIG NEVADA CASINOS ARE USING in their campaign against Proposition 5 BECAUSE THEY WANT TO KILL COMPETITION FROM CALIFORNIA'S INDIANS.

Here are the facts.

A YES vote on Prop. 5 will:

. Let California's Native Americans be self-reliant by allowing limited and regulated gaming on Tribal land with the same types of games that exist today.

. Preserve more than \$120 million per year in state and local taxes generated by **Indian** gaming.

. SHARE MILLIONS OF DOLLARS in gaming revenues WITH TRIBES THAT DON'T HAVE GAMING, funding health care, education, care for elders, and other vitally needed programs.

"For centuries Native Americans have revered the land. Proposition 5 continues existing environmental protections of sovereign tribal land and provides resources for improved environmental protection. Vote YES on 5."

-Mary Nichols, Past President, California League of Conservation Voters

"Proposition 5 and federal law strictly limit **Indian** gaming to Tribal land. The claim that casinos could be built anywhere is totally false."

-David Risling, Professor Emeritus of Native American Studies, University of California

**INDIAN GAMING HAS ALREADY CUT WELFARE ON RESERVATIONS BY**

68%, SAVING CALIFORNIA TAXPAYERS \$50 MILLION PER YEAR.

Today, California's Indians are truly pulling their own weight and paying their own way.

For more information call 1-800-258-7471 or visit our website at www.cisr.org.

We urge you to vote YES on Prop. 5--TO PROTECT CALIFORNIA'S INDIANS, to allow them to continue on the path to self- reliance, AND TO BENEFIT CALIFORNIA TAXPAYERS.

**Rebut** JEFF SEDIVEC |t President, California State Firefighters Association

**Against-au**

**Rebut** LES SOURISSEAU |t Past President, California Police Chiefs Association

**Against-au**

**Rebut** DANIEL TUCKER |t Chairman, Californians For **Indian** Self- Reliance

**Against-au**

**Text of Prop.**

**Proposition 5 - Full Text of the Proposed Law**

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

**PROPOSED LAW**

SECTION 1. Title 16 (commencing with Section 98000) is added to the Government Code, to read:

**TITLE 16. STATE-TRIBAL AGREEMENTS GOVERNING INDIAN GAMING**

Chapter 1. The Tribal Government Gaming and Economic Self- Sufficiency Act of 1998

98000. This chapter shall be known and may be cited as "The Tribal Government Gaming and Economic Self-Sufficiency Act of 1998."

98001. (a) The people of the State of California find that, historically, **Indian** tribes within the state have long suffered from high rates of unemployment and inadequate educational, housing, elderly care, and health care opportunities, while typically being located on lands that are not conducive to economic development in order to meet those needs. Federal law provides a statutory basis for conducting licensed and regulated tribal government gaming on, and limited to, qualified **Indian** lands, as a means of strengthening tribal self-sufficiency through the creation of jobs and tribal economic development. Federal law also provides that certain forms of gaming, known as "class III gaming," will be the subject of an agreement between a tribe and the state (a "Tribal-State compact"), pursuant to which that gaming will be governed.

(b) The people of the state find that uncertainties have developed over various issues

concerning class III gaming and the development of Tribal-State compacts between the state and tribes, and that those uncertainties have led to delays and considerable expense. The Tribal-State compact terms set forth in Section 98004 (the "Gaming Compact"), including the geographic confinement of that gaming to certain tribal lands, the agreement and limitations on the kinds of class III gaming in which a tribe operating thereunder may be engaged, and the regulation and licensing required thereunder, are intended to resolve those uncertainties in an efficient and cost-effective way, while meeting the basic and mutual needs of the state and the tribes without undue delay. The resolution of uncertainty regarding class III gaming in California, the generation of employment and tribal economic development that will result therefrom, and the limitations on the growth of gaming in California that are inherent therein, are in the best and immediate interest of all citizens of the state. This chapter has been enacted as a matter of public policy and in recognition that it fulfills important state needs. All of the factors the state could consider in negotiating a Tribal-State compact under federal law have been taken into account in offering to tribes the terms set forth in the Gaming Compact.

(c) The people of the state further find that casinos of the type currently operating in Nevada and New Jersey are materially different from the tribal gaming facilities authorized under this chapter, including those in which the gaming activities under the Gaming Compact are conducted, in that the casinos in those states (1) commonly offer their patrons a broad spectrum of house-banked games, including but not limited to house-banked card games, roulette, dice games, and slot machines that dispense coins or currency, none of which games are authorized under this chapter; and (2) are owned by private companies, individuals, or others that are not restricted on how their profits may be expended, whereas tribal governments must be the primary beneficiaries of the gaming facilities under this chapter and the Gaming Compact, and are limited to using their gaming revenues for various tribal purposes, including tribal government services and programs such as those that address reservation housing, elderly care, education, economic development, health care, and other tribal programs and needs, in conformity with federal law.

98002. (a) The Governor is authorized to execute on behalf of this state a Gaming Compact containing the terms set forth in Section 98004, and shall do so as a ministerial act, without preconditions, within 30 days after receiving a request from a tribe, accompanied by or in the form of a duly enacted resolution of the tribe's governing body, to enter into such a compact.

(b) If any federally recognized tribe having jurisdiction over **Indian** lands in California requests that the Governor enter into negotiations for a Tribal-State compact under federal law, including but not limited to the **Indian** Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.) (hereafter "IGRA"), on terms different than those prescribed in the Gaming Compact in Section 98004, the Governor shall enter into those negotiations pursuant to that federal law and without preconditions, and is authorized to reach agreement and execute that compact on behalf of the state, which authority shall not require action by the Legislature so long as the compact does not expand the scope of class III gaming permitted under a Gaming Compact under this chapter, create or confer additional powers on any agency of this state that are inconsistent with the terms of a Gaming Compact, or infringe upon the power of the Legislature to appropriate and authorize the expenditure of funds from the State Treasury. Any action by the Legislature

that expands the scope of class III gaming permitted in any Tribal-State compact between the state and a tribe beyond that authorized and permitted in the Gaming Compact set forth in Section 98004 may not be deemed to be in conflict with, or prohibited by, this chapter.

(c) The Governor is authorized and directed to execute, as a ministerial act on behalf of the state, any additional documents that may be necessary to implement this chapter or any Tribal-State compact entered into pursuant to this chapter. In the event that federal law regarding the process for entry into or approval of Tribal-State gaming compacts is changed in any way that would require a change in any procedure under this chapter in order for a Tribal-State gaming compact to become effective, this chapter shall be deemed amended to conform to and incorporate that changed federal law.

98003. Any state department or agency, or other subdivision of the state, providing gaming regulatory services to a tribe pursuant to the terms of this chapter, including a Gaming Compact entered into hereunder, is authorized to require and receive reimbursement from the tribe for the actual and reasonable costs of those services in accordance with a fee schedule to be agreed to by the tribe and the state that is based on what the state gaming agency reasonably charges other government agencies for comparable services. Any funds received from a tribe in reimbursement for those services are hereby continuously appropriated to that department, agency, or subdivision for those purposes. Any disputes concerning the reasonableness of any claim for reimbursement shall be resolved in accordance with the dispute resolution procedures set forth in the Gaming Compact.

98004. The State of California hereby offers to any federally recognized **Indian** tribe that is recognized by the Secretary of the Interior as having jurisdiction over **Indian** lands in California that are eligible for gaming under IGRA, and any such tribe may request, and enter into with the state, a Gaming Compact containing the following terms and conditions:

"TRIBAL-STATE GAMING COMPACT Between the [OFFICIAL NAME OF TRIBE], a federally recognized **Indian** Tribe, and the

#### STATE OF CALIFORNIA

This Tribal-State Gaming Compact is entered into on a government-to-government basis by and between the [Official Name of Tribe], a federally recognized sovereign **Indian** tribe (hereafter "Tribe"), and the State of California, a sovereign State of the United States (hereafter "State"), pursuant to the **Indian** Gaming Regulatory Act of 1988 (P.L. 100-497, codified at 18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.) (hereafter "IGRA"), and any successor statute or amendments, and the Tribal Government Gaming and Economic Self-Sufficiency Act of 1998 (Chapter 1 (commencing with Section 98000) of Title 16 of the Government Code).

Section 1.0. PURPOSES AND OBJECTIVES. The terms of this Gaming Compact are designed and intended to: (a) Evidence the good will and cooperation of the Tribe and State in fostering a mutually respectful government- to-government relationship that will serve the mutual interests of the parties.

(b) Develop and implement a means of regulating class III gaming on the Tribe's **Indian** lands to ensure its fair and honest operation in accordance with IGRA, and, through that regulated class III gaming, enable the Tribe to develop self-sufficiency, promote tribal economic development, and generate jobs and revenues to support the Tribe's government and governmental services and programs.

(c) Promote ethical practices in conjunction with that gaming, through the licensing and control of persons and entities employed in, or providing goods and services to, the Tribe's gaming operation and protecting against the presence or participation of persons whose criminal backgrounds, reputations, character, or associations make them unsuitable for participation in gaming, thereby maintaining a high level of integrity in government gaming.

## Sec. 2.0. DEFINITIONS

Sec. 2.1. "Act" means the Tribal Government Gaming and Economic Self-Sufficiency Act of 1998 (Section 98000 et seq. of the Government Code).

Sec. 2.2. "Applicant" means an individual or entity that applies for a Tribal license or State certification.

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

Sec. 2.4. "Gaming activities" means the class III gaming activities authorized under this Gaming Compact.

Sec. 2.5. "Gaming Compact" means this compact.

Sec. 2.6. "Gaming device" means any electronic, electromechanical, electrical, or video device that, for consideration, permits: individual play with or against that device or the participation in any electronic, electromechanical, electrical, or video system to which that device is connected; the playing of games thereon or therewith, including, but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the outcome, prize won, and other information regarding the playing of games thereon or therewith.

Sec. 2.7. "Gaming employee" means any person who (a) operates, maintains, repairs, assists in any gaming activity, or is in any way responsible for supervising gaming activities or persons who conduct, operate, account for, or supervise any gaming activity, (b) is in a category under federal or tribal gaming law requiring licensing, or (c) is a person whose employment duties require or authorize access to areas of the gaming facility that are not open to the public. In defining those categories of persons who are required to be licensed under tribal gaming law, the Tribe shall consider the inclusion of persons who are required to be licensed pursuant to state gaming law.

Sec. 2.8. "Gaming facility" means any building or room in which class III gaming activities or gaming operations occur, or in which the business records, receipts, or other funds of the gaming operation are maintained (but excluding offsite facilities primarily

dedicated to storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots, walkways, and means of ingress and egress associated therewith, provided that nothing herein prevents the conduct of class II gaming (as defined under IGRA) therein.

Sec. 2.9. "Gaming operation" means the business enterprise that offers and operates gaming activities.

Sec. 2.10. "Gaming ordinance" means a tribal ordinance or resolution duly authorizing the conduct of gaming activities on the Tribe's **Indian** lands and approved under IGRA.

Sec. 2.11. "Gaming resources" means any goods or services used in connection with gaming activities, including, but not limited to, equipment, furniture, gambling devices and ancillary equipment, implements of gaming activities such as playing cards and dice, furniture designed primarily for gaming activities, maintenance or security equipment and services, and gaming consulting services. "Gaming resources" does not include professional accounting and legal services.

Sec. 2.12. "Gaming resource supplier" means any manufacturer, distributor, supplier, vendor, lessor, or other purveyor of gaming resources to the gaming operation or gaming facility, provided that the Tribal gaming agency may exclude any such purveyor if the subject equipment or furniture is not specifically designed for, and is distributed generally for use other than in connection with, gaming activities.

Sec. 2.13. "IGRA" means the **Indian** Gaming Regulatory Act of 1988 (P.L. 100-497, 18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.) any amendments and successors thereto, and all regulations promulgated thereunder.

Sec. 2.14. "Management contractor" means any person with whom the Tribe has contracted for the management of any gaming activity or gaming facility, including, but not limited to, any person who would be regarded as a management contractor under IGRA.

Sec. 2.15. "Net win" means the wagering revenue from gaming activities retained by the Tribe after prizes or winnings have been paid to players or to pools dedicated to the payment of those prizes and winnings, and prior to the payment of operating or other expenses.

Sec. 2.16. "Players' pool prize system" means one or more segregated pools of funds that have been collected from player wagers, that are irrevocably dedicated to the prospective award of prizes in authorized gaming activities, and in which the house neither has nor can acquire any interest. The Tribe may set and collect a fee from players on a per play, per amount wagered, or time-period basis, and may seed the player pools in the form of loans or promotional expenses, provided that seeding is not used to pay prizes previously won.

Sec. 2.17. "State" means the State of California.

Sec. 2.18. "State gaming agency" means the person, agency, board, commission, or

official that the State duly authorizes to fulfill the functions assigned to it under this Gaming Compact. As of the effective date of this Act, this agency is the entity or entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) or its successors. In the event no agency is authorized to conduct this function, the State shall designate such an agency by statute. If the State fails to designate an agency authorized to investigate, approve, and regulate gaming licenses, any function assigned to the State gaming agency in this Gaming Compact shall be assumed by the Tribal gaming agency until the State so designates an agency as provided herein.

Sec. 2.19. "Tribal Chairperson" means the person duly elected or selected under the Tribe's organic documents, customs, or traditions to serve as the primary spokesperson for the Tribe.

Sec. 2.20. "Tribal gaming agency" means the person, agency, board, committee, commission, or council designated under tribal law, including, but not limited to, an intertribal gaming regulatory agency approved to fulfill those functions by the National **Indian** Gaming Commission, as primarily responsible for carrying out the Tribe's regulatory responsibilities under IGRA and the Tribal gaming ordinance. No person employed in, or in connection with, the management, supervision, or conduct of any gaming activity may be a member or employee of the Tribal gaming agency.

Sec. 2.21. "Tribal gaming terminal" means a gaming device that does not dispense coins or currency and is not activated by a handle.

Sec. 2.22. "Tribe" means the [official name of Tribe], a federally recognized **Indian** tribe.

Sec. 3.0. CLASS III GAMING AUTHORIZED AND PERMITTED. The Tribe is hereby authorized and permitted to engage in the gaming activities expressly referred to in Section 4.0.

#### Sec. 4.0. SCOPE OF CLASS III GAMING

Sec. 4.1. Authorized and Permitted Class III Gaming. To the extent regarded as forms or types of class III gaming, the Tribe is hereby authorized and permitted to operate the following gaming activities under the terms and conditions set forth in this Gaming Compact:

(a) The operation of Tribal gaming terminals, provided that such devices shall meet the technical standards adopted pursuant to Section 8.1.15 and shall pay prizes solely in accordance with a players' pool prize system.

(b) The operation of any card games that were actually operated in any tribal gaming facility in California on or before January 1, 1998, and are not within class II of IGRA (which class II games are not affected by this Gaming Compact), provided that such non-class II card games shall pay prizes solely in accordance with a players' pool prize system.

(c) The operation of any lottery game, including, but not limited to, drawings, raffles, match games, and instant lottery ticket games.

(d) The simulcasting and offering of off-track betting on horse races, if offered in accordance with the terms and conditions of the Tribal-State compact between the State and the Sycuan Band of Mission Indians that existed on March 31, 1997 ("Sycuan compact"), the terms of which shall be adjusted for northern California racing if required by the geographic location of the Tribe, and which compact is hereby incorporated by reference on the effective date of this Gaming Compact, unless the Tribe elects to adopt the provisions of an existing compact pursuant to the next sentence. If the Tribe and the State have already entered into a compact governing off-track wagering, that compact, at the Tribe's option, may continue in full force and effect as the off-track wagering provisions intended by this section, or the Sycuan compact terms and conditions may be substituted therefor. The Tribe may notify the State, at the time the notice under Section 98002 of the Act is given, or at any later date as the Tribe may deem appropriate, of its election with regard to which off-track wagering compact it has elected to incorporate herein. With regard to any Tribal-State compact governing off-track wagering, including this Gaming Compact, if the State lacks jurisdiction under federal law to collect a license fee or other charge on wagers placed at a tribal facility, which fee or charge would ordinarily be collected on wagers at nontribal facilities, an amount equal to that fee or charge shall be deducted from any off-track wagers made at the Tribe's facility and shall be distributed to the Tribe.

Sec. 4.2. Authorized Gaming Facilities. The Tribe may establish and operate gaming facilities in which the gaming activities authorized under this Gaming Compact may be conducted, provided that the facilities are located on **Indian** lands within California over which the Tribe has jurisdiction, and qualify under federal law as lands upon which gaming can lawfully be conducted. The Tribe may combine and operate in those gaming facilities any forms and kinds of gaming permitted under law, except to the extent limited under IGRA or the Tribe's gaming ordinance.

#### Sec. 5.0. TRIBAL, STATE, AND LOCAL TRUST FUNDS

Sec. 5.1. Conditional Obligation to Contribute to Trust Funds; Contribution Formula.  
(a) The parties acknowledge that the operation of Tribal gaming terminals authorized under this Gaming Compact is expected to occupy a unique place in gaming within the State that is material to the ability of the Tribe and other tribal governments operating under similar compacts to achieve the economic development and other goals intended by IGRA. The Tribe therefore agrees to make the contributions to the trust funds described in Sections 5.2, 5.3, and 5.4, only for as long as it and other tribes that have entered into Gaming Compacts are not deprived of that unique opportunity. Accordingly, in the event that any other person or entity, including, but not limited to, the California State Lottery, lawfully operates gaming devices within the State at any time after January 2, 1998, any and all obligations by the Tribe to make the trust fund contributions required under Sections 5.2, 5.3, and 5.4 shall immediately and permanently cease and terminate. For the purposes of this section only, no equipment or type of game played thereon or therewith that was offered by the California State Lottery or any race track in California prior to January 2, 1998, may be deemed to cause the cessation and termination of those trust fund contributions.

(b) The contributions due under Sections 5.2, 5.3, and 5.4 shall be determined and made on a calendar quarter basis, by first determining the total number of all Tribal gaming terminals operated by a Tribe during a given quarter ("Quarterly Terminal Base").



Notwithstanding anything in this Section 5.0 to the contrary, the Tribe shall have no obligation to make any contribution to any trust fund on the net win derived from the first 200 terminals in the Quarterly Terminal Base; shall contribute at one-half of the percentage rates specified in Sections 5.2, 5.3, and 5.4 on the net win derived from the next 200 terminals in the Quarterly Terminal Base; and shall contribute at the full percentage rates specified in the above sections on the net win derived from any additional terminals in the Quarterly Terminal Base. In making those computations, the total net win from all terminals in the Quarterly Terminal Base during a given quarter shall be included and evenly divided among all such terminals ("Average Terminal Net Win"), regardless of the actual performance or net win of any particular terminal. The Average Terminal Net Win shall be used as the basis for calculating the foregoing exclusions or reductions that are based on the number of terminals in the Quarterly Terminal Base.

#### Sec. 5.2. Nongaming Tribal Assistance Fund.

Sec. 5.2.1. The Tribe shall participate in a trust fund with all other tribes, if any, that enter into Gaming Compacts under Section 98004 of the Act, into which it shall deposit 2 percent of its net win from Tribal gaming terminals each calendar quarter. The trust fund shall be distributed on an equitable basis for education, economic development, cultural preservation, health care, and other tribal purposes to federally recognized tribes located in California that have not participated in any form of gaming within the 12-month period preceding the anticipated receipt of such trust funds.

Sec. 5.2.2. The trust shall have a board of 12 trustees, consisting of one representative from each of three federally recognized tribes in each federal judicial district in California, elected by nomination as set forth below and majority vote of those tribal representatives attending a meeting at which all federally recognized tribes in the district have been given at least 15 days' written notice to attend. Each such tribe shall have one vote. The State shall assist the trust fund in assuring that adequate notice is given to all tribes who are to be represented at the meeting. Two of the trustees from each district shall consist of representatives of tribes in the district that have entered into Gaming Compacts under the Act, and one trustee shall be from a nongaming tribe. If there are no tribes that fit into one category, the trustee positions shall be filled by the other category of tribes. Gaming tribes shall nominate and elect the gaming tribe representatives, and nongaming tribes shall nominate and elect the nongaming tribe representative. Trustees shall serve for two-year terms, and shall receive reimbursement for reasonable costs actually incurred to attend meetings and serve as a trustee that have been approved by the board of trustees.

Sec. 5.2.3. All contributions to the fund shall be combined on a statewide basis and shall be distributed from the trust fund on a quarterly basis statewide in accordance with a fair and equitable formula established by the trustees by majority vote. All moneys in the trust fund shall be distributed annually, less reasonable costs of administering the trust fund, which may not exceed 5 percent of the moneys contributed to the trust fund in each year, and pursuant to a budget approved by the board of trustees.

Sec. 5.2.4. The first meeting of the trustees shall take place within the earlier of 60 days after at least three Gaming Compacts have become effective in the applicable federal judicial district, or six months following the effective date of the first Gaming Compact in that district. Distributions that are due from the Tribe prior to the formal creation of the

trust fund specified herein shall be held in trust by the Tribe for such purposes.

Sec. 5.2.5. Contributions to the fund from the Tribe shall be made on the 15th day of the month following the close of the second calendar quarter in which this Gaming Compact has been in effect, based on the net win in the first calendar quarter of operations under the Gaming Compact derived from all Tribal gaming terminals in the Quarterly Terminal Base, and on the 15th day of the month following the close of each calendar quarter thereafter (July 15, October 15, January 15, and April 15; hereafter "contribution dates") based on the second preceding calendar quarter net win. For example, if this Gaming Compact becomes effective on October 10, the first contribution will be due on April 15, based on the total net win from Tribal gaming terminals in the Quarterly Terminal Base for the calendar quarter ending December 31. The next contribution date will be July 15, for the quarter ending March 31, and so forth. Sec. 5.3. Statewide Trust Fund.

Sec. 5.3.1. The Tribe shall participate in a trust fund with the other Gaming Compact tribes, if any, into which it shall deposit, on a quarterly basis on each contribution date, an amount equal to 3 percent of the net win from the Tribal gaming terminals in the Quarterly Terminal Base. Except as otherwise provided herein, the creation of the trust, board of trustees, and method for making contributions and distributions shall be identical to the manner in which contributions are made, trust funds are distributed, and the board of trustees is created and administered under Section 5.2, provided that nongaming tribes may not be represented or vote for trustees on the board.

Sec. 5.3.2. For each quarter, the board of trustees shall determine, based on a formula, established with the approval of the State, that takes into account the population, ratio, and emergency medical needs of persons over 55 years of age in each county, a method for distributing annually all funds in the trust, except for reasonable administrative expenses (including said trustee costs) not to exceed 5 percent of the amounts contributed to the trust fund in each year, and pursuant to a budget approved by the board of trustees. The funds in trust shall be used solely to supplement emergency medical care resources within each county, including, but not limited to, those provided by any federally recognized tribes within the county, provided that, without increasing said 3 percent amount, one-half of 1 percent of the net win on which said contribution is based shall be used to establish or supplement programs within the county that address compulsive and addictive gambling.

#### Sec. 5.4. Local Benefits Grant Fund.

Sec. 5.4.1. The Tribe shall establish a trust fund into which it shall deposit, on a quarterly basis on each contribution date, an amount equal to 1 percent of the net win from Tribal gaming terminals in the Tribe's gaming operation.

Sec. 5.4.2. Within 60 days after commencing operations under this Gaming Compact, the Tribe shall invite discussion, on a government-to-government basis, with governmental representatives of any city or county within the boundaries of which the Tribe's gaming facilities are located. Those discussions shall address community needs that could be met by grants of funds from the trust to any such cities and counties. Any federally recognized tribes within the county that are also providing services to meet those community needs shall also be included in those discussions and shall be eligible for those

grants. The procedure and criteria for receiving such funds shall be submitted in writing to, and approved by, a committee comprised of representatives of each of the eligible local community and tribal governments and the Tribe. The Tribe shall distribute annually all of such trust funds, less reasonable administrative costs of no more than 5 percent, in accordance with a distribution plan agreed upon by the committee that is fair and equitable. Funds not distributed in any year despite good faith efforts to do so shall be carried over to the following year.

## Sec. 6.0. REGULATION OF GAMING

Sec. 6.1. Tribal Gaming Ordinance. All gaming activities conducted under this Gaming Compact shall at a minimum comply with a Tribal gaming ordinance duly adopted by the Tribe and approved in accordance with IGRA.

Sec. 6.2. Tribal Ownership, Management, and Control of Gaming Facility and Gaming Operation. All gaming operations and facilities authorized under this Gaming Compact shall be owned solely by the Tribe. The parties acknowledge that most tribal gaming operations and facilities within the State presently are controlled and conducted solely by a tribe, and that a goal of the Act is to enable all tribes to control and conduct their own gaming operations and facilities, provide tribal job training and employment, and achieve tribal self-sufficiency. Therefore, although the Tribe shall be entitled to contract for the management of the gaming facility and operation in accordance with IGRA, any such management contract shall provide that, to the extent permitted by law, members of the Tribe will be trained for and advanced to key management positions, and that a goal of the management contractor is to prepare the Tribe to assume the control and conduct of the operation and facility.

Sec. 6.3. Prohibition Regarding Minors. Tribal gaming facilities operated pursuant to this Gaming Compact shall be subject to the same minimum-age restrictions for patrons that currently apply to the California State Lottery. If alcoholic beverages are served in any area of a Tribal gaming facility operated pursuant to this Gaming Compact, prohibitions regarding age limits in that area shall be governed by applicable law.

## Sec. 6.4. Licensing Requirements and Procedures.

Sec. 6.4.1. Summary of Licensing Principles. All persons in any way connected with the gaming operation or facility who are required to be licensed under IGRA and any others required to be licensed under this Gaming Compact, including, but not limited to, all gaming employees and gaming resource suppliers, must be licensed by the Tribal gaming agency. The Tribal gaming agency shall have the primary responsibility for licensing those persons and entities and for the regulation of the gaming operation and facility. The Tribal gaming agency shall also certify, through the use of experts and with participation by the State gaming agency if it so desires, that the gaming facility and any construction to be undertaken in regard thereto meet specified building and safety standards. The State gaming agency shall be provided with licensing application information and reports regarding facility inspections and compliance. The State gaming agency may review that information and object or refrain from objecting thereto. In the event that the State gaming agency fails to object to a gaming license application within 90 days after receipt of that information and notification that the Tribal gaming agency intends to issue a temporary or permanent license, the State gaming agency is deemed to

have certified that it has no objection to that issuance, but the State gaming agency shall be free at any time to revoke that certification, or to request the Tribal gaming agency to suspend or revoke a gaming license. The dispute resolution processes between the State and the Tribe provided for herein shall be available to resolve disputes between the Tribe and the State regarding such requests and building and safety certifications. The parties intend that the licensing process provided for in this Gaming Compact shall involve joint cooperation between the Tribal gaming agency and the State gaming agency, as more particularly described herein.

Sec. 6.4.2. Gaming Facility. (a) The gaming facility authorized by this Gaming Compact shall be licensed by the Tribal gaming agency in conformity with the requirements of this Gaming Compact, the Tribal gaming ordinance, and IGRA. The license shall be reviewed and renewed, if appropriate, every two years thereafter. Verification that this requirement has been met shall be provided to the State gaming agency. The Tribal gaming agency's certification to that effect shall be posted in a conspicuous and public place in the gaming facility at all times.

(b) In order to protect the health and safety of all gaming facility patrons, guests, and employees, all gaming facilities of the Tribe constructed after the effective date of this Gaming Compact shall meet the building and safety codes of the Tribe, which, as a condition for engaging in that construction, shall amend its existing building and safety codes if necessary, or enact such codes if there are none, so that they meet the standards of either the building and safety codes of any county within the boundaries of which the site of the facility is located, or the Uniform Building Codes, including all uniform fire, plumbing, electrical, mechanical, and related codes then in effect, provided that nothing herein shall be deemed to confer jurisdiction upon any county or the State with respect to any reference to such building and safety codes.

(c) Any gaming facility in which gaming authorized by this Gaming Compact is conducted shall be licensed by the Tribal gaming agency prior to occupancy if it was not used for any gaming activities under IGRA prior to the effective date of this Gaming Compact, or, if it was so used, within one year thereafter. The issuance of this license shall be reviewed and renewed every two years thereafter. Inspections by qualified building and safety experts shall be conducted under the direction of the Tribal gaming agency as the basis for issuing or renewing any license hereunder. The Tribal gaming agency shall determine and certify that, as to new construction or new use for gaming, the facility meets the Tribe's building and safety code, or, as to facilities or portions of facilities that were used for the Tribe's gaming activities prior to this Gaming Compact, that the facility or portions thereof do not endanger the health or safety of occupants or the integrity of the gaming operation.

(d) The State gaming agency shall be given at least 30 days' notice of each inspection by those experts, and, after 10 days' notice to the Tribe, may accompany any such inspection. The Tribe agrees to correct any facility condition noted in an inspection that does not meet the standards set forth in subdivision (b). The Tribal gaming agency and State gaming agency shall exchange any reports of an inspection within 10 days after its completion, which reports shall also be separately and simultaneously forwarded by both agencies to the Tribal Chairperson. Upon certification by those experts that a facility meets applicable standards, the Tribal gaming agency shall forward the experts' certification to the State within 10 days of issuance. If the State objects to that

certification, the Tribe shall make a good faith effort to address the State's concerns, but if the State does not withdraw its objection, the matter will be resolved in accordance with the dispute resolution provisions of Section 9.0.

Sec. 6.4.3. Suitability Standard Regarding Gaming Licenses. In reviewing an application for a gaming license, and in addition to any standards set forth in the Tribal gaming ordinance, the Tribal gaming agency shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the Tribe's gaming operations, or tribal government gaming generally, are free from criminal and dishonest elements and would be conducted honestly. A license may not be issued unless, based on all information and documents submitted, the Tribal gaming agency is satisfied that the applicant is all of the following, in addition to any other criteria in IGRA or the Tribal gaming ordinance:

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

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

(c) A person who is in all other respects qualified to be licensed as provided in this Gaming Compact, IGRA, the Tribal gaming ordinance, and any other criteria adopted by the Tribal gaming agency or the Tribe, provided that any applicant who supplied services or equipment to a tribal gaming operation prior to the effective date of this Act, such as, but not limited to, a person who would be deemed to be a gaming employee or gaming resource supplier under this Gaming Compact, or any person who may have been deemed to have violated a law in the exercise of or protection of a tribe's sovereignty rights in connection with fishing, hunting, protection of burial grounds, repatriation of remains or artifacts, or gaming, may not, for that reason, be deemed unsuitable. Nothing herein may be deemed to exempt any such applicant from otherwise qualifying for licensing or certification under this Gaming Compact.

Sec. 6.4.4. Gaming Employees. Every gaming employee shall obtain, and thereafter maintain, a valid Tribal gaming license, which shall be subject to biannual renewal, provided that in accordance with Section 6.4.9, those persons may be employed on a temporary or conditional basis pending completion of the licensing process.

Sec. 6.4.5. Gaming Resource Supplier. Any gaming resource supplier who provides, has provided, or is deemed likely to provide at least twenty-five thousand dollars (\$25,000) in gaming resources in any 12-month period shall be licensed by the Tribal gaming agency prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any such gaming resources to or in connection with the Tribe's operation or facility. These licenses shall be renewed at least every two years.

Sec. 6.4.6. Financial Sources. Any party extending financing, directly or indirectly, to the Tribe's gaming facility or gaming operation shall be licensed by the Tribal gaming agency prior to extending that financing. Licensing shall be effective for no more than two years before a renewal must be obtained, provided that, if a lender's gaming license is

revoked or not renewed, reasonable arrangements may be made with regard to payment of any balance due to that lender so as to not impose undue hardship on the Tribe, provided that reasonable attempts shall be made to avoid ongoing conflicts with any licensing standard herein. A gaming resource supplier who provides financing in connection with the sale or lease of gaming resources obtained from that supplier may be licensed solely in accordance with licensing procedures applicable, if at all, to gaming resource suppliers. The Tribal gaming agency may, at its discretion, exclude, from the licensing requirements of this section, financing provided by a federally regulated or state-regulated bank, savings and loan, or other lending institution, a federally recognized tribal government or tribal entity thereof, or any agency of the federal, state, or local government.

Sec. 6.4.7. Processing Tribal Gaming License Applications. Each applicant for a Tribal gaming license shall submit the completed application along with the required information and an application fee, if required, to the Tribal gaming agency in accordance with the rules and regulations of that agency. At a minimum, the Tribal gaming agency shall require submission and consideration of all information required under IGRA, including Section 556.4 of Title 25 of the Code of Federal Regulations, for licensing primary management officials and key employees. For applicants who are business entities, these licensing provisions shall apply to the entity as well as: (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager; (iii) each of its owners or partners, if an unincorporated business; (iv) each of its shareholders who owns more than 10 percent of the shares of the corporation, if a corporation; and (v) each person or entity (other than a financial institution that the Tribal gaming agency has determined does not require a license under the preceding section) that has provided financing in connection with any gaming authorized under this Gaming Compact, if that person or entity provided more than 10 percent of (a) the start-up capital, (b) the operating capital over a 12-month period, or (c) a combination thereof. For purposes of this section, where there is any commonality of the characteristics identified in clauses (i) to (iv), inclusive, between any two or more entities, those entities may be deemed to be a single entity. Nothing herein precludes the Tribe or Tribal gaming agency from requiring more stringent licensing requirements.

Sec. 6.4.8. Background Investigations of Applicants. The Tribal gaming agency shall conduct or cause to be conducted all necessary background investigations reasonably required to determine that the applicant is qualified for a gaming license under the standards set forth in Section 6.4.3, and to fulfill all requirements for licensing under IGRA, the Tribal gaming ordinance, and this Gaming Compact. The Tribal gaming agency may not issue a license until a determination is made that those qualifications have been met. In lieu of completing its own background investigation, and to the extent that doing so does not conflict with or violate IGRA and the Tribal gaming ordinance, the Tribal gaming agency may rely on a State certification of nonobjection previously issued under a Gaming Compact involving another tribe, or a State gaming license previously issued to the applicant, to fulfill some or all of the Tribal gaming agency's background investigation obligation. An applicant for a Tribal gaming license shall be required to provide releases to the State gaming agency to make available to the Tribal gaming agency background information regarding the applicant. The State gaming agency shall cooperate in furnishing to the Tribal gaming agency that information, unless doing so would violate any agreement the State gaming agency has with a source of the information

other than the applicant, or would impair or impede a criminal investigation, or unless the Tribal gaming agency cannot provide sufficient safeguards to assure the State gaming agency that the information will remain confidential.

Sec. 6.4.9. Temporary Licensing. Notwithstanding anything herein to the contrary, if the applicant has completed a license application in a manner satisfactory to the Tribal gaming agency, and that agency has conducted a preliminary background investigation, and the investigation or other information held by that agency does not indicate that the applicant has a criminal history or other information in his or her background that would either automatically disqualify the applicant from obtaining a license or cause a reasonable person to investigate further before issuing a license, or is otherwise unsuitable for licensing, the Tribal gaming agency may issue a temporary license and may impose such specific conditions thereon pending completion of the applicant's background investigation as the Tribal gaming agency in its sole discretion shall determine. Special fees may be required by the Tribal gaming agency to issue or maintain a temporary license. A temporary license shall remain in effect until suspended or revoked, or a final determination is made on the application. At any time after issuance of a temporary license, the Tribal gaming agency may suspend or revoke it in accordance with Sections 6.5.1 and 6.5.5, and the State gaming agency may request suspension or revocation in accordance with subdivision (d) of Section 6.5.6.

Sec. 6.5. Gaming License Issuance. Upon completion of the necessary background investigation (including any reliance in whole or in part on a State certification of nonobjection, or a State gaming license under Section 6.4.8), receipt and review of such further information as the Tribal gaming agency may require, and as to applicants who are not Tribal members, actual or constructive receipt by the Tribal gaming agency of a certificate of nonobjection by the State gaming agency, and payment of all necessary fees by the applicant, the Tribal gaming agency may issue a license on a conditional or unconditional basis. Nothing herein shall create a property or other right of an applicant in an opportunity to be licensed, or in a license itself, both of which shall be considered to be privileges granted to the applicant in the sole discretion of the Tribal gaming agency.

Sec. 6.5.1. Denial, Suspension, or Revocation of Licenses. Any application for a gaming license may be denied, and any license issued may be revoked, if the Tribal gaming agency determines that the application is incomplete or deficient, the applicant is determined to be unsuitable or otherwise unqualified for a gaming license, or the State objects to the issuance of that license pursuant to subdivision (c) of Section 6.5.6. Pending consideration of revocation, the Tribal gaming agency may suspend a license in accordance with Section 6.5.5. All rights to notice and hearing shall be governed by Tribal law, as to which the applicant will be notified in writing along with notice of an intent to suspend or revoke the license.

Sec. 6.5.2. Renewal of Licenses; Extensions; Further Investigation. In the event a licensee has applied for renewal prior to expiration of a license and the Tribal gaming agency has, through no fault of the applicant, been unable to complete the renewal process prior to that expiration, the license shall be deemed to be automatically extended until formal action has been taken on the renewal application or a suspension or revocation has occurred. Applicants for renewal of a license shall provide updated material as requested, on the appropriate renewal forms, but, at the discretion of the Tribal gaming agency, may not be required to resubmit historical data previously submitted or that is otherwise

available to the Tribal gaming agency. At the discretion of the Tribal gaming agency, an additional background investigation may be required at any time if the Tribal gaming agency determines the need for further information concerning the applicant's continuing suitability or eligibility for a license.

Sec. 6.5.3. Identification Cards. The Tribal gaming agency shall require that all persons who are required to be licensed shall wear, in plain view at all times while in the gaming facility, identification badges issued by the Tribal gaming agency. Identification badges must include information including, but not limited to, a photograph and an identification number, which is sufficient to enable agents of the Tribal gaming agency to readily identify the employees and determine the validity and date of expiration of their license.

Sec. 6.5.4. Fees for Tribal License. The fees for all tribal licenses shall be set by the Tribal gaming agency.

Sec. 6.5.5. Suspension of Tribal License. The Tribal gaming agency may summarily suspend the license of any employee if the Tribal gaming agency determines that the continued licensing of the person or entity could constitute a threat to the public health or safety or may be in violation of the Tribe's licensing standards. Any right to notice or hearing in regard thereto shall be governed by Tribal law.

Sec. 6.5.6. State Certification Process. (a) Except for enrolled members of a federally recognized California tribe, who shall be licensed exclusively by the Tribe, upon receipt of a completed license application and a determination by the Tribal gaming agency that it intends to issue the earlier of a temporary or permanent license, the Tribal gaming agency shall transmit to the State gaming agency a copy of all Tribal license application materials together with a set of fingerprint cards, a current photograph, and such releases of information, waivers, and other completed and executed forms as have been obtained by the Tribal gaming agency, unless the State gaming agency waives some or all of those submissions, together with a notice of intent to license that applicant. Additional information may be required by the State gaming agency to assist it in its background investigation, provided that such State gaming agency requirement shall be no greater than that which is typically required of applicants for a State gaming license in connection with nontribal gaming activities and at a similar level of participation or employment. The State gaming agency and the Tribal gaming agency (together with Tribal gaming agencies under other Gaming Compacts) shall cooperate in developing standard licensing forms for Tribal gaming license applicants, on a statewide basis, that reduce or eliminate duplicative or excessive paperwork, which forms and procedures shall take into account the Tribe's requirements under IGRA and the expense thereof.

(b) Temporary License Objection. The State gaming agency shall notify the Tribal gaming agency as promptly as possible if it has an objection to the issuance of a temporary license, but the Tribal gaming agency may not be required to await objection or nonobjection by the State gaming agency in issuing a temporary license. Any objection shall be made in good faith, and shall be given prompt and thorough consideration in good faith by the Tribal gaming agency. Nothing herein prevents the State gaming agency from at any time requesting suspension or revocation of a temporary license pursuant to subdivision (d) of Section 6.5.6. Any dispute over the issuance of a temporary license shall be resolved in accordance with the procedures set forth in Section 9.0.



(c) Background Investigations of Applicants. Upon receipt of completed license application information from the Tribal gaming agency, the State gaming agency may conduct a background investigation to determine whether the applicant is suitable to be licensed in accordance with the standards set forth in Section 6.4.3. The State gaming agency and Tribal gaming agency shall cooperate in sharing as much background information as possible, both to maximize investigative efficiency and thoroughness and to minimize investigative costs. Upon completion of the necessary background investigation or other verification of suitability, the State gaming agency shall issue a notice to the Tribal gaming agency certifying that the State has no objection to the issuance of a license to the applicant by the Tribal gaming agency ("certification of nonobjection"), or that it objects to that issuance. If notice of objection is given, a statement setting forth the grounds for the objection shall be forwarded to the Tribal gaming agency together with the information upon which the objection was based, unless doing so would violate a confidentiality agreement or compromise a pending criminal investigation. If a notice of objection or a certificate of nonobjection is not received by the Tribal gaming agency within 90 days of the first receipt by the State gaming agency of the application information and intent to issue a temporary or permanent license, as provided herein, the State gaming agency shall be deemed to have issued a certificate of nonobjection.

(d) Grounds for Requesting Tribal License Revocation or Suspension or Denying State Certification of Nonobjection. The State gaming agency may revoke a State certification of nonobjection if it determines at any time that the applicant or license holder does not meet the standards for suitability set forth in Section 6.4.3. Upon the Tribal gaming agency's receipt of notice of that action, it shall immediately and in good faith consider the action of the State gaming agency and, if the circumstances warrant it, take action to suspend or revoke the licensee's Tribal license, unless within seven days of receipt of that notice it has notified the State gaming agency that good cause exists to defer taking that action, including the need for further investigation. Disputes regarding the action taken or not taken in response to the State gaming agency request shall be resolved pursuant to Section 9.0. If at any time the State gaming agency becomes aware of information that would constitute good cause to deny or revoke the Tribal license of any person, including members of federally recognized **Indian** tribes in California who are exempt from the State review process, it shall convey that information to the Tribal gaming agency promptly after being made aware of that information, and may request that appropriate action be taken by the Tribal gaming agency as to that person.

Sec. 6.5. Licenses Required. A person may not be employed by, or act as a gaming resource supplier to, any gaming activity or facility of the Tribe unless that person, if required to be licensed, has obtained all licenses required hereunder.

#### Sec. 7.0. TRIBAL ENFORCEMENT OF GAMING COMPACT PROVISIONS

Sec. 7.1: On-Site Regulation. It is the responsibility of the Tribal gaming agency to conduct on-site gaming regulation and control in order to enforce the terms of this Gaming Compact, IGRA, and the Tribal gaming ordinance with respect to gaming operation and facility compliance, and to protect the integrity of the gaming activities, the reputation of the Tribe and the gaming operation for honesty and fairness, and the confidence of patrons that tribal government gaming in California meets the highest standards of regulation and internal controls. To meet those responsibilities, the Tribal gaming agency shall adopt

regulations, procedures, and practices as set forth herein.

Sec. 7.2. Investigation and Sanctions. The Tribal gaming agency shall investigate any reported violation of this Gaming Compact and shall require the gaming operation to correct the violation upon such terms and conditions as the Tribal gaming agency determines are necessary. The Tribal gaming agency shall be empowered by the Tribal ordinance to impose fines or other sanctions within the jurisdiction of the Tribe against gaming licensees or other persons who interfere with or violate the Tribe's gaming regulatory requirements and obligations under IGRA, the Tribal gaming ordinance, or this Gaming Compact. The Tribal gaming agency shall report continued violations or failures to comply with its orders to the State gaming agency, provided that the continued violations and compliance failures have first been reported to the Tribe and no corrective action has been taken within a reasonable period of time.

Sec. 7.3. Assistance by State Gaming Agency. 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 requested services to ensure proper compliance with this Gaming Compact. The State shall be reimbursed for its reasonable costs of that assistance provided that it has received approval from the Tribe in advance for those expenditures.

Sec. 7.4. Access to Premises by State Gaming Agency; Notification; Inspections. Notwithstanding that the Tribe has the primary responsibility to administer and enforce the regulatory requirements, the State gaming agency shall have the right to inspect the Tribe's gaming facilities with respect to class III gaming activities only, and all gaming operation or facility records relating thereto, subject to the following conditions:

Sec. 7.4.1. Inspection of public areas of a gaming facility may be made at any time without prior notice during normal gaming facility business hours.

Sec. 7.4.2. Inspection of private areas of a gaming facility not accessible to the public may be made at any time during normal gaming facility business hours, immediately after the State gaming agency's authorized inspector notifies the Tribal gaming agency and gaming facility management of his or her presence on the premises, presents proper identification, and requests access to the nonpublic areas of the gaming facility. The Tribal gaming agency, in its sole discretion, may require an employee of the gaming facility or the Tribal gaming agency to accompany the State gaming agency inspector at all times that the State gaming agency inspector is on the premises of a gaming facility. If the Tribal gaming agency imposes such a requirement, it shall require such an employee of the gaming facility or the Tribal gaming agency to be available at all times for those purposes.

Sec. 7.4.3. Inspection and copying of gaming operation records may occur at any time, immediately after notice to the Tribal gaming agency, during the normal hours of the facility's business office, provided that the inspection and copying of those records may not interfere with the normal functioning of the gaming operation or facility. Notwithstanding any other provision of the law of this State, all information and records, and copies thereof, that the State gaming agency obtains, inspects, or copies pursuant to this Gaming Compact shall be and remain the property solely of the Tribe, and may not be released or divulged for any purpose without the Tribe's prior written consent, except that the production of those records may be compelled by subpoena in a criminal prosecution

or in a proceeding for violation of this Gaming Compact without the Tribe's prior written consent, and provided further that, prior to the disclosure of the contents of any such records, the Tribe shall be given at least 10 court days' notice and an opportunity to object or to require the redaction of trade secrets or other confidential information that is not relevant to the proceeding in which the records are to be produced.

Sec. 7.4.4. Whenever a representative of the State gaming agency enters the premises of the gaming facility for any such inspection, that representative shall immediately identify himself or herself to security or supervisory personnel of the gaming facility.

Sec. 7.4.5. Any person associated with the State gaming agency who is expected to have access to nonpublic areas of the gaming facility shall first be identified to the Tribal gaming agency as so authorized, and following a sufficient period of time for the Tribal gaming agency to conduct a reasonable inquiry into the person's character and background, and to grant approval to that person's presence, which approval may not be unreasonably withheld.

#### Sec. 8.0. RULES AND REGULATIONS FOR THE OPERATION AND MANAGEMENT OF THE TRIBAL GAMING OPERATION

Sec. 8.1. Adoption of Regulations for Operation and Management; Minimum Standards. In order to meet the goals set forth in this Gaming Compact and required of the Tribe by law, the Tribal gaming agency shall be vested with the authority to promulgate, at a minimum, rules and regulations governing the following subjects, and to ensure their enforcement in an effective manner:

Sec. 8.1.1. The enforcement of all relevant laws and rules with respect to the gaming operation and facility, and the power to conduct investigations and hearings with respect thereto and to any other subject within its jurisdiction.

Sec. 8.1.2. The physical safety of gaming operation patrons, employees, and any other person while in the gaming facility.

Sec. 8.1.3. The physical safeguarding of assets transported to, within, and from the gaming facility.

Sec. 8.1.4. The prevention of illegal activity from occurring within the facility or with regard to the gaming operation, including, but not limited to, the maintenance of employee procedures and a surveillance system as provided below.

Sec. 8.1.5. The detention of persons who may be involved in illegal acts for the purpose of notifying appropriate law enforcement authorities.

Sec. 8.1.6. The recording of any and all occurrences within the gaming facility that deviate from normal operating policies and procedures (hereafter "incidents"). The procedure for recording incidents shall (1) specify that security personnel record all incidents, regardless of an employee's determination that the incident may be immaterial (all incidents shall be identified in writing); (2) require the assignment of a sequential number to each report; (3) provide for permanent reporting in indelible ink in a bound notebook from which pages cannot be removed and in which entries are made on each

side of each page; and (4) require that each report include, at a minimum, all of the following:

- (a) The record number.
- (b) The date.
- (c) The time.
- (d) The location of the incident.
- (e) A detailed description of the incident.
- (f) The persons involved in the incident.
- (g) The security department employee assigned to the incident.

Sec. 8.1.7. The establishment of employee procedures designed to permit detection of any irregularities, theft, cheating, fraud, or the like.

Sec. 8.1.8. Maintenance of a list of persons barred from the gaming facility who, because of their past behavior, criminal history, or association with persons or organizations, pose a threat to the integrity of the gaming activities of the Tribe or to the integrity of regulated gaming within the State.

Sec. 8.1.9. The conduct of an audit of the gaming operation, not less than annually, by an independent certified public accountant, in accordance with the auditing and accounting standards for audits of casinos of the American Institute of Certified Public Accountants.

Sec. 8.1.10. Submission to and prior approval from the Tribal gaming agency of the rules and regulations of each class III game to be operated by the Tribe, and of any changes in those rules and regulations. No class III game may be played that has not received Tribal gaming agency approval.

Sec. 8.1.11. Maintenance of a copy of the rules, regulations, and procedures for each game as presently played, including, but not limited to, the method of play and the odds and method of determining amounts paid to winners. Information regarding the method of play, odds, payoff determinations, and player pool balances shall be visibly displayed or available to patrons in written form in the gaming facility. Betting limits applicable to any gaming station shall be displayed at that gaming station. In the event of a patron dispute over the application of any gaming rule or regulation, the matter shall be handled in accordance with the Tribal gaming ordinance and any rules and regulations promulgated by the Tribal gaming agency.

Sec. 8.1.12. Maintenance of a closed-circuit television surveillance system consistent with industry standards for gaming facilities of the type and scale operated by the Tribe, which system shall be approved by, and may not be modified without the approval of, the Tribal gaming agency. The Tribal gaming agency shall have current copies of the gaming facility floor plan and closed-circuit television system at all times, and any modifications

thereof first shall be approved by the Tribal gaming agency.

Sec. 8.1.13. Maintenance of a cashier's cage in accordance with industry standards for such facilities.

Sec. 8.1.14. A description of minimum staff and supervisory requirements for each gaming activity to be conducted.

Sec. 8.1.15. Regulations specific to technical standards for the operation of Tribal gaming terminals and other games authorized herein to be adopted by the Tribe, which technical specifications may be no less stringent than those approved by a recognized gaming testing laboratory in the gaming industry.

Sec. 8.2. Criminal Jurisdiction. Nothing in this Gaming Compact affects the criminal jurisdiction of the State under Public Law 280 (18 U.S.C. Sec. 1162) or IGRA, to the extent applicable, provided that no gaming activity conducted in compliance with this Gaming Compact and the Act may be deemed to be a civil or criminal violation of any law of the State. Except as otherwise provided herein, to the extent the State contends that a violation of this Gaming Compact or any law of the State regarding the regulation or conduct of gambling has occurred at or in relation to the Tribe's gaming operation or facility, the violation shall be treated solely as a civil matter to be resolved pursuant to Section 9.0.

#### Sec. 9.0. DISPUTE RESOLUTION PROVISIONS

Sec. 9.1. Voluntary Resolution; Reference to Other Means of Resolution. In recognition of the government-to-government relationship of the Tribe and the State, the parties shall make their best efforts to resolve disputes that occur under this Gaming Compact by good faith negotiations whenever possible. Therefore, without prejudice to the right of either party to seek injunctive relief against the other when circumstances require that immediate relief, the parties hereby establish a threshold requirement that disputes between the Tribe and the State first be subjected to a process of meeting and conferring 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 Gaming Compact, as follows:

(a) Either party shall give the other, as soon as possible after the event giving rise to the concern, a written notice setting forth the 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 10 days after receipt of the notice, unless both parties agree in writing to an extension of time.

(c) If the dispute is not resolved to the satisfaction of the parties within 20 days after the first meeting, then a party may seek to have the dispute resolved by an arbitrator in accordance with this section. "Dispute," for purposes of this subdivision, means any disagreement between the State gaming agency and the Tribal gaming agency in reference to the provisions of Sections 4.0 to 8.1.15, inclusive.

(d) Disagreements other than disputes as defined in subdivision (c) shall be resolved

in federal district court and all applicable courts of appeal (or, if those federal courts lack jurisdiction, in any court of competent jurisdiction and its related courts of appeal). The disputes to be submitted to court action include, but are not limited to, any other dispute, including, but not limited to, claims of breach or failure to negotiate in good faith. In no event may the Tribe be precluded from pursuing any arbitration or judicial remedy against the State on the grounds that the Tribe has failed to exhaust its state administrative remedies.

**Sec. 9.2. Arbitration Rules.** Arbitration shall be conducted in accordance with the policies and procedures of the Commercial Arbitration Rules of the American Arbitration Association, and shall be held on the Tribe's reservation. Each side shall bear its own costs, attorneys' fees, and one-half the cost of the arbitration. Only one arbitrator may be named, unless the Tribe and the State agree otherwise. The decision of the arbitrator shall be binding.

**Sec. 9.3. No Waiver or Preclusion of Other Means of Dispute Resolution.** This section may not be construed to waive, limit, or restrict any remedy that is otherwise available to either party, nor may this section be construed to preclude, limit, or restrict the ability of the parties to pursue, by mutual agreement, any other method of dispute resolution, including, but not limited to, mediation or utilization of a technical advisor to the Tribal and State gaming agencies, provided that neither party is under any obligation to agree to such alternative method of dispute resolution.

**Sec. 9.4. Limited Waiver of Sovereign Immunity.** (a) In the event that a dispute is to be resolved in federal court or a court of competent jurisdiction as provided in Section 9.1, the State and the Tribe expressly consent to be sued therein and waive any immunity therefrom that they may have, provided that:

(1) The dispute is limited solely to issues arising under this Gaming Compact;

(2) Neither side makes any claim for monetary damages (that is, only injunctive, specific performance, or declaratory relief is sought); and

(3) No person or entity other than the Tribe and the State are parties to the action.

(b) In the event of intervention by any additional party into any such action without the consent of the Tribe and the State, the waivers of both the Tribe and State provided for herein shall be deemed to be revoked and void.

(c) The waivers and consents provided for under this Section 9.0 shall extend to any actions to compel arbitration, any arbitration proceeding herein, any action to confirm or enforce any arbitration award as provided herein, and any appellate proceedings emanating from a matter in which an immunity waiver has been granted. Except as stated herein, no other waivers or consents to be sued, either express or implied, are granted by either party.

## **Sec. 10.0. PUBLIC HEALTH, SAFETY, AND LIABILITY**

**Sec. 10.1. Compliance.** For the purposes of this Gaming Compact, the Tribal gaming operation shall comply with and enforce standards no less stringent than the following

with respect to public health and safety:

(a) Public health standards for food and beverage handling in accordance with United States Public Health Service requirements.

(b) Federal water quality and safe drinking water standards.

(c) The building and safety standards set forth in Section 6.4.

(d) A requirement that the Tribe carry no less than two million dollars (\$2,000,000) in public liability insurance for patron claims, and that the Tribe provide reasonable assurance that those claims will be promptly and fairly adjudicated, and that legitimate claims will be paid, provided that nothing herein requires the Tribe to agree to liability for punitive damages or attorneys' fees.

(e) Tribal codes and other applicable federal law regarding public health and safety.

(f) The creation and maintenance of a system that provides redress for employee work-related injuries, disabilities, and unemployment through requiring insurance or self-insurance, or by other means, which system includes the right to notice, hearings, and a means of enforcement and provides benefits comparable to those mandated for comparable workplaces under State law.

Sec. 10.2. Emergency Service Accessibility. The Tribal gaming operation shall ensure that it has made reasonable provisions for adequate emergency fire, medical, and related relief and disaster services for patrons and employees of the facility.

Sec. 10.3. Alcoholic Beverage Service. Standards for alcohol service shall be subject to applicable law.

#### Sec. 11.0. AMENDMENTS, DURATION, AND EFFECTIVE DATE

Sec. 11.1. Effective Date. This Gaming Compact shall constitute the agreement between the State and the Tribe pursuant to IGRA and may be amended and modified only under the provisions set forth herein. This Gaming Compact shall take effect upon publication of notice of approval by the United States Secretary of the Interior in the Federal Register in accordance with applicable federal law (25 U.S.C. Sec. 2710(d)(3) (B)).

Sec. 11.2. Voluntary Termination. Once effective, this Gaming Compact shall be in effect until terminated either by the written agreement of both parties or by the Tribe unilaterally upon 60 days' written notice to the Governor.

#### Sec. 12.0. AMENDMENTS; RENEGOTIATIONS

Sec. 12.1. The terms and conditions of this Gaming Compact may be amended at any time by the mutual and written agreement of both parties, and such amendment is approved hereby as part of the Act.

Sec. 12.2. In the event that federal or State law is changed or is interpreted, by

enactment, a final court decision, a practice of the State gaming agency, or the inclusion of such gaming in a tribal-state compact, to permit gaming in California that is not now permitted to any person or entity for any purpose, or, if permitted, is being lawfully offered for the first time, this Gaming Compact shall be automatically amended to include that permitted or offered gaming, which shall be deemed to be included within the definition of "gaming activities" hereunder.

Sec. 12.3. This Gaming Compact is subject to renegotiation in the event the Tribe wishes to engage in forms of class III gaming other than those games authorized or automatically included herein and requests renegotiation for that purpose, provided that, except for a change in law or a court ruling that establishes the right of the Tribe to engage in other forms of gaming, no such renegotiation may be sought for 12 months following the effective date of this Gaming Compact.

Sec. 12.4. Process and Negotiation Standards. All requests to amend or renegotiate shall be in writing, addressed to the State gaming agency, and shall include the activities or circumstances to be negotiated together with a statement of the basis supporting the request. If the request meets the requirements of this section, the parties shall confer promptly and determine a schedule for commencing negotiations within 30 days of the request. Unless expressly provided otherwise herein, all matters involving negotiations or other amendatory processes under this section shall be governed, controlled, and conducted (a) in conformity with the provisions and requirements of IGRA, including those provisions regarding the obligation of the State to negotiate in good faith and the enforcement of that obligation in federal court, as to which obligation and actions in federal court the State hereby agrees and consents to be sued in that court system, and (b) in conformity with the authority of the Secretary of the Interior to adopt procedures for the Tribe's engagement in class III gaming if no agreement in a Gaming Compact can be reached and the State has failed to negotiate in good faith. The Chairperson of the Tribe and the Governor of the State are hereby authorized to designate the person or agency responsible for conducting the negotiations, and shall execute any documents necessary as a result thereof.

Sec. 13.0. NOTICES. Unless otherwise indicated by this Gaming Compact, all notices required or authorized to be served shall be served by first-class mail at the following addresses:

Governor Tribal Chairperson

State of California [Formal Name of Tribe]

State Capitol

Sacramento, California

Sec. 14.0. SEVERABILITY. In the event that any section or provision of this Gaming Compact is held invalid, or its application to any particular activity is held invalid, it is the intent of the parties that the remaining sections of this Gaming Compact continue in full force and effect, provided that, in the event provisions must be added to this Gaming Compact in order to preserve the intentions of the parties in light of that invalidity, the parties shall promptly negotiate those provisions in good faith.



Sec. 15.0. CHANGES IN IGRA. This Gaming Compact is intended to meet the requirements of IGRA or any successor statute, as in effect on the date this Gaming Compact becomes effective. Subsequent changes to IGRA that diminish the rights of the State or the Tribe may not be applied retroactively to this Gaming Compact, except to the extent that federal law validly mandates that diminishment without the State's or the Tribe's respective consent.

Sec. 16.0. MISCELLANEOUS

Sec. 16.1. The parties agree that, in order to further the intent of the parties and the goals of the Act, and to implement this Gaming Compact in a manner consistent therewith, this Gaming Compact shall be amended by mutual consent, arrived at as the result of good faith negotiations, if necessary to clarify or effectuate the goals and intent of this Gaming Compact and the Act, to the extent that the goals and intent are not addressed, or are ambiguously or incompletely provided for herein, provided that nothing in this section may delay the effective date or implementation of this Gaming Compact.

Sec. 16.2. Any State agency or other subdivision of the State providing regulatory or other services to the Tribe pursuant to this Gaming Compact shall be entitled to reimbursement from the Tribe for the actual and reasonable cost of those services, and the Tribe shall promptly pay that reimbursement to that agency or subdivision upon receipt of itemized invoices therefor. Any disputes concerning the reasonableness of any claim for reimbursement shall be resolved in accordance with the dispute resolution procedures set forth in Section 9.0.

Sec. 16.3. This Gaming Compact sets forth the full and complete agreement of the parties and supersedes any prior agreements or understandings with respect to the subject matter hereof. [FORMAL NAME OF TRIBE]

By DATED: day of , Chairperson

THE STATE OF CALIFORNIA

By DATED: day of , Governor

98005. The Gaming Compact offered in Section 98004 shall, to the extent permitted by law, be deemed agreed to, approved, and executed by the State of California in the event a request therefor is duly made by a federally recognized **Indian** tribe in accordance with Section 98002 and it is not executed by the Governor within the time prescribed in this chapter, provided that, in the event this provision is deemed to be unlawful or ineffective for any reason, or if the tribe in its discretion seeks to compel execution of the Gaming Compact through court action, the State of California hereby submits to the jurisdiction of the courts of the United States in any action brought against the state by any federally recognized **Indian** tribe asserting any cause of action arising from the state's refusal to execute the Gaming Compact offered in Section 98004 upon a tribe's request therefor. Without limiting the foregoing, the State of California also submits to the jurisdiction of the courts of the United States in any action brought against the state by any federally recognized California **Indian** tribe asserting any cause of action arising from the state's refusal to enter into negotiations with that tribe for the purpose of entering into a different Tribal-State compact pursuant to IGRA or to conduct those negotiations in good

faith, the state's refusal to enter into negotiations concerning the amendment of a Tribal-State compact to which the state is a party, or to negotiate in good faith concerning that amendment, or the state's violation of the terms of any Tribal-State compact to which the state is or may become a party.

98006. The gaming authorized pursuant to this chapter, including, but not limited to, the gaming authorized pursuant to the Gaming Compact set forth in Section 98004, is not subject to any prohibition in state law now or hereafter enacted. Without limiting the foregoing, and notwithstanding any other provision of law, the following forms of gaming specifically are permitted and authorized to be conducted on **Indian** lands by a tribe that has entered into a Tribal-State compact with the state pursuant to this chapter, IGRA, or any other law:

(a) Any card games that were operated on any **Indian** reservation in California on or before January 1, 1998, provided that, with respect to card games that are not within class II of IGRA (which class II games are not affected by this chapter), those card games shall pay prizes solely in accordance with a players' pool prize system in which one or more segregated pools of funds that have been collected from player wagers are irrevocably dedicated to the prospective award of prizes in those card games or other lottery games, promotions, or contests and in which the house neither has acquired nor can acquire any interest. The tribe may set and collect a fee from players on a per play, per amount wagered, or time-period basis, and may seed the pools in the form of loans or promotional expenses, provided that the seeding is not used to pay prizes previously won.

(b) Any gaming or gambling device, provided that the devices do not dispense coins or currency and are not activated by handles, and prizes therefrom are awarded solely from one or more segregated pools of funds (1) that have been collected from player wagers, (2) that are irrevocably dedicated to the prospective award of prizes in such games or in other lottery games, contests, tournaments, or prize pool promotions, and (3) in which the house neither has acquired nor can acquire any interest. The tribe may set and collect a fee from players on a per play, per amount wagered, or time-period basis, and may seed the pools in the form of loans or promotional expenses, provided that the seeding is not used to pay prizes previously won. The introduction, possession, manufacture, repair, or transportation of gaming devices that are authorized by the terms of any Tribal-State gaming compact between the State of California and any federally recognized **Indian** tribe exercising jurisdiction over **Indian** lands in California is lawful in this state.

(c) The operation of any lottery game, including, but not limited to, drawings, raffles, match games, and instant lottery ticket games.

98007. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity may not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

98008. The Governor is authorized and directed to execute any documents that may be necessary to implement this chapter.

98009. The provisions of the Gaming Compact set forth in Section 98004 are hereby

incorporated into state law, and all gaming activities, including but not limited to gaming devices, authorized therein are expressly declared to be permitted as a matter of state law to any **Indian** tribe entering into the Gaming Compact in accordance with this chapter.

98010. Nothing in this chapter may be construed to limit the ability of a federally recognized **Indian** tribe to request that a Tribal-State compact be negotiated with the state on terms that are different from those set forth in the Gaming Compact under this chapter, or the ability of the state to engage in those negotiations and to reach agreement under IGRA. Nothing in this chapter may be construed to mean that, in offering the Gaming Compact to **Indian** tribes in California under Section 98004, and, except for assessments by the state as provided therein of such amounts as are necessary to defray its costs of regulating activities as provided under the Gaming Compact, (a) the state is imposing any tax, fee, charge, or other assessment upon an **Indian** tribe or upon any other person or entity authorized by an **Indian** tribe as a condition to engaging in a class III activity, or (b) the state is refusing to enter into Tribal-State compact negotiations based upon the lack of authority of the state, or of any political subdivision of the state, to impose such a tax, fee, charge, or other assessment.

98011. No amendment to the Gaming Compact as provided for therein or under this chapter requires further approval by the Legislature or the electorate.

98012. This chapter may be amended by a two-thirds vote of the Legislature, but only to further the purposes of this Act.

Case

Hotel Emples. & Restaurant Emples. Int'l Union v. Davis. 21 Cal. 4th 585 (1999).