



October 29, 2021

Dear Tribal Leader:

The Rincon Band of Luiseno Indians, the Federated Indians of Graton Rancheria and Wilton Rancheria (the “Tribes”) would like to share with you a draft statewide ballot initiative (the “Initiative”), which we intend to file next week with the California Secretary of State. This Initiative provides an IGRA-governed model for all federally recognized tribes with Indian lands in California to engage in state-wide mobile sports wagering, as well as in-person sports wagering, roulette and games played with dice at the tribes’ gaming facilities. We believe we must file this initiative so that if necessary, California tribes will have a full range of options available in the November, 2022 election to defend their exclusivity over class III gaming in California.

Background

Currently three measures addressing the right to engage in sports wagering have been filed for placement on the November 2022 ballot:

- The first measure, filed by established, out-of-state commercial online gaming operators including DraftKings and FanDuel, is referred to as the “DraftKings Measure”,¹
- The second measure, filed by several cities but backed by some California commercial cardrooms, is referred to as the “Cardrooms Measure”;² and
- The third measure, filed by a group of California tribes, has already qualified for the November 2022 ballot is referred to as the “Tribal Retail Initiative”, and would provide for in-person (often called “retail” or “brick and mortar”) sports wagering at tribal casinos on Indian lands and at four designated horse racetracks in the state, but with no mobile sports wagering permitted.³

Due to timing constraints, if we do not file a tribal mobile gaming measure with the California Secretary of State next week or very soon thereafter, we will have no option to have it appear on the November 2022 ballot. Ideally, we would have circulated the proposed Initiative to all tribes for input and participation well in advance of the initial filing, but developments with the DraftKings and Cardrooms Measures do not give us that option.

¹ Titled by proponents as the “California Solutions to Homelessness and Mental Health Support Act.”

² Titled by proponents as the “California Solutions to Homelessness, Public Education Funding, Affordable Housing and Reduction in Problem Gambling Act.”

³ Titled by proponents as the “California Sports Wagering Regulation and Unlawful Gambling Enforcement Act.”

Why We Are Filing

We believe that there is a grave risk that either the DraftKings Measure or the Cardrooms Measure could pass. Right now, tribes do not offer California voters an option for online sports wagering. If the DraftKings Measure or the Cardrooms Measure passes in November 2022, tribes would lose their exclusivity to class III gaming in California and such passage would accelerate the legalization of online gaming by non-tribal interests, threatening the existence of Indian gaming as we know it.

Why We Are Reaching Out to You

We are reaching out to all federally-recognized California tribes, in the spirit of transparency and inclusion, to: 1) share our view of the serious and imminent threat to California Indian gaming, and 2) solicit your feedback on what you would like to see included in the Initiative. No decision has been made at this time to undertake the signature gathering efforts that would be necessary to qualify the Initiative for the November 2022 ballot. However, we believe it is critical to preserve the option of promoting a tribally-controlled, IGRA-based state-wide mobile measure in the event this proposed Initiative turns out to be the best option in 2022 to protect the future of Indian gaming in California.

Timing

We will file an initial draft of the Initiative next week with the California Secretary of State, which will trigger a 30-day public review period, after which we will have a five (5) day period to submit additional amendments to the Initiative. **If your tribe is able to submit comments, edits or concerns, we will give them serious consideration for inclusion in any final amendments we submit by December 10, 2021.**

Key Provisions In The Proposed Initiative

- **State-wide mobile sports wagering under the protections provided in IGRA**, with the servers being owned and operated only by tribes, and located only on Indian lands. The Initiative makes it clear that persons physically located within the external boundaries of California are authorized as a matter of California state law and federal law to make sports wagers via their cell phones, lap-tops or other hand-held devices to servers located on Indian lands and that each such wager is deemed to take place at the location of the server processing the wager.
- **True Class III tribal exclusivity will be preserved** for federally recognized tribes with Indian lands in California by making them the only entities authorized to offer state-wide mobile sports wagering. This Initiative preserves the exclusivity provided to Tribes by the People of California with the passage of Proposition 1A in March 2000. Horse racetracks, commercial card rooms, sports franchises, corporate online operators or others will not be eligible to offer sports wagering.
- **For those tribes who wish to offer sports wagering and avoid compact negotiations with the State** there is an option through the submission of a template

compact amendment, which upon execution by the Tribe would be deemed to have been executed by the California Governor and ratified by the California Legislature. The template is consistent with the regulatory structure found in the existing compacts, but adds new provisions specific to sports wagering. A tribe will still have the option to pursue negotiations with the State under IGRA for sports wagering or other matters, but the template compact amendment is incorporated into the Initiative to avoid negotiation if a tribe elects to do so. Tribes that currently do not have compacts or Secretarial Procedures in effect may take advantage of the template amendment once their compact or Secretarial Procedures are in place. Moreover, tribes that choose not to offer state-wide mobile gaming may still benefit from sports betting revenue by contracting with another Tribe that has a duly authorized gaming site(s) to provide marketing services and/or account registration services for persons located on their Indian lands (a “hub and spokes” model), without the need for a compact or compact amendment.

- **A Sports Wagering Gaming Revenue Sharing Trust Fund** - the template compact amendment provides that ten percent (10%) of the Adjusted Sports Wagering Gross Gaming Revenue (gross revenue from Sports wagering minus prizes paid, payments into Funds, and direct costs including promotional expenses), shall be set aside for all Non-Gaming Tribes and Limited-Gaming Tribes as defined in the current compacts. This Fund will provide new and significant revenue over and above the revenue currently provided for under the Revenue Sharing Trust Fund.

- **A California Homelessness and Mental Health Fund** - the template compact amendment provides that in exchange for the State’s meaningful concession of amending the State Constitution to allow for state-wide mobile sports wagering, ten percent (10%) of the Adjusted Sports Wagering Gross Gaming Revenue shall be set aside to provide assistance and programs to combat homelessness and mental illness. Polling results have consistently shown these issues to be two of the top issues of concern for voters, which is the reason why the DraftKings and Cardrooms Measures address these two issues.

Please give this matter serious consideration and please submit any and all proposed changes, comments and concerns as soon as possible. We will make ourselves available, tribal leader to tribal leader and staff to staff, to facilitate your review and consideration or answer any questions you may have.

Respectfully yours,

RINCON BAND OF LUISEÑO
INDIANS



Bo Mazzetti
Tribal Chairman

FEDERATED INDIANS OF
GRATON RANCHERIA



Greg Sarris
Tribal Chairman

WILTON RANCHERIA



Jesus Tarango
Tribal Chairman

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

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

This initiative measure amends a section of the California Constitution, adds sections to the Business and Professions Code and Government Code, and provides for a Model Form Sports Wagering Compact Amendment that Tribes may elect to adopt consistent with terms of this measure. Existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type*.

SECTION 1. TITLE

This measure shall be known as the “California Tribal Government Mobile & Retail Sports Wagering Act of 2022.”

SEC. 2 FINDINGS AND DECLARATIONS

(a) In May 2018, the United States Supreme Court eliminated the federal prohibition on sports wagering. States now have the freedom to authorize sports wagering within their borders and establish regulations, consumer protections, and responsible gambling measures on sports wagering. In response, more than 30 states have chosen to allow sports wagering in a manner that provides for consumer protections and responsible gambling, and gives adults the choice to participate in this activity.

(b) Unregulated and untaxed sports wagering is happening throughout California without any consumer or responsible gambling protections. Leading economists and industry experts estimate that the federal prohibition on sports wagering resulted in a thriving black market with billions of dollars wagered annually across the United States. The illegal sports wagering market in California continues to thrive and will continue to be a risky option for unwary consumers due to its untaxed, unregulated, and unlicensed nature.

(c) Unregulated gambling enterprises are a threat to public safety and public health as they are prone to attracting criminal elements. No person in this state has a right to operate a gambling enterprise except as expressly permitted by federal, state, or local law.

(d) California is experiencing a crisis in homeless and mental health, with more residents, including many children, needing shelter than in any other state, and with many residents suffering from mental illness and unable to access needed services specifically designed to assist them.

(e) Leading economists and industry experts estimate a legal and regulated sports wagering market in California could generate billions of dollars in economic activity in the initial years, which would result in hundreds of millions of dollars in annual revenue for the State of California in the form of tax payments from employees and California companies conducting business with tribal gaming operations and in the form of direct payments by the Tribes earmarked for programs addressing homelessness and mental health disorders.

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

(f) In-person and online sports wagering should be well regulated by Indian Tribes, the federal government, and the State of California to stamp out the black market of illegal gambling operations and to allow adults, whose age-eligibility has been verified in person, the choice to participate in this activity with strong consumer protections.

(g) In addition to direct payments by Tribes to the State earmarked for programs to address homelessness and mental health disorders, authorized sports wagering would also generate new revenue for Limited and Non-Gaming Tribes through the creation of a Tribal Sports Wagering Revenue Sharing Trust Fund, which would send a portion of the revenue directly to Limited and Non-Gaming Tribes to be used for essential governmental purposes.

(h) Californians who are verifiably 21 years of age or older should have the choice to participate in legal sports wagering offered by highly-regulated tribal operators experienced in gaming operations and in good standing with the appropriate federal, state, and local regulatory agencies.

(i) In keeping with our California values of protecting our children and young people, sports wagering must be highly regulated. It must be limited to only adults 21 years old or older. Existing law recognizes that gambling is not an activity to be promoted or legitimized as entertainment for children. Accordingly, there shall be no advertising or marketing of sports wagering directed to children, and adults must register in-person at an existing tribal gaming facility to ensure that only adults 21 years old and older have access to make wagers online.

(j) Sports wagering on high school sports must also be strictly prohibited.

(k) To prevent the exploitation of animals, sports wagering should not be allowed on any currently prohibited form of animal contests, such as greyhound or other dog races.

(l) A well-supervised sports wagering system will limit sports wagering to highly regulated, suitable operators experienced in gambling operations and with a proven record of regulatory compliance in the California gaming market. The best entities to safely operate sports wagering are California Indian tribal governments with experience operating gaming casinos.

(m) In 2000, Californians amended their constitution to entrust its first nation governments with the primary responsibility for casino-style gaming, while still allowing for innovation and other types of gaming within the State. The future of gaming in California is increasingly online and mobile. Out-of-state and international gaming operators want to rewrite the balanced system California has created so that future belongs to them, paying a pittance to serious local social problems, and trying to divide the Tribes by offering riches to a few while taking future growth opportunities away from the rest of the California Tribes.

(n) For decades, California tribal governments have operated Indian gaming casinos on their own tribal lands, generating much-needed resources to help reverse the brutal history endured by California Native Americans. These resources have allowed many federally-recognized California Tribes to provide services including healthcare, schools, scholarships, cultural resource protection, fire services, law enforcement services, water systems, environmental protection, and more, not only for their own tribal community members' benefit but also for the benefit of their neighbors in surrounding counties, cities, and towns. Just as importantly, in the last 20 years, federally-recognized California Tribes have shared more than \$1 billion in revenues with Limited and Non-Gaming Tribes to help struggling tribal communities.

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

(o) In 2016, Indian gaming in California directly and indirectly generated the following total economic and fiscal impacts on the California economy: 124,300 jobs; \$20 billion in output; \$9 billion in wages to employees; and \$3.4 billion in taxes and revenue sharing payments to federal, state, and local governments, including nearly \$1 billion to the State of California and \$378 million to local governments.

(p) The California Tribal Government Mobile & Retail Sports Wagering Act of 2022 ensures that online sports wagering is regulated so that age-verified adults who choose to participate in this activity can do so legally, while raising revenue for the California Homelessness and Mental Health Fund.

(q) By authorizing the conduct of sports wagering by federally-recognized California Tribes in the manner specified herein, the California Tribal Government Mobile & Retail Sports Wagering Act of 2022 will create employment opportunities for Californians and related in-state benefits from the increased purchases of goods and services from California businesses, including increased payroll, sales, and other tax revenues for state and local governments.

(r) By authorizing the conduct of online sports wagering by federally-recognized California Tribes in the manner provided herein, the California Tribal Government Mobile & Retail Sports Wagering Act of 2022 will enable non-gaming and limited-gaming Tribes initially lacking the necessary resources to directly participate in online sports wagering to receive benefits from operations by other Tribes, either by such Tribes' contributions to the Tribal Sports Wagering Revenue Sharing Trust Fund that are then distributed to Tribes that do not offer online sports wagering, or by such Tribes partnering with Tribes that already offer such gaming.

SEC. 3. PURPOSES AND INTENT

The purpose of the California Tribal Government Mobile & Retail Sports Wagering Act of 2022 is to regulate in-person retail and online sports wagering in California, to generate needed governmental revenue, and to strengthen California's gambling regulations and safeguards, by:

(a) Regulating sports wagering, to take sports wagering out of the black market and create a regulatory structure that prevents minors from placing wagers and protecting public safety by allowing sports wagering only at highly-regulated and safe facilities and highly regulated online sports wagering platforms, each with substantial experience in gaming operations.

(b) Permitting tribal governments to offer in-person roulette, games played with dice, and in-person and online sports wagering pursuant to compacts with the State of California as required by federal law, as tribal governments have expertise in gaming operations and possess the financial resources to responsibly operate sports wagering, roulette, and games played with dice.

(c) Ensuring that these facilities and operators are in good standing with the appropriate federal and state regulatory agencies.

(d) Creating strict consumer protections to promote responsible sports wagering and protect children and public health, such as:

(1) Requiring adults 21 years of age or older to register in-person at a tribal gaming facility in order to take part in on-line sports wagering.

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

- (2) Only permitting sports wagering by those 21 years of age or older to safeguard against underage gambling.
 - (3) Prohibiting the marketing and advertising of sports wagering to persons younger than 21 years old.
 - (4) Permitting sports wagering only on professional, college or amateur sport or athletic events.
 - (5) Prohibiting wagering on any high school sports or athletic events.
 - (6) Prohibiting wagering on any currently illegal sporting event or contest, including but not limited to, animal races, such as greyhound or other dog races, to prevent the exploitation of animals.
 - (7) Allowing the California Legislature to provide for anti-corruption measures to ensure the integrity of sporting events.
- (f) Providing new sources of revenue to help combat homelessness and mental illness throughout California by the establishment of the California Homelessness and Mental Health Fund, to provide funding to programs designed to address homelessness issues and mental health disorders.
- (g) Providing new sources of revenue to Limited and Non-Gaming Tribes in California to help strengthen tribal governments.
- (h) Providing a meaningful concession as a matter of applicable federal law to each Tribe, beyond the State's current legal obligations under federal law regarding tribal gaming operations, by amending the California State Constitution to allow only Tribes to offer in-person and online sports wagering in exchange for a Tribe's execution of either (i) the Model Form Sports Wagering Compact Amendment, attachment A hereto, which is fully incorporated into this Initiative as if fully set forth herein, and which upon approval by the federal government, legally binds the signing Tribe to contribute ten percent (10%) of its Adjusted Sports Wagering Gross Gaming Revenue into the California Homelessness and Mental Health Fund, and to contribute ten percent (10%) of its Adjusted Sports Wagering Gross Gaming Revenue, into the Tribal Sports Wagering Revenue Sharing Trust Fund,.. "Adjusted Sports Wagering Gross Gaming Revenue" is defined as the total of all sports wagers placed, less the total of all monies paid out as winnings to bettors, less all federal excise taxes, and less all sports wagers made with free bets or promotional gaming credits
- (1) The Model Form Tribal Sports Wagering Compact Amendment, as an enactment of the people of California, is deemed to have been executed by the Governor and ratified by the Legislature, such that it is approved by the State of California. No further action by the State or any State official is necessary for the Model Form Sports Wagering Compact Amendment to be submitted by the Tribe to the Secretary of the Interior and to take effect upon approval or deemed approval by the Secretary of the Interior and publication in the Federal Register.
 - (2) A Tribe who seeks to operate sports wagering but chooses not to execute the Model Form Sports Wagering Compact Amendment, shall be required to negotiate and have

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

mutually executed a compact or compact amendment with the Governor of California that is subsequently ratified by the California Legislature and approved by the federal government before the Tribe may offer in-person retail and/or online sports wagering, roulette or games played with dice.

(3) Nothing herein is intended to prevent those Tribes currently operating under Secretarial Procedures in lieu of Tribal-State Compacts from securing amendments to such Secretarial Procedures that allow them to offer in-person retail and/ or online sports wagering, roulette and games played with dice in the same manner as compacted tribes.

(i) Auditing expenditures of sports wagering revenue to ensure that revenue is spent properly and effectively.

(j) Ensuring that establishments that offer legal sports wagering play by the rules by making them subject to appropriate audit standards.

SEC. 4. AMENDMENT OF CALIFORNIA CONSTITUTION, ARTICLE IV, SECTION 19:

Section 19 of Article IV of the California Constitution is amended to read:

SEC. 19.

(a) The Legislature has no power to authorize lotteries, and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

(f) (1) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games, and banking and percentage card games, *roulette, games played with dice, and in-person retail and online sports wagering* by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, banking and percentage card games, *roulette, games played with dice, and in-person retail and online sports wagering* are hereby permitted to be conducted and operated on ~~tribal~~ Indian lands and solely by those Indian tribes subject to those compacts (or duly promulgated Secretarial Procedures prescribed pursuant to 25 U.S.C. § 2710(d)(7)(b)(vii) or any successor statute thereto, in lieu of Tribal-State compacts).

(A) Prior to September 1, 2027, any tribe with an existing gaming compact in effect may execute and submit the Model Form Sports Wagering Compact Amendment to the

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

Secretary of the Interior. The tribe shall provide a copy of the executed Model Form Sports Wagering Compact Amendment to the Governor. Such properly executed Model Form Sports Wagering Compact Amendment shall be deemed to have been executed by the Governor and ratified by the Legislature.

- (B) Any tribe who seeks to conduct or operate sports wagering but chooses not to execute the Model Form Sports Wagering Compact Amendment, or any tribe that has not executed the Model Form Sports Wagering Compact Amendment prior to September 1, 2027, shall require a compact or compact amendment negotiated and mutually executed with the Governor, and subsequently ratified by the Legislature, and approved by the federal government before it may offer in-person retail and/or online sports wagering.*
- (C) References in this Section 19 to a tribal-State gaming compact shall be deemed to include duly promulgated Secretarial Procedures prescribed pursuant to 25 U.S.C. § 2710(d)(7)(b)(vii) or any successor statute thereto, in lieu of a tribal-State compact. Nothing herein is intended to prevent those tribes currently operating under Secretarial Procedures in lieu of tribal-State compacts from securing amendments to such Secretarial Procedures that allow them to conduct or operate in-person retail and/or online sports wagering in the same manner as tribes with tribal-State compacts in effect..*

(2) Sports wagers placed by players physically located within the State of California using an internet website or application on a personal computer, mobile device, remote terminal, or other electronic device with an internet connection ("online sports wagering"), shall be deemed to be offered, originated, accepted, and otherwise take place exclusively where received at the location of the servers or other devices used to conduct or operate such wagering activity at a tribal gaming facility located on the Indians lands of the tribe offering such sports wagering; provided that, in exchange for the exclusive rights granted under this subdivision (f) to conduct or operate online sports wagering in the manner specified herein, and as part of the allocation of criminal and civil jurisdiction between the tribe and State necessary for the enforcement of laws directly related to the regulation of Indian gaming, the tribe shall:

- (A) except as provided in Section 19(f)(2)(F) and in accordance with Section 19(f)(2)(E) below, at all times offer only one individually branded sports wagering website, which may have an accompanying mobile application that must bear the same unique brand as the website;*
- (B) at all times remain the sole authorized operator subject to applicable federal law;*
- (C) not grant any ownership or lease interest in or transfer any rights attendant to such authorization;*
- (D) ensure that players shall be required to register an account for purposes of such online sports wagering in person at a gaming facility located on the compacting tribe's Indian lands or on the Indian lands of another tribe with Indian lands within the external boundaries of California and with whom a compacting tribe has contracted to establish such accounts;*
- (E) brand and advertise all sports wagering operations exclusively under (i) the tribe's name, (ii) any registered or trademarked brand or associated brand actually used by*

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

the tribe to market its gaming operation(s) as of October 1, 2021, or (iii) the name or any registered or trademarked brand of any affiliate entity wholly-owned by the tribe. "Brand," for purposes of this section shall mean a trademark or distinctive name identifying the Tribe's gaming operation.

(F) at all times that a tribe ("Hub Tribe") is offering online sports wagering, it shall contract with any and all other willing, federally recognized tribes with Indian lands in California who are not otherwise offering online sports wagering ("Spoke Tribe") to perform marketing and similar services for the Hub Tribe's online sports wagering operation(s).

(I) If the contract provides for players to access the Hub Tribe's online sports wagering platform by means of software that uses a brand of the Spoke Tribe, such contract shall require the Hub Tribe to compensate the Spoke Tribe(s) with a payment of an amount not less than fifty percent (50%) of the difference between: (i) the Adjusted Sports Wagering Gross Gaming Revenue earned by the Hub Tribe on all such wagering made through the Spoke Tribe's branded software and (ii) a reasonable or proportionate share of the expenses of the Hub Tribe in operating and conducting such wagering by players who access the Hub Tribe's Mobile Sports Wagering platform via software that uses a brand of the Spoke Tribe, including but not limited to amounts contributed to the Tribal Sports Wagering Revenue Sharing Trust Fund and the California Homelessness and Mental Health Fund.

(II) If the contract provides for the Spoke Tribe to establish player accounts for players to access the Hub Tribe's online sports wagering platform by means of the Hub Tribe's own brand(s) and software, such contract shall require the Hub Tribe to compensate the Spoke Tribe with a payment of an amount not less than [ten percent (10%)] of the Adjusted Sports Wagering Gross Gaming Revenue earned by the Hub Tribe on all wagering by players who established their accounts on the Spoke Tribe's Indian lands.

(G) Offer sports wagering no earlier than September 1, 2023,

~~(f)~~ *(g) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.*

(h)(1) For the purposes of this Section 19, "sports wagering" or "sports wagers" shall mean, respectively, wagering or wagers on the results or any portion or aspect of any professional, collegiate or amateur sport or athletic event, except that sports wagering or sports wagers shall not mean, respectively, wagering or wagers on the results or any portions or aspects of:

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

(A) Any high school sport or athletic event;

(B) Horse races and horse race meetings and wagering on the results as authorized by subdivision (b) and statutes promulgated pursuant to that subdivision;

(C) Any form of animal contests, such as greyhound or other dog races, prohibited under state law as of September 1, 2021; and

(D) Any sport or athletic event that has already been completed. Further, the outcome, including the redemption of winnings, from any sport or athletic event or horse race in progress at or after the time a wager has been placed shall not be displayed or represented in a manner that mimics a slot machine or any other casino-style game, including, but not limited to, blackjack, roulette, or craps.

(2) The Legislature shall authorize by law, statutes necessary to implement this subdivision (h).

(i) The “Tribal Sports Wagering Revenue Sharing Trust Fund” is a fund hereby deemed to be created by the Legislature and administered by the State Gaming Agency that, as limited trustee, is not a trustee subject to the duties and liabilities contained in the California Probate Code, similar state or federal statutes, rules or regulations, or under state or federal common law or equitable principles, and has no duties, responsibilities, or obligations hereunder except for the receipt, deposit, and distribution of monies paid by tribes operating online sports wagering for the benefit of Non-Gaming and Limited-Gaming Tribes. All funds paid by Tribes pursuant to either the Model Form Sports Wagering Compact Amendment or otherwise agreed to by tribes in new or amended compacts intended for the Tribal Sports Wagering Revenue Sharing Trust Fund shall be paid into such Fund. The State Gaming Agency shall allocate and disburse the Tribal Sports Wagering Revenue Sharing Trust Fund monies on a quarterly basis as specified by the Legislature. Subject to subdivision (k), monies from the Tribal Sports Wagering Revenue Sharing Trust Fund shall be distributed to all eligible Tribes, meaning Non-Gaming Tribes and Limited Gaming Tribes, in equal shares, pro-rata. Monies deposited into the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be used for purposes other than as specified in this subdivision (i). In no event shall the State’s General Fund be obligated to pay any unpaid claims connected therewith.

(1) For purposes of this subdivision (i):

(A) “A “Non-Gaming Tribe” is a federally recognized Tribe in California with or without a tribal-state Class III Gaming Compact or Secretarial Procedures that has not engaged in, or offered, Class II Gaming or Class III Gaming in any location, whether within or without California, as of the date of distribution to such Tribe from the Tribal Sports Wagering Revenue Sharing Trust Fund and during the immediately preceding three hundred sixty-five (365) days.

(B) A “Limited-Gaming Tribe” is a federally recognized Tribe in California that has a Class III Gaming Compact with the State or Secretarial Procedures, but is operating fewer than a combined total of three hundred fifty (350) Gaming Devices in all of its gaming operations wherever located, or does not have a Class III Gaming Compact or Secretarial Procedures but is engaged in Class II Gaming, whether within or with-

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

out California, as of the date of distribution to such tribe from the Tribal Sports Wagering Revenue Sharing Trust Fund or during the immediately preceding three hundred sixty-five (365) days.

(C) *“State Gaming Agency” means the entities authorized to investigate, approve, regulate and license gaming pursuant to the Gambling Control Act (chapter 5 (commencing with section 19800) of division 8 of the California Business and Professions Code), or any successor statutory scheme, and any entity or entities in which that authority may hereafter be vested.*

(D) *Moneys in the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other fund in the State Treasury. Moneys deposited into the Fund, and any account within the Fund, including any interest earned thereon, shall only be used for the specific purposes set forth in this measure. No action shall be taken that permanently or temporarily changes the status of the Fund as a trust fund, or borrows, diverts, or appropriates the moneys in the Fund in a manner inconsistent with this measure.*

(2) *Every two years, the Controller shall conduct an audit of the Tribal Sports Wagering Revenue Sharing Trust Fund to ensure the funds are disbursed and expended solely according to this article and shall report their findings to the Legislature and the public.*

(k) *The “California Homelessness and Mental Health Fund” is a fund hereby deemed to be created by the Legislature and administered by the State Gaming Agency that, as limited trustee, is not a trustee subject to the duties and liabilities contained in the California Probate Code, similar state or federal statutes, rules or regulations, or under state or federal common law or equitable principles, and has no duties, responsibilities, or obligations hereunder except for the receipt, deposit, and distribution of monies paid by tribes into the Fund. All funds paid by tribes pursuant to either the Model Form Sports Wagering Compact Amendment or otherwise agreed to by tribes in new or amended compacts intended for the California Homelessness and Mental Health Fund shall be paid into such Fund.*

(1) *The State Gaming Agency shall allocate and disburse the California Homelessness and Mental Health Fund monies on a quarterly basis as specified by the Legislature, consistent with the following:*

(A) *The Fund shall first be used for the reimbursement of or payment for only those actual and reasonable costs incurred by the State in the direct performance of its obligations to regulate and oversee sports wagering activities; the annual appropriation of the Fund shall be clearly sufficient to ensure that the State Gaming Agency is adequately staffed, that online sports wagering is adequately regulated, and that the purposes of this measure are being faithfully carried into effect.*

(B) *Remaining funds shall be used for those programs designed to combat homelessness and mental illness, such as delivering permanent and interim housing, including rental assistance, supportive services, and operating subsidies or reserves for people experiencing homelessness who need access to mental health services, substance use disorder treatment and service enhanced housing as determined by the Legislature.*

(C) *Moneys in the Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other fund in the State Treasury. Moneys deposited into the Fund, and*

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

any account within the Fund, including any interest earned thereon, shall only be used for the specific purposes set forth in this measure. No action shall be taken that permanently or temporarily changes the status of the Fund as a trust fund, or borrows, diverts, or appropriates the moneys in the Fund in a manner inconsistent with this measure.

(2) *Every two years, the Controller shall conduct an audit of the California Homelessness and Mental Health Fund to ensure the funds are disbursed and expended solely according to this article and shall report the findings to the Legislature and the public.*

(3) *The funding and Fund described in this subdivision (k) shall not be used to supplant existing state or local funds utilized to combat homelessness and mental illness.*

SEC. 5. SPORTS WAGERING REGULATION

SEC. 5.1. Article 12 (commencing with Section 19670) is added to Chapter 4 of Division 8 of the Business and Professions Code, to read:

19670. Age Limit for Sports Wagering.

(a) *A person under 21 years of age shall not place sports wagers on, be allowed to place sports wagers on, or collect, whether personally or through an agent, sports wagering winnings from any sport or athletic event.*

(b) *A person under 21 years of age shall not present or offer any written, printed, photostatic, or other evidence or certification of age or identity that is false, fraudulent, or not actually their own for the purpose of placing sports wagers.*

(c) *Any person under 21 years of age who violates this section is guilty of a misdemeanor.*

(d) *Any person over the age of 21 is expressly authorized by California law to place wagers on sporting events by means of an internet connection to servers located on Indian lands, provided that such person is physically located within the external boundaries of the State of California at the time of making such wager, and provided that if the person is located on Indian lands at the time of making such wager, the tribe exercising jurisdiction over such lands has authorized such wagering.*

SEC. 5.2. Article 18 (commencing with Section 19990) is added to Chapter 5 of Division 8 of the Business and Professions Code, to read:

19990. Prohibition Of Marketing and Advertising Sports Wagering Directed to Minors.

(a) *For purposes of this section:*

(1) *"Advertise" means the publication or dissemination of an advertisement.*

(2) *"Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to promote sports wagering, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media. This term shall not include any editorial or other reading material, such*

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any facility operating sports wagering, and which is not written by or at the direction of the facility operating sports wagering.

(3) *"Market" or "Marketing" means any act or process of promoting sports wagering, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.*

(b) *Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be directed where the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.*

(c) *Any advertising or marketing involving direct, individualized communication or dialogue controlled by an operator of sports wagering or service provider to such an operator shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the operator of sports wagering. For purposes of this subdivision, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.*

(d) *An operator of sports wagering or service provider to such an operator shall not:*

- (1) Advertise or market sports wagering in a manner intended to encourage persons under 21 years of age to participate in sports wagering.*
- (2) Publish or disseminate advertising or marketing that is attractive to children.*

19992. Audit for Sports Wagering Facilities.

The Bureau of Gambling Control within the Department of Justice shall perform all investigatory and auditing functions over operators of sports wagering, unless otherwise provided in a Tribal-State Compact or Secretarial Procedures in effect.

SEC. 6. AMENDMENTS

This Act shall be broadly construed to accomplish its purposes. The provisions of Section 4 amending subdivision (f) and adding subdivision (h) of Section 19 of Article IV of the California Constitution, express the desire of the People of the State of California to further grant federally recognized Indian tribes' exclusive rights to conduct and operate gaming on Indian lands in California. In recognition thereof, any state law intended to implement such subdivisions (f) or (h), or for any other purpose, that would have the effect of authorizing any other person or entity to conduct or operate such gaming in the manner specified therein or any expansion thereof, or to allow such gaming to be conducted or operated in any other place within the state other than as specified therein, shall require a measure to be submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution, passed by a majority affirmative vote, and to take effect. The statutory provisions added by Section 5 may be amended so long as such amendments are consistent with and further the intent of this act by a statute that is passed by a two-thirds vote of the members of each house of the Legislature.

SEC. 7. SEVERABILITY

PRIVILEGED & CONFIDENTIAL – INTERNAL DISCUSSION DRAFT ONLY
California Tribal Government Mobile & Retail Sports Wagering Act of 2022

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

DRAFT

MODEL FORM OF SPORTS WAGERING COMPACT AMENDMENT

This Compact Amendment (Amendment) is entered into this _____ day of _____, 202__, by and between the [_____] ("Tribe"), a federally recognized Indian tribe exercising governmental authority over certain Indian lands located within the boundaries of the State of California (State), and is made pursuant to the Indian Gaming Regulatory Act, 18 U.S.C. §§ 1166-1168, 25 U.S.C. §§ 2701-2721 ("IGRA").

WHEREAS, the People of the State of California approved in-person retail and online Sports Wagering, Roulette and Games Played with Dice pursuant to California Tribal Government Mobile & Retail Sports Wagering Act of 2022, which provides for California Indian Tribes to have the option of executing this Model Form Sports Wagering Compact Amendment ("Model Form of Amendment") or requesting the State of California to negotiate a Tribal-State Compact or Compact Amendment; and

WHEREAS, the Tribe and the State entered into the Tribal-State Compact Between the State of California and the Tribe, dated _____, [Year] ([Year] Compact), which is now in effect, and the parties now desire to enter into this Model Form of Amendment for Sports Wagering, Roulette and Games Played with Dice to be conducted by the Tribe on its Indian lands; and

WHEREAS, in consideration of the meaningful concession of providing California Indian Tribes with exclusive rights to engage in Sports Wagering, Roulette and Games Played with Dice as specified in this Model Form of Amendment, the Tribe intends to provide to the State, on a sovereign-to-sovereign basis, fair cost reimbursement of actual and reasonable costs of regulatory oversight, contributions to State programs for homelessness and mental illness, and contributions to Non-Gaming and Limited Gaming Tribes (as defined in the Compact) from revenues from sports wagering, roulette and games played with dice offered pursuant to this Model Form of Amendment; and

WHEREAS, the Tribe and the State agree that all provisions of the [Year] Compact shall remain in full force and effect and control the licensing, public health and safety, environmental, and other provisions related to the Tribe's Gaming Facility, and shall continue to apply to applicable matters authorized by this Model Form of Amendment, except to the extent that there are more specific provisions in this Model Form of Amendment, in which case such provisions in this Model Form of Amendment shall control; and

WHEREAS, Sports Wagering, Roulette and Games Played With Dice are class III gaming activities under IGRA; and

WHEREAS, the Tribe has duly enacted a Tribal Ordinance, approved by the National Indian Gaming Commission which permits such gaming activities on and within the Tribe's Indian lands if conducted in conformity with an applicable tribal-state compact; and

WHEREAS, the Tribe and the State each recognize the sovereign authority and interests of the other in regulating gaming activities within their respective areas of jurisdiction and in ensuring that Sports Wagering is conducted fairly, honestly, professionally and in a manner that is consistent with and promotes the California gaming industry; and

WHEREAS the Tribe and State agree to allocate jurisdiction, as permitted by IGRA such that Sports Wagers placed by adults using a Mobile Device who are physically located within the State but not on the Tribe's Indian lands shall be deemed to take place exclusively where received at the location of the servers and related devices used to conduct Sports Wagering at a Gaming Facility on the Tribe's Indian lands; and

WHEREAS, the parties hereto deem it to be in their respective best interests to enter into this Model Form of Amendment for the purposes set forth herein; and

WHEREAS, once executed by the Tribe, this Model Form of Amendment shall be deemed to have been executed by the Governor of California and ratified by the California Legislature;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

SECTION 1 **DEFINITIONS.** Except where the context otherwise requires, the terms employed in this Model Form of Amendment shall have the same meanings ascribed to them in the [Year] Compact, as they may be modified or amended from time to time during the term of this Model Form of Amendment. Whenever reference to the [Year] Compact is made in this Model Form of Amendment, that reference shall be understood to also include any class III gaming compact between the Tribe and the State to amend or replace the [Year] Compact that may hereafter be entered into.

"Adjusted Sports Wagering Gross Gaming Revenue" means the total of all sports wagers placed, less the total of all monies paid out as winnings to bettors, less all federal excise taxes, and less all sports wagers made with free bets or promotional gaming credits

"Authorized Sports Wagering Menu" means the list of leagues, organizations, and types of wagers approved for Sports Wagering.

"Cloud Storage" means data which is stored on remote servers accessed from the internet.

"Collegiate Sport or Athletic Event" means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers education services beyond the secondary level.

"Electronic Sports or Esports Competition or Event" means a live video game event or tournament attended or watched by members of the public where games or matches are contested in real time by player(s) and team(s), and player(s) or team(s) can win a prize based on their performance in the live video game event or tournament.

"Games Played With Dice" means games such as craps that use one or more dice as a central component to randomly determine the outcome of the game.

"Geofence" means any technology used to create a virtual geographic boundary, or technology used to detect the physical location of a device a patron is using to engage in Online Sports Wagering.

"Mobile Device" means portable electronic equipment used in Online Sports Wagering, including but not limited to a mobile phone, tablet, personal computer, electronic device, and any other portable electronic device.

"Online Sports Wagering" means any Sports Wagering using a Mobile Device platform, including through the internet or an application installed on a Mobile Device to place Sports Wagers that are transmitted to a server located at a Gaming Facility on the Tribe's Indian lands.

"Player Account" means an electronic account established by a patron for the purpose of Online Sports Wagering, including deposits, withdrawals, wagered amounts, payouts on winning wagers, or similar adjustments.

"Professional Sport Event or Athletic Event" means an event that is not a Collegiate Sport Event or Collegiate Athletic Event at which two or more persons participate in a sports or athletic event and receive compensation in excess of actual expenses for their participation in the event.

"Roulette" means a gambling game in which a ball is dropped onto a revolving wheel (*roulette wheel*) with numbered compartments, the players betting on the number at which the ball will come to rest.

"Sports Governing Body" means the organization that prescribes final rules and enforces codes of conduct with respect to a sporting event and participants therein.

"Sports Wager" or "Online Sports Wager" means the actual bet placed in Sports Wagering.

"Sports Wagering" means the business of accepting wagers on any of the following sporting events, athletic events, or competitions by any system or method of wagering: (a) a Professional Sport or Athletic Event; (b) a Collegiate Sport or Athletic Event; (c) an Olympic or international sports competition or event; (d) an Electronic Sports or Esports Competition or Event; (e) a combination of sporting events, athletic events, or competitions listed in (a) through (d) of this subsection; or (f) a portion of any sporting event, athletic event, or competition listed in (a) through (d) of this subsection. Sports Wagering does not include the business of accepting pari-mutuel wagers on horse racing events authorized by California state law.

"Sports Wagering Kiosk" means an unattended, self-service terminal, machine, or other device provided by the Gaming Operation through which a patron may place or redeem a Sports Wager.

"Sports Wagering Gross Gaming Revenue" means the daily total amount of Sports Wagers less the daily amounts of winnings by patrons.

"Sports Wagering System" means all equipment, hardware, data networks, servers, communications technology, and software used in the operation of Sports Wagering that directly affect the wagering and results of Sports Wagering offered under this Model Form of Amendment, including the following: (a) Sports Wagering interactive components, including all associated equipment and software that comprise the Sports Wagering platform used in a Sportsbook or used for online Sports Wagering; (b) Sports Wagering Kiosks; and (c) ticket or voucher redemption devices. "Sports Wagering System" does not include a Mobile Device owned and used by a patron to place a Sports Wager.

"Sports Wagering Vendor" means an organization that provides any gaming goods or services in connection with the operation of Sports Wagering.

"Sportsbook" means the Sports Wagering area of a Gaming Facility where transactions are conducted from a counter located in a Sports Wagering lounge or other window locations as approved by the Tribal Gaming Agency, and any window in the cashier's cage designated only for the redemption of winning Sports Wagering tickets.

SECTION 2 **PURPOSE.** The purpose of this Model Form of Amendment is to establish and declare the terms upon which a Tribe may offer Sports Wagering, Roulette and Games Played With Dice as a means of further developing self-sufficiency and generating additional revenues necessary to provide tribal services and programs, while providing the State and the Tribe with an effective means of regulating such activities in accordance with IGRA.

SECTION 3 **AUTHORIZATION AND LOCATION OF SPORTS WAGERING, ROULETTE AND GAMES PLAYED WITH DICE**

3.1 Authorized Activities:

In addition to those games authorized by the Tribe's [year] Compact, the Tribe is authorized to offer Sports Wagering, Roulette and Games Played With Dice.

(A) The Tribe is authorized to establish and operate the games of Roulette and Games Played With Dice, only at its existing Gaming Facilities, and not online. Roulette and Games Played With Dice shall be regulated and licensed in the same manner as other games set forth in the [year] Compact.

(B) The Tribe is authorized to establish and operate Sports Wagering via a retail Sportsbook and Online Sports Wagering on the Tribe's Indian lands within its Gaming Facilities. All online servers and related devices for Online Sports Wagering must be maintained at a

Gaming Facility on the Tribe's Indian lands. Online Sports Wagering by players physically located within the State but not on the Tribe's Indian lands shall be deemed to be exclusively conducted by the Tribe where the servers and related devices used to conduct the wagering are located at the Tribe's Gaming Facility.

- (1) Sportsbook. For purposes of this Model Form of Amendment, a site within the Tribe's Gaming Facility shall be clearly demarcated. References to Sportsbook in this Model Form of Amendment shall refer only to the portion of the Gaming Facility that has been demarcated as Sportsbook and shall not refer to any other portion of the Gaming Facility.
- (2) Except as provided in this Model Form of Amendment, no prohibition upon, or regulation of, the establishment or operation of the Sportsbook or Online Sports Wagering will be imposed upon the Tribe by the State.

3.2 **Sportsbook.** The Sportsbook must be located within a Gaming Facility. A Sportsbook authorized by this Model Form of Amendment will be inspected by the Tribal Gaming Agency and the State Gaming Agency prior to commencement of operation to verify its conformity with the requirements of this Model Form of Amendment. If a Sportsbook fails to meet any requirements of this Model Form of Amendment, the Tribal Gaming Agency and/or State Gaming Agency will send a non-compliance letter to the Tribe and Gaming Facility manager or responsible person within seven (7) working days after completion of the inspection. If the Tribal and State Gaming Agencies do not agree on whether a Sportsbook meets the requirements of this Model Form of Amendment, the Tribal and State Gaming Agencies will meet within seven (7) working days from receipt of the non-compliance letter and work together to resolve concerns. If a dispute regarding the inspection cannot be resolved by the Tribal and State Gaming Agencies within thirty (30) days, the Tribe and State may seek dispute resolution pursuant to the [year] Compact.

3.3 **Server.** The server or other equipment used to accept and redeem Sports Wagers must be located within a Gaming Facility. Cloud Storage may be used for duplicate or backup Sports Wagering data, provided that such Cloud Storage facilities are located in the State of California. However, no aspect of the Sports Wagering transaction shall be conducted using a Cloud Storage facility.

3.4 **Online Sports Wagering.** The Gaming Operation must use a Geofence to ensure that all players engaging in Online Sports Wagering are physically located within the State of California. No less than thirty (30) days prior to offering Online Sports Wagering, the Gaming Operation must submit a proposal to the State Gaming Agency for review and to the Tribal Gaming Agency for review and concurrence, which proposal at a minimum must include, as applicable: (a) a description of the Geofence technology that will be used to prevent patrons from placing a Sports Wager using a Mobile Device if located outside of the State or on the Indian lands where such wagering is not permitted. If the Tribal Gaming Agency takes no action within thirty (30) days of receipt of the Tribe's proposal, the Tribe may implement the proposal. Any substantial change in the Geofence technology will require that the Gaming Operation submit a revised proposal to the Tribal Gaming Agency for review and concurrence in accordance with this Section. The Tribal

Gaming Agency may only disapprove such portions of a proposal which it finds do not meet the requirements of this Model Form of Amendment, and must detail the reasons for disapproval. If the State Gaming Agency determines that the proposal does not meet the provisions of the [year] Compact or this Model Form of Amendment, the State Gaming Agency may seek dispute resolution pursuant to the [year] Compact.

SECTION 4 KIOSKS, HUBS AND SPOKES

4.1 Location. Sports Wagering Kiosks may be located anywhere within the Gaming Facility and are subject to applicable surveillance requirements.

4.2 Regulation. Regardless of their location, no Sports Wagering Kiosk may permit anonymous Sports Wagers or cash redemption.

4.3 Pre-operation Inspection. Sports Wagering Kiosks authorized by this Model Form of Amendment will be inspected by the Tribal Gaming Agency and may be inspected by the State Gaming Agency, at its reasonable discretion prior to commencement of operation to verify their conformity with the requirements of this Model Form of Amendment. If a Sports Wagering Kiosk fails to meet any requirements of this Model Form of Amendment, the Tribal Gaming Agency and/or State Gaming Agency, if applicable, will send a non-compliance letter to the Tribe and Gaming Facility manager or responsible person within seven (7) working days after completion of the inspection. If the Tribal and State Gaming Agencies do not agree on whether a Sports Wagering Kiosk meets the requirements of this Model Form of Amendment, the Gaming Agencies will meet within seven (7) working days from receipt of the non-compliance letter and work together to resolve their concerns. If a dispute regarding the inspection cannot be resolved by the Tribal and State Gaming Agencies within thirty (30) days, the Parties may seek dispute resolution pursuant to the Compact.

4.4 Kiosks Not Class III Gaming Devices. Sports Wagering Kiosks shall not be included in the definition of a Gaming Device under the [year] Compact, and shall not be counted against the Tribe's total authorized Gaming Devices under the [year] Compact.

4.5 If the Tribe is offering Online Sports Wagering, the Tribe (for purposes of this Section 4.5, "Hub Tribe") may contract with any and all other willing federally recognized Tribes with Indian lands in California who are not otherwise offering Online Sports Wagering ("Spoke Tribe") to perform marketing and similar services for the Hub Tribe's Online Sports Wagering operation.

- (1) If the contract provides for players to access the Hub Tribe's online sports wagering platform by means of software that uses a brand of the Spoke Tribe, such contract shall require the Hub Tribe to compensate the Spoke Tribe(s) with a payment of an amount not less than fifty percent (50%) of the difference between: (i) the Adjusted Sports Wagering Gross Gaming Revenue earned by the Hub Tribe on all such wagering made through the Spoke Tribe's branded software and (ii) a reasonable or proportionate share of the expenses of the Hub Tribe in operating and conducting such wagering by players who access the Hub Tribe's Online Sports Wagering

platform via software that uses a brand of the Spoke Tribe, including but not limited to amounts contributed to the Tribal Sports Wagering Revenue Sharing Trust Fund and the California Homelessness and Mental Health Fund.

- (2) If the contract provides for the Spoke Tribe to establish Player Accounts for players to access the Hub Tribe's online sports wagering platform by means of the Hub Tribe's own brand(s) and software, such contract shall require the Hub Tribe to compensate the Spoke Tribe with a payment of an amount not less than [ten percent (10%)] of the Adjusted Sports Wagering Gross Gaming Revenue earned by the Hub Tribe on all wagering by players who established their accounts on the Spoke Tribe's Indian lands.

SECTION 5 STANDARDS OF CONDUCT AND OPERATION

5.1 **Approved Sports Wagers.** The Gaming Operation may accept a Sports Wager on any event conducted by a league or organization, provided that the league, organization, and wager type are listed on the Authorized Sports Wagering Menu.

5.1.1 **Posting.**

- a. A list of Sports Wagers available at the Gaming Operation will be made available to its patrons.
- b. The Authorized Sports Wagering Menu will be posted on the Gaming Facility's website or otherwise made available to the public.

5.1.2 **Initial Authorized Sports Wagering Menu.**

The initial Authorized Sports Wagering Menu will include every league, organization, and wager type authorized by any U.S. jurisdiction or jurisdictions as determined by the Tribal Gaming Agency as of the effective date of this Model Form of Amendment, except for Prohibited Activities as listed in Section 5.2 of this Model Form of Amendment. The Tribe shall provide notice to the State Gaming Agency no later than seven days prior to offering Sports Wagering pursuant to this Model Form of Amendment.

5.1.3 **Additions to Authorized Sports Wagering Menu.**

- a. The Gaming Operation may apply to the Tribal Gaming Agency, in the form required by the Tribal Gaming Agency, to add additional leagues, organizations, or wager types to the Authorized Sports Wagering Menu. The Tribal Gaming Agency will provide notice to the State Gaming Agency of any approval no fewer than five (5) business days before the

Gaming Operation intends to offer a Sports Wager on the new league, organization, or wager type.

- b. If the State Gaming Agency believes that the new league, organization, or wager type violates applicable State law, or this Model Form of Amendment, or otherwise lacks integrity, the State Gaming Agency will immediately notify the Tribal Gaming Agency, and no Sports Wagers will be offered by the Gaming Operation on the new league, organization, or wager type until the Tribal Gaming Agency and State Gaming Agency meet to discuss any State Gaming Agency concerns, as described below. The Tribal Gaming Agency and the State Gaming Agency will meet within five (5) business days of the Tribal Gaming Agency's initial notice to the State Gaming Agency of its approval to discuss any State Gaming Agency's concerns. The timeframe for meeting may be extended by mutual agreement. If after meeting, the Tribal Gaming Agency and State Gaming Agency cannot come to agreement on the Tribal Gaming Agency's determination, the Gaming Operation may offer the Sports Wager(s) at issue, and the State Gaming Agency may initiate dispute resolution pursuant to the [year] Compact.

5.1.4 Removals from the Authorized Sports Wagering Menu.

- a. The Tribal Gaming Agency will immediately remove from the Authorized Sports Wagering Menu any league, organization, or wager type it determines violates applicable State law or this Model Form of Amendment, or that has otherwise become compromised.
- b. The Tribal Gaming Agency will immediately remove from the Authorized Sports Wagering Menu any league, organization, or wager type if it receives verifiable notice from the governing body of the sport requesting such removal.
- c. If the State Gaming Agency disagrees on whether an item should be included in the Authorized Sports Wagering Menu, the State Gaming Agency shall provide written notice of such disagreement to the Tribal Gaming Agency, and the Tribal Gaming Agency and the State Gaming Agency shall meet within five (5) business days of the Tribal Gaming Agency's receipt of such notice to discuss the Agency's concerns. The timeframe for any such meeting may be extended by mutual agreement. If after meeting, the Tribal Gaming Agency and State Gaming Agency cannot come to agreement on whether the league, organization, or wager type can be listed on the Authorized Sports Wagering Menu, the Gaming Operation may continue to offer the Sports Wager(s) at issue and the State Gaming Agency may initiate dispute resolution pursuant to the [year] Compact.

- 5.1.5 Removals from the Authorized Sports Wagering Menu. If the Tribe removes a league, organization, or wager type from its list of available Sports Wagers as described in Section 5.1.1a, it will notify the State Gaming Agency within five (5) business days after removal.

5.2 Prohibited Activities and Participants.

5.2.1 Prohibited Activities.

- a. Sports Wagers are not transferrable between patrons.
- b. No Gaming Employee may encourage patrons to place a Sports Wager of any specific type, kind, subject, or amount. This restriction shall not prohibit general advertising, promotional activities, or answering general questions about Sports Wagers.
- c. The Gaming Operation will not knowingly accept a Sports Wager on an event where the outcome has already been determined (past posting).

5.2.2 Prohibited Participants. The Gaming Operation will make all reasonable efforts to confirm that any patron seeking to engage in Sports Wagering is not a Prohibited Sports Wagering Participant. For purposes of this Model Form of Amendment, the term "Prohibited Sports Wagering Participant" shall mean:

- a. Any individual under 21 years of age;
- b. Any individual placing a Sports Wager as an agent or proxy;
- c. Any athlete whose performance may be used to determine, in whole or in part, the outcome of a Sports Wager;
- d. Any person who is an athlete, player, coach, manager, referee or other game official, physician, trainer, team employee or governing body employee, in any sports event overseen by such person's sports governing body;
- e. Any person with access to material, exclusive, non-public confidential information about a sports event that is the subject of a Sports Wager;
- f. Any person identified to the Tribal Gaming Agency by a sports governing body that the Tribal Gaming Agency and State Gaming Agency agree is a person who should be a Prohibited Sports Wagering Participant;
- g. Any person who holds a position of authority or influence sufficient to exert influence over the participants in a sports event that is the subject of a Sports Wager; and

- h. Any person which the Gaming Operation knows or reasonably should know is placing a wager by, or on behalf of, a Prohibited Sports Wagering Participant.

5.3 Sports Wagering System. No Sports Wagering System may be offered for play unless it has been tested and certified by an independent test laboratory as meeting the requirements set forth in Section 5.3.2, and approved in accordance with Section 5.3.6 of this Model Form of Amendment.

- 5.3.1 Independent test laboratory. Any independent test laboratory shall have demonstrated it is competent and qualified to conduct scientific tests and evaluations of the Sports Wagering System and must be licensed by the Tribal Gaming Agency.
- 5.3.2 Minimum Standards. The Sports Wagering System must meet or exceed Gaming Laboratories International's GLI-33: Standards for Event Wagering Systems, and its appendices, as amended or modified ("GLI-33"), and the standards established by this Model Form of Amendment. Alternative standards may be agreed to by the Tribal and State Gaming Agencies if the standards meet the requirements established in this Model Form of Amendment.
- 5.3.3 Independent Test Laboratory Reports and Certification. At the conclusion of testing, the independent test laboratory shall provide to the Tribal Gaming Agency and the State Gaming Agency a report that contains findings, conclusions, and a certification that the Sports Wagering System conforms to the requirements contained in this Model Form of Amendment. If the independent test laboratory determines the Sports Wagering System fails to conform to such requirements or technical standards, and if modifications can be made which would bring the Sports Wagering System into compliance, the report may contain recommendations for such modifications. If the independent test laboratory provides sufficient documentation that the Sports Wagering System or a component thereof has been tested and certified by that independent test laboratory, without any subsequent modifications, within the past one hundred and eighty (180) days, the independent test laboratory may provide to the Tribal Gaming Agency and the State Gaming Agency a report that contains findings, conclusions and the certification from the previous testing and that shall be sufficient to satisfy this requirement.
- 5.3.4 Modifications. No substantive modification to any Sports Wagering System may be made after testing, certification, and approval of a Sports Wagering System without certification of the modification by an independent test laboratory. The following modifications are not considered substantive: (a) changes to content not related to any regulated feature; (b) installation or changes to backup software; (c) adding or removing users; and (d) any system configuration changes

that have no impact on the accuracy of report information, including gaming revenue.

- 5.3.5 Emergency Certifications. Nothing in this subsection prevents the immediate resolution of a critically urgent problem as long as documentation is submitted to the Tribal and State Gaming Agencies that details the specifics of the emergency and the steps taken to remedy the emergency. Once the emergency has passed, any substantive modification must go through the process described in Section 5.3.3 above.
- 5.3.6 Approval of Certification; Revocation. The Tribal Gaming Agency shall approve or disapprove of the Sports Wagering System or a component thereof after reviewing the certification, technical standards tested, and results of testing from the independent test laboratory, and will notify the State Gaming Agency of its findings and decision. The State Gaming Agency will notify the Tribal Gaming Agency if the State Gaming Agency determines a certification from the independent test laboratory was issued in error. The Gaming Agencies will meet and confer to discuss any State Gaming Agency concerns. The Tribal Gaming Agency may revoke its approval of the Sports Wagering System or a component thereof if it finds that the certification was erroneous.
- 5.3.7 Security Assessment. Prior to offering Sports Wagering and annually thereafter, the Gaming Operation must perform a system integrity and security assessment of the Sports Wagering System, which shall be conducted by an independent technical expert selected by the Gaming Operation and licensed by the Tribal Gaming Agency. The independent technical expert's report will be submitted to the Tribal Gaming Agency and the State Gaming Agency, and will include: (a) the scope of review; (b) name and company affiliation of the individuals who conducted the assessment; (c) date of assessment; (d) findings; (e) recommended corrective action, if applicable; and (f) the Gaming Operation's response to the findings and recommended corrective action, if applicable.
- 5.3.8 Required Reports. The Sports Wagering System must be capable of generating those reports necessary to record the adjusted gross receipts, wagering liability, ticket redemption, and such other information relating to Sports Wagering as deemed necessary by the Tribal Gaming Agency or as required by Internal Controls. These reports may include, but are not limited to: (a) revenue reports; (b) liability reports; (c) future events reports; (d) significant events and alterations reports; (e) wager record information reports; (f) market information reports; (g) contest/tournament information reports; (h) Player Account information reports; (i) Sports Wagering System information reports; (j) significant event information reports; (k) user access information reports; and (l) any other reports required by the Tribal Gaming Agency.

5.3.9 Future Technology Permitted. Upon approval by the Tribal Gaming Agency, any technology not specifically authorized by this Model Form of Amendment may be utilized if the proposed technology will protect, maintain, or enhance current integrity and security standards in the [year] Compact or this Model Form of Amendment.

5.4 Wagering Limits. Appropriate Sports Wagering limits will be set by the Gaming Operation, consistent with limitations on anonymous Sports Wagering in accordance with Section 7.1.1 and the Reserve Requirement in Section 5.5 below.

5.5 Player Accounts.

5.5.1 Account Required. A Player Account is required to engage in Online Sports Wagering. The Gaming Operation will limit each patron to one active account and username. The Gaming Operation will implement rules and procedures to terminate all accounts of any patron who knowingly and intentionally establishes or seeks to establish multiple active accounts, whether directly or by use of another person as a proxy.

5.5.2 Registration. To establish a Player Account, a patron must be physically present at a Gaming Facility on the Tribe's Indian lands, or be physically present on the Indian lands within California of another federally-recognized Indian tribe that has reached an agreement with the hosting Tribe to allow for the registration of Player Accounts, and at a minimum, the patron must verify the following information: (a) legal name; (b) date of birth; (c) social security number, or the last four digits thereof, or an equivalent identification number for a noncitizen patron, such as a passport or taxpayer identification number; (d) residential address; (e) email address, if any; and (f) telephone number, if any. The Gaming Operation must verify the patron's identity against a form of valid federal, state, or tribal government-issued photo identification. The Gaming Operation may utilize third-party know-your-customer services or a governmental database to authenticate a patron's identity or information. Prior to issuing a patron a Player Account, the patron must accept the Gaming Operation's terms and conditions for Sports Wagering, which must, at a minimum, notify the patron that the Player Account is non-transferrable, that the patron is prohibited from allowing any other person to access or use the Player Account, and that the patron consents to the laws of the hosting Tribe for governance of the Sports Wager.

5.5.3 Account Funding. A Player Account may be funded with U.S. currency through the use of: (a) cash; (b) cash equivalent; (c) a patron's deposit of cash or vouchers at the Sportsbook or other cashiering location; (d) promotional credit; (e) winnings; (f) adjustments made by the Gaming Operation with documented notification to the patron; or (g) any other means approved by the Tribal Gaming Agency.

5.5.4 Player Account Controls. The Gaming Operation must implement Player Account controls that meet or exceed those in Gaming Laboratories International's GLI-33 (Standards for Event Wagering Systems), as amended or modified, or equivalent standards as approved by the Tribal Gaming Agency with concurrence from the State Gaming Agency, and the standards established by this Model Form of Amendment.

5.6 Surveillance. All physical components of the Sports Wagering System, except wiring, cables, and conduit in which they are located, shall have the ability to be effectively and clandestinely monitored and recorded by means of a surveillance system as provided in the Tribe's Internal Controls. Mobile Devices owned by the Gaming Operation that are utilized by a patron as part of the Sports Wagering System may have lesser surveillance requirements outlined in the Tribe's Internal Controls.

5.7 Accounting Records. As part of the accounting records required to be kept in accordance with the [year] Compact and this Model Form of Amendment, the Gaming Operation must keep detailed, Sports Wagering records to support those accounting records in accordance with applicable internal controls. The internal controls must also establish minimum audit standards.

5.8 Internal Controls. Prior to beginning Sports Wagering operations, the Tribe must implement or amend its internal controls as minimum operating standards to govern the operation and management of Sports Wagering.

5.8.1 Initial Internal Controls. The Tribal Gaming Agency shall forward to the State Gaming Agency its initial internal controls for review. The proposal will contain a narrative representation of the internal control system. The Tribal Gaming Agency shall detail how the internal controls meet or exceed the requirements described in this Section 5.8.

5.8.2 Minimum Requirements. The internal controls shall address the following, at a minimum:

- a. Description of gaming employees who perform essential functions, including management of Sports Wagering, supervisory authority over daily operation of Sports Wagering, overseeing technology issues related to the Sports Wagering System, acceptance of Sports Wagers in the Sportsbook, handling payouts on winning tickets/vouchers, and coordination of compliance efforts related to Sports Wagering;
- b. In the event of a failure or malfunction of the Sports Wagering System's ability to pay winning Sports Wagers, the Gaming Operation shall have internal controls detailing the method of paying winning Sports Wagers. The Gaming Operation shall also file an incident report for each system failure and document the date, time, and reason for the failure along with the date and time the system is restored with the Tribal Gaming Agency;

- c. User access controls for Sports Wagering personnel;
- d. Segregation of duties;
- e. Automated and manual risk management procedures;
- f. Procedures for identifying and reporting fraud and suspicious conduct, including identifying unusual wagering activity and suspicious wagering activity, and reporting such activity to an integrity monitoring provider;
- g. Procedures for identifying and preventing Sports Wagering by Prohibited Sports Wagering Participants;
- h. Description of anti-money laundering compliance standards, which must include limitations placed on anonymous wagering and prohibit anonymous single Sports Wagers of \$2,000 or more, and include the retention of the wager record information with patron identification;
- i. Process for submitting or receiving approval of all types of wagers to be offered by the Sports Wagering System;
- j. Description of process for accepting Sports Wagers and issuing pay outs, plus any additional controls for accepting Sports Wagers and issuing pay outs in excess of \$10,000;
- k. Description of a process for accepting multiple Sports Wagers from one patron in a 24-hour cycle, including a process to identify patron structuring of Sports Wagers to circumvent recording and reporting requirements;
- l. Opening and closing Sportsbook windows;
- m. Procedures for reconciliation of assets and documents contained in a Sports Wagering area cashier's drawer, Sports Wagering Kiosk, and Online Sports Wagering, which must include the drop and count procedures for Sports Wagering Kiosks;
- n. Procedures for cashing winning tickets at the cage after the Sportsbook has closed, if applicable;
- o. Procedures for accepting value game chips for Sports Wagering, if applicable;
- p. Procedures for issuance and acceptance of promotion funds and free wagers for Sports Wagering, if applicable;

- q. Description of all integrated third-party systems;
- r. If Cloud Storage is utilized, a description of how the Cloud Storage complies with applicable federal laws and a description of how the Cloud Storage meets or exceeds the security standards from Center for Internet Security (CIS), as amended or modified, or equivalent standards as approved by the Tribal Gaming Agency, with concurrence from the State Gaming Agency;
- s. Procedures for closing out dormant Player Accounts;
- t. Procedures for making adjustments to a Player Account, including the process for a patron to close out a Player Account, and a process whereby a patron will be refunded after the closure of a Player Account;
- u. If the Sports Wagering System includes Online Sports Wagering, a method for verifying patrons' wagers;
- v. Procedures to maintain the security of identity and financial information of patrons;
- w. Procedures for securely issuing, modifying, and resetting a Player Account password, personal identification number, biometric login, or other approved security feature, when applicable;
- x. Procedures for patron notification including any password or security modification via electronic or regular mail, text message, or other manner approved by the Tribal Gaming Agency, provided that such methods will include, at a minimum: (A) if in person, verify the patron's identity against a form of a valid federal, state, or tribal government-issued, photo identification; (B) the correct response to two or more challenge questions; (C) strong authentication; or (D) two-factor authentication;
- y. Controls to prevent ACH fraud regarding failed ACH deposits into a Player Account and policies regarding Player Account closure, dormant Player Accounts, unclaimed funds in a dormant Player Account, and suspension and subsequent restoration of a Player Account;
- z. Change control procedure;
 - aa. Procedures for receiving, investigating and responding to patron complaints;
 - bb. Procedures to ensure security of the servers;
 - cc. Procedures for line setting and line moving;

- dd. Procedures regarding redemption of winning tickets, including but not limited to a method for redeeming lost tickets, if allowed;
- ee. Description of the circumstances, limitations, and method by which the Gaming Operation will cancel wagers, which must at a minimum require cancellation in the event of an obvious error and require that only a supervisory employee of the Gaming Operation can void or cancel a wager;
- ff. Procedures for voiding wagers;
- gg. Accounting and audit procedures; and
- hh. Any other internal controls deemed necessary by the State Gaming Agency and Tribal Gaming Agency by memorandum of agreement.

5.8.3 Revisions. Any new or revised internal controls adopted by the Tribe shall ensure that the interests of the Tribe and the State relating to Sports Wagering are preserved and protected; maintain the integrity of Sports Wagering; and reduce the dangers of unfair or illegal practices in the conduct of Sports Wagering. The Tribal Gaming Agency shall forward to the State Gaming Agency any proposed changes to the Internal Controls for review. The Tribal Gaming Agency shall detail how such changes in the provisions adequately preserve and protect the integrity and security of the standard it is replacing.

5.9 House Rules. The Gaming Operation will adopt comprehensive house rules, which must be approved by the Tribal Gaming Agency, and made available to patrons at the Gaming Facility and through the Sports Wagering System. House Rules shall include: (1) method for calculation and payment of winning wagers; (2) description of the process for handling incorrectly posted events, odds, wagers, or results; (3) effect of schedule changes; (4) method of notifying patrons of odds or proposition changes; (5) acceptance of wagers at other than posted terms; (6) expiration of any winning ticket; (7) lost ticket policy; (8) method of contacting the operator for questions and complaints; (9) a policy by which the Gaming Operation can cancel or void wagers; and (10) a description of Prohibited Sports Wagering Participants.

SECTION 6 SPORTS WAGERING LICENSING AND CERTIFICATION

The Tribe and State will share information about significant licensing and certification matters that reflect on the conduct of Sports Wagering.

6.1 Applicability of Compact Provisions. Sports Wagering Vendors will be licensed and certified in accordance with this Model Form of Amendment; however, to extent they are not addressed herein, the licensing requirements under the [year] Compact will also apply to this Model Form of Amendment. All manufacturers, suppliers of gaming services, and financiers not

expressly identified in this Model Form of Amendment will be licensed and certified in accordance with the [year] Compact, unless exempted therein. Consistent with the [year] Compact, in the event a Sports Wagering Vendor provides or intends to provide less than \$25,000 in Sports Wagering goods or services annually, the licensing requirements may be waived upon the mutual agreement of the Tribal and State Gaming Agencies. This waiver does not apply to Sports Wagering Vendors whose compensation is contractually determined by the Tribe's Sports Wagering revenue.

6.2 Sports Wagering Vendors. Each Sports Wagering Vendor must be licensed by the Tribal Gaming Agency and certified by the State Gaming Agency prior to the sale or delivery of any component of the Sports Wagering System or Sports Wagering services to the Tribe. If a Sports Wagering Vendor is certified by the State Gaming Agency to supply any component of the Sports Wagering System or Sports Wagering services to any other tribe in California, it shall be deemed certified to supply similar goods or services to the Tribe for the purposes of this Model Form of Amendment, provided that such goods and services are within the same Sports Wagering Vendor category, each of which are described in Sections 6.2.1 – 6.2.3 below.

6.2.1 Major Sports Wagering Vendor. Any person or entity that provides goods or services integral to Sports Wagering must be licensed as a Major Sports Wagering Vendor by the Tribal Gaming Agency and certified by the State Gaming Agency. The following vendors are integral to Sports Wagering:

- a. Manager of the Tribe's Sports Wagering activities pursuant to an agreement approved by the National Indian Gaming Commission;
- b. When the Tribe manages its own Sports Wagering activities, the Tribe's primary consultant who provides substantial Sports Wagering related services;
- c. Any manufacturer or distributor of the Sports Wagering System or a component thereof;
- d. Provider of book-making services; or
- e. Provider of Sports Wagering risk management services.

6.2.2 Mid-Level Sports Wagering Vendor. Any entity that provides security or integrity services directly related to Sports Wagering must be licensed as a Mid-Level Sports Wagering Vendor by the Tribal Gaming Agency and certified by the State Gaming Agency. For the purpose of this Section 6.2.2, security or integrity services include the following:

- a. Integrity monitoring services;
- b. Services related to compilation, furnishing, or storage of official data for use in Sports Wagering;

- c. System security testing or certification services directly related to initial or annual testing or assessment of the Sports Wagering System security;
- d. Services directly related to the creation and maintenance of a Geofence to ensure that wagers are placed within California;
- e. Player account management services, including Software-as-a-Service (SaaS); and
- f. Any other provider of security or integrity services that the Tribal and State Gaming Agencies agree must be licensed and certified as a Mid-Level Sports Wagering Vendor because the provider's services are directly related to Sports Wagering.

6.2.3 Ancillary Sports Wagering Vendors. Any entity that provides necessary support services to Sports Wagering must be licensed as an Ancillary Sports Wagering Vendor by the Tribal Gaming Agency and certified by the State Gaming Agency. For the purpose of this Section 6.2.3, support services include at least the following:

- a. Services related to the offering of mobile payment processing for use in Online Sports Wagering;
- b. Know-your-customer services for use in Online Sports Wagering; and
- c. Marketing services in which compensation for such services is, by contract, determined by the Tribe's Sports Wagering revenue.

6.3 Tribal Licensing of Sports Wagering Vendors. All applicants required to be licensed by the Tribe shall complete forms furnished by the Tribal Gaming Agency. The Tribal Gaming Agency shall establish the Tribal licensing fees for Sports Wagering Vendors.

6.4 State Certification of Sports Wagering Vendors. Each Sports Wagering Vendor and its representatives shall apply for certification by the State Gaming Agency and shall submit the completed applications along with the required information and fees to the State Gaming Agency. The State Gaming Agency shall expedite Sports Wagering Vendor certification requests. For applicants who are business entities, the State's application and investigation will extend to each principal of the entity but will not apply to spouses of any principals. The State Gaming Agency may conduct interviews virtually and review documents electronically when possible. The State Gaming Agency may perform a site visit if an applicant requests a site visit or if the State Gaming Agency determines that the information sought is critical to its investigation and such information cannot be obtained by other reasonable measures.

6.5 Fees for State Certification. The State may establish required fees for initial and renewal State certification. The amount of such fees shall reflect only the actual and reasonable costs of the State in processing the applications.

SECTION 7. CRIMINAL ENFORCEMENT

The State and Tribe agree to the transfer of any state jurisdiction to the Tribe regarding enforcement of the Tribe's gaming laws and regulations upon the players who establish or seek to establish Player Accounts. For purposes of this Model Form of Amendment, the State and Tribe agree that all Online Sports Wagers made pursuant to this Model Form of Amendment by players physically located within the State are deemed to be made at the location of the server where the transaction is received and processed, which shall be located only at a Gaming Facility on the Tribe's Indian lands.

7.1 Anti-Money Laundering.

7.1.1 Limits on Anonymous Wagering.

- a. No patron shall engage in Online Sports Wagering, as provided in Section 5.5.1 of this Model Form of Amendment, without a Player Account.
- b. No patron may anonymously place a single Sports Wager of \$2,000 or more. The internal controls will detail acceptable forms and methods of identifying a patron who places a wager of \$2,000 or more.

7.1.2 Federal Requirements. The Tribe is responsible for the regulatory oversight of Sports Wagering Player Accounts and patron funds held on deposit. The Tribe's internal controls will describe how the Tribe will comply with applicable federal requirements including requirements imposed by the Federal Trade Commission (FTC), Office of the Comptroller of the Currency (OCC), Financial Crimes Enforcement Network (FinCEN), Consumer Financial Protection Bureau (CFPB), Office of Foreign Assets Control (OFAC) and the US Department of Treasury.

7.2 Sports Integrity.

7.2.1 Collaboration. The State Gaming Agency and Tribal Gaming Agency shall collaborate in an effort to prevent and detect competition manipulation through education and enforcement of applicable State laws related to the integrity of sporting events, athletic events, or competitions within the State.

7.2.2 Integrity Monitoring Provider.

- a. To ensure the Tribal Gaming Agency and State Gaming Agency can monitor the integrity of Sports Wagering, the Gaming Operation will require the collection of aggregate Sports Wagering information, in a format that can be efficiently utilized, provided to, and analyzed by an

approved integrity monitoring provider. The integrity monitor provider will seek to identify unusual wagering activity and suspicious wagering activity and upon receiving any report of unusual wagering activity or suspicious wagering activity communicate such to the Tribal Gaming Agency, which will review all reports and determine if action is required.

- 7.2.3 Annual Report. The Tribe shall submit a yearly report to the State Gaming Agency, which details services provided by the integrity monitoring provider and summarizes any unusual wagering activity or suspicious wagering activity notifications issued during that time period.

SECTION 8 EXCLUSIVITY

8.1 The California Constitution provides California Indian Tribes with the exclusive right to offer in-person retail and online Sports Wagering, Roulette and Games Played With Dice within gaming facilities located on Indian lands.

8.2 Although the parties recognize that Indian Tribes in California have the exclusive right to operate retail Sports Wagering, Roulette and Games Played With Dice, and Online Sports Wagering, the parties have agreed that in the event the exclusive right of Indian Tribes to operate such games is abrogated by the enactment, amendment, or repeal of a state statute or constitutional provision, or the conclusive and dispositive judicial construction of a statute or the state Constitution by a California appellate court after the effective date of this Model Form of Amendment that such games may lawfully be operated by another person, organization, or entity (other than an Indian tribe pursuant to a Class III Gaming Compact or Secretarial Procedures) within California, the Tribe shall have the right to continue operating the activities authorized by this Model Form of Amendment with an entitlement to immediately discontinue concessions made to the State in exchange for the exclusive operation of online sports wagering specified in Sections 9 and 10. In the event of these circumstances, the Tribe and State shall negotiate in good faith for the payment or reimbursement of the State's actual and reasonable costs of performing the regulatory oversight functions set forth in this Model Form of Amendment.

SECTION 9 PAYMENTS INTO THE TRIBAL SPORTS WAGERING REVENUE SHARING TRUST FUND.

In consideration of the State's meaningful concession in amending the California Constitution to provide for the Tribe's exclusively to operate Sports Wagering, Roulette and Games Played with Dice, and online Sports Wagering, the Tribe agrees to pay ten percent (10%) of the Adjusted Sports Wagering Gross Gaming Revenue into the Tribal Sports Wagering Revenue Sharing Trust Fund established by the State pursuant to the California Tribal Government Mobile & Retail Sports Wagering Act of 2022.

(A) Payments shall be made annually beginning on the 13-month anniversary of offering Sports Wagering, based on the first 12 months of operation, and proceeding 12 months of operation thereafter. In the event the State fails to establish such Fund in a manner to accept

the Tribe's contributions, the Tribe shall hold the funds in an escrow account and/or distribute such funds in even shares to eligible Non-Gaming and Limited Gaming Tribes (as defined in the [year] Compact) that would otherwise qualify to receive monies from the fund.

(B) Within thirty days of the end of each calendar quarter year, the State Gaming Agency shall disburse all monies deposited into the Tribal Sports Wagering Revenue Sharing Trust Fund during the previous calendar quarter year to all eligible Non-Gaming and Limited Gaming Tribes in equal shares on a pro rata basis. Monies deposited into the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be used for purposes other than as specified in this Section 9. In no event shall the State's General Fund be obligated to pay any unpaid claims connected therewith.

(C) Monies in the Tribal Sports Wagering Revenue Sharing Trust Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other funds in the State Treasury. Moneys deposited into the fund, and any account within the fund, including any interest earned thereon, shall only be used for the specific purposes set forth in this Section 9.

(D) Every two years, the State Controller shall conduct an audit of Tribal Sports Wagering Revenue Sharing Trust Fund to ensure that the funds are disbursed and expended solely in accordance with the California Tribal Government Mobile & Retail Sports Wagering Act of 2022 and the terms of this Model Form of Amendment, and shall report his/her findings to the Tribe, the California Legislature and the public.

SECTION 10 PAYMENTS INTO THE CALIFORNIA HOMELESSNESS AND MENTAL HEALTH FUND

In consideration of the State's meaningful concession in amending the California Constitution to provide for the Tribe's exclusivity to operate in-person retail and online Sports Wagering, Roulette and Games Played With Dice, the Tribe agrees to pay ten percent (10%) of the Adjusted Sports Wagering Gross Gaming Revenue into the California Homelessness and Mental Health Fund established by the State pursuant to the California Tribal Government Mobile & Retail Sports Wagering Act of 2022.

(A) Payments shall be made annually beginning on the 13-month anniversary of the Tribe offering Sports Wagering to the public, based on the first 12 months of operation, and each proceeding 12 months of operation thereafter. In the event the State fails to establish such Fund in a manner to accept the Tribe's contributions, the Tribe shall hold the funds in an escrow account and/or distribute such funds directly to programs that would otherwise qualify to receive moneys from the Fund.

(B) The Fund shall first be used by the State for the reimbursement of or payment for only those actual and reasonable costs incurred by the State in the direct performance of its obligations to regulate and oversee Sports Wagering activities. The annual appropriation for the State's costs shall be clearly sufficient to ensure that the State Gaming Agency is adequately staffed, that online sports betting is adequately regulated, and that the purposes of this Model Form of Amendment are being faithfully carried into effect, provided however, in no event shall

more than ten percent (10%) of the monies contributed to the fund be appropriated to the State Gaming Agency in any fiscal year.

(C) Any remaining monies shall be used for programs designed to combat homelessness and mental illness, such as delivering permanent and interim housing, including rental assistance, supportive services, and operating subsidies or reserves for homelessness and mental illness as determined by the California Legislature.

(D) Moneys in the California Homelessness and Mental Health Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other funds in the State Treasury. Moneys deposited into the Fund, and any account within the Fund, including any interest earned thereon, shall only be used for the specific purposes set forth in this Model Form of Amendment.

(E) Every two years, the Controller shall conduct an audit of the California Homelessness and Mental Health Fund to ensure the funds are disbursed and expended solely according to this article and shall report their findings to the Tribe, the Legislature and the public.

(F) The Homelessness and Mental Health Fund shall not be used by the State to supplant existing state or local funds utilized to combat homelessness and mental illness.

SECTION 11 **GOVERNING LAW.** This Model Form of Amendment shall be governed by and construed in accordance with IGRA and the laws of the State of California to the extent those laws are not inconsistent with IGRA; provided, however, that provisions of State laws and regulations expressly incorporated into this Model Form of Amendment shall be construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Model Form of Amendment on the day and year first written above.

[Tribe]

By _____
[Tribe]

Executed this ___ day of _____,
202x, at _____