

AGREEMENT BETWEEN THE WASHINGTON STATE LIQUOR CONTROL  
BOARD AND THE PORT GAMBLE BAND OF CLALLAM INDIANS FOR PURCHASE  
AND RESALE OF LIQUOR IN INDIAN COUNTRY

WHEREAS, the Port Gamble Band of Clallam Indians and the Washington State Liquor Control Board desire to enter into a government-to-government business agreement for the sale and purchase of liquor in order that liquor sales may take place in Indian country in accordance with the requirements of federal law (18 U.S.C. § 1161), to the mutual benefit of both the tribe and the Board, and

WHEREAS, it is recognized by all parties to this agreement that, in conformity with the Governor's Executive Order EO 83-16 the governmental authority of the tribe over its own affairs and its sovereignty as, and to the extent, declared by the United States Congress is not altered, diminished, or abdicated in any way by entering into this agreement, and

WHEREAS, the governmental authority and sovereignty of the state of Washington as declared by the Twenty-First Amendment to the United States Constitution and applicable acts of Congress is not altered, diminished, or abdicated in any way by entering into this agreement, and

WHEREAS, it being the sole intention of the parties to this agreement to establish a government-to-government arrangement whereby liquor may be sold by the tribe in Indian country as defined in 18 U.S.C. § 1151 and § 1154, in conformity with federal law, tribal ordinance, and state law;

NOW, THEREFORE, pursuant to authority of federal law, tribal ordinance, and state law, and in consideration of the mutual covenants and agreements set forth herein, it is hereby agreed between the Port Gamble Band of Clallam Indians, acting by and through its governing tribal council, and the Washington State Liquor Control Board as follows:

1. The Board agrees to sell distilled spirits to the tribe and the tribe agrees to purchase all distilled spirits for resale in Indian country from the Board. Should the tribe be desirous of selling beer and wine not available from the Board, the tribe agrees to purchase that beer and wine from a state licensed beer and/or wine wholesaler.

2. The Board shall use its best efforts to supply all liquor products ordered by the tribe. The tribe shall have its orders filled on equal basis with those made by state liquor stores, state liquor agencies, and state licensees. In the event that the Board's supplies of an

allocated item (i.e. one in short supply) are insufficient to satisfy all orders by all of the Board's customers, available supplies will be equally apportioned among all customers.

3. Purchase of liquor by the tribe shall be consummated upon payment by money order, certified check, or tribal check. The payment must be placed in the United States mail the same day as the liquor is delivered. A bond must be posted by the tribe equal to one (1) approximate month purchases. The FOB point shall be the tribal store.

4. The purchase price of the distilled spirits shall be the standard case cost to the Board plus a handling charge of 10 percent plus the tax imposed by RCW 82.08.150, except that the standard case cost will be reduced by a like amount when the Board matches a special promotional allowance received from a supplier. PROVIDED: That each year of this agreement, the tribe may purchase 1218 gallons of spirituous liquor free of the tax imposed by RCW 82.08.150.

5. The purchase price of wine and beer handled by the Board shall be at the standard case cost to the Board plus a handling charge of 10 percent plus, in case of wine, an amount equal to, and in lieu of, the taxes imposed by RCW 66.24.210, except that the standard case cost will be reduced by a like amount when the Board matches a special promotional allowance received from a supplier.

6. The charges for liquor sold shall be set forth in an invoice prepared by the Board for payment by the tribe as provided in paragraph 3 above.

7. Sales of liquor to the tribe by the Board include return privileges for ordering and shipment errors. "Dry breakage" claims will be filed against either the carrier or the Board as circumstances and facts indicate in each individual instance.

8. The tribe agrees to resell all distilled spirits, and beer or wine purchased from the Board, at a per unit regular total retail price equal to that of the Board's regular total retail price, including all taxes. PROVIDED: For the purposes of attracting trade from the neighboring community, the tribe may, at its option, initiate its own program of TPR (i.e. in addition to matching the TPR's initiated by the Board) subject to the following conditions:

- (a) A self-initiated TPR on each of up to five items may be implemented once in a calendar

quarter and each TPR will be limited to one month.

(b) The tribe will notify the Board of any self-initiated TPR's five days before they become effective.

(c) The self-initiated TPR price will be no lower than 10 percent below the regular selling price as specified above.

(d) Advertising of any self-initiated TPR will be restricted to in-store and exterior signing and one print media advertisement. All such advertising shall contain no mention of the Board and shall contain no direct comparison of self-initiated TPR's to state prices.

9. In recognition of the fact that this agreement is a government-to-government agreement, it is agreed that the tribe shall not be considered part of, or under the control and supervision of, the Board's Stores and Agencies Division. A representative of the Board, upon prior notification where appropriate and upon presentation of proper identification upon request, shall have the right to visit the tribe's retail outlet at any time during regular business hours to review the administration of this Agreement.

10. The Board's enforcement division exists to supplement the liquor enforcement efforts of local police authority under RCW 66.44.010. Any Board enforcement activities on the Port Gamble Reservation will be coordinated with, and at the request of, the Port Gamble Band of Clallam Indians' tribal law enforcement authority.

11. The tribe agrees that all liquor sold by the tribe shall be sold from a tribal store located within the exterior boundaries of the Port Gamble Clallam Reservation. Said store shall be located at SE 1/4, SE 1/4, SE 1/4, Section 9, Township 27 N. Range 2 E, WM. Relocation of the tribal outlet shall be subject to prior consultation and agreement between the tribe and the Board.

12. The Board agrees that it will not locate any state liquor stores or agencies within 5.2 miles of the tribe's store.

13. The tribe agrees that all external signing shall meet applicable zoning ordinances.

14. The hours of sale of distilled spirits, beer and wine, by the tribe shall be set by the tribe but shall not include the hours between 2 a.m. and 6 a.m. on weekdays and, in accordance with RCW 66.16.080, there shall be no sale or delivery of distilled spirits on Sunday.

15. The tribe agrees with the Board that all sales of liquor on the Port Gamble Reservation will conform to the requirements of federal law, the tribes federally approved tribal liquor ordinance, and state law relating to liquor transactions.

16. The tribe agrees not to import any distilled spirits, beer or wine, onto the Port Gamble Reservation except as provided in this agreement.

17. The tribe agrees not to solicit, or accept, money or monies' worth from liquor manufacturers, importers or wholesalers. Provided: It is agreed that the tribe may accept such items as are permitted to be accepted by licensees of the Board under state law.

18. The term of this agreement shall be for a period of five years and shall include an option to renew for an additional five years subject to satisfactory renegotiation of the terms and conditions hereof. The tribe may terminate this agreement at any time if in the judgment of the tribal council it is in the best interest of the tribe to cease the sale of liquor. If the tribe should determine to cease the sale of liquor, the Board agrees, upon request of the tribe, to repurchase any remaining spirituous liquor inventory from the tribe at the price the tribe paid the Board for it.

19. Time of performance under this agreement is of the essence.

20. This agreement shall inure to the benefit of and be binding upon the parties named herein and upon their successors in interest. This agreement may not be assigned by either party.

21. Should the tribe's retail liquor outlet fail to comply with this agreement, federal law, tribal ordinance, and provisions of Washington State Law relating to liquor transactions (including WAC 314-37-010 as amended by the board on November 30, 1983), this agreement shall be null and void: Provided, That no subsequent amendment to WAC 314-37-010 shall affect in anyway the terms of this contract.

IN WITNESS WHEREOF, The parties have signed this agreement to commence on the 4<sup>th</sup> day of January 19 84.

WASHINGTON STATE LIQUOR  
CONTROL BOARD BY:

Robert D. Hannah  
Robert D. Hannah, Chairman

L. H. Pedersen  
L. H. Pedersen, Member

Kazuo Watanabe  
Kazuo Watanabe, Member

PORT GAMBLE BAND OF  
CLALLAM INDIANS BY:

Ronald G. Charles  
Ronald G. Charles, Chairman