

**MARIJUANA COMPACT**  
between  
**THE STATE OF WASHINGTON**  
and  
**THE PUYALLUP TRIBE OF INDIANS**

**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 Puyallup Tribe of Indians and the State of Washington, hereinafter referred to as the “Compact.”

**II. PARTIES**

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

The Tribe is located on the Puyallup Indian Reservation and 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 operating under the authority of the Governor, with statutory authority with respect of marijuana under RCW chapters 69.50 and 69.51A.

**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.

While the federal Controlled Substances Act continues to designate marijuana as a Schedule 1 substance, the United States Department of Justice on August 29, 2013, issued a memorandum to all United States Attorneys setting forth guidance regarding marijuana enforcement. In that memo, James M. Cole, Deputy Attorney General, set forth eight enforcement priorities of particular importance to the federal government, including: 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. The memo further states that the focus of federal law enforcement resources and efforts will be on those whose conduct interferes with the stated priorities and that state and local governments should provide sufficiently robust regulatory and enforcement systems to protect against these harms.

On October 28, 2014, the United States Department of Justice issued another memorandum to all United States Attorneys providing a policy statement regarding marijuana issues in Indian Country. In that memo, Monty Wilkinson, Director, Executive Office for United States Attorneys, acknowledged that “[t]he eight priorities in the Cole Memorandum will guide United States Attorneys’ marijuana enforcement efforts in Indian Country, including in the event that sovereign Indian Nations seek to legalize the cultivation or use of marijuana in Indian Country.” That memo effectively treats tribal governments the same as state governments in the decision to legalize marijuana.

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 attempted to set forth a civil regulatory system that accomplishes the federal priorities set forth above and keeps marijuana production, processing, and sale in the State regulated and safe for the public. 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 federal priorities, 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 Compact legislation, enacted by the 2015 Regular Session of the Legislature on April 24, 2015, signed by the Governor on May 8, 2015, effective July 24, 2015. Through this legislation, the State authorized the Governor to enter agreements concerning the regulation of marijuana and to delegate the authority to negotiate the agreements 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 sufficient to meet the federal priorities.

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 enhance public health and safety, including development of safe and effective medical marijuana as a treatment alternative in appropriate cases. The initial version of this Compact will address only one element of the broader subject area of marijuana: the opening and operation of a testing lab by the Tribe.

The Parties anticipate that they will later amend this Compact to add other elements of the broader subject area of marijuana to the agreement, in order to 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 State of Washington and the Puyallup Tribe of Indians, as it may be amended.

D. “Indian Country” consistent with RCW 43.06.465(14)(a), means the lands of the Puyallup Tribe of Indians

E. “Marijuana,” marijuana concentrates,” “marijuana-infused products,” and “useable marijuana” as used 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 products” or “marijuana products.”

F. “Parties” means the State and the Tribe.

G. “PTOITL, Inc.” means the Puyallup Tribe of Indians Testing Lab, Inc., a corporation chartered under Puyallup Tribal law and wholly owned by the Tribe.

H. “Processor” means any marijuana processor licensed by the Board pursuant to RCW 69.50.325 or any other tribes with marijuana compacts with the Board to process marijuana into useable marijuana, marijuana concentrates, and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale to retailers and sell useable marijuana and marijuana-infused products at wholesale to retailers.

I. “Producer” means any marijuana producer licensed or otherwise allowed by the Board pursuant to RCW 69.50.325 or any other tribes with marijuana compacts with the Board to produce and sell marijuana at wholesale to processors and other producers.

J. “Retailer” means any marijuana retailer licensed or otherwise allowed by the State pursuant to RCW 69.50.325 or any other tribes with marijuana compacts with the Board to sell useable marijuana, marijuana concentrates, and marijuana-infused products in a retail outlet.

K. “State” means the State of Washington.

L. “State Licensee” means any marijuana producer, marijuana processor, or marijuana retailer licensed by the Board pursuant to RCW 69.50, RCW 69.51A, WAC 314-55, or any other regulations promulgated under those RCW chapters, as amended.

M. “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 RCW 82.08 and RCW 82.12, all as may be amended from time to time.

N. “Tribal Police” means the Puyallup Tribal Law Enforcement Division.

O. “Tribe” means the Puyallup Tribe of Indians.

## V. GENERAL MATTERS

A. Sovereign Immunity. The Parties agree that, except for the limited purpose of resolving disputes in accordance with section IX, below, the signing of this Compact by the Tribe does not imply a waiver of sovereign immunity by the Tribe or any of its subdivision or 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 Agreement, 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 Agreement, the State does not concede that the Tribe has any immunity from the State’s tax and collection provisions.

D. Agreement Does Not Create any Third Party Beneficiaries. No third party shall have rights or obligations under or be considered a beneficiary of this Agreement.

E. Jurisdiction. This Agreement 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 enterprises nor subject the Tribe of its subdivisions or enterprises to any State jurisdiction not agreed to in this Compact.

G. Applicability. The parties may agree to expand this Compact, by amendment after its initial adoption to cover a range of the elements of the broad subject of regulation of marijuana, including medical marijuana, growing, producing, processing and retail sales of marijuana, marijuana concentrates, and marijuana-infused products. This Compact as initially adopted will deal only with the subject of the Tribe's Testing Lab. Before the Tribe undertakes any other involvement in the cannabis industry, this compact must be amended by mutual agreement of both parties and consistent with section XI.B of this compact.

## VI. PUYALLUP TRIBAL TESTING LAB

A. Wholly-Owned Tribal Corporation. The Tribe has informed the Board that the Tribe has chartered under Tribal law a non-profit corporation, the PTOI Testing Lab, Inc. The corporation is authorized to conduct one and only one activity: operation of a commercial testing lab that will for a fee conduct scientific and safety testing services for substances including cannabis. The initial location of the Testing Lab will be 3700 Pacific Highway East, 4<sup>th</sup> Floor, Fife, WA, 98424.

B. Certification. The Tribe will obtain and maintain certification consistent with Board rules including any amendments thereto, from the Board or the Board's vendor before conducting testing for State Licensees, and will conduct no testing for State Licensees during any period in which the Tribe's Testing Lab is not certified. The Tribe must pay all vendor fees for certification, recertification, and ongoing monitoring directly to the vendor. The Tribe has informed the Board that the Tribe's Testing Lab will meet the Board's certification criteria to be certified as a lab that meets the standards in state law for conducting quality assurance testing consistent with Board rules.

C. Testing Standards. The Tribe's Testing Lab will perform the tests described in the Board rules when conducting testing for State Licensees.

D. Federal Standards. The Tribe has informed the Board that it will conduct operations of the Testing Lab in a manner consistent and in compliance with the standards set forth by the United States Department of Justice in the Cole Memorandum and in other documents relevant to the enforcement of laws dealing with marijuana.

E. Clientele. The Parties recognize that the Tribe's Testing Lab will be offering its services to, among others, State-licensed producers, processors and retailers of marijuana, marijuana concentrates, and marijuana-infused products. The Tribe will obtain certification from the Board or the Board's vendor before conducting testing for State Licensees, and will conduct no testing for State Licensees during any period in which the Tribe's Testing Lab is not certified. When conducting testing for State Licensees, the Tribe's Testing Lab will report all required quality assurance test results directly into the Board's seed-to-sale traceability system within twenty-four hours of completion and record in the Board's seed-to-sale traceability system an acknowledgment of the receipt of samples from state-licensed producers or processors and verify if any unused portion of the sample was destroyed.

F. Notice to Local Jurisdictions. 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 any business involving marijuana. The Tribe has informed the Board that it has already given notification to the City of Fife, within whose city limits the Testing Lab will be located, and indicates that it will provide the same notice to the Cities of Tacoma and Puyallup, to Pierce County, and to the Port of Tacoma. The Parties agree that the purpose of the notice is to facilitate an exchange of information that may be helpful to all parties for dealing with any concerns that neighboring jurisdictions may have. The Parties recognize that this notice is a matter of intergovernmental courtesy and is not required by state law.

## VII. TAXATION AND RECORD-KEEPING

A. State Tax. The Parties recognize that Section 2(2)(a) of Chapter 207, Laws of 2015 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 Chapter 207, Laws of 2015 provide exemptions from certain state taxes under the circumstances described in those sections. The Parties agree that the activities of the Tribe's Testing Lab, as described in this Compact, are not sales of marijuana and are outside the scope of the tax provisions of RCW 69.50.535 and Chapter 207, Laws of 2015.

B. Tribal Tax. The Tribe will determine, in its discretion, whether to impose and assess any Tribal tax on transactions between the Testing Lab and customers. This compact only relates to the activities of testing labs. Tribal taxation for any activities

beyond the scope of this compact will be negotiated by the parties pursuant to XI.B of this compact.

C. Financial Record-Keeping. The Testing Lab will maintain financial records according to generally accepted accounting principles and will provide to the Board copies of its quarterly financial statements.

D. Quality Assurance Testing Records. The Testing Lab will maintain all records associated with testing equipment, testing supplies, equipment maintenance, and tests conducted for State Licensees on the Testing Lab premises for a minimum of three years. Records must be made available to the Board or Board's representative upon request.

E. Auditor. The Tribe will retain at its own expense an Auditor to perform an annual review of the financial records of the Testing Labs and to offer an opinion on whether the records are a fair presentation of the financial performance and condition of the Testing Lab. The Tribe will provide a copy of each of those annual reviews to the Board.

## VIII. SAFETY AND ENFORCEMENT

A. Premises Checks. The Board through its staff or its vendor contracted to certify third party testing labs may conduct premises checks at the Testing Lab consistent with the general standards in the Board rules. Prior to conducting any such check, the Board will contact the Puyallup Tribal Police to provide reasonable notice of such premises check. Except as provided in subsection (B) below, the Tribal Police may observe and participate in all such premises checks. The Board will share the results of such premises checks with the Tribe.

B. Cooperation. Both Parties will cooperate in good faith to undertake all Board-requested checks jointly. The Tribal Police will make reasonable efforts to arrange and conduct all Board-requested premises checks within 24 hours of being provided written notice of such request by the Board. All such written notice shall be sent to the Chief of Police and Chairman of the Tribal Council of the Tribe. However, if the Tribal Police are unable or unwilling to arrange and conduct any requested premises check within 48 hours after receiving the original written notice the Board may then perform the premises check on its own without involvement of the Tribal Police. Should either Party have any concerns arising out of a premises check or the results thereof, the Parties will



meet in good faith to discuss any suggested changes to protocols of the premises checks themselves or of the operation of the Testing Lab.

## **IX. 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 (y) the dispute resolution process described in this section IX has been followed in good faith to completion without successful resolution or (z) the other Party fails to enter into the dispute resolution. 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:

1. 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. If the Board finds that the Tribe's Testing Lab is out of compliance with the requirements of the Board rules, the Board may notify the Tribe that its lab is no longer certified to perform quality assurance testing for Board licensees. The Tribe's Testing Lab will stop conducting testing for State Licensees until the certification is in good standing.

2. 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 subsection (1), 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.

3. Mediation. The second stage of the process will be that if the Parties are unable to resolve the dispute within sixty (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 ninety (90) days after the date of the mediation demand, 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.

4. Procedure if the Dispute Remains Unresolved. After completion of the process described in IX.A.1-3 or one hundred eighty (180) days after the written notice described in IX.A.1, whichever occurs first, either Party may terminate this Compact upon thirty (30) days' written notice sent to the persons listed in X.B.

B. 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 dealing with the regulation of marijuana in Indian Country consistent with RCW 43.06.465(14)(a), 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.

C. 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 define 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.

## **X. 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:

Rick Garza, Agency Director  
Liquor and Cannabis Board  
3000 Pacific Avenue SE  
Olympia, WA 98504-3080

[rig@liq.wa.gov](mailto:rig@liq.wa.gov)  
(360) 664-1650

For the Tribe:

Marjorie Matheson  
Director of Special Projects  
Puyallup Tribe of Indians  
3009 East Portland Avenue  
Tacoma, WA 98404  
[marjorie.matheson@puyalluptribe.com](mailto:marjorie.matheson@puyalluptribe.com)  
(253) 573-7976

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.

B. 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  
P.O. Box 40002  
Olympia, WA 98504-0002

With a copy to:

Agency Director  
Liquor and Cannabis Board  
3000 Pacific Avenue SE  
Olympia, WA 98504-3080

If to the Tribe:

Chairman  
Puyallup Tribal Council  
3009 East Portland Avenue  
Tacoma, WA 98404

With a copy to:

Legal Department  
Puyallup Tribe of Indians  
3009 East Portland Avenue  
Tacoma, WA 98404

## XI. 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 IX.A.4. 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.

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 (as described in III, above) 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.

This Compact is hereby made this \_\_\_\_ day of \_\_\_\_\_, 2015.

STATE OF WASHINGTON

  
\_\_\_\_\_  
Jay Inslee, Governor

PUYALLUP TRIBE OF INDIANS

  
\_\_\_\_\_  
Bill Sterud, Chairman

WASHINGTON STATE LIQUOR AND  
CANNABIS BOARD



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Jane Rushford, Board Chair



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Ruthann Kurose, Board Member



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Russ Hauge, Board Member



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Rick Garza, Agency Director