

**Memorandum of Understanding  
by and between  
the Seneca Nation of Indians and the State of New York**

**WHEREAS**, as a point of mutual respect, the Seneca Nation of Indians (the "Nation") and the State of New York (the "State") have met as sovereigns and amicably discussed issues of concern; and

**WHEREAS**, the Parties desire to reset their collective business and governmental relationship; and

**WHEREAS**, both Parties seek to return to the previous experience of partnership, which economically benefited Western New York;

**NOW THEREFORE**, the Parties agree to settle present disputes under the Nation-State Gaming Compact between the Seneca Nation of Indians and the State of New York as set forth in this Memorandum of Understanding in the following manner:

**Definitions.**

For purposes of this Memorandum of Understanding, the following terms shall have the definitions set forth below:

"Commission" means the New York State Gaming Commission.

"Compact" means the Nation-State Gaming Compact between the Seneca Nation of Indians and the State of New York, executed on August 18, 2002, including all Appendices attached thereto, as may be amended from time to time.

"Exclusivity Zone" means the geographic area as set forth in Paragraph 12(a)(i) of the Compact.

"NYS" means the New York State Police.

"Party" means either the Seneca Nation of Indians or the State of New York and  
"Parties" means both the Seneca Nation of Indians and the State of New York.

"SGA" shall have the same meaning as set forth in the Compact.

"SGO" shall have the same meaning as set forth in the Compact.

"Slot Machine" shall have the same meaning as set forth in the Compact.

"Table Game" means those casino-style games used for gambling traditionally offered at a table, involving a dealer or croupier, and which may utilize tiles, dice, cards or spinning wheels. Examples include but are not limited to baccarat, craps, pai gow, poker, black jack, roulette, chuck-a-luck, and wheel games in various versions and iterations. Table games shall not include slot machines.

"Video Lottery Gaming Device" shall have the same meaning as set forth in the Compact.

"Video Lottery Gaming Device Electronic Table Games" means those devices that meet the definition of "Video Lottery Gaming Device" under the Compact and are designed to simulate by electronic means the play of a Table Game.

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Compact.

1. State Obligations; Enforcement of Exclusivity

- a. The Governor shall support casino enabling legislation that preserves the exclusivity arrangement of the Compact. The State shall not legalize, authorize or consent to or engage in, casino gaming or the installation or operation of any Slot Machine within the zone of exclusivity set forth in the Compact.
- b. Acting through the Commission, the State shall support the exclusivity arrangement of the compact by controlling the installation of Slot Machines, Table Games or Video Lottery Gaming Device Electronic Table Games within the Exclusivity Zone. In connection therewith, the Parties understand time is of the essence thus the Commission shall take steps necessary within ten days of Memorandum execution to cause the cessation of operation, ultimate removal and prohibit the reintroduction of any and all stepper reel video lottery terminal devices (or any other gaming device which does not utilize a video screen as its main display) that it, or its predecessor, previously authorized within the Exclusivity Zone.
- c. Acting through the Commission, the State shall as soon as practicable commence a notice of proposed rulemaking to prohibit the use of the terms "slots", "slot machines", and "casino" or "casinos" for marketing or other purposes by video lottery gaming device facilities or licensed agents of the State Lottery, operating within the Exclusivity Zone.
- d. Upon receipt of the State's share of the escrowed funds under Paragraph 2.a, below, the State shall promptly distribute statutory local shares based upon the full escrow amount.
- e. For purposes of this Memorandum, the Parties agree that the video lottery gaming devices operated by the State within the Exclusivity Zone do not constitute Slot Machines, but rather are Video Lottery Gaming Devices.
- f. The State recognizes that any authority or obligation it may have to provide general criminal law enforcement functions, through the NYSP or otherwise, is independent of and does not flow from the Compact. Absent an express written agreement among the Parties to the contrary, the State will not bill for and agrees that the Nation shall not pay for general law enforcement activities of the NYSP; and further that the only NYSP function to be billed to and paid by the Nation under the Compact is the NYSP

background function. The State agrees that NYSP invoices will provide sufficient detail to identify, by time allocated, the applicant investigated.

2. Nation Obligations: Payment of Past Due Amounts and On-Going Amounts.

- a. Exclusivity Escrow. Upon execution of this Memorandum of Understanding, the Nation shall immediately take the steps to cause the release from the Exclusivity escrow \$559,442,281 (reflecting the amount of State Contribution for gaming activity from January 1, 2009 through May 31, 2013), with such funds to be allocated as follows:

25.0% to host municipalities	=	\$ 139,860,000
37.5% to State of New York	=	\$ 209,790,000
37.5% to Seneca Nation	=	\$ 209,790,000

Additionally, the Nation shall immediately take the steps necessary to remit 80.71 percent of the outstanding regulatory costs of the NYSP through March 31, 2013 (80.71% of \$67,112,478 = \$54,166,481); and further the Nation shall remit the full amount of the outstanding regulatory costs of the Commission (or its predecessor) through March 31, 2013, or \$4,320,830.84. Such payment shall be considered payment in full for all outstanding regulatory amounts required under the Compact and its appendices (inclusive of any interest that may be due thereon).

- b. The Nation recognizes that facilities operating Video Lottery Gaming Devices may exist within the Exclusivity Zone and that such operation does not violate the Compact's Slot Machine exclusivity provisions.
- c. The Nation shall commence making timely State Contribution and regulatory assessment payments at the next scheduled payment date as required by the Compact.

3. Extension of Compact. If each Party in good faith independently determines the other Party has satisfactorily performed its obligations and is in material compliance with both the Compact and this Memorandum of Understanding, then neither party shall object to the automatic renewal of the Compact in 2016.

4. Enhanced Communications. The Parties agree that enhanced communications are needed to achieve the goals and expectations embodied in the Compact. To this end, the Parties agree to the following:

- a. *Quarterly Meetings.* The Parties agree that regular, periodic meetings beyond the typical day-to-day in-the-field contacts are imperative to maintaining open and cooperative communications between the Parties on issues of importance to the Parties under the Compact. Accordingly, the Parties agree that representatives of the SGA, SGO and the Seneca Gaming Corporation shall meet on at least a quarterly basis to review past practices and examine methods to improve the regulatory and enforcement programs set forth under the Compact, including a review and discussion of the periodic billings submitted by the SGO for reimbursements and any questions, issues or concerns with them. The Parties agree that such meetings should occur no later than the third week following the submission by SGO of quarterly invoices for SGO expenses to the

Nation and the SGA.

- b. *Consultation.* In furtherance of and consistent with Section (c) of Appendix G to the Compact, on or before August 15 of each year, the Commission and NYSP will send a written invitation to the Nation inviting consultation on the development of the annual SGO budget for the subsequent State fiscal year. The goal of this consultation structure is to facilitate meaningful and timely dialogue consistent with the requirement under the Compact that the State develop its annual budget estimate for the following fiscal year in consultation with the Nation and prior to submission of such budget estimate to the Nation "on or about October 1." The Parties also recognize that through this consultation process the State shall provide the Nation with a sufficient level of detail reasonably necessary to warrant the budget estimates and a report on the number of vendor and employee license applicant suitability determinations issued in the preceding and current fiscal years (through the date of consultations). Consistent with Section 17(c) of the Compact, the invitation (as well as the budget estimate to be presented) shall be sent both to the Nation President at the addresses noted and to the SGA at 345 Third Street, Niagara Falls, NY 14303, Attn: Chairman.
- c. *Background Check Investigation Information.* The NYSP agrees to better document its actual costs incurred in connection with investigations of individuals and vendors who must be licensed under the terms of the Compact. Names will no longer be redacted on the supporting documentation the NYSP submits to the Nation for reimbursement, unless preservation of the identity of a source is necessary in which case NYSP will redact only that information necessary to preserve such confidentiality and will provide sufficient information to enable the Nation and SGA to track which applicant for whom the expenses were incurred. The SGO agrees that individuals and vendors for whom licenses have been issued by the State pursuant to a tribal-state gaming compact and where such license remains in good standing at the time of submittal to SGO, will receive an expedited review that focuses solely on the period of time from the SGO's last suitability determination with respect to such applicant to the present.
- d. *Exclusivity Matters.* If the Nation learns of the presence of devices in the Exclusivity Zone that the Nation believes may violate Slot Machine exclusivity, the Nation agrees to submit written notice to the Governor. The Governor shall cause the State to investigate the issue immediately. Within 30 days of receipt of the Notice or as soon as practicable, if the device concerned was authorized by state action, the State shall provide the Nation with a written report that explains why the device is not a Slot Machine under the Compact or a plan of action to eliminate the device from the Exclusivity Zone. Should the State fail to issue a written response in accordance with the provisions of this subsection, or should the Nation be dissatisfied with the response and believe that there has been a breach of Slot Machine exclusivity, the Nation may elect to escrow the State Contribution payments by written notice to the State. The Parties agree to meet and confer within 30 days of the written notice of the Nation's determination to escrow payments based upon the alleged exclusivity breach, with the balance of dispute resolution provisions set out in the Compact to follow if no amicable resolution is reached. If the device concerned is present through unlawful or illegal activity, the State shall take all reasonable and customary law enforcement measures, including referral to appropriate federal, state or local law enforcement agencies, to

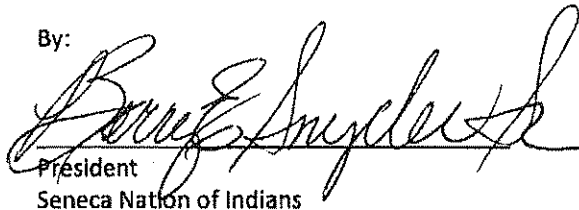
assist in eliminating the devices from the Exclusivity Zone. The State shall provide the Nation with a written report of actions taken.


5. Additional Agreements.

- a. The Governor of the State and the President of the Nation shall travel to a mutually agreeable location in Niagara Falls for the joint settlement announcement and presentation of local share remittances.
- b. The Governor shall travel to the Nation's Territory to initiate a new era of State-Nation cooperation and commitment to economic growth and development in Western New York.
- c. Upon execution of this Memorandum of Understanding, the Nation and State shall agree to stipulate to suspend the Parties present arbitration proceedings, and upon the fulfillment of the obligations of the parties under Sections 1 a. - c., and 2 a. hereunder, the Nation and State shall agree to stipulate to the withdrawal of the arbitration action.

6. Confidentiality. Because this Memorandum of Understanding and all negotiations relating hereto are being considered in the context of litigation settlement, it shall remain strictly confidential until the public announcement described in Section 5 a., or until otherwise mutually agreed.

By:

  
President  
Seneca Nation of Indians

  
Governor  
State of New York

Subject to Approval of the Nation Tribal Council