

## **MEMORANDUM OF UNDERSTANDING COMMERCE IN THE ELECTRONIC AGE**

This Memorandum of Understanding (“MOU”) is made this 23rd day of December, 2019 by and between the State of New Mexico (the “State”) and the Habematolel Pomo of Upper Lake, a federally recognized Indian tribe (the “Tribe”). This MOU is entered into on a government-to-government basis by and between the Tribe and the New Mexico Attorney General’s Office, an agency of the State of New Mexico, collectively the “Parties.”

### **ARTICLE I. GENERAL**

Section 1.01 Electronic Commerce Conclusions. The Parties conclude that:

- (a) “[i]n the last 30 years, technological advancements in information and telecommunication technologies, including generalized access to the Internet, have significantly impacted the way in which goods, services and information are bought, sold and exchanged, by bringing electronic or digital markets and platforms into being.”<sup>1</sup>
- (b) electronic commerce has enabled consumers to choose to freely and easily access products and services from various jurisdictions, including tribal lands. Electronic commerce can bring consumers more choices and more competition thanks to a more competitive global market.
- (c) electronic commerce has likewise allowed rural areas and populations, including tribes, to offer products and services to consumers from all over the world, and garner previously-unattainable market access and streams of income that are not subject to geography or physical assets.
- (d) electronic commerce has been and represents a great benefit to rural communities by breaking down the physical barriers which previously hampered businesses in rural areas from accessing potential markets—and for many Indian tribes represents a way of reversing the economic isolation imposed by the 1800s reservation policy of the United States federal government.
- (e) nearly two centuries of failed federal Indian policy have destroyed tribal governments’ ability to access the traditional tax base so heavily relied upon by states and the federal government necessitating economic development for American Indian tribes to fund essential governmental services.
- (f) the United States Congress, through federal laws, has recognized that tribal economic development promotes the “twin goals of economic self-sufficiency and political self-determination”<sup>2</sup> of American Indian tribes.
- (g) while e-commerce may overcome distance and connect markets, miscommunications

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<sup>1</sup> World Trade Organization Economic Research and Statistics Division, *Provisions on Electronic Commerce in Regional Trade Agreements*, WTO Working Paper ERSD-2017-11, July, 2017.

<sup>2</sup> See e.g. Native American Business Development, Trade Promotion and Tourism Act, 25 U.S.C. §§4301 et seq.

regarding policy differences and practices between sovereigns can cause friction and disruptions, and all sovereigns involved in e-commerce can benefit from open communications regarding e-commerce.

- (h) both the State and the Tribe have an interest in ensuring that consumers of electronic commerce products and services are treated fairly and considerately.
- (i) both the State and Tribe recognize the importance of clarity, transparency and predictability in the parties' domestic regulatory frameworks in facilitating, to the maximum extent possible, the development of e-commerce.
- (j) the Attorney General is the chief law enforcement officer of the State of New Mexico and is charged with representing the State in all matters in which the State is a party or has an interest, is a guardian of the public interest and serves as a consumer advocate.
- (k) the Executive Council of the Tribe is the governing body of the Tribe, is charged with representing the Tribe in all matters in which the Tribe is a party or has an interest, is a guardian of the public interest and is charged with ensuring fair and just laws within the Tribe's jurisdiction as well as serves as a consumer advocate.
- (l) the State and the Tribe each recognize the importance of e-commerce in the future economy of each sovereign, and the State acknowledges that tribal enterprises and e-commerce represent an essential component of economic development for the Tribe in the Tribe's quest to undo centuries of failed federal policies and pursue the modern policy of self-determination and self-sufficiency.
- (m) the Attorney General and the Executive Council each has a legitimate interest in regulating e-commerce and how it may affect their constituents and customers and each agrees that cooperation between the sovereigns is the best way to combat unfair, deceptive, criminal and other undesirable elements and practices, and to protect consumers.
- (n) the State and the Tribe wish to continue the era of state-tribal cooperation in areas of mutual concern between the Attorney General and the Tribe.
- (o) the Attorney General and Executive Council enter into this MOU out of mutual respect for the sovereignty of the other and to facilitate a government-to-government relationship between the State and the Tribe.

#### Section 1.02 Objectives of this E-commerce Memorandum of Understanding

The State's and the Tribe's objectives in entering into this e-commerce MOU are to:

- (a) promote cooperation between the sovereigns regarding e-commerce.
- (b) create an environment of trust and confidence in the use of e-commerce.
- (c) recognize the economic growth and opportunity provided by e-commerce.

- (d) maintain a dialogue on regulatory issues raised by e-commerce, addressing, among other things, any other matter relevant for the development of e-commerce to avoid conflict between the sovereigns.
- (e) recognize the importance of avoiding unnecessary barriers to trade conducted by electronic means.

## **ARTICLE II. DOMESTIC REGULATION**

Section 2.01 Importance of Regulation. The Parties agrees that domestic electronic commerce policies should: (a) be flexible and take into account the rapidly changing technology environment; (b) support the free flow of services, including the development of innovative ways of developing services, using electronic means; and (c) take into account the interests of all stakeholders, including businesses, consumers, non-governmental organizations and relevant public institutions. The Parties further agree that the benefits of electronic commerce also require proper regulation of products and services offered through electronic commerce through clear, transparent and predictable domestic laws and regulations regarding electronic commerce, and the administration of such laws and regulations, in a reasonable, objective and impartial manner.

Section 2.02 Mutual Sovereign Respect.

- (a) The State respects the Tribe's sovereign authority to create comprehensive laws for products and services offered from the jurisdiction of the Tribe and to create Tribal business entities to further the development of the Tribe's economy in order to improve the Tribe's economic self-sufficiency, and to enable the Tribe to better serve the social, economic, educational, and health and safety needs of its members, its neighbors and its visitors (both physical and electronic); and
- (b) The Tribe respects the sovereignty of the State and its concern regarding its citizens and commits to establishing comprehensive laws and regulations to protect consumers choosing to source products and services from Tribal entities and the Tribe's jurisdiction.

Section 2.03 Tribal Commitment to Proper Regulation. As the Tribe's economy grows and the products and services offered from the Tribe's jurisdiction diversify, as with its current gaming and financial services regulatory structures, the Tribe commits to creating and maintaining a statutory and regulatory framework which requires licensing and oversight by Tribal regulatory authorities that provides, at a minimum, the protections afforded by all applicable federal laws and regulations applicable to that product or service provided to consumers from the Tribe's jurisdiction.

Section 2.04 Tribal Commitment to Professional Regulation. The Tribe represents and warrants that the regulation and oversight of products and services offered from the Tribe's jurisdiction shall involve professionals trained in the particular area of law regarding that particular product or service.

Section 2.05 Local Presence. No Party shall require a product or service supplier of another Party to establish or maintain a representative office or any form of enterprise, or to be resident,

in its territory as a condition for the cross-border supply of a product or service.

Section 2.06 Non-Discrimination. Other than tribal employment preference policies as allowed under federal law for near-reservation employment, the Tribe commits that it is dedicated to passing laws regarding electronic commerce which will prohibit discrimination based on race, sex, religion, creed, sexual orientation, country of origin or other ethnic or religious qualifications.

### **ARTICLE III. TRANSPARENCY**

Section 3.01 Importance. The Parties recognize that transparent regulations and policies governing the products and services offered from either Party's jurisdiction to consumers physically located in the other Party's jurisdiction are essential to maintaining consumer confidence and preserving fairness in providing products and services.

Section 3.02 Commitment to Transparency. To advance and maintain transparency, each Party commits, to the extent practicable, to:

- (a) publish or otherwise make publicly available its laws, regulations, and other measures of general application that pertain to electronic commerce with the Tribe providing a copy of its laws, rules and/or regulations to the Attorney General and the Attorney General alerting the Tribe of any change of publication from the current [https://www.nmlegis.gov/Legislation/Bill\\_Finder](https://www.nmlegis.gov/Legislation/Bill_Finder).
- (b) ensure that the rules and regulations of general application adopted or maintained by self-regulatory organizations of the Party are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them with the Tribe sending a copy of any adopted rules and regulations directly to the Attorney General and the Attorney General providing guidance as to websites where the Tribe can access such rules and regulations.
- (c) ensure that all measures of general application to which this MOU applies are administered in a reasonable, objective, and impartial manner.
- (d) maintain or establish appropriate mechanisms for responding to inquiries from interested persons regarding measures of general application covered by this MOU.
- (e) provide the formation documents and licenses of all Tribal licensees that might interact with consumers entering into electronic commerce with the Tribe to the Attorney General and keep such lists updated.
- (f) strive to ensure transparency regarding procedures and administrative decisions relating to e-commerce.
- (g) respond promptly to requests by the other Party for specific information on any of its measures of general application pertaining to or affecting the e-commerce under this MOU.

## **ARTICLE IV. ONLINE CONSUMER PROTECTION**

Section 4.01 Importance of Online Protections. The Parties recognize the importance of maintaining and adopting transparent and effective measures to protect consumers from fraudulent and deceptive commercial practices when they engage in electronic commerce. In particular, the Parties recognize that:

- (a) to enhance consumer trust online, the Parties should address the crucial issue of product safety to ensure consumers will not be harmed by dangerous products sold online; and
- (b) consumers should be able to rely on clear information to make adequate choices and have easy access to redress and dispute settlement if something goes wrong.

Section 4.02 Commitment to Consumer Protection. Given the importance of online consumer protection, the Parties commit to adopt or maintain or promote measures regulating consumer protection where:

- (a) consumers participating in e-commerce are afforded transparent and effective consumer protection; and
- (b) businesses engaged in e-commerce are encouraged and required to pay due regard to the interests of consumers and act in accordance with fair business, advertising and marketing practices; in particular businesses should:
  - (i) provide complete, accurate, transparent, clear and easily accessible information about themselves, the products or services offered, and about the terms, conditions and costs associated with a transaction to enable consumers to make an informed decision about whether to enter into the transaction.
  - (ii) in order to avoid ambiguity concerning the consumer's intent to make a purchase, allow the consumer, before concluding the purchase, to identify precisely the products or services he or she wishes to purchase; identify and correct any errors or modify the order; express an informed and deliberate consent to the purchase; and retain a complete and accurate record of the transaction.
  - (iii) provide consumers with easy-to-use, secure payment mechanisms and information on the level of security such mechanisms afford.

Section 4.03 Tribe's Commitment to Online Consumer Protection. The Tribe commits that for all products and services offered from its jurisdiction, the Tribe's applicable laws and regulations will require measures to guarantee consumer protection, including a minimum of:

- (a) requirements of all market participants to adopt fair business practices;
- (b) protections against fraudulent and deceptive practices;
- (c) measures that safeguard fair business conduct;

- (d) measures allowing consumers to make an informed choice by providing consumers information in a transparent, clear, accurate, easily accessible and conspicuous way so that they can make informed choices about the product or service, the provider of said products or services, how to contact the provider, the total cost, and any applicable consumer rights;
- (e) clear disclosure that the products and/or services are procured from Tribal jurisdiction and provide the consumer access to the applicable laws and regulations;
- (f) a clear and concise process to answer any inquiries or complaints regarding the products or services sourced from the Tribe's jurisdiction via electronic commerce with a defined complaint resolution process to the applicable Tribal regulatory authority;
- (g) accurate estimates regarding delivery time and costs;
- (h) strong security of online payments;
- (i) easy access to redress and dispute settlement that uses well-known and trusted providers and does not require the consumer to travel to a possibly inconvenient forum;
- (j) proper resources for Tribal authorities to enforce consumer protections and cooperate with the authorities of other sovereigns such as the State to protect consumers;
- (k) protections for consumers from unsolicited commercial communications providing at a minimum the consumer protections prescribed under applicable federal laws;
- (l) measures, when practicable, to address the needs of marginalized or vulnerable consumers and consumers with disabilities in website design and e-commerce processes such as payments and delivery (for instance, providing for larger fonts and acceptable colors for use on small screens – often the only choice for low income consumers);
- (m) requirements for responsible marketing, warnings and age verification to protect vulnerable consumers;
- (n) measures ensuring that consumers have a reasonable opportunity to return a product or terminate a service promptly and receive a refund; and
- (o) maintain at a minimum, the protections afforded any consumer under applicable federal law.

Section 4.04 Importance of Inter-Sovereign Cooperation for Consumer Protection. The Parties recognize the importance of cooperation between their respective consumer protection agencies on activities related to cross-border electronic commerce in order to enhance consumer protection. The Parties agree that the goal of improving consumer trust online must remain a central pillar to all discussions and actions by the Parties. In particular, the Parties agree to encourage and where possible require their respective regulators to work together to better protect consumers including:

- (a) cooperating on consumer protection, market surveillance, enforcement, competition, redress and dispute resolution;
- (b) sharing information regarding dangerous or deceptive products or services;
- (c) establishing effective processes for the exchange of information, conducting joint investigations, recalls and enforcement actions; and
- (d) where applicable conducting joint investigations, recalls and enforcement activities.

## **ARTICLE V. PERSONAL INFORMATION PROTECTION**

Section 5.01 Personal Information Concerns. The Parties agree that a large part of the data being collected, stored and transferred in relation to electronic business transactions is personal data. This data collection raises concerns regarding privacy and data protection, which lies at the crossroads between cross-border transfer of electronic information and consumer protection.

Section 5.02 Importance of Protecting Personal Information. The Parties agree on the need to create an environment of trust and confidence for users of e-commerce covering, among other things, (i) protection of privacy of individuals in relation to the processing and dissemination of personal data, and (ii) protection of confidentiality of individual records and accounts, recognizes the necessity of taking an adequate level of safeguards for the protection of e-commerce users' personal data that is transferred between the parties. Both Parties agree that it is essential for each Party to endeavor to adopt or maintain laws, regulations and/ or administrative measures for the protection of personal information of users engaged in e-commerce.

Section 5.03 Cooperation Regarding Personal Information. Recognizing the importance of personal data, the Parties agree to:

- (a) cooperate with the other in the event of a breach involving personal data;
- (b) recognize or affirm the importance of sharing information and experiences on regulations, laws, and programs in the sphere of e-commerce, including those related to data privacy;
- (c) exchange information and experiences regarding their legal/regulatory structure and processes regarding the protection of personal information.

## **ARTICLE VI. CYBERSECURITY**

Section 6.01 Importance of Cybersecurity. The Parties recognize that threats to cybersecurity undermine confidence in electronic commerce

Section 6.02 Sovereign Cooperation Regarding Cybersecurity. Given the importance of cybersecurity and the evolving nature of cybersecurity threats, the Parties agree that:

- (a) each should endeavor to build the capabilities of their respective sovereign entities and agencies responsible for cybersecurity incident response; and

- (b) both should develop or strengthen existing collaboration mechanisms for cooperating to identify and mitigate malicious intrusions or dissemination of malicious code that affect electronic networks, and use those mechanisms to swiftly address cybersecurity incidents, as well as for the sharing of information for awareness and best practices;
- (c) recognize that risk-based approaches may be more effective than prescriptive regulation in addressing cybersecurity threats and accordingly endeavor to employ, and encourage governmental agencies and enterprises within its jurisdiction to use, risk-based approaches that rely on consensus-based standards and risk management best practices to identify and protect against cybersecurity risks and to detect, respond to, and recover from cybersecurity events.

## **ARTICLE VII. COOPERATION AND TECHNICAL ASSISTANCE**

Section 7.01 Importance of Inter-Sovereign Cooperation. The Parties affirm the importance of sharing information and experiences on laws, regulations, and programs in the sphere of e-commerce, including those related to consumer protection with the goal of helping the other Party understand its requirements, identify best practices and cross-pollinate the expertise and experiences of each Party regarding electronic commerce.

Section 7.02 Commitment to Cooperation. The Parties agree, as appropriate, to:

- (a) share information and experiences, including on related laws, regulations and best practices concerning e-commerce;
- (b) exchange information on suppliers who have been penalized for infringement of consumer rights in e-commerce, such as fraudulent and deceptive business practices;
- (c) maintain a dialogue on regulatory issues raised by e-commerce addressing the protection of consumers in the ambit of e-commerce;
- (d) recognize the importance of cooperation between the Parties' respective consumer protection agencies (or other competent authorities in charge of consumer protection) on activities related to cross-border e-commerce to enhance consumer protection or welfare. Each Party shall encourage and where appropriate require its consumer protection enforcement agencies to cooperate with those of the other party, in appropriate cases of mutual concern, in the enforcement of laws against fraudulent and deceptive commercial practices in e-commerce.
- (e) cooperate regarding research and training activities which may include, but are not limited to, encouraging cooperation between the relevant authorities to facilitate prompt investigation and resolution of fraudulent incidents relating to e-commerce transactions.
- (f) undertake further efforts and agreements designed to:
  - (i) further cooperation regarding the cross-border protection of consumer rights in e-commerce;



- (ii) promote training initiatives related to the protection of consumer rights in e-commerce and the prevention of practices violating those right;
- (iii) consider jointly other forms of cooperation aimed at protecting consumer rights in e-commerce;
- (iv) cooperate regarding the development of legal and policy frameworks in the sphere of e-commerce, including those related to personal data protection, consumer protection, security in electronic communications, electronic authentication, unsolicited electronic mail, cross-border information flows, intellectual property rights, liability of intermediary service providers, paperless trading and electronic government services;
- (v) facilitate the prompt investigation and resolution of fraudulent incidents, in particular those which victimize the young, disabled and elderly.

#### Section 7.03 Inter-Sovereign Communications.

- (a) Coordination. The Tribal Chairperson and the Attorney General shall serve as the primary contact point for purposes of communications regarding this MOU between the Parties. The Attorney General and Tribal Chairperson agree to establish other points of contact regarding issues of mutual interest between the Parties as needed. The Tribe will make available the highest-ranking officer of the applicable Tribal regulatory authority as the primary contact point for receiving, processing and responding to all consumer complaints referred by the Attorney General to the Tribal regulatory authority. The Tribal Chairperson will facilitate and coordinate regular meetings between the Attorney General and the Tribe and its regulatory authorities with a goal of at least an annual meeting. Both Parties agree to coordinate resources and work closely with the other to best promote consumer protection through an open exchange of ideas, training and other mutually beneficial endeavors as set out in this MOU.
- (b) Confidentiality. The Parties agree that information shared pursuant to this MOU will remain confidential to the extent authorized by law. The Parties expressly reserve all evidentiary privileges and immunities applicable to the information shared under this MOU. If the Attorney General receives a request for information relating to the Tribe, a Tribal regulatory authority, or a Tribal entity licensed under Tribal law pursuant to the New Mexico Public Inspection of Records Act, the Attorney General agrees to contact the Tribal Chairperson to discuss whether the information requested is protected as contemplated under this MOU. Nothing in this MOU shall be construed to require regulatory authorities participating in consultations pursuant to this MOU to disclose information or take any action that would interfere with specific regulatory, supervisory, administrative, or enforcement matters. This MOU does not create any specific privilege or confidentiality, except, that those matters already privileged or confidential pursuant to other laws shall not be waived, if shared through this MOU.

## **ARTICLE VIII. INTERNAL SOVEREIGN ISSUES.**

Section 8.01 No Impact of Domestic Law. No provision of this MOU is intended to, and no provision of the MOU shall be construed to, limit or otherwise affect the authority of either Party or their respective agencies, officers or administrators to administer, implement, or enforce any provision of any law subject to their respective jurisdictions.

Section 8.02 Taxation and Fees. Nothing in this MOU shall be construed to prevent a Party from imposing internal taxes or other internal charges on electronic commerce occurring within their jurisdiction.

## **ARTICLE IX. CONSULTATIONS & DISPUTE SETTLEMENT**

Section 9.01 Cooperation. The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation, consultations, or other means to arrive at a mutually satisfactory resolution of any matter that might affect its operation.

Section 9.02 Consultations.

- (a) Either Party may request in writing consultations with the other Party with respect to any actual or proposed measure or any other matter that it considers might affect the operation of this MOU. If a Party requests such consultation, the other Party shall promptly reply to the request for consultation and shall enter into the consultation in good faith.
- (b) The requesting Party shall deliver the request to the other Party and shall set out the reasons for the request, including identification of the actual or proposed measure or other matter at issue and an indication of the legal basis for the issue.
- (c) Consultations may be held in person or by any technological means available to and agreed upon by the Parties.
- (d) In the consultations, each Party shall:
  - (i) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter might affect the operation and application of this MOU; and
  - (ii) maintain the confidentiality of discussions and information exchanged in the course of any consultation.
- (e) In consultations under this Section, a Party may request the presence of subject matter experts from one or both Parties at the consultation.

Section 9.03 Disputes. In order to avoid potentially costly litigation, and in acknowledgment of the government-to-government relationship between the Parties, both Parties agree to consult with the other Party in advance of commencing litigation or enforcement actions that involve any

matters under this MOU affecting the other Party.

## **ARTICLE X. DEFINITIONS**

Section 10.01 Definitions: For purposes of this MOU, the following terms shall be defined as set forth below:

- (a) "authentication" means the process or act of establishing the identity of a party to an electronic communication or transaction or ensuring the integrity of an electronic communication;
- (b) "electronic commerce" or "e-commerce" means the production, distribution, marketing, sale or delivery of products and services by electronic means excluding any products or services associated with gaming;
- (c) "Party" means either the State or the Tribe;
- (d) "personal information" or "personal data" means "information about an individual, whose identity is apparent, or can reasonably be ascertained, from the information;
- (e) "State" means the State of New Mexico;
- (f) "Tribe" mean the Habematolel Pomo of Upper Lake, a federally recognized Indian tribal sovereign;
- (g) "unsolicited commercial electronic message" means electronic messages sent for commercial purposes to an electronic address without the consent of the recipient using an Internet carriage service or other telecommunications service.

## **ARTICLE XI. TERM & TERMINATION**

Section 11.01 Effective Date. The general effective date of this amendment to the MOU is the date it is signed by both the Tribe and the Attorney General.

Section 11.02 Termination.

- (a) Written Notice Required. This MOU will remain in effect until superseded by a signed, mutual agreement of the Parties. A Party may withdraw from or otherwise terminate its participation in this MOU no less than thirty (30) days after written notice is provided to the other Party.
- (b) Information Retained After Termination of MOU. To the extent that a Party retains information upon termination of this MOU, all information provided by either Party shall continue to be treated in accordance with the terms of this MOU.

## **ARTICLE XII. MISCELLANEOUS**

Section 12.01 Sovereign Immunity. Nothing in this Agreement shall be construed as a waiver of either Party's sovereign immunity, express or implied, or the sovereign immunity of any of their

instrumentalities, political subdivisions, corporations, departments, or agencies, or their respective officers, directors, or employees.

Section 12.02 Severability.

- (a) If any provision of this MOU is held by a court of competent jurisdiction to be illegal, invalid, unenforceable, unauthorized, annulled, voided or set aside, under present or future laws, the remaining provisions of this MOU shall remain in full force and effect and shall not be affected by such provision or by its severance from this MOU. In the event of any such determination, the Parties shall enter into good faith negotiations to replace the prohibited or invalid provision with a valid provision, the effect of which comes as close as possible to that of the invalid provision.
- (b) In the event that the entire MOU is declared null and void or the actions of the Party or its officials in connection with the approval, execution, or delivery of this MOU are set aside, voided, or annulled, the Parties shall enter into good faith negotiations to negotiate a new agreement.

Section 12.03 Binding Agreement. This MOU is intended to and shall be construed to be, binding upon the Parties and all successors and successors-in-interest of each Party.

Section 12.04 Notices. All notices required by this MOU will be deemed to have been given when made in writing and delivered or mailed to the respective Party and their representatives at their respective addresses as set forth below, or such other address as they may provide to the other Party from time to time. The Tribe will provide contact information for any additional Tribal commissions as they may be created:

For the Tribe:

Attn: Chairperson  
Habematolel Pomo of Upper Lake  
9470 Main Street  
Upper Lake CA 95485  
Email: Chairperson@hpultribe-nsn.gov

For the New Mexico Attorney General's Office:

New Mexico Attorney General's Office  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508  
Telephone: (785) 296-2266  
Facsimile: (505) 827-5826

Section 12.05 Amendments. The Parties may amend this MOU from time to time, provided that such amendments are agreed to in writing by all Parties.

Section 12.06 Execution. This MOU may be executed in counterparts and by signature sent by

facsimile or electronically, each of which shall be deemed an original for all purposes.

Section 12.07 Construction of MOU. This MOU constitutes the entire agreement between the Parties. In the event of a dispute between or among the Parties as to the language of this MOU or the construction or meaning of any term hereof, this MOU shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against, or in favor of, any Party based on the preparation or negotiation of this MOU. The headings contained in this MOU are for convenience of reference only and shall not affect the construction or interpretation hereof.

Section 12.08 Authority. Each Party to this MOU represents and warrants that it has the requisite legal authority to enter into this MOU.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the date first set forth above.

NEW MEXICO ATTORNEY GENERAL'S OFFICE

BY:  \_\_\_\_\_ DATE: Dec 23, 2019  
Hector Balderas  
Attorney General

HABEMATOLEL POMO OF UPPER LAKE

BY:  \_\_\_\_\_ DATE: Dec 23<sup>rd</sup>, 2019  
Sherry Treppa  
Chairperson