

**ADDENDUM TO FIRST AMENDED & RESTATED  
TRIBAL-STATE COMPACT  
BETWEEN THE EASTERN BAND OF CHEROKEE INDIANS  
AND THE STATE OF NORTH CAROLINA**

It is the purpose of this Addendum to clarify certain terms and provisions contained in the First Amended & Restated Tribal-State Compact Between the Eastern Band of Cherokee Indians and the State of North Carolina (hereinafter the "Compact"), dated and executed on November 28, 2011.

This Addendum is an integral part of the Compact and any provision of the Compact not amended by this Addendum remains in full force and effect. In the event of any conflict between the Compact and this Addendum, this Addendum shall control. An engrossed version of the Compact, as amended by this Addendum, is attached as Exhibit 1.

The Parties agree that within five (5) business days after the day on which a bill passed by the North Carolina General Assembly making lawful the gaming activity referenced in the Compact and Addendum becomes law, the Governor shall transmit to the Tribe a letter consenting to the Tribe's submission of the Compact and Addendum to the Department of the Interior for approval. The Tribe shall not submit the Compact and Addendum for consideration and approval until the Tribe's receipt of said letter.

The numbering of the sections below corresponds to the numbering in the Compact and these sections are amended and now read as follows.

Section 2 is amended to read as follows:

"Section 2. DECLARATION OF POLICIES AND PURPOSES. The purposes of this Compact are:

"(A) To authorize the operation of certain Class III gaming by the Eastern Band of Cherokee Indians on Eastern Cherokee Lands as a means of promoting tribal economic development, self-sufficiency, and strong tribal government;

"(B) To provide for the regulation of certain Class III gaming by the Eastern Band of Cherokee Indians and the State of North Carolina to protect against organized crime and other corrupting influences, to assure that certain Class III gaming is conducted fairly and honestly by both the Eastern Band of Cherokee Indians and the participants and to ensure that the Eastern Band of Cherokee Indians is the primary beneficiary of the certain Class III gaming operation;

"(C) To fulfill the purpose and intent of the Indian Gaming Regulatory Act by

providing for certain Class III gaming by an Indian tribe on Eastern Cherokee Lands as a means of generating tribal revenues; and

“(D) To enable the State of North Carolina to generate funds to strengthen its schools, to create jobs, and to promote economic development.”

Section 3.(D) is amended to read as follows:

“Intentionally omitted.”.

Section 3.(E) is amended to read as follows:

““Class II gaming” means all forms of gaming as defined in 25 U.S.C. 2703(7) and as interpreted by the National Indian Gaming Commission (NIGC).”

Section 3.(F) is amended to read as follows:

““Class III gaming” means all forms of gaming that are not Class I gaming or Class II gaming, as defined in 25 U.S.C. 2703(6), (7) and (8).”

Section 3 is amended by adding a new definition to read:

"(B.1) "Authorized Games" or "Authorized Gaming" means all the games encompassed within categories of games listed in Exhibit 2 to this Compact, a copy of which is attached and incorporated herein by reference."

Section 3.(J) is amended to read as follows:

““Eastern Cherokee Lands” means all tribal trust lands existing within the Cherokee Indian Reservation located in Jackson, Swain, Haywood, Graham and Cherokee counties as of the Execution Date of this Compact.”

Section 3 is amended by adding a new definition to read as follows:

“(J.1) “Effective Date” means the date on which the Secretary publishes approval of this Compact in the Federal Register, pursuant to 25 U.S.C. §2710(d)(3)(B).”

Section 3.(K) is amended to read as follows:

““Execution Date” means November 28, 2011, the date the Compact was executed by the Principal Chief and the Governor.”

Section 3 is amended by adding a new definition to read:

"(L.1) "Gaming Facility" means a Class III gaming facility permitted under Section 5(D) of this Compact."

Section 3 is amended by adding a new definition to read:

"(L.2) "Gaming Machine" means a machine that meets the definition set forth in G.S. §14-306, the definition of "gaming machine" set forth in 25 C.F.R. §542.2, or the definition of "gambling device" set forth in 15 U.S.C. §1171."

Section 3.(Q) is amended to read as follows:

""Live Table Gaming" (or "Live Table Games") means games that utilize real non-electronic cards, dice, chips or equipment in the play and operation of the game."

Section 3. is amended by adding a new definition to read as follows:

“(R.1) “Monthly Payment” means the payments calculated and paid by the Tribe to the State in accordance with Section 4.1(B).”

Section 3.(T) is amended to read as follows:

“Intentionally omitted.”

Section 3.(DD) is amended to read as follows:

""Video Game" or "video game" means any electronic video game or amusement device that allows a player to play a game of amusement involving the use of skill or dexterity as allowed under N.C.G.S. §14-306 and §14-306.1A or as subsequently amended by the North Carolina General Assembly.”

Section 4.(A). is deleted and replaced in its entirety by the following:

“(A) Subject to the conditions set forth in this Compact, and in accordance with the Act, the Tribe may conduct any or all of the following at any Gaming Facility on Eastern Cherokee Lands:

- (1) Raffles.
- (2) Video Games.
- (3) Gaming Machines.
- (4) All Authorized Games.

Section 4.(B) is deleted and replaced in its entirety by the following:

“(B) The Tribe may apply to the State for authorization under this Compact to conduct Class III gaming not expressly enumerated in Section 4.(A) of this Compact.

(1) The application shall be submitted in writing by the Principal Chief to the Governor and shall identify with specificity the additional proposed gaming activities and any proposed amendments to the Tribe’s regulatory ordinances.

(2) The Governor shall take written action on the Tribe’s application within one hundred eighty (180) days after receipt. The Governor’s action shall be based on:

a. whether the proposed gaming activities are permitted for the Tribe on Eastern Cherokee Lands by the laws of the State of North Carolina consistent with the Act.

b. whether the existing or proposed regulatory controls and criminal sanctions are adequate to fulfill the policies and purposes set forth in this Compact.

c. whether the proposed gaming activities would constitute Live Table Gaming.

(3) Any gaming activity approved in writing by the Governor and the Tribe shall be incorporated into Exhibit 2 and deemed a part of this Compact, and the Compact, as modified, shall be submitted promptly to the Department of Interior for approval in accordance with federal law.

(4) If the Governor notifies the Tribe that the proposed gaming activities are not permitted under the laws of the State of North Carolina, the Tribe may seek amendment to the laws simultaneously with a request to amend this Compact. ”

Section 4.1 is deleted and replaced in its entirety by the following:

**Section 4.1. REVENUE SHARING PROVISION.**

“The Parties to this Compact fully affirm their mutual desire to enter into a mutually beneficial agreement and acknowledge the substantial benefits gained from the sharing of consideration given by both Parties. Both Parties acknowledge the federal law prohibition against taxation of Indian Gaming by a State and hereby affirm the following agreement is not taxation but instead a mutually agreed upon benefit to the Parties.

“(A) In the event that any Live Table Gaming is permitted for any person other than the Tribe in the geographical zone encompassing the portion of the State of North Carolina located west of Interstate Highway I-26, as that interstate highway is presently located as

of the Execution Date, the State shall forfeit its right to the Monthly Payments required by Section 4.1.(B).

“(B) Beginning in the month after the Effective Date occurs, the Tribe shall make a Monthly Payment each month of the calendar year in accordance with this Section.

“(1) The amount of the Monthly Payment shall be calculated by multiplying the amount of Gross Revenue from Live Table Gaming earned from the Tribe’s Gaming Facility existing as of the Effective Date during a given month times the following percentages:

FOUR PERCENT (4%) for the first five years of the Compact;  
FIVE PERCENT (5%) for the next five years of the Compact;  
SIX PERCENT (6%) for the next five years of the Compact;  
SEVEN PERCENT (7%) for the next five years of the Compact; and  
EIGHT PERCENT (8%) for the next ten years of the Compact.

“(2) With respect to each Gaming Facility opened by the Tribe after the Effective Date, the Monthly Payment shall, beginning in the month following the month in which such facility opens, equal eight percent (8%) times the Gross Revenue from Live Table Games earned solely in such new Gaming Facility in any given month.

“(3) The Tribe shall calculate the Monthly Payment on a monthly basis and shall remit such in accordance with the provisions of Section 4.1.(B)(4) no later than the 21<sup>st</sup> day of the month following the month in which the right to revenue accrued.

“(4) The Tribe shall remit the Monthly Payment to the existing Cherokee Preservation Foundation (which shall act solely as a fiscal agent). The Cherokee Preservation Foundation shall transmit the Monthly Payment electronically to the State’s Indian Gaming Education Revenue Fund, as established by law. If, for any reason, the Indian Gaming Education Revenue Fund does not receive a Monthly Payment by the 25<sup>th</sup> day of the month following the month in which the right to the revenue accrued, the Tribe, upon written notice by the State, shall remit an amount equal to the amount of the Monthly Payment directly to the Indian Gaming Education Revenue Fund within 5 days of the Tribe’s receipt of the written notice.

“(5) The Governor and the Tribe intend for the State’s portion of revenue derived from this Compact to be spent for the purpose of educating children in the classroom. However, the Parties expressly recognize that the General Assembly is not bound by the Parties’ intended disposition of the funds derived from the Compact, and that the Tribe hereby agrees to waive any claim based on impairment or breach of contract in the event that any legislation is enacted that disposes of the monies paid by the Tribe under this Compact for purposes other

than the intended purpose set forth in this subdivision, including purposes other than education.”

Section 5.(A)(1)b. and c. are amended to read as follows:

“b. Has, within the ten years immediately preceding the commencement of the person’s employment, been convicted of or entered a plea of guilty or no contest to: a felony, any gambling-related offense, fraud or misrepresentation or any violation of Article 37 of Chapter 14 of the North Carolina General Statutes, unless the person has been pardoned.

“c. Is currently charged with any offense set forth in Section 5(A)(1)b. above, which has not yet reached final disposition.”

Section 5.(A)(3)a. is amended to read as follows:

“a. Revenues, expenses, assets, liabilities and equity for the location(s) at which the Tribe conducts Class III gaming;”.

Section 5.(A)(7) is amended to read as follows:

“(7) Except for employees under the age of 21 that are specified in Section 5(A)(1)a., no person under the age of 21 shall be permitted in the gaming area of the Gaming Facility where any component of Class III gaming is conducted; provided, however, that this subsection shall not apply to locations at which sale of gaming tickets is the only component of Class III gaming.”

Section 5.(A)(8) is amended to read as follows:

“(8) If any person below the age of 21 plays and otherwise qualifies to win any Class III game, the prize shall not be paid, and the estimated amount wagered during the course of the game shall be returned to the person placing the wager.”

Section 5(A)(10) is amended to read as follows:

“(10) The Tribe shall not conduct or possess any Class III games or components thereof outside of Eastern Cherokee Lands except when transporting such games to or from the manufacturer, a certified testing laboratory, or to a certified repair facility. This prohibition shall include the use of common carriers (such as telecommunications, postal or delivery services) for the purpose of sale of a gaming ticket or playing card to, or placement of a wager by, a person who is not physically present on Eastern Cherokee Lands to purchase the gaming ticket or card or place the wager. This prohibition shall not apply to the use of technology which shall permit the Tribe to conduct Proprietary Progressives. If the United States Congress or the State enacts a law permitting on-line gaming, then the parties, at the Tribe’s election, shall enter into

discussions regarding the effect of the change in federal or State law on the ability of the Tribe to engage in on-line gaming.”

Section 5.(A)(15) is amended to read as follows:

- "(15) Problem Gambling and Youth Gambling. The Tribe shall prohibit any and all forms of advertising targeting or enticing underage gambling. The Tribe will continue to require that all casino employees receive mandatory training in identifying persons under age 21, procedures to verify individuals' age via proper identification, and methods to detect potentially invalid identification. The Tribe will maintain procedures and policies to fine any gaming facility which has permitted underage gambling to occur. Additionally, the Tribe shall maintain its existing programs, provided through Harrah's Cherokee Casino, which address gambling addiction and promote responsible gaming. The Tribe shall provide similar programs at any new gaming facilities of the Tribe. These programs include mandatory training for all casino employees to identify possible gambling addiction behavior in patrons, the posting of responsible gaming signage and gambling helpline phone numbers."

Section 5.(B)(2) is amended to read as follows:

- “(2) The State and the Compliance Committee shall have the right to monitor the Tribe’s Class III gaming to ensure that the Tribe is administering and enforcing the regulatory requirements set forth herein. The State and the Compliance Committee shall, upon twenty-four (24) hours advance notice to the Tribal Gaming Commission, have the right to inspect all premises on which Class III gaming is conducted and the right to inspect and copy during normal business hours, all tribal records relating solely to Class III gaming, including, without limitation, any background checks available for Class III gaming employees. All records, and copies thereof, shall remain the property of the Tribe regardless of their location. All such records and the information derived from such records are confidential and proprietary information of the Tribe. Access to all records, or copies thereof in the possession of the State or the Compliance Committee shall be limited solely to members of the Compliance Committee, the Office of the Governor and State employees directly responsible for regulating gaming and, subject to the requirements of applicable State disclosure laws, shall not be disclosed to other persons or to third parties. Should a third party request disclosure of any of the Tribe’s confidential and proprietary records or the information derived from such records, the State shall promptly notify the Tribe in writing of such request and provide the Tribe with an opportunity to object to such disclosure.”

Section 5.(B) is amended to add in the following new subsections:

- “(5) The Compliance Committee shall convene quarterly to receive reports on the following matters:

- a. A written report from the Tribe of every new Class III game offered (of any type or category) in its Gaming Facilities since the date of the last such report; said report shall include, at a minimum, the name of the game, a description of the game, the rules of the game and the game's odds;
  - b. A written report of any amendments to policies or procedures involving gambling addiction programs and patron disputes;
  - c. A written report regarding any patron disputes that remain unresolved as of the date of the report;
  - d. A listing of all Class III gaming employees who have passed a background investigation and been placed in employment since the date of the last such list provided to the Compliance Committee;
  - e. A listing of all Class III gaming employees who have left the employment of the Tribe since the date of the last such list provided to the Compliance Committee;
  - f. A report on any formal decision by the Tribe to build a new Gaming Facility on Eastern Cherokee Lands since the date of the last such report; and
  - g. Any documents requested by the Compliance Committee in writing from the Tribe in accordance with Section 5.(B)(2).
- “(6) If the Compliance Committee believes that the Tribe may be violating a provision of the Compact, it may seek in writing additional information from the Tribal Gaming Commission. The Compliance Committee notice shall set forth clearly the potential alleged violation and the specific information or cure that it is seeking. The Tribal Gaming Commission shall have thirty (30) days to respond in writing to any such request. Upon the expiration of the thirty (30) day period, if the Compliance Committee determines that in its view the alleged violation is not cured, it shall notify the Governor in writing for possible further action pursuant to the dispute resolution procedures set forth in Section 11.”

Section 5.(D) is amended to read as follows:

“(D) The Tribe may operate up to three (3) Class III gaming facilities on Eastern Cherokee Lands, including the one existing as of the Effective Date (each one a “Gaming Facility”). Except for the Gaming Facility in existence and operating prior to the Effective Date, the Tribe shall provide written notice to the Governor and to the County Manager of the county in which any new Gaming Facility authorized by this subsection is to be located at least sixty (60) days prior to opening. Such written notice shall include the specific location or address of the facility to be opened. This notice requirement is for information purposes only and does not create any other rights on the part of the County or any other party and shall not be interpreted or construed in any way as an impingement



on the sovereign right of the Tribe to decide upon the location and operation of businesses located on Eastern Cherokee Lands. As a matter of contract and not regulatory jurisdiction, all Gaming Facilities that the Tribe establishes after the Effective Date shall meet the standards established in the State for construction, fire and safety.”

Section 6.(A) is amended to read as follows:

“(A) **Regulation of Video Games.**”

Section 6.(A)(12)f. is amended to read as follows:

“f. Approved Coin and Bill Acceptors. If a video game accepts coins, then at least one electronic or mechanical coin acceptor will be installed in or on that video game. The devices may also contain bill acceptors for denominations determined by the Tribe. Prior to operation within Eastern Cherokee Lands, all models of coin and bill acceptors installed must have been tested and approved in writing by an independent gaming test laboratory as provided by this Compact.”

Section 6.(A)(15)a. is amended to read as follows:

“a. The Certification Commission shall be reconstituted and shall consist of three members, one of whom shall be appointed by the Principal Chief and two of whom shall be appointed by the Governor. The terms of any current member of the Certification Commission that pre-existed this Agreement is hereby terminated: notwithstanding, any such member who is otherwise eligible for reappointment may be appointed as a member of the Certification Commission created by this Agreement. One of the two members appointed by the Governor will serve as Chairman. The appointments shall be made within thirty (30) days of the Effective Date. All three members will have responsibility for testing and approving all video games sought to be offered by the Tribe at its gaming facilities for compliance with the skill and dexterity requirements set out in NCGS § 14-306 and § 14-306.1A (or in subsequent legislation enacted by the General Assembly). The two members appointed by the Governor shall have the responsibilities for regulatory oversight as set out in Section 5.(B)(5) and (6). The term of a member shall be five years. The Certification Commission members shall be individually compensated by the Tribe for their services at an annual salary between \$9,000- \$12,000 as approved by the Tribal Council. The Parties agree to assess the appropriateness of said annual salary on the first anniversary of the Effective Date of this Agreement.”

Section 6.(A)(15)f. & g. are both deleted in their entirety.

Section 6.(C) is amended to read as follows:

\_\_\_\_\_“(C) **Regulation of Gaming Machines.**”

“(1) Gaming Machines shall be in accordance with the regulations found at 25 C.F.R. 542.13.

“(2) The National Indian Gaming Commission regulations found at 25 C.F.R. 542.13 shall be the minimum internal control standards for Gaming Machines, and the Tribe shall adopt internal control procedures at least as stringent as those listed therein.”“(3) All Gaming Machines that are not Video Games must receive approval and certification by the Tribal Gaming Commission, as well as Gaming Laboratories International certification prior to being placed into service.”“(4) All employees of the Gaming Facilities responsible for the operation of Gaming Machines must be properly trained to operate the Gaming Machines in operation. This training is primarily for the protection of patrons and tribal assets, but this training must also include instruction on how to spot patrons who may have problem gaming issues. Employees must be trained in the proper protocol within the gaming industry for alerting supervisors of any problem gaming patrons they spot and how to obtain assistance for such patron.”

Section 6.(D) is amended to read as follows:

"(D) Regulation of Live Table Gaming

- “(1) The regulations for operating Live Table Gaming shall be in accordance with the regulations found at 25 CFR 542.12. These regulations are made part of this First Amended & Restated Compact.
- “(2) The National Indian Gaming Commission regulations found at 25 CFR 542.12 shall be the minimum internal control standards for Live Table Gaming and the Tribe shall adopt Internal Control Procedures at least as stringent as those listed herein.
- “(3) All equipment utilized in the conduct of Live Table Gaming must receive approval and certification from the Tribal Gaming Commission prior to being placed into operation.
- “(4) All employees must be properly trained to operate the games. This training is primarily for protection of patrons and Tribal assets but this training must also include instruction on how to spot and watch out for any patrons who may be having problem gambling issues. The employee must be trained in proper protocol on alerting supervisors to their observations and getting proper assistance to the customer.”

Section 13 is amended to read as follows:

“Section 13. **EFFECTIVE DATE.** The Compact shall be effective on the Effective Date.”

Section 14 is amended to read as follows:

“Section 14. **DURATION.** The Compact shall remain in full force and effect for a period of thirty (30) years from the Effective Date.”

Section 15 is amended as follows:

“Section 15. **NOTICES.**

“All notices required or authorized to be served shall be served by first class mail at the following addresses:

Principal Chief  
Eastern Band of Cherokee Indians  
Post Office Box 455  
Cherokee, North Carolina 28719”

Office of the Governor  
116 West Jones Street  
Raleigh, North Carolina 27603

Section 16 is deleted in its entirety and replaced by the following:

“Section 16. **SEVERABILITY.**

“(A) In the event that any nonmaterial provision of the Compact is held invalid by a final order of a court of competent jurisdiction, it is the intent of the Parties that the remaining sections of the Compact shall continue in full force and effect.

“(B) The Parties agree that the gaming authorization and revenue sharing provisions of the Compact as set forth in Sections 4 and 4.1 are both material provisions. The Parties agree that any dispute regarding whether a provision other than Section 4 or Section 4.1 is a material provision of this Compact is subject to the dispute resolution procedures included in the Compact. In the event that any material provision of this Compact is held invalid in whole or part by a final order of any State or federal court of competent jurisdiction, then, immediately upon written notice from one party to the other, without the need for further action, the Compact shall be null and void in its entirety, and the Compact then in force shall immediately revert to the compact attached to this Addendum as Exhibit 3. Nothing in this Subsection should be interpreted or construed to mean that provisions other than Sections 4 and 4.1 of the Compact or this Addendum are not material.”

IN WITNESS WHEREOF, the State of North Carolina and the Eastern Band of Cherokee Indians have hereto set their hands and seals.

Dated: May 22, 2012

Dated: May 22, 2012

STATE OF NORTH CAROLINA

EASTERN BAND OF CHEROKEE INDIANS

By: Beverly Eaves Perdue  
Beverly Eaves Perdue  
Governor

By: Michell Hicks, O.E. O.G.A.  
Michell Hicks  
Principal Chief

ATTEST:

\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State,  
State of North Carolina

Approved as to form and  
Procedure for the State:

Approved as to form and  
Procedure for the Tribe

By: \_\_\_\_\_  
Roy A. Cooper, III  
Attorney General,  
State of North Carolina

By: \_\_\_\_\_  
Annette E. Tarnawsky  
Attorney General,  
Eastern Band of Cherokee Indians

Approved this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

By: \_\_\_\_\_  
Assistant Secretary of the  
Department of Interior  
Bureau of Indian Affairs

**LIST OF EXHIBITS**

Exhibit 1	Engrossed version of Compact
Exhibit 2	List of Authorized Games
Exhibit 3	Alternate Compact

**EXHIBIT 1**

**Engrossed Version of Compact  
(version including all changes to First Amended and Restated Compact  
made through this Addendum)**

**EXHIBIT 2**

**List of Authorized Games**

## EXHIBIT 2

### List of Authorized Games

The following Class III games constitute the Authorized Games, as that term is used in this Compact:

All forms of the following:

Baccarat

Black jack and 21 games

Casino card games

Casino carnival games

Craps and other dice games

High-low (hi-lo) card games

Keno

Pai Gow

Poker

Roulette

Wheel games

The Parties acknowledge and agree that the Class III games listed above constitute Live Table Games as that term is defined in Section 3.(Q) of the Compact.



**Exhibit 3**

**Alternate Version of Compact  
For purposes of Section 16**