

Marijuana Compact

Between

The Cowlitz Indian Tribe

and

The State of Washington

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I. INTRODUCTION

This compact is entered into pursuant to House Bill 2000, Chapter 207, Laws of 2015 (the “Compacting legislation”). This document will be cited as the “Marijuana Compact Between the Cowlitz Indian Tribe and the State of Washington, hereinafter referred to as the “Compact.”

II. PARTIES

The Parties to this Compact are the Cowlitz Indian Tribe (“Tribe”) and the State of Washington (“State”) (collectively, “Parties”).

The Tribe is located on the Cowlitz Indian Reservation, which is in the state of Washington, and the Tribe is a federally-recognized sovereign Indian tribal government.

The State of Washington is a state within the United States of America, possessed of the full powers of a state government. The Washington State Liquor and Cannabis Board (“Board”) is an executive department of the State government with statutory authority with respect to marijuana under chapters 69.50 and 69.51A RCW. The Compacting legislation allows the Governor to enter into an agreement with any federally recognized Indian tribe located within the geographical boundaries of the State regarding marijuana and to delegate the power to negotiate such agreement to the Board.

III. PURPOSE AND INTENT

Historically, the production, possession, delivery, distribution and sale of marijuana have been illegal across the United States and in Indian Country. In 2012, Washington voters passed Initiative 502 (“I-502”) which sets forth a tightly regulated, state-licensed system allowing for the production, processing, and retail sale of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products for recreational purposes within the State of Washington.

Through State law and the Board’s implementing rules, the State has legalized possession of limited amounts of marijuana and the production, processing, and sale of marijuana by licensed businesses and has set forth a civil regulatory system that keeps marijuana production, processing, and sale in the State regulated and safe for the public

and accomplishes the following priorities: preventing the distribution of marijuana to minors; preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; preventing the diversion of marijuana from states where it is legal under state law in some form to other states; preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; preventing violence and the use of firearms in the cultivation and distribution of marijuana; preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and preventing marijuana possession or use on federal property.

After serious deliberation, the Tribe, as a sovereign nation, has also determined that present day circumstances make a complete ban of marijuana within Indian Country ineffective and unrealistic and has decriminalized its sale and possession in certain circumstances. At the same time, consistent with the priorities described above, the need still exists for strict regulation and control over the production, possession, delivery, distribution, sale, and use of marijuana in Indian Country.

The State and the Tribe have recognized the need for cooperation and collaboration with regard to marijuana in Indian Country. The State has authorized the entry of this Compact by the Compacting legislation, enacted by the 2015 Regular Session of the Legislature, Laws of 2015, Chapter 207. Through Section 2 of this legislation, codified at RCW 43.06.490, the State authorized the Governor to enter into Compacts concerning the regulation of marijuana and to delegate the authority to negotiate the Compacts to the Board.

The Parties share a strong interest in ensuring that marijuana production, processing, and sales in Indian Country are well-regulated to protect public safety and community interests. The Parties acknowledge that pursuant to federal law, 21 U.S.C. § 812, marijuana is a Schedule I controlled substance and that this Compact does not protect the sales or regulation of marijuana in Indian Country from federal law; however, the Parties have entered into this Compact in order to strengthen their ability to meet these mutual interests and to provide a framework for cooperation to ensure a robust tribal and state regulatory and enforcement system.

The Parties agree that it is in the best interests of the Tribe and the State that they further implement the government-to-government relationship between them, as

recognized in the Centennial Accord of August 4, 1989, by entering into a compact to protect public health and safety, ensure a lawful and well-regulated marijuana market, encourage economic development in Indian Country, and provide fiscal benefits to both the Tribe and the State.

IV. DEFINITIONS

- A. “Auditor” means a certified public accountant licensed and in good standing in the State of Washington.
- B. “Board” means the Washington State Liquor and Cannabis Board and its staff.
- C. “Compact” means this Marijuana Compact Between the Cowlitz Indian Tribe and the State of Washington, as it may be amended.
- D. “Indian Country,” as defined by 18 U.S.C. § 1151, means all lands within the Cowlitz Indian Reservation and all lands held in trust or restricted fee status by the United States for the Tribe or its Tribal Members. For purposes of illustration only, the Tribe will provide to the Board an electronic map of Indian country in a form that is compatible with the Board’s computer hardware and software.
- E. “Marijuana,” “marijuana concentrates,” “marijuana-infused products,” and “useable marijuana” as used in this Compact shall have the same meanings as in RCW 69.50.101 or any amendments thereto. Together, these terms shall be referred to as “marijuana product” or “marijuana products.”
- F. “Parties” means the Tribe and the State.
- G. “Processor” means any marijuana processor licensed to process, package, and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to processors and retailers by the Board pursuant to RCW 69.50.325 and any marijuana processor in Indian Country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- H. “Producer” means any marijuana producer licensed to produce and sell marijuana at wholesale to processors and other producers by the Board pursuant to RCW 69.50.325 and any marijuana producer in Indian Country licensed or

otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.

- I. “Retailer” means any marijuana retailer licensed to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet by the Board pursuant to RCW 69.50.325 and any marijuana retailer in Indian Country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- J. “State” means the State of Washington.
- K. “State Licensee” means any marijuana producer, marijuana processor, or marijuana retailer licensed by the Board pursuant to chapter 69.50 RCW, chapter 314-55 WAC, or any other regulations promulgated thereunder.
- L. “State Tax” means the marijuana excise tax as stated in RCW 69.50.535 and the State and local sales and use tax on sales of marijuana as stated in chapters 82.08 and 82.12 RCW, all as may be amended from time to time.
- M. “Tribal Police” means the Cowlitz Indian Tribal Public Safety Department.
- N. “Tribal Code” means the Tribe’s Commercial Marijuana Activity Ordinance.
- O. “Tribal Enterprise” means a business wholly or majority owned by the Tribe and authorized to produce, process, sell, transport, or otherwise handle marijuana products under the Cowlitz Tribal Code.
- P. “Tribe” means the Cowlitz Indian Tribe.
- Q. “Tribal Member Business” means a business owned by an enrolled member of the Tribe.
- R. “Tribal Tax” means a tax imposed by the Tribe on marijuana activities.

V. GENERAL MATTERS

- A. Sovereign Immunity. The Parties agree that, except for the limited purpose of resolving disputes in accordance with the Dispute Resolution Section below, the

signing of this Compact by the Tribe does not imply a waiver of sovereign immunity by the Tribe or any of its subdivisions or Tribal Enterprises and is not intended as a waiver of sovereign immunity and that any action by the State in regard to marijuana regulation by the Tribe shall be in accord with this Compact.

- B. Tribe Does Not Submit to State Jurisdiction. By entering into this Compact, the Tribe does not concede that the laws of the State apply to the Tribe, its businesses, agents, or members regarding activities and conduct within Indian Country.
- C. State Does Not Concede Tribal Immunity. By entering into this Compact, the State does not concede that the Tribe has any immunity from State law.
- D. This Compact Does Not Create any Third Party Beneficiaries. No third party shall have rights or obligations under or be considered a beneficiary of this Compact.
- E. Jurisdiction. This Compact does not increase or reduce the jurisdiction of either the Tribe or the State.
- F. No Limitation. The Parties agree that the signing of this Compact and the resultant benefits and obligations shall not be construed as limiting any otherwise lawful activity of the Tribe or its subdivisions or Tribal Enterprises nor subject the Tribe or its subdivisions or Tribal Enterprises to any State jurisdiction not agreed to in this Compact.
- G. Applicability. Consistent with RCW 43.06.490, this Compact applies to the production, processing, and sale of marijuana products in Indian Country where the Tribe or Tribal Enterprise (i) delivers or causes delivery to be made to or receives delivery of marijuana products from a State Licensee or (ii) physically transfers possession of marijuana products from the seller to the buyer within Indian Country. Except as otherwise provided herein, the production, processing, sale, and possession of marijuana products in Indian Country pursuant to the Tribal Code and in accordance with this Compact are not subject to the terms of chapter 69.50 RCW and chapter 314-55 WAC, or any other regulations promulgated under that RCW Chapter, and any such activities will not be a criminal or civil offense under Washington state law.
- H. State Licensees.
 - 1. The Tribe may purchase marijuana products from or sell marijuana products to State Licensees or any other entity operating under a valid Compact authorized

by the Compacting legislation, including any amendments thereto, with or otherwise authorized by the State. All transactions between the Tribe or Tribal Enterprise and State Licensees must be executed through the State traceability system, and marijuana products purchased from or sold to State Licensees must be fully compliant with all State marijuana laws and rules, including packaging, testing, and labelling.

2. The State will not cite, fine, or otherwise take any other adverse licensing or other action against any State Licensee for the mere fact that it bought or sold marijuana products from or to the Tribe or a Tribal Enterprise in accordance with the terms of this Compact and the Tribal Code.
 3. To the extent necessary, the State will work with the Tribe and with any State Licensees or otherwise authorized producers, processors, or retailers to assure such entities that the Tribe and Tribal Enterprises are legally authorized to purchase and sell marijuana products pursuant to the terms of this Compact.
- I. Tribal Member Businesses. The current Tribal Code does not permit Tribal Member Businesses to conduct retail sales, producing, processing, research or testing of marijuana products in Indian Country. However, if the Tribal Code is revised to allow Tribal Member Businesses then the Tribal Member Business may not purchase from or sell to a State Licensee, or conduct research or testing for transactions with a State Licensee, until such time as state law is amended to allow this activity and this Compact is amended to allow it.
 - J. Buffer Zone Requirements. To maintain community safety, the Tribe shall establish buffer zone requirements as outlined in RCW 69.50.331(8), and any subsequent amendments thereto, as may be modified by the Tribe consistent with subsections (b) through (d), and subject to interpretations of the grounds identified in subsection (a) that are within Indian Country all as codified in Tribal Code.
 - K. References to Laws, Rules and Policies. References herein to Tribal ordinances, Tribal and State laws, and to Tribal, State, and Board rules and policies, include ordinances, laws, rules, and policies in existence as of the effective date of this Compact, together with any amendments that may be adopted during the term of the Compact. References herein to specific titles, chapters, or sections of the Tribal Code, the Revised Code of Washington, or the Washington Administrative Code, include the cited titles, chapters, and sections as they exist on the effective date of this Compact, together with any amendments or renumbering that may be adopted during the term of this Compact.

- L. Non-Tribal Partial Owners and Financiers. If the Tribe is not the sole owner of the Tribal Enterprise producing, processing, or selling marijuana products or receives financing from a person or entity outside of the Tribe, the non-tribal owner or financier is subject to a criminal history background check and financial investigation performed by both Parties. The Board will use the criteria in WAC 314-55-020; 314-55-040; and 314-55-045. In determining who is an "owner" or a "financier," the Board will use the criteria found in WAC 314-55-035. For a non-tribal owner or financier to pass the criminal history background check and financial investigation, both Parties must agree. If the non-tribal owner or financier does not pass the criminal history background check and financial investigation, either Party may invoke the Dispute Resolution Process of this Compact.

VI. RETAIL SALES

- A. Retail Sales. The Tribe and/or its Tribal Enterprise may sell marijuana products in Indian Country pursuant to the Tribal Code and this Compact. This Compact does not permit Tribal Member Businesses to conduct retail sales of marijuana products in Indian Country.
- B. Initial Location. The initial retail location will be operated by the Tribe or a Tribal Enterprise in Indian Country and located at Exit 16 off Interstate 5, south of Cowlitz Way.
- C. Other sales by the Tribe or a Tribal Enterprise. The Tribe shall notify the State at least 30 days prior to the opening of any other Retailer owned by the Tribe or Tribal Enterprise. Only new retail locations and not the location set forth in the Initial Location Section above shall be subject to this Section. Such notifications shall include:
1. The identity of the entity which is operating the retail location;
 2. Location of the premises; and
 3. Certification that the premises is located in Indian Country.

D. Conditions on Retail Sales.

1. Retail sales of marijuana products by the Tribe and any Tribal Enterprise must be conducted in accordance with the Tribal Code and the internal policies and controls of the Tribe or Tribal Enterprise. The Tribal Code as it exists on the date of this Compact is attached as Exhibit A. Current copies of the Tribal Code and marijuana internal policies and controls of the Tribe and any Tribal Enterprise will be made available online or made available for review by the Board upon request. The Tribe agrees to notify the Board of any changes to the Tribal Code that may affect marijuana products within ten days of the date of adoption by the Tribe.
2. All marijuana products purchased by the Tribe or a Tribal Enterprise from a State-licensed producer or processor will be verified upon delivery in Indian Country, and confirmation of receipt will be made by executing the delivery invoice. The Tribe or Tribal Enterprise will input or cause to be input all delivered purchases into the State's tracking system within 24 hours of receiving any such delivery.
3. All marijuana products purchased by the Tribe or a Tribal Enterprise from the tribal government, Tribal Enterprise, or member of another federally recognized Indian Tribe with a reservation located within the state of Washington, or sold by the Tribe or a Tribal Enterprise to a tribal government, Tribal Enterprise, or member of another federally recognized Indian Tribe with a reservation located within the state of Washington, will be recorded in either the Tribe's or the State's tracking system within 24 hours of any such receipt or delivery. The Tribe and any Tribal Enterprise will make such records available for review by the Board upon request.
4. As long as drive-through facilities are prohibited by State law, the Tribe agrees not to sell marijuana products at a drive-through purchase facility where marijuana products are sold at retail and dispensed through a window or door to a purchaser who is either in or on a motor vehicle or otherwise located outside the retail premises at the time of sale.

VII. PRODUCING AND PROCESSING

A. Producing and Processing of Marijuana Products. The Tribe may allow the production and processing of marijuana products in Indian Country pursuant to the following terms:

1. Production and/or Processing by the Tribe or a Tribal Enterprise. The Tribe shall notify the State at least 90 days prior to the start of operations of any Producer or Processor owned by the Tribe or a Tribal Enterprise. Such notifications shall include:

- a. The identity of the entity which is operating the Producer or Processor location;
- b. Location of the premises;
- c. Certification that the premises are located in Indian Country; and
- d. If the notification is regarding production operations, the amount of marijuana intended to be grown by the Tribe for informational purposes only.

2. Conditions on Producers and Processors.

- a. Production and processing of marijuana products by the Tribe and any Tribal Enterprise must be conducted in accordance with the Tribal Code and the internal policies and controls of the Tribe or Tribal Enterprise. The Tribal Code as it exists on the date of this Compact is attached as Exhibit A. Current copies of Tribal Code and any internal marijuana policies and controls of the Tribe and any Tribal Enterprise will be made available online or made available for review by the Board upon request. The Tribe agrees to notify the Board of any changes to the Tribal Code that may affect marijuana products within ten days of the date of adoption by the Tribe.
- b. The State requires that marijuana products sold by Producers or Processors to State Licensees be packaged, tested, and labeled in compliance with State marijuana laws. With respect to “edibles” this must include State preapproval of the product, packaging, and labeling before sale to State Licensees; PROVIDED, that such preapproval

shall not be unreasonably withheld and shall be timely provided. All transactions between the Tribe or Tribal Enterprises and State Licensees will be executed through the state traceability system following the same rules as State Licensees. All marijuana products sold to State Licensees will be fully traceable in the state's traceability system. Marijuana products will trace back to the plant(s) they were derived from and include results for all required quality assurance testing. All required test results must be entered into the traceability system by a State-accredited testing laboratory.

VIII. NOTICE TO LOCAL JURISDICTIONS

- A. The Parties agree that it is in the best interests of both Parties that notice be provided to neighboring jurisdictions prior to the commencement of operations of a Producer, Processor, or Retailer.
1. When the Tribe or any other Tribal enterprise proposes to open a new Producer, Processor, or Retailer the Tribe will provide, at least 30 days prior to the commencement of operations, written notice to the county or to the incorporated cities in which the activity will occur. The Parties agree that the purpose of the notice is to facilitate an exchange of information that may be helpful to all parties concerned in addressing unanticipated impacts with the understanding that such notice related to Indian country is a matter of intergovernmental courtesy and not required by state law.
 2. In accordance with the direction of the Legislature in RCW 43.06.490(3)(c) and RCW 69.50.331 to address problems arising out of cross-border commerce, when any business that is not a Tribal business applies to the Board for a Producer, Processor or Retailer license for a location in Indian Country, the Board agrees that such license will not be granted without the person or business first obtaining express written consent of the Tribe. The Tribe agrees to respond to the express written consent request within 20 days of notification from the Board. The express written consent request shall be delivered to each of the Tribe's contacts consistent with section XII.C Notice. Notwithstanding the foregoing, if the Tribe does not respond within 30 days, the Board shall deem this to be non-consent and no such license shall be issued.

IX. TAXATION AND RECORD-KEEPING

The Parties recognize that RCW 43.06.490(2)(a) provides that “Each marijuana agreement adopted under this section must provide for a tribal marijuana tax that is at least one hundred percent of the state marijuana excise tax imposed under RCW 69.50.535 and state and local sales and use taxes on sales of marijuana.” The Parties further recognize that Sections 3, 4, and 5 of the Compacting legislation, codified at RCW 69.50.555, 82.08.9997, and 82.12.9997, provide exemptions from certain state taxes under the circumstances described in those sections.

A. State Tax.

Pursuant to RCW 69.50.555 no State Tax or fee, assessment, or other charge imposed by RCW 69.50 may be assessed against or collected from the Tribe, Tribal Enterprise, or retail customer purchasing from the Tribe or Tribal Enterprises if covered under the provisions of this Compact.

B. Tribal Tax.

1. Sales of marijuana products. The Tribe shall impose and maintain a Tribal Tax that is equal to at least 100 percent of the State Tax on all sales of marijuana products in Indian country, except that, consistent with RCW 43.06.490(2), "The tribe may allow an exemption from tax for sales to the tribe, tribal enterprises, tribal member-owned businesses, or tribal members[,] on marijuana grown, produced, or processed within Indian Country, or for activities to the extent they are exempt under state or federal law from the state marijuana excise tax imposed under RCW 69.50.535 or state and local sales or use taxes on sales of marijuana." Medical marijuana products used in the course of medical treatment by a clinic, hospital, or similar facility owned and operated by the Tribe within Indian Country are exempted from tax. The Tribe may choose to levy a Tribal Tax on any transaction that may otherwise be exempt.

- C. At the State’s request, the Tribe will retain, at its own expense, an independent Auditor to test the Tribe’s compliance with this Taxation and Record-Keeping Section of the Compact. The Auditor will review a sample of records to verify the requirements of this section and will provide the State with a report detailing the

results of the testing procedures, to include identification of any instances of noncompliance with the terms of this section.

X. SAFETY AND ENFORCEMENT

A. The Tribe shall address safety and enforcement issues in accordance with the Tribal Code, this Compact, and internal policies and controls of the Tribe or Tribal Enterprise.

1. Premises Checks

- a. Premise Checks by the Tribe. The Tribal Police or other authorized agency may conduct its own premises checks in Indian Country to observe compliance with Tribal Code and this Compact and to provide support and education to Tribal Enterprises and staff. To the extent it is informed of the results of such premises checks, the Tribe will share the results of the premises checks with the Board.
- b. Premise Checks by the Board. The Board, through its staff, may also conduct premises checks of the Tribe's marijuana operations in Indian Country. Prior to conducting any such check, the Board will contact the Tribal Police to provide reasonable notice of such premises check. Except as provided in the Cooperation Section below, the Tribal Police may observe and participate in all premises checks. The Board will share the results of such premises checks with the Tribe.

2. Compliance Checks - Minors

- a. Compliance Checks by the Tribe. The Tribe may conduct its own compliance checks in Indian Country using minors ages 18, 19, or 20 through the Tribal Police or other authorized agency in accordance with Tribal regulations and policies. To the extent it is informed of the results of such checks, the Tribe will provide the results of the checks to the Board. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.
- b. Compliance Checks by the Board. Board staff may also conduct compliance checks of the Tribe's marijuana operations in Indian Country. Prior to conducting any such check, the Board will contact the Tribal Police to provide reasonable notice of such compliance check.

Except as provided in the Cooperation Section below, the Tribal Police may observe and participate in all compliance checks. The Board will share the results of such compliance checks with the Tribe.

3. Cooperation. Both Parties will cooperate in good faith to undertake all Board requested premises and compliance checks jointly. The Tribal Police will make reasonable efforts to arrange and conduct all Board requested premises and compliance checks within 24 hours of being provided notice of such request by the Board. All such notices shall be given, via email, to the Chief of Police, and if requested by the Tribe, the Chairman of the Tribe. The Tribe will provide the relevant email addresses to the Board. If the relevant email addresses change, the Tribe will provide the new email addresses to the Board. If the Tribal Police are unable or unwilling to arrange and conduct a requested premises or compliance check 48 hours after receiving the original notice, the Board may then perform the premises or compliance check on its own without the Tribal Police. The locations to be checked will not be notified in advance of the check by either Party. Should either Party have any concerns arising out of a premises or compliance check or the results thereof, the Parties will meet in good faith to discuss any suggested changes to protocols for the premises and compliance checks themselves or for marijuana sales by the Tribe or Tribal Enterprise that were checked.
4. Transportation Outside Indian Country. Transportation of marijuana products outside the boundaries of Indian Country shall be conducted in compliance with state law and Board rules.

XI. DISPUTE RESOLUTION

- A. Process Required. Neither Party, nor any officer or official acting on behalf of a Party, may petition any court to enforce this Compact unless (a) the dispute resolution process described in this Dispute Resolution Section has been followed in good faith to completion without successful resolution or (b) the other Party fails to enter into the dispute resolution process. Should a dispute arise between the Parties regarding compliance with this Compact by either Party, the Parties will attempt to resolve the dispute through the following dispute resolution process:

- B. Notice. Either Party may invoke the dispute resolution process by notifying the other, in writing, of its intent to do so. The notice must set out the issues in dispute and the notifying Party's position on each issue.
- C. Meet and Confer. The first stage of the process will include a face-to-face meeting between representatives of the two Parties to attempt to resolve the dispute by negotiation. The meeting must be convened within 30 days after the receiving Party's receipt of the written notice described in the Notice Section above. The representatives of each Party will come to the meeting with authority to settle the dispute. If the dispute is resolved, the resolution will be memorialized in a writing signed by the Parties.
- D. Mediation. The second stage of the process will be that if the Parties are unable to resolve the dispute within 60 days after receipt of the initial written notice, the Parties will engage the services of a mutually agreed-upon qualified mediator to assist them in attempting to negotiate the dispute. Costs for the mediator will be divided equally by the Parties. The Parties will pursue the mediation process in good faith until the dispute is resolved or until an additional 90 days after the commencement of the mediation, whichever occurs first. The Parties may continue mediation after the 90-day period by mutual agreement. If the Parties cannot agree on a format for the mediation process, the format will be determined by the mediator. If the dispute is resolved, the resolution will be memorialized by the mediator in a writing signed by the Parties, which will bind the Parties.
- E. Arbitration. If a Party terminates the mediation process before completion, or if the mediator determines that the dispute cannot be resolved in the mediation process, either Party may initiate binding arbitration proceedings under the rules of the American Arbitration Association ("AAA"), but AAA need not administer the arbitration. The arbitrator shall have no authority to award monetary damages or issue injunctive or other equitable relief. Each Party will bear its own legal costs incurred under this section and all costs of the arbitrator will be shared equally. If the arbitrator determines that a Party is in violation of a material provision of this Compact, and such violation is not or cannot be cured within thirty (30) days after the arbitrator's decision, then the other Party may terminate this Compact with sixty (60) days' prior written notice.

- F. Procedure if the Dispute Remains Unresolved. After completion of the process described in the Dispute Resolution, Process Required Section above, or 180 days after the written notice described in Dispute Resolution, Notice Section above, whichever occurs first, either Party may terminate this Compact upon 30 days' written notice sent to the persons listed in the Communication and Notice, Designated Contacts Section.
- G. Defense of This Compact. In any action filed by a third party challenging either the Tribe's or the State's authority to enter into or enforce this Compact, the Parties each agree to support the Compact and defend each of their authority to enter into and implement this Compact; provided, however, that this provision does not waive, and shall not be construed as a waiver of, the sovereign immunity of the Tribe or any of its subdivisions or enterprises.
- H. Traceability. Should either Party have any concerns arising out of operation of the traceability system or the results thereof, the Parties will meet in good faith to discuss any issues. If the Parties fail to come to a resolution, either Party may invoke the Dispute Resolution Process of this Compact.

XII. COMMUNICATION AND NOTICE

- A. Designated Contacts. The Parties agree to maintain regular and open communication regarding the administration and implementation of this Compact. The Parties agree that the following individuals will be designated primary contacts regarding administration of this Compact:

For the State:

Agency Director
Liquor and Cannabis Board
1025 Union Avenue SE
PO Box 43080
Olympia WA 98504-3080
360-664-1650

For the Tribe:

Chair
Cowlitz Indian Tribe
PO Box 2547
Longview, WA 98632-8594

360-577-8140

With a copy to:

Office of Tribal Attorney
Cowlitz Indian Tribe
PO Box 996
Ridgefield, WA 98642
360-577-8140

B. The Parties agree that if either Party believes that the goals and objectives of this Compact are not being met, that they will meet promptly to discuss any issues and concerns.

C. Notice. Any notice that may be or is required to be sent under this Compact shall be sent as follows:

If to the State:

Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

With a copy to:

Agency Director
Liquor and Cannabis Board
1025 Union Avenue SE
PO Box 43080
Olympia, WA 98504-3080
360-664-1650

If to the Tribe:

Chair
Cowlitz Indian Tribe
PO Box 2547
Longview, WA 98632-8594
360-577-8140

With a copy to:

Office of Tribal Attorney
Cowlitz Indian Tribe
PO Box 996
Ridgefield, WA 98642
360-577-8140

XIII. EFFECT, DURATION, AND AMENDMENT

- A. Term. This Compact shall remain in effect for a term of ten years unless the Parties mutually agree in writing that the Compact should be vacated or terminated and superseded by a new compact between the Parties within that time frame, or unless the Compact is terminated pursuant to the Dispute Resolution Section above or the Change in Classification section below. The Compact shall be automatically renewed for successive periods of ten years, unless a Party provides written notice to the other, no later than 120 days before the expiration of the then current ten-year period, that it wishes to modify the terms of the Compact, or notice that declines to renew the Compact.
- B. Amendment. No amendment or alteration of this Compact shall arise by implication or course of conduct. This Compact may be altered only by a subsequent written document, approved by the Parties, expressly stating the Parties' intention to amend this Compact.
- C. Severability. If any provision of this Compact or its application to any person or circumstance is held invalid, the remainder of the Compact shall not be affected.
- D. Change in Classification. If the classification of marijuana as a Schedule I drug is altered in any way or federal marijuana enforcement policy changes, the Parties agree to meet and discuss the need to modify this Compact. If such modifications cannot be agreed upon, then either Party may terminate this Compact upon 60 days written notice.
- E. Renegotiation. The Parties may renegotiate the nature and/or scope of this Compact upon the written notice and request by either Party if and when:
1. Laws in the State governing marijuana are enacted allowing activities that are now prohibited, or prohibiting activities that are now allowed;
 2. The Tribe wishes to engage in forms of marijuana-related businesses other than those authorized in this Compact; or
 3. Federal laws or policies governing marijuana change.

- F. Most Favored Nation Provision In Another Compact. If, at any time after the effective date of this Compact, the State enters into an agreement, compact, or consent decree with any other federally recognized Indian tribe or governmental agency thereof, relating to the regulation of marijuana in Indian country which includes a “most favored nation” provision, then, upon the Tribe’s written request, this Compact will be amended to include such provision. A “most favored nation” provision is defined as language by which the State agrees to accord a tribe or tribal government agency the same favorable terms that are offered in later agreements with any other tribe or tribal government agency. This will not be construed to require that the State offer the Tribe the option to receive the same terms offered to every tribe or tribal government agency, in the absence of a most favored nation provision in the Compact. Notwithstanding the foregoing, the Parties agree that this “most favored nation” provision does not apply to Article IX, Section A of this Compact.

XIV. DEPARTMENT OF HEALTH EXHIBIT

Pursuant to RCW 43.06.490, the parties hereby add, as Exhibit B, the Memorandum of Agreement between the Cowlitz Indian Tribe and the Washington State Department of Health Concerning Medical Marijuana. Exhibit B is added in the form attached hereto and is hereby incorporated by reference. Exhibit B represents a standalone agreement and shall apply strictly and solely according to its terms to describe the relationship between the Department of Health and the Tribe with respect to access and use of the medical marijuana authorization database.

This Compact is hereby made this ____ day of _____, 2021.

STATE OF WASHINGTON

COWLITZ INDIAN TRIBE

Jay Inslee, Governor



David Barnett, Chair

WASHINGTON STATE LIQUOR AND
CANNABIS BOARD

David Postman, Board
Chair

Ollie Garrett, Board Member

Russell Hauge, Board
Member

Rick Garza, Agency Director



EXHIBIT A

COWLITZ INDIAN TRIBE

Tribal Council Resolution 21-62

Short Title: Commercial Marijuana Activity Ordinance

WHEREAS, the Cowlitz Indian Tribe is acknowledged as a Sovereign Indian Nation by the United States Government;

WHEREAS, the Tribal Council is the governing body of the Cowlitz Indian Tribe as authorized by the Tribe's Constitution and By-laws;

WHEREAS, in 2012, Washington voters passed Initiative 502 which sets forth a regulated, state-licensed system allowing for the production, processing, and retail sale of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products for adult use within the State of Washington;

WHEREAS, in 2015, the State enacted House Bill 2000, which authorized the State to enter into compacts with Washington tribes regarding the production, possession delivery, distribution, and sale of marijuana in Indian country;



COWLITZ INDIAN TRIBE

WHEREAS, the Tribal Council wishes to adopt an ordinance for the authorization and regulation of certain commercial marijuana activities within the Tribe's Reservation and trust lands;

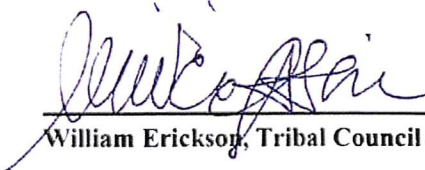
NOW, THEREFORE BE IT RESOLVED by the Tribal Council of the Cowlitz Indian Tribe, that the following Ordinance is hereby adopted in the form attached.

---CERTIFIED---

The foregoing resolution was adopted by the Cowlitz Tribal Council
at a duly called meeting on July 10th, 2021
by a vote of 20 for, 0 opposed and 1 abstain

Steve Barnett

Steve Barnett, Tribal Council Chair



William Erickson, Tribal Council Secretary



Cowlitz Indian Tribe

Cowlitz Tribe Commercial Marijuana Activity Ordinance

Section 1. Definitions. Nothing herein is intended to grant the State authority beyond what it possesses under applicable law.

- A. “**Auditor**” means a certified public accountant licensed and in good standing in the State of Washington.
- B. “**Authorization**” means a form developed by the State department of health that is completed and signed by a qualifying patient’s health care professional and printed on tamper-resistant paper. An authorization is not a prescription.
- C. “**Board**” means the Washington State Liquor and Cannabis Board and its staff.
- D. “**Commercial marijuana activity**” means all planting, growing, producing, cultivating, processing, transporting, selling, and otherwise handling of marijuana products in Indian country in accordance with tribal laws.
- E. “**Compact**” means the Marijuana Compact Between the Cowlitz Indian Tribe and the State of Washington, as it may be amended.
- F. “**Designated provider**” means a person who is twenty-one years of age or older and:
 - (a)(i) Is the parent or guardian of a qualifying patient who is under the age of eighteen and holds a recognition card; or
 - (ii) Has been designated in writing by a qualifying patient to serve as the designated provider for that patient;
 - (b)(i) Has an authorization from the qualifying patient’s health care professional; or
 - (ii) Has been entered into the medical marijuana authorization database as being the designated provider to a qualifying patient and has been provided a recognition card;
 - (c) Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;
 - (d) Provides marijuana to only the qualifying patient that has designated him or her;
 - (e) Is in compliance with any other terms and conditions that may be imposed; and
 - (f) Is the designated provider to only one patient at any one time.

- G. **“Health care professional.”** for purposes of this ordinance only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians’ assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.
- H. **“Indian country,”** as defined by 18 U.S.C. § 1151, means all lands within the Tribe’s Indian Reservation and all lands held in trust or restricted fee status by the United States for the Tribe or its Tribal members.
- I. **“Marijuana”** shall have the same meaning as in Cowlitz Tribal Code 26.55.020.
- J. **“Marijuana concentrates”** means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.
- K. **“Marijuana-infused products”** means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana, and have a THC concentration no greater than ten percent. The term “marijuana-infused products” does not include either useable marijuana or marijuana concentrates.
- L. **“Marijuana product”** or **“marijuana products”** means marijuana, marijuana concentrates, marijuana-infused products, and useable marijuana.
- M. **“Medical marijuana authorization database”** means the secure and confidential database established in RCW 69.51A.230.
- N. **“Processor”** means any marijuana processor licensed to process, package, and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to processors and retailers by the Board pursuant to RCW 69.50.325 and any marijuana processor in Indian country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- O. **“Producer”** means any marijuana producer licensed to produce and sell marijuana at wholesale to processors and other producers by the Board pursuant to RCW 69.50.325 and any marijuana producer in Indian country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- P. **“Qualifying patient”** means a person who:
- (a)(i) Is a patient of a health care professional;
 - (ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
 - (iii) Is a resident of the State of Washington at the time of such diagnosis;
 - (iv) Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;
 - (v) Has been advised by that health care professional that they may benefit from the medical use of marijuana;

(vi)(A) Has an authorization from his or her health care professional; or
(B) Has been entered into the medical marijuana authorization database and has been provided a recognition card and is otherwise in compliance with the terms and conditions established by law.

(b) "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that to be a qualifying patient would be inconsistent with and contrary to that supervision and all related processes and procedures related to that supervision.

- Q. "**Recognition card**" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement or by a retailer operating under a tribal compact that has entered them into the medical marijuana authorization database.
- R. "**Retailer**" means any marijuana retailer licensed to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet by the Board pursuant to RCW 69.50.325 and any marijuana retailer in Indian country licensed or otherwise allowed by the Tribe or any other tribe with a marijuana compact with the Board.
- S. "**State**" means the State of Washington.
- T. "**State licensee**" means any entity licensed by the Board pursuant to chapter 69.50 RCW, chapter 314-55 WAC, or any other regulations promulgated thereunder.
- U. "**State tax**" means the marijuana excise tax as stated in RCW 69.50.535 and the State and local sales and use tax on sales of marijuana as stated in chapters 82.08 and 82.12 RCW, all as may be amended from time to time.
- V. "**Tamper-resistant paper**" means paper that meets one or more of the following industry-recognized features:
- (a) One or more features designed to prevent copying of the paper;
 - (b) One or more features designed to prevent the erasure or modification of information on the paper; or
 - (c) One or more features designed to prevent the use of counterfeit authorization.
- W. "**Terminal or debilitating medical condition**" means a condition severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated and limited to the following:
- (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders;
 - (b) Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications;
 - (c) Glaucoma, either acute or chronic, limited for the purpose of this ordinance to mean increased intraocular pressure unrelieved by standard treatments and medications;
 - (d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications;

- (e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications;
 - (f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications;
 - (g) Posttraumatic stress disorder; or
 - (h) Traumatic brain injury.
- X. **“THC concentration”** means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant Cannabis, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant Cannabis regardless of moisture content.
 - Y. **“Tribal enterprise”** means a business wholly or majority owned by the Tribe and authorized to produce, process, sell, transport, or otherwise handle marijuana products under this ordinance.
 - Z. **“Tribal member”** means an enrolled member of the Tribe.
 - AA. **“Tribal tax”** means a tax imposed by the Tribe on marijuana activities.
 - BB. **“Useable marijuana”** means dried marijuana flowers. The term “useable marijuana” does not include either marijuana-infused products or marijuana concentrates.

Section 2. Authorization and Licensing.

- A. Limited authorization to engage in commercial marijuana activities. No person or entity may engage in commercial marijuana activities in Indian country. Notwithstanding the foregoing, Tribal Council may authorize a Tribal enterprise to participate in commercial marijuana activities, provided the Tribal enterprise is prohibited:
 1. from comingling its assets with the Cowlitz Tribal Gaming Authority or any gaming facility operating under the Cowlitz Tribal-State Gaming Compact;
 2. from conducting any activities, including but not limited to commercial marijuana activities, at any gaming facility operating under the Cowlitz Tribal-State Gaming Compact; and
 3. from using profits generated under this ordinance to further the development or advancement of any gaming facility operating under the Cowlitz Tribal-State Gaming Compact.
- B. Tribal License. A Tribal enterprise authorized to engage in commercial marijuana activities on behalf of the Tribe does not need a license; however, the Tribe may revoke such Tribal enterprise’s authorization if it fails to meet its obligations under this ordinance and under the Compact.

- C. Employees. Employees need not be licensed; however, the manager of any Tribal enterprise engaged in commercial marijuana activity must undergo a background check prior to employment.

Section 3. Taxes.

- A. Tribal Tax. There shall be a Tribal tax equal to at least 100 percent of the State tax then in effect levied on all commercial marijuana activity. The Tribal tax shall be remitted to the Tribe on a quarterly basis.
- B. Exemptions. The Tribe may, in its discretion, allow an exemption from the Tribal tax in the following circumstances:
1. For sales to the Tribe, Tribal enterprises, or Tribal members that occur in Indian country;
 2. For activities that would otherwise be exempt from State tax under state or federal law; and
 3. For medical marijuana products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by the Tribe within its Indian country.
- C. Records. Appropriate records shall be maintained should it be necessary for an auditor to verify the above requirements have been met.

Section 4. Siting.

- A. Location. No commercial marijuana activity may occur within one thousand feet of the perimeter of the grounds of any of the following entities:
1. Elementary or secondary school; or
 2. Playground.
- B. No commercial marijuana activity may occur within one hundred feet of the perimeter of the grounds of any of the following entities:
1. Recreation center or facility;
 2. Child care center;
 3. Public park;
 4. Public transit center;
 5. Library; or
 6. Any game arcade (where admission is not restricted to persons age twenty-one or older).
- C. Measurement. The distance shall be measured as the shortest straight line distance from the proposed location for the commercial marijuana activity to the any entity listed above.

Section 5. Production and Processing.

- A. An authorized Tribal enterprise may produce, harvest, trim, dry, cure, process, package, and/or label marijuana products, including marijuana products procured from another producer or processor, in accordance with this ordinance:
 - 1. To be provided for sale at retail by the Tribe or a Tribal enterprise;
 - 2. To be sold to another tribe with a marijuana compact; or
 - 3. To be sold to a State licensee in accordance with its license type.
- B. An authorized Tribal enterprise may also produce and sell:
 - 1. Immature marijuana plants or clones and seeds to members of a registered cooperative as described under RCW 69.51A.250.
 - 2. Immature marijuana plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310.
- C. Any marijuana produced and/or processed by an authorized Tribal enterprise must be produced and processed in a safe and secure manner and meet all quality assurance testing requirements in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures. Marijuana products must also be packaged and labeled in such a way as to not be especially appealing to children, and for edibles, must be packaged in child-proof packaging. Any marijuana to be sold to a State licensee shall comply with all applicable State laws and regulations regarding quality assurance testing, packaging, and labeling, and for marijuana "edibles," State preapproval of the product, packaging, and labeling prior to sale to the State licensee is required.
- D. Minors. No person under the age of 21 years may be present at any production or processing facility.
- E. Consumption. No marijuana may be consumed at any production or processing facility.
- F. Samples. No marijuana product samples may be received from any producer or processor or given to another producer, processor, retailer, or employee except in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures. Samples provided to a State licensee must also comply with all applicable State laws and regulations regarding sampling.
- G. Storage and inventory. All marijuana products will be stored in a way to minimize theft and in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures.
- H. Waste disposal. All waste must be disposed of in a way that renders the marijuana products unusable and in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures.
- I. Traceability. Any transaction between an authorized Tribal enterprise and a State licensee will be executed through the State traceability system following the same rules as apply to State licensees. All marijuana products sold to any State licensee

will be fully traceable in the State's traceability system. Such marijuana products will trace back to the plant(s) they were derived from and include results for all required quality assurance testing. All required test results must be entered into the State's traceability system by a Board-certified testing lab.

Section 6. Retail Sales. An authorized Tribal enterprise may sell marijuana products at retail.

- A. Hours. Hours will be set by the retail operation; however, in no event will marijuana be sold between 12 a.m. and 8 a.m.
- B. Minors.
 - 1. No person under the age of 21 years may enter the retail store or purchase any marijuana product, except that a qualified patient with a recognition card (a) who is at least 18 years of age may enter the retail store and purchase marijuana products for personal medical use or (b) who is under the age of 18 years and is accompanied by their designated provider may enter the retail store, but may not purchase products for their personal medical use.
 - 2. The forms of identification that are acceptable to verify a person's age for the purpose of purchasing marijuana must not be expired and include only the following:
 - a. Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "identocard" issued by the State department of licensing per RCW 46.20.117;
 - b. United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;
 - c. Passport;
 - d. Merchant Marine identification card issued by the United States Coast Guard; and
 - e. Enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.
- C. Transaction limits.
 - 1. A single transaction is limited to one ounce of useable marijuana, 16 ounces of marijuana-infused product meant to be eaten or swallowed in solid form, 7 grams of marijuana-infused extract or marijuana concentrate for inhalation, and 72 ounces of marijuana-infused product in liquid form meant to be eaten or swallowed.

2. A single transaction to a qualifying patient or designated provider who is entered into the medical marijuana database is limited to 3 ounces of useable marijuana, 48 ounces of marijuana-infused product meant to be eaten or swallowed in solid form, 21 grams of marijuana-infused extract or marijuana concentrate for inhalation, and 216 ounces of marijuana-infused product in liquid form meant to be eaten or swallowed.
- D. Postings. The retail store shall post all notices and warning in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures.
 - E. Samples. No free samples of marijuana products may be provided to customers. Samples may be provided to employees in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures.
 - F. Intoxicated persons. No marijuana products may be sold to persons who appear to be intoxicated.
 - G. Consumption. No marijuana products may be consumed on the retail premises.
 - H. Storage and inventory. All marijuana products must be stored in such a way to protect from theft and in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures.
 - I. Waste disposal. All unsold products will be returned to the entity from which they were purchased or disposed of in accordance with the Tribe's Compact, this ordinance, and applicable policies and procedures.
 - J. Traceability. All marijuana products delivered from a producer or processor licensed by the State will be input into the State's traceability system within 24 hours of receipt. All marijuana products purchased from a producer or processor operated by another tribe, tribal enterprise, or tribal member will be recorded in either the Tribe's or the State's tracking system within 24 hours of delivery.

Section 7. Safety and Security.

- A. Alarm systems. A security alarm system must be maintained on all perimeter entry points and perimeter windows. The security alarm system shall comply with applicable policies and procedures.
- B. Cameras and surveillance. Cameras must cover the entire premises, including all points of ingress and egress. The camera and surveillance system, including how long the information must be maintained, shall comply with applicable policies and procedures.
- C. Identification.
 1. All employees on the premises or engaged in the transportation of marijuana products shall hold and display an identification badge, including name and photograph.
 2. All nonemployee visitors, other than retail store customers, shall be required to hold and properly display an identification badge at all times while on the premises.

3. A log must be kept and maintained showing the full name of each visitor entering the premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit.
- D. Employees. All employees must be 21 years of age or older.
- E. Transport. All transportation of marijuana products outside the boundaries of Indian Country shall be conducted in compliance with State laws and rules. All other transportation of product shall comply with applicable policies and procedures.

Section 8. Signage.

- A. No signage may contain any statement or illustration that:
1. Is false or misleading;
 2. Promotes overconsumption;
 3. Is designed in any manner that would be especially appealing to children or persons under 21 years of age.
- B. No signage may violate the buffer requirements contained in this ordinance.

Section 9. Medical Marijuana.

- A. Compliant products. An authorized Tribal enterprise may produce, process, and/or sell marijuana for medical use.
1. Produced or processed. Any marijuana products produced and processed for sale to a State licensee as a compliant marijuana product must meet the requirements of WAC 246-70.
 2. Sold at retail. Any marijuana products sold by at retail as a compliant product must meet the requirements of WAC 246-70.
- B. Recognition cards. At a retail outlet, an authorized Tribal enterprise may accept valid authorizations, enter data into the medical marijuana authorization database, and issue recognition cards to qualifying patients and designated providers consistent with the Compact and applicable policies and procedures. All recognition cards will meet the requirements of WAC 246-71-040(3).
- C. Access to medical marijuana authorization database.
1. All employees of the retail outlet will have access to the medical marijuana authorization database sufficient to electronically verify whether a recognition card is valid.
 2. Only employees of the retail outlet with the proper training and certification as a medical consultant under WAC 246-72 will have access to the medical marijuana authorization database necessary to enter new qualifying patients and designated providers into the medical marijuana authorization database and issue a recognition card or to enter information to obtain a renewed or replacement recognition card.

3. Notwithstanding the foregoing, the public safety department and prosecutorial officials will have access to the database consistent with RCW 69.51A.230(1)(d).

D. Confidentiality and Nondisclosure.

1. No records from the medical marijuana authorization database shall be disclosed, other than as permitted herein.
2. Any person who knowingly or intentionally accesses or discloses information from or otherwise misuses the medical marijuana authorization database other than as permitted in this Section shall be subject to imprisonment up to a term of one year and/or a fine not to exceed \$5,000.

Section 10. Compliance and Enforcement. The public safety department may conduct premises and compliance checks of any commercial marijuana activity to observe compliance with this ordinance and Tribal policies and procedures and to provide support and education to Tribal enterprises and staff to ensure any problems are corrected. For any serious or ongoing non-compliance, results will be reported to Tribal Council.

Notwithstanding the prohibition on minors contained in this ordinance, the public safety department may use minors 18, 19, or 20 years of age to conduct any minor compliance checks. No criminal action may be taken against any minor who purchases marijuana as part of such a compliance check.

Section 11. Insurance.

- A. Commercial general liability insurance. Any authorized Tribal enterprise shall at all times carry and maintain sufficient insurance that will cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, or representatives, bodily injury, including disease, illness and death, and property damage arising out of the premises/operations, products, and personal injury.
- B. Additional insured. The Tribe and its employees, agents, and volunteers shall be named as an additional insured on insurance policies. All policies shall be primary over any other valid and collectable insurance.

Section 12. Tribal Sovereign Immunity and Jurisdiction Preserved. Nothing in this Title shall be construed as a waiver of the sovereign immunity of the Tribe, the Tribal Council, or of any committee or corporation acting under the authority of the Tribe or the Tribal Council. Nothing in this Title shall be construed as a grant of jurisdiction to the United States or to a state, local or other tribal government.

Signature: 
Steve Barnett (Jul 14, 2021 13:52 PDT)

Email: sbarnett@tc.cowlitz.org

07 Resolution 21-62 Commercial Marijuana Activity Ordinance

Final Audit Report

2021-07-14

Created:	2021-07-14
By:	Becki Peterson (bpeterson@cowlitz.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXLcEdwXWKdU_d-9Y1znRjQZxdiHPM31w

"07 Resolution 21-62 Commercial Marijuana Activity Ordinance" History






-  Document created by Becki Peterson (bpeterson@cowlitz.org)
2021-07-14 - 8:45:45 PM GMT- IP address: 50.207.147.54
-  Document emailed to Steve Barnett (sbarnett@tc.cowlitz.org) for signature
2021-07-14 - 8:47:49 PM GMT
-  Email viewed by Steve Barnett (sbarnett@tc.cowlitz.org)
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-  Document e-signed by Steve Barnett (sbarnett@tc.cowlitz.org)
Signature Date: 2021-07-14 - 8:52:06 PM GMT - Time Source: server- IP address: 174.248.164.49
-  Agreement completed.
2021-07-14 - 8:52:06 PM GMT

EXHIBIT B

**MEMORANDUM OF AGREEMENT
BETWEEN
THE COWLITZ INDIAN TRIBE, CONTRACT NUMBER 26354
AND
THE WASHINGTON STATE DEPARTMENT OF HEALTH
CONCERNING MEDICAL MARIJUANA**

1. Government-to-Government Relations.

The Cowlitz Indian Tribe (the “Tribe”) and the State of Washington, of which the Department of Health (the “Department”) is an agency, are sovereign governments. The Tribe and the Department agree to the terms and conditions within this Memorandum of Agreement (“MOA”) for the purposes of furthering the government-to-government relationship acknowledged in the Centennial Accord and Chapter 43.376 RCW and providing safe and regulated access to medical use of marijuana for qualifying patients.

Nothing in this MOA shall constitute or be construed as a waiver of sovereign immunity by the Tribe.

2. Definitions.

“Authorization” shall have the same meaning as in RCW 69.51A.010(1), as amended.

“Department” means the Washington State Department of Health.

“Designated Provider” shall have the same meaning as in RCW 69.51A.010(4), as amended.

“Marijuana” shall have the same meaning as in RCW 69.50.101(x), as amended.

“Marijuana Compact” or “Compact” means the agreement entered into pursuant to RCW 43.06.490, between the Tribe and the State, as may be amended from time to time.

“Medical Marijuana Authorization Database” or “Database” means the secure and confidential database established in RCW 69.51A.230, as amended.

“Medical Marijuana Consultant” or “Consultant” means a person holding a valid medical marijuana consultant certificate issued by the Secretary of the Washington State Department of Health or the Secretary’s designee, as provided in Chapter 246-72 WAC, as amended.

“Medical use of Marijuana” shall have the same meaning as in RCW 69.51A.010(16), as amended.

“Parties” means the parties to this MOA, the Washington State Department of Health and the Cowlitz Tribe.

“Qualifying Patient” shall have the same meaning as in RCW 69.51A.010(19), as amended.

“Recognition Card” shall have the same meaning as in RCW 69.51A.010(20), as amended.

“State” means the State of Washington.

“Tribe” means the Cowlitz Tribe.

“Tribe’s Cannabis Retail Outlet” means any marijuana retail store owned and operated by the Tribe or a Tribal Enterprise as defined in the Compact.

3. Statement of Work.

a. Programs Receiving and Providing Information for Database.

- i. When a Qualifying Patient or Designated Provider presents an Authorization at the Tribe’s Cannabis Retail Outlet, the Tribe’s Cannabis Retail Outlet will access and enter the Authorization into the Department administered Medical Marijuana Authorization Database.
- ii. Tribe’s Cannabis Retail Outlet will issue Recognition Cards to Qualifying Patients and Designated Providers to the extent consistent with Tribal law. Such Recognition Cards may include the Tribal name and/or logo, at the discretion of the Tribe, so long as placement of the Tribal name and/or logo does not cover or obscure any other information on the Recognition Card.
- iii. Tribe’s Cannabis Retail Outlet will issue Recognition Cards solely to those persons in possession of a valid Authorization under RCW 69.51A.030(3).
- iv. Tribe’s Cannabis Retail Outlet will verify the age of every Qualified Patient and Designated Provider by inspecting the Qualified Patient’s or Designated Provider’s photographic identification. In the event of an inexact match of names on the identification and the Authorization, Tribe’s Cannabis Retail Outlet will ensure that the Qualifying Patient or Designated Provider named on the Authorization form is the same person presenting the Authorization for entry into the Database.
- v. Tribe’s Cannabis Retail Outlet will check the Database to ensure that a Designated Provider is not currently associated with a different Qualifying Patient before associating the Designated Provider with a new Qualifying Patient in the Database. If a Designated Provider is still associated with a different Qualifying Patient, Tribe’s

Cannabis Retail Outlet will not enter the Designated Provider into the Database as associated with the new Qualifying Patient.

- vi. Tribe's Cannabis Retail Outlet will enter that information described under WAC 246-71-020(9) in the Database.
- vii. Tribe's Cannabis Retail Outlet will ensure all Recognition Cards it issues meet the requirements of WAC 246-71-040(3).
- viii. Tribe's Cannabis Retail Outlet will collect and remit quarterly to the Department the then-current service fee (\$1 per Recognition Card as of the date of this MOA) associated with Recognition Cards. The Tribe may, in its discretion, charge an additional Tribal service fee.
- ix. The Department will make available to the Tribe's Cannabis Retail Outlet the software and access permissions necessary to accomplish the foregoing, subject to the terms and conditions herein. Tribe's Cannabis Retail Outlet is responsible for obtaining the equipment identified in WAC 246-71-040(1).

b. Restrictions on Access.

- i. All employees of Tribe's Cannabis Retail Outlet will have access to the Database, including any necessary Department provided credentials, sufficient to electronically verify whether a Recognition Card is valid.
- ii. Only employees of Tribe's Cannabis Retail Outlet with the training and certification described in Subsection 3(c) will have access to the Database, including any necessary Department provided credentials, necessary to enter new Qualifying Patients and Designated Providers into the Database and issue a Recognition Card.
- iii. Only employees of Tribe's Cannabis Retail Outlet with the training and certification described in Subsection 3(c) will have access to the Database, including any necessary Department provided credentials, necessary to enter information to obtain a renewed or replacement Recognition Card for a Qualifying Patient or Designated Provider.
- iv. Notwithstanding the foregoing, the Tribal Police, as defined in the Compact, will have access to the Database consistent with RCW 69.51A.230(1)(d).

c. Certified Medical Marijuana Consultants.

- i. Only Tribe's Cannabis Retail Outlet Staff certified as Medical Marijuana Consultants under Chapter 246-72 WAC will be allowed to enter Qualifying Patients and Designated Providers' information into the Database and issue Recognition Cards. The Parties agree to revisit at a later date the terms under which the Tribe may certify medical marijuana consultants, wherein such certification by the Tribe would occur in

lieu of State certification currently prescribed under Chapter 246-72 WAC, and consultants certified by the Tribe would be authorized to enter Qualifying Patient and Designated Provider information into the Database and issue Recognition Cards.

- ii. Tribe's Cannabis Retail Outlet staff may satisfy the requirements for initial training under this subsection through participation in a State approved training program. In the event the Tribe elects to satisfy the initial training requirements by using a Tribally-approved program for such elements, the Tribe will provide the syllabus and instructor qualifications to the Department on request. A Tribally-approved training program that meets or exceeds the elements identified under WAC 246-72-110 shall be considered approved by the State.

4. Confidentiality and Nondisclosure.

- a. The Tribe shall not disclose records in the Medical Marijuana Authorization Database.
- b. The Tribe shall have adequate policies and procedures in place to ensure compliance with the confidentiality requirements of this Section.
- c. The Tribe, its enterprises, and the employees of each may use information gained by reason of this MOA only for the purposes of this MOA.
- d. The Tribe shall enact and maintain, with respect to individuals over whom the Tribe has criminal jurisdiction, Tribal law penalties with respect to the unauthorized disclosure of information from the Database or the misuse of the Database as follows: imprisonment up to a term of one year and/or a fine not to exceed \$5000.

5. Disputes.

Disputes shall be referred to a Dispute Board. Each party to this MOA shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms and applicable statutes and regulations and make a determination regarding the dispute. These dispute resolution procedures shall not modify or reduce the Tribe's right to judicial proceedings.

6. Termination for Default.

If either party believes the other has failed to meet any material obligation under this MOA, it may notify the other in writing. Such writing must include a summary of the facts giving rise to the asserted default. The other party shall have ten business days in which to either (i) cure the asserted default (provided that, if it will reasonably take longer than ten business days to cure the default the cure period shall be a reasonable period agreed to by the Parties) or (ii) invoke the dispute procedures set forth immediately above in Section 5.

7. Termination for Convenience.

Either party may terminate this MOA by giving the other at least one hundred eighty (180) calendar days prior written notice.

8. Term.

Unless otherwise terminated in accordance with Sections 6 or 7 above, this MOA shall continue in effect for so long as the Compact remains in effect.

9. Amendment.

No amendment or modification of this MOA may arise by implication or course of conduct. This MOA may be amended only by a subsequent written document, approved by the Parties and signed by their duly authorized representatives, expressly stating the Parties' intention to amend this MOA.

10. Jurisdiction.


This MOA does not expand or limit the jurisdiction of either the Tribe or the State.

11. Severability.

If any provision of this MOA or its application to any person or circumstance is held invalid, the remainder of the MOA is not affected.

This MOA is hereby made this ____ day of _____, 2021.

Umair A. Shah, MD, MPH, Secretary
Washington State Department of Health



David Barnett, Chairman
Cowlitz Indian Tribe