

**MEMORANDUM OF AGREEMENT Between Sycuan Band of the Kumeyaay Nation, a federally recognized Indian Tribe, and the STATE OF CALIFORNIA**

WHEREAS, This Memorandum of Agreement (“MOA”) is entered into on a government-to-government basis by and between the Sycuan Band of the Kumeyaay Nation, a federally recognized sovereign Indian Tribe (hereafter “Tribe”), and the State of California, a sovereign State of the United States (hereinafter “State”); and,

WHEREAS, the Tribe is mindful of important public policy goals and principles which the Governor and Members of the California Legislature desire to secure for all Californians; and,

WHEREAS, the Tribe and the State entered into a Tribal-State Gaming Compact in 1999 and have negotiated an Amendment to the Compact that was executed by the Tribe and the State on August 30, 2006 (hereafter collectively the “Amended Compact”); and,

WHEREAS, the provisions of this MOA are intended to express the mutual intent of the parties to set further agreements between the parties in furtherance of these public policy goals and principles.

NOW THEREFORE, The Tribe and the State further agree to the following :

**Section 101. Child, Family, and Spousal Support Earnings Withholding and Assignment Orders.**

**Sec. 101.1** The Tribe and the State share a deep and mutual concern about the efficacy of the State’s beleaguered child support system. As a matter of comity with the State and its political subdivisions, the Tribe agrees to continue to require that its Tribal Gaming Facility employees comply with state court and agency orders pertaining to child, family, and spousal support concerning employees.

**Section 102. Worker’s Compensation.**

**Sec. 102.1** The Tribe agrees that, if it has not entered into the State’s workers’ compensation system, that it will submit to the State via the State Gaming Agency which, for purposes of this MOA, shall be the California Gambling Control Commission, in an electronic format acceptable to said Agency, a copy of the Tribe’s workers’ compensation policy, manuals, schedules, and other relevant ordinances and documents upon the effective date of this MOA, in accordance with Sections 10.3(a) and 15.8 of the Amended Compact, and thereafter as such policy manuals, schedules and other relevant documents may be amended, rescinded or otherwise modified. This section is intended to supplement the Amended Compact and is not intended to supersede or negate any provision of the Amended Compact.

### **Section 103. Problem Gambling.**

**Sec. 103.1** The Tribe agrees to:

- (a) Train Gaming Facility supervisors and gaming floor employees on responsible gaming, and to identify and manage problem gambling.
- (b) Display at all public entrances, automated teller machines, and exits of the Gaming Facility signage bearing a toll-free helpline number where patrons may obtain assistance for gambling problems.
- (c) Maintain a self-exclusion program whereby a self-identified problem gambler may request the halt of promotional mailings, the revocation of privileges for casino services, denial of or restraint on the issuance of credit and check cashing services, and exclusion from the Gaming Facility.
- (d) Establish an involuntary exclusion program that allows a gaming operation to halt promotional mailings, deny or restrain the issuance of credit and check cashing services, and deny access to the Gaming Facility to persons who have exhibited signs of problem gambling.
- (e) Make diligent efforts to prevent underage individuals from loitering in the area of the Gaming Facility where gaming activities take place.
- (f) Reasonably assure that advertising and marketing of gaming activities at the Gaming Facility contain both a responsible gaming message and on printed advertisements, include a toll-free helpline telephone number for problem gamblers, where practical.
- (g) This section is intended to supplement the Amended Compact and is not intended to supersede or negate any provision of the Amended Compact.

### **Section 104. Minimum Internal Control Standards (MICS).**

**Sec. 104.1** So long as the National Indian Gaming Commission does not have the authority to adopt, enforce, and audit minimum internal control standards (MICS) for class III gaming devices and facilities and the State Gaming Agency does not have regulations in effect that contain internal control standards that are no less stringent than those contained in the MICS of the National Indian Gaming Commission, the Tribe agrees to maintain in full force and effect and implement minimum internal control standards for class III gaming that are no less stringent than those contained in the Minimum Internal Control Standards of the National Indian Gaming Commission (25 C.F.R. 542), as they existed on October 19, 2006, and, during that period, to submit to enforcement and auditing by the State Gaming Agency to ensure that the Tribe is in compliance with such MICS. This section is intended to supplement the Amended Compact and is not intended to supersede or negate any provision of the Amended Compact or any regulation that may be adopted by the State Gaming Agency.

**Sec. 104.2** Subject to the confidentiality provisions of the Amended Compact, the Tribe agrees to provide to the State Gaming Agency a copy of the annual financial audit required under Section 8.1.8 of the Amended Compact, as well as a copy of any Class III audit provided to the National Indian Gaming Commission.

### **Section 105. Compliance.**

Because the parties desire that the terms of this MOA be enforceable, the parties to this MOA agree to the following enforcement provisions, invocation of which shall be limited to the parties to this MOA, and not by any other person or entity. This MOA is not intended to, and shall not be construed to, create any right on the part of a third party to bring any action to enforce its provisions.

To the extent that a remedy to ensure compliance with this MOA does not exist within the Amended Compact, applicable law, federal and state policy, and any other agreements between the Tribe and pertinent governmental entities or parties, the Tribe agrees to the following provisions:

In recognition of the government-to-government relationship of the Tribe and the State (the “MOA Parties”), the MOA Parties shall make their best efforts to resolve disputes that occur under this MOA by good faith negotiations whenever possible. Therefore, the MOA Parties hereby establish a threshold requirement that disputes between the MOA Parties concerning this MOA first be subjected to a process of meeting and conferring in good faith in order to foster a spirit of cooperation and efficiency in the administration and monitoring of performance and compliance by each other with the terms and provisions of this MOA, as follows:

(a) Either MOA Party shall give the other, as soon as possible after an event giving rise to a dispute under this MOA (“Dispute”), a written notice setting forth, with specificity, the issues to be resolved.

(b) The MOA Parties shall meet and confer in a good faith attempt to resolve the Dispute through negotiation not later than 10 days after receipt of the notice, unless both MOA Parties agree in writing to an extension of time.

(c) If the Dispute is not resolved to the satisfaction of the MOA Parties within 30 calendar days after the first meeting, then either MOA Party may seek to have the dispute resolved by an arbitrator in accordance with this section as follows:

(i) For disputes concerning this MOA, the Tribe and the State consent to binding arbitration before a single arbitrator, who shall be a retired judge, in accordance with the streamlined arbitration rules and procedures of JAMS (or if those rules no longer exist, the closest equivalent). The sole issue shall be whether or not there has been material compliance with the provision or provisions of this MOA that are the subject of the Dispute, and the sole award shall be either a

determination that no material non-compliance has occurred, or a determination that a material non-compliance has occurred and the setting of a reasonable time in which the violating party shall correct the non-compliance. Any corrections awarded shall be reasonable, taking all circumstances into account.

(ii) Any arbitration shall be held on the Tribe's reservation or, if unreasonably inconvenient under the circumstances, at such other location in San Diego County as the MOA Parties may agree. If the parties are unable to agree on a location, the arbitrator shall determine the location.

(iii) Each MOA Party shall bear its own costs, attorney's fees and one-half of the costs and expenses of the arbitration, unless the arbitrator rules otherwise. The provisions of Section 1283.05 of that California Code of Civil Procedure shall apply; provided that no discovery authorized by that section may be conducted without leave of the arbitrator.

(iv) The award of the arbitrator shall be a reasoned decision with findings of fact and conclusions of law in writing and shall be binding.

(v) To effectuate its consent to arbitration, the Tribe and the State shall both, in the exercise of its sovereignty, waive its right to assert sovereign immunity in connection with the arbitrator's jurisdiction and in any action brought in federal court or, if the federal court declines to hear the action, in any action brought in the courts of the State of California that are located in the San Diego County, including courts of appeal (collectively and in said order, the "Court of Competent Jurisdiction"), to (1) enforce the MOA Parties' obligation to arbitrate, (2) confirm, correct, modify, or vacate the arbitral award rendered in the arbitration, or (3) enforce or execute a judgment based upon the award. Both the Tribe and the State agree not to assert, and will waive any defense, alleging improper venue or forum non conveniens as to any Court of Competent Jurisdiction. Either MOA Party may bring an action in the Court of Competent Jurisdiction to compel arbitration under this MOA, to enforce an arbitration award, and to correct, modify or vacate an arbitration award. However, in actions seeking to correct, modify or vacate an award, the standard of review to be applied by said court to the arbitrator's findings of fact and conclusions of law will be the same as that applied by an appellate court reviewing a decision of a trial court hearing the Dispute and sitting without a jury.

**Section 106. Effective Date**

**Sec. 106.1** This MOA shall be effective upon the effective date of the Amended Compact between the Sycuan Band of the Kumeyaay Nation and the State of California, entered into August 30, 2006, and shall remain in full force and effect through December 31, 2030.

The undersigned sign this MOA on behalf of the State of California and the Sycuan Band of the Kumeyaay Nation.

**STATE OF CALIFORNIA**

**SYCUAN BAND OF  
THE KUMEYAAY NATION**

\_\_\_\_\_  
**By: Arnold Schwarzenegger  
Governor of the State of California**

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**By: Daniel J. Tucker  
Chairman of the Sycuan Band  
of the Kumeyaay Nation**

**Executed this \_\_\_\_ day of \_\_\_\_\_,  
2007, at Sacramento, California**

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2007, at Sacramento, California**