

1ST AMENDMENT TO THE  
MUCKLESHOOT INDIAN TRIBE - STATE OF WASHINGTON  
CLASS III GAMING COMPACT

III. NATURE, SIZE AND SCOPE OF CLASS III GAMING

F. Size of Gaming Floor. The actual size of the gaming floor devoted to Class III activities within the gaming facility, ~~excluding floor space used in connection with the conduct of satellite wagering, shall not exceed 15,000 square feet. shall be determined by the Tribe.~~

G. Number of Gaming Stations. ~~During the first six months of operation, the maximum number of Class III gaming stations initially authorized for use on the gaming floor within the gaming facility shall be twenty six (26) thirty one (31). Notwithstanding the foregoing, the Tribe has the option to use a total of twenty seven (27) thirty two (32) gaming stations within the facility if and when the proceeds from one (1) of those gaming stations are dedicated to support bona-fide non-profit organizations and their activities within the State of Washington. For the purpose of the determination of "proceeds" from the non-profit station only, proceeds shall mean the net win less the pro rata cost of regulation and operation, specifically excluding capital costs. The net win from the non-profit station is not subject to the community contribution established under Section XIV.C. of this Compact. The maximum wager limit for the non profit gaming station shall be \$25. The Tribal Gaming Ordinance or Tribal Council Resolution shall set forth regulations concerning the types of bona-fide non-profit organizations and/or the types of projects of such organizations which shall be supported by the non-profit station; and the Washington State Council on Problem Gambling, or a successor organization if the Council ceases to exist, shall be a beneficiary with respect to the non-profit station. After six (6) months of continual operation of the Class III facility, and provided that no violations as set forth in Section III.H.2 have occurred, the number of gaming stations may be increased (excluding the non profit station) to thirty one (31). When the gaming operation has met the conditions set forth in Section III.H.2., "phase two" may be implemented, providing for up to fifty (50) gaming stations plus, at the option of the Tribe, two (2) additional gaming stations ("the nonprofit stations"). At the time the operation is increased to 31 52 gaming stations the State and Tribal Gaming Agencies will thoroughly review the non-profit program conducted by the Tribe, and conduct discussions and negotiations regarding the terms and conditions of an extension of this non-profit program by amendment of this Compact.~~

H. Wagering Limitations.

1. ~~Initially the maximum wager shall be as follows:~~

~~Thirteen (13) of the gaming stations shall not exceed twenty five dollars (\$25); and thirteen (13) gaming stations shall not exceed ten dollars (\$10). Provided, that when the number of Class III gaming stations are increased after six (6) months of operation the wagering limits shall be increased to the following: thirteen (13) of the gaming stations shall not exceed twenty five dollars (\$25); one (1) gaming station shall not exceed one hundred dollars (\$100); and the remainder shall not exceed ten dollars (\$10). During the first six months of operation, wager limits shall not exceed two hundred fifty dollars (\$250). When the gaming operation has met the conditions set forth in Section III.H.2 below, "phase two" may be implemented, providing for wager limits of up to five hundred dollars (\$500).~~

2. After six months of operation, the State Gaming Agency shall conduct a review of the Class III operation to determine general compact compliance and whether the conditions set forth below have been satisfied. If as a result of the review, the State Gaming Agency determines that the operation is in compliance with these conditions, the Class III operation may implement "phase two" immediately. If the State Gaming Agency determines that the Class III operation has not satisfied the conditions, any resulting dispute will be resolved through the dispute resolution procedures set forth in Section XII.C of this Compact. An increase in the number of gaming stations, hours of operation, and/or wager limits authorized is conditioned on compliance with the following criteria:

a. There have been no violation(s) of the provisions of this Compact which have resulted in sanctions imposed by the Federal District Court;

b. ~~There have been no substantial and repeated violations of Sections III and IV of this Compact against the gaming facility; and There have been no violations of the Compact which are substantial or, due to repetition, would be deemed material;~~

c. There have been no material adverse impacts on the public safety or welfare of the surrounding communities in the nature of criminal activities directly related to the operation of the Class III facility. operation.

d. There have been no unresolved and material violations of Appendix A of this Compact.

e. The Tribal Gaming Agency has developed a strong program of regulation and control demonstrating an adequate level of proficiency, which includes the hiring of trained Tribal Gaming Agents, an independent regulatory and reporting structure separate from that of the gaming operation or tribal bodies, a thorough and developed system for the reporting of Compact violations, and a strong and consistent presence within the Class III facility. If the State claims that any of the five conditions in this subsection have not been met, the issue shall be subject to the provisions of Section XII.C. During this dispute resolutions process, the Tribe will be precluded from expansion of gaming stations, hours of operation, or wagering limits within the existing facility.

3. Should the State or any political subdivision thereof increase the wagering limits permitted for licensed fund-

raising events or card games operated by any person for any purpose, upon thirty (30) days written notice to the State Gaming Agency from the Tribe, the Tribe may authorize the same wagering limits.

~~4. Notwithstanding anything herein to the contrary, after five (5) months of continual operation of the Class III gaming facility, the Tribal and State Gaming Agencies will review the gaming operation and activities and, if there is no evidence under the conditions set forth in Section III.H.2 above and no other evidence to indicate that the operation should not expand the number of gaming stations and wager limits, upon a showing of the ability of the staff and management to operate under the increased limits, the Tribal and State Gaming Agencies shall authorize an increase in the number of gaming stations and wager limits in conformity with the increases authorized in III.C and III.H above.~~

I. Hours of Operation. ~~Except as set forth below, the maximum number of operating hours for the gaming operation shall not exceed an average of eighty (80) hours per week on an annualized basis. The Tribe may schedule the hours to best meet market conditions and may operate any day of the week. Notwithstanding the foregoing, no Class III gaming may be conducted between the hours of 2:00 a.m. and 6:00 a.m. During the first six months of operation, operating hours may not exceed one hundred twelve (112) hours per week on an annualized basis. When the gaming operation has met the conditions set forth in Section III.H.2. above, "phase two" may be implemented, providing for operating hours of up to one hundred forty (140) hours per week on an annualized basis. Provided, gaming operations may not operate more than twenty (20) hours per day and must close between the hours of 2:00 a.m. and 6:00 a.m. unless and until the Tribal and State Gaming Agencies, after consultation with enforcement officials from surrounding jurisdictions, mutually agree in writing to a different closing period, including the conduct of Class III gaming operations beyond 2:00 a.m. Provided further, upon thirty (30) days written notice to the State Gaming Agency and upon written mutual agreement between the State Gaming Agency and Tribal Gaming Agency, the Tribe may, not more than three (3) times per calendar year, conduct continuous Class III operations for up to seventy two (72) hours. Prior to the opening of the gaming operation, and on a quarterly basis thereafter, the Tribal Gaming Agency will provide to the State Gaming Agency and the City of Auburn a schedule indicating the hours of operation of the Class III facility.~~

#### XV. AMENDMENTS, DURATION AND EFFECTIVE DATE

##### D. Amendments/Renegotiations.

1. Amendments - Mutual. Except as provided for in Section XV.D.2.(a), the terms and conditions of this Compact may be amended at any time by the mutual and written agreement of both parties, and as provided in this Compact.

##### 2. Amendments - Contractual.

(a) Amendments and Renegotiation: Moratorium:

Subsections III.D., G., H., and I. will not be subject to renegotiation or amendment for thirty six (36) months from the date this amendment is signed by the State, unless one of the following occurs: (1) the laws of the State are amended, allowing expanded gaming on any Indian lands or other lands within the State beyond that which is now allowed under the terms of this Compact; (2) a State or Federal court within the State of Washington or a Federal court interpreting the laws of the State of Washington issues a final and unappealable decision that permits participation in a gaming activity that the State takes (or has taken) the position was not authorized for any purpose by any person, organization, or entity at the time this Compact was executed or is not authorized by this Compact; (3) another tribe West of the Cascade Mountains obtains, through a Compact approved by the Secretary of the Interior (or procedures approved by the Secretary in lieu of a Compact under 25 U.S.C. §2710(d)(7)(B)(vii) or an alternative provision under any successor act to IGRA), greater levels of wagering, hours of operation, size and/or scope of Class III gaming activities, than authorized by the provisions of this Compact; or (4) another tribe East of the Cascade Mountains obtains, through a Compact approved by the Secretary of the Interior (or procedures approved by the Secretary in lieu of a Compact under 25 U.S.C. §2710(d)(7)(B)(vii) or an alternative provision under any successor act to IGRA), greater levels of wagering, hours of operation, size and/or scope of Class III gaming activities, than authorized by the provisions of this Compact and the Tribe can demonstrate that such levels have resulted in adverse economic impact on the Class III gaming operation. Nothing in this subsection (a) shall be deemed to apply to issues involving satellite (off-track) wagering or to limit the ability of the parties to negotiate or renegotiate with respect thereto.

(b) The parties shall amend through renegotiation the wagering limitations, hours of operation, size and/or scope of Class III gaming as set forth in Section III above upon written notice and request by the Tribe to the State if and when:

(a)1. the laws of the State are amended, allowing expanded expanding gaming on any Indian lands or other lands within the State beyond that which is now allowed under the terms of this Compact;

(b)2. a State or Federal court within the State of Washington or a federal court interpreting the laws of the State of Washington issues a final and unappealable decision that permits participation in a gaming activity that the state takes (or has taken) the position was not authorized for any purpose by any person, organization or entity at the time this Compact was executed and or is not authorized by this Compact.

3. Renegotiation - Tribe. The parties shall renegotiate the nature and/or scope of Class III gaming as set forth in Section III upon the written notice and request by the Tribe to the State if and when:

(a) laws in the State are enacted allowing gaming which is now prohibited; or

(b) the Tribe wishes to engage in forms of Class III gaming other than those games authorized in Section III

including, but not limited to, live horse racing.

4. Renegotiation - State. The parties shall renegotiate Compact Sections containing provisions affecting health, safety and welfare or environmental requirements, including Sections IV, V, VII, XI or XIV, upon the written notice and request by the State to the Tribe if and when circumstances and events unforeseen at the time of the negotiation and execution of this Compact occur meriting discussion and renegotiation of such provisions. The notice to amend or renegotiate shall include the activities or circumstances the State wishes to negotiate, together with a statement of the basis supporting the request. The parties agree that negotiations shall commence in good faith and within thirty (30) days of the request. If the renegotiations are unsuccessful, then the matter shall be resolved pursuant to Section XII.C, ~~which shall be mandatory and binding.~~

5. Renegotiation - Either Party. Except as provided for in Section XV.D.2.(a), ~~Notwithstanding anything in this Section XV.D to the contrary,~~ at any time after twenty four (24) months from the date of opening the gaming facility authorized under this Compact, either the Tribe or the State may request renegotiation of any of the provisions of this Compact if and when circumstances or events occur that merit the discussion and renegotiation of such provisions. The request to renegotiate shall include the activities or circumstances the party wishes to negotiate, together with a statement of the basis supporting the request. The parties agree that negotiations shall commence in good faith under IGRA and within thirty (30) days of the request. The original terms and provisions of the Compact will remain in effect unless and until the parties agree on the renegotiated terms.

#### APPENDIX B

Section 4.3.2 of Appendix B is hereby amended as follows:

4.3.2 Hours of Operation. The wagering authorized in the Tribe's satellite wagering facility shall be conducted within the ~~eighty (80) hours per week, averaged annually,~~ as authorized for Class III gaming under ~~Section III.I~~ this Compact. Provided, however, when a track providing a simulcast to the tribal facility operates outside the Tribe's regularly scheduled ~~eighty (80) hours~~ of operation, the satellite wagering portion of the Class III facility authorized under this Compact may be open to the public during the time the sending track is open to the general public.

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

THE MUCKLESHOOT INDIAN TRIBE:

Virginia Cross  
Virginia Cross, Chairperson

MAY 4, 1995  
Date

THE STATE OF WASHINGTON:

Mike Lowry  
Mike Lowry, Governor

MAY 4, 1995  
Date