

**FIFTH AMENDMENT TO THE TRIBAL-STATE COMPACT
FOR CLASS III GAMING BETWEEN
THE MUCKLESHOOT INDIAN TRIBE AND THE STATE OF WASHINGTON**

WHEREAS, on February 19, 1993, the State of Washington (“State”) and the Muckleshoot Indian Tribe (“Tribe”) executed a Class III Gaming Compact (“Compact”), pursuant to the Indian Gaming Regulatory Act of 1988 (“IGRA”), P.L. 100-407, codified at 25 U.S.C. Section 2701 *et. seq.* and 18 U.S.C. Sections 1166-1668; and

WHEREAS, the Class III Gaming Compact executed by the State and the Tribe, as well any amendments thereto, were approved by the Secretary of the Interior and are in full force and effect (hereinafter referred to as the “Compact”); and

WHEREAS, the State and Tribe subsequently conducted additional negotiations in accordance with the provisions of IGRA and the terms of the Compact; and

WHEREAS, the Tribe and the State have agreed to certain changes to the Compact, including certain provisions found within Appendix X2, and agreed to incorporate an optional Addendum to that Appendix,

NOW, THEREFORE, the Compact shall be, and is hereby amended as follows:

1. Add Compact Section III.

N. Acceptance of Electronic Benefits Cards From the State of Washington.

The Tribe shall ensure that all cash dispensing outlets, including without limitation, automated teller machines (ATM) and point of sale machines located within the Tribe’s Gaming Facility or Facilities, shall not accept electronic benefits cards issued by the federal government, the State, or any political division thereof.

2. Amend Appendix X2, Section 12.1 to:

12.1 Allocation. The Tribe shall be entitled to an Allocation of, and may operate or transfer the ability to operate, up to 1075 Player Terminals (“Allocation”).

3. Amend Appendix X2, Section 13.4, Sub-Sections 13.4.1 to 13.4.5 to:

13.4.1 First Year Regulatory Fees. Upon commencement of operations of a Gaming Operation, the SGA shall make a good faith estimate of the cost of regulating the Tribe’s activities under this Appendix for the remainder of the calendar year.

13.4.2 Cost Allocation. Notwithstanding anything in the Compact to the contrary, the Regulatory Fees for all class III activities under the Compact, including those applicable to the activities described in this Appendix (except for the first year fees set by estimate as provided in Sections 13.4.1), shall be set by determining the cost of regulating the Tribe’s class III activities using the State’s cost allocation model currently in use as of the effective date of this Amendment.

13.4.3 Billing and Payment. The SGA shall notify the Tribe of the forthcoming Regulatory Fee at least 45 days prior to its becoming due. Regulatory Fees may be paid for an entire year in advance of the date on which the billing year commences (calendar year) or in no more than 12 equal monthly installments, each of which shall be due on the first day of each month, which monthly payments shall commence on the first day of the first month of the billing year, or within 45 days following notification of the amount of the forthcoming year's Regulatory Fee, whichever is later.

13.4.4 Audit. The SGA shall send the Tribe an annual audited accounting of actual costs on or before April 30th of the following year.

13.4.5 Revisions to State's Cost Allocation Model. The State may revise its cost allocation model, which shall become effective upon 90 days' notice to the Tribe. If the Tribe disputes the revised model, the State and Tribe shall meet and confer in an attempt to resolve the matter within 30 days. If the parties cannot resolve the dispute, the dispute resolution provisions set forth in section 13.5 shall apply.

4. **Amend Appendix X2, Sections 14.4 and 14.5 to:**

14.4 Problem Gambling. Thirteen one-hundredths of one percent (0.13%) of the net win derived from all Class III gaming activities, determined on an annual basis, shall be dedicated to problem gambling education, awareness, prevention and treatment in the State of Washington. Contributions shall be made to governmental, charitable and/or non-profit organizations, which may include the Department of Social and Health Services' Division of Alcohol and Substance Abuse (DSHS/DASA), that are directly related to helping to reduce problem gambling. The 0.13 percent of net win shall be paid annually, commencing with the conclusion of the Tribe's first full fiscal year following the date upon which this Appendix becomes effective and shall be paid annually within one year of the close of the Tribe's fiscal year. The Tribe shall include information describing the Tribe's contributions for Problem Gambling in the annual Community Investments and Contributions Report required in Section 14.7.2.

14.5 Smoking Cessation and Prevention. Thirteen one-hundredths of one percent (0.13%) of the net win derived from Tribal Lottery System activities, determined on an annual basis, shall be dedicated to smoking cessation, prevention, education, awareness, and treatment in the State of Washington. Contributions shall be made to governmental, charitable and/or nonprofit organizations that have as a purpose the discouragement of the use of tobacco. However, if the Tribe operates any of its Class III gaming facilities as entirely smoke-free, the Tribe's smoking cessation contribution shall be reduced proportionally based upon the pro rata number of Tribal Lottery System machines in that non-smoking facility compared to the total number of Tribal Lottery System machines operated by the Tribe. Additionally, it is also agreed that if the Tribe completely prohibits the sale and use of alcohol in all of its Class III gaming facilities, the Tribe shall be entirely excused from making the smoking cessation contribution required by this subsection for as long as the prohibition on the sale and use of alcohol remains in effect. The 0.13 percent of net win shall be paid annually, commencing with the conclusion of the Tribe's first full fiscal year following the date upon which this Appendix becomes effective and shall be paid annually within one year of the close of the Tribe's fiscal year as set forth in section 14.6.3.

5. **Incorporate by reference as a fully enforceable part of the Compact:**

Appendix X2 Addendum Tribal Lottery System Terminal Allocations, in the form attached hereto.

This Amendment shall take effect upon publication of notice of approval by the United States Secretary of the Interior in the Federal Register in accordance with 25 U.S.C. § 2710(d)(3)(B).

IN WITNESS WHEREOF, the Muckleshoot Indian Tribe and the State of Washington have executed this Fifth Amendment to the Compact.

MUCKLESHOOT INDIAN TRIBE

STATE OF WASHINGTON

BY: _____
Virginia Cross
Chairperson

BY: _____
Jay Inslee
Governor

DATED: _____

DATED: _____

DRAFT

**Muckleshoot Indian Tribe - State of Washington
Class III Gaming Compact**

**Appendix X2 Addendum
Tribal Lottery System Terminal Allocations**

Section 1. Overview

The Parties executed the Fourth Amendment to the Tribal-State Compact, known as Appendix X2. Appendix X2 became effective May 31, 2007. This Appendix X2 Addendum further supplements Appendix X2 as follows:

Section 2. Definitions

All terms not defined herein shall have the same definitions as in the Tribe's Compact and its amendments and appendices.

- 2.1 **“Available for Lease”** means a Player Terminal that is part of an Eligible Tribe's Allocation of Player Terminals and is neither in use in any Eligible Tribe's Gaming Facility or Facilities, nor leased to another Eligible Tribe.
- 2.2 **“Certification”** means a confirmation conducted and signed by an Independent Accounting Firm that states the number of Player Terminals Available for Lease in the State of Washington.
- 2.3 **“Eligible Tribe”** means a Washington Tribe that has entered into a compact authorizing operation of a Tribal Lottery System consistent with Appendix X2.
- 2.4 **“Independent Accounting Firm”** means a person or firm licensed by the Washington State Board of Accountancy.

Section 3. Increases to Tribe's Allocation of Player Terminals

- 3.1 The Tribe's Allocation of Player Terminals as set forth in Appendix X2 may increase by 50 Player Terminals upon meeting the procedures and conditions set forth in this Addendum.
- 3.2 The Tribe shall provide the State Gaming Agency with written notice, along with Certification from an Independent Accounting Firm, that there are 500 or fewer Player Terminals Available for Lease among all tribes participating in the Tribal Lottery System under Appendix X2. The Tribe shall derive its notice and Certification from information provided by participants in the plan described in Section 12.2.2 of Appendix X2.
- 3.3 Upon receipt of the Tribe's notice, the State Gaming Agency shall review the Certification and verify the Player Terminals Available for Lease in the state. To

facilitate the State Gaming Agency's review and verification process, the Tribe shall authorize the Independent Accounting Firm to make available for review by the State Gaming Agency all supporting records used to develop the Certification.

- 3.4 The State Gaming Agency has 30 days to review, verify, and provide written notification to the Tribe of the additional Allocation of Player Terminals set forth in Section 3.1. Any such increase to the Tribe's Allocation shall become effective 30 days after notification by the State Gaming Agency.
- 3.5 Such notice by the State Gaming Agency shall for all purposes increase the Allocation of Player Terminals for the Tribe until such time as, if ever, another notice and Certification is delivered to the State Gaming Agency for an increase to the Allocation.
- 3.6 Except as set forth in Section 3.7, additional increases to the Tribe's Allocation of Player Terminals under this Section are limited to one (1) increase per twelve (12) month period.
- 3.7 Notwithstanding the limitation set forth in Sections 3.5 and 3.6, if the Tribe, or another Eligible Tribe, licenses a new Gaming Facility on Tribal Lands that will operate more than 1,075 Player Terminals at its initial opening, the Tribe may provide written notification to the State Gaming Agency of such licensure. After receipt of such notification, the State Gaming Agency has 30 days to review, concur, and provide written notification to the Tribe that the Tribe's Allocation of Player Terminals shall increase by an additional 50 Player Terminals.
- 3.8 In the event any other Eligible Tribe becomes entitled to an increased Allocation of Player Terminals under that tribe's version of Section 3.4 or 3.7, the Tribe shall be automatically entitled to the same Allocation increase authorized to that other Washington tribe by its version of Section 3.4 or 3.7 above, and the State shall provide prompt notification of the increase to the Tribe.

Section 4. Dispute Resolution

- 4.1 If a dispute arises between the Tribe and the State with respect to the terms and conditions set forth in this Addendum, including but not limited to the number of Player Terminals Available for Lease, the State and Tribe shall meet and attempt to resolve the dispute not later than 30 days prior to the increased Allocation of Player Terminals going into effect.
- 4.2 If either party believes, after the meet and confer has commenced, that a resolution by the parties cannot be achieved, then either or both parties shall be entitled to have the dispute resolved pursuant to the dispute resolution provisions of the Compact.