

ROBINSON RANCHERIA CITIZENS BUSINESS COUNCIL

ORDINANCE NO. _____

ROBINSON RANCHERIA OF POMO INDIANS TRIBAL LENDING ORDINANCE

**(AN ORDINANCE OF THE ROBINSON RANCHERIA OF POMO INDIANS TO
REGULATE CERTAIN LOANS MADE FROM TRIBAL LANDS AND TO ESTABLISH
THE ROBINSON RANCHERIA LENDING REGULATORY COMMISSION TO
REGULATE LENDING BY THE TRIBE THROUGH TRIBAL ENTITIES)**

(Enacted on _____, 2021)

TABLE OF CONTENTS

SECTION 1.	TITLE & PURPOSE	2
SECTION 2.	DEFINITIONS	3
SECTION 3.	TRIBAL LENDING REGULATORY COMMISSION	6
SECTION 4.	LENDING OPERATIONS, LOANS, AND LOAN PRODUCTS; USE OF NET PROFITS	8
SECTION 5.	LENDING LICENSES REQUIRED, APPLICATIONS, AND LICENSE FEES.....	10
SECTION 6.	DEBT COLLECTION.....	11
SECTION 7.	REGULATION OF CONSUMER DATA.....	12
SECTION 8.	PROHIBITED ACTS; VIOLATIONS.....	13
SECTION 9.	NOTICE OF VIOLATION	14
SECTION 10.	CIVIL PENALTIES	14
SECTION 11.	ENFORCEMENT.....	15
SECTION 12.	HEARINGS AND APPEALS.....	16
SECTION 13.	SAVINGS PROVISION	16
SECTION 14.	EFFECTIVE DATE - EXEMPTIONS FOR BANKS AND OTHERS	17

SECTION 1. TITLE & PURPOSE

1.1. This Tribal Law shall be referred to as the Robinson Rancheria of Pomo Indians Tribal Lending Ordinance. This Ordinance may be cited as the “**Tribal Lending Ordinance.**”

1.2. The Robinson Rancheria of Pomo Indians (“**Tribe**”) is a federally recognized sovereign American Indian Tribal government.

1.3. The “Constitution of the Robinson Rancheria Lake County, California” (“**Constitution**”) of June 11, 1980, as amended, gives the Citizens Business Council under Article VIII, Sections 1(j) and 1(k), the power to enact ordinances.

1.4. This Tribal Lending Ordinance (“**Ordinance**”) is hereby enacted to govern Covered Loans made from Tribal Lands and establishes the Robinson Rancheria Lending Regulatory Commission (“**Commission**”) to regulate lending by the Tribe through Tribal Entities.

1.5. The purpose of this Ordinance is to ensure that all lending by the Tribe through Tribal Entities:

- (a) is conducted in a manner that is fair, honest, and transparent;
- (b) regulated in accordance with this Ordinance and applicable Federal Consumer Protection Laws that are hereby adopted as Tribal Law by this Ordinance; and
- (c) provides consumers with timely and understandable information and protects consumers in their interactions with Tribal Entities.

1.6. The Tribe hereby directs and proclaims that:

- (a) The provision of Covered Loans from Tribal Lands shall be conducted strictly in accordance with this Ordinance.
- (b) All Covered Loans, Lending Operations, Loan Products and Service Providers are subject to regulation by the Commission as set forth in this Ordinance.
- (c) The Commission is vested with all privileges and immunities of the Tribe, except where explicitly waived by the Citizens Business Council.
- (d) The Commission shall promulgate regulations, as needed, in accordance with this Ordinance and have the responsibility to regulate Covered Loans made from Tribal Lands.
- (e) Each Lending Operation on Tribal Lands shall be owned by the Tribe through a Tribal Entity and conducted in accordance with applicable Federal Consumer Protection

Laws and this Ordinance.

(f) The objective of each Lending Operation is to generate net profit after payment of operating expenses, loans, reinvestment, capitalization, management fees and other like expenses which will be transferred to the Tribal government and used solely to i) fund Tribal government operations or programs; ii) provide for the general welfare and cultural and spiritual wellbeing of the Tribe and its members; iii) promote Tribal economic development; iv) donate to charitable organizations benefiting the Tribe or the community; v) help fund operations of Tribal agencies; vi) generate jobs for Tribal members; vii) diversify Tribal economic development; viii) develop self-sufficiency; and ix) any another purpose clearly benefitting the Tribe.

SECTION 2. DEFINITIONS

2.1. For purposes of this Ordinance, the following definitions shall apply:

- (a) “**Commission**” means the Robinson Rancheria Lending Regulatory Commission.
- (b) “**Communication**” or “**Communicate**” for purposes of Section 6, means conveying information about a Covered Loan that is past due under the terms of a contract through any medium, including but not limited to autodial connection, the post, email, text, or voicemail.
- (c) “**Covered Loan**” means any loan originated or serviced by a Lending Operation on Tribal Land.
- (d) “**Covered Loan Consumer**” means any natural Person obligated or allegedly obligated to pay any Debt associated with a Covered Loan.
- (e) “**Debt**” means any obligation or alleged obligation of a Covered Loan Consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.
- (f) “**Federal Consumer Protection Laws**” means:
 - (1) the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5491-5493;
 - (2) the Electronic Fund Transfer Act (15 U.S.C. § 1693 et seq.) and related regulations at 12 C.F.R. Part 205 and 12 C.F.R. Part 1005;
 - (3) the Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.) and its implementing Regulation B (12 CFR Pt. 1002);
 - (4) the Fair and Accurate Credit Transactions Act (15 U.S.C. § 1681m(e)) and its implementing Red Flags Rule (16 CFR § 681.1);

- (5) the Fair Credit Reporting Act (15 USC § 1681 et seq.) and its implementing Regulation V, Subpart E (12 CFR 1022.40-1022.43);
 - (6) the Fair Credit Billing Act, 15 U.S.C. § 1666a;
 - (7) the Federal Trade Commission Act, 15 U.S.C. §§ 41-58 and related regulations at 16 C.F.R. Parts 1-4;
 - (8) the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) and related regulations at 12 C.F.R. Part 1006;
 - (9) the Gramm-Leach-Bliley Act (15 U.S.C. § 6802 et seq.) and its implementing Regulation P (12 CFR 1016);
 - (10) the Service Members Civil Relief Act (50 U.S.C. § 501 et seq.);
 - (11) the Truth in Lending Act (15 U.S.C. § 1601 et seq.) and its implementing Regulation Z (12 CFR Pt. 1026); and
 - (12) the Military Lending Act (10 U.S.C § 987) and its implementing DOD Regulation (32 CFR Pt. 232); and
- any other federal laws or regulations applicable to Covered Loans.

(g) “**General Public**” includes any Person who is not: the Covered Loan Consumer, a member of the Covered Loan Consumer’s household, a delivery agent (such as a courier, postal worker, internet service provider, or email exchange), or person appointed by any delivery agent to monitor deliveries.

(h) “**Key Employee**” means only the Chief Executive Officer, the Chief Compliance Officer, the Chief Financial Officer, or any person acting in such capacity with executive management responsibilities for a Lending Operation.

(i) “**Lending Operation**” means each operation that is owned by the Tribe or Tribal Entity that provides Covered Loans.

(j) “**License**” means formal permission granted by the Commission to a Licensee for the purpose of engaging in activities related to the marketing, origination, or servicing of Covered Loans.

(k) “**Licensee**” means any Person granted a License by the Commission under the provisions of this Ordinance.

(l) “**Loan Product**” means a specific type of loan offered by a Lending Operation that is licensed by the Commission.

(m) “**Ordinance**” means this Robinson Rancheria of Pomo Indians Tribal Lending Ordinance.

(n) “**Person**” means any individual, entity, firm, partnership, corporation, company,

or association.

(o) “**Personal Information**” means information that is collected from an applicant for a Covered Loan by any Regulated Entity acting in connection with a Covered Loan. Personal Information received from a Covered Loan Consumer reporting agency is not information collected from an applicant for a Covered Loan.

(p) “**Regulated Entity**” means any Person who is a Licensee or—

(1) any director, officer, or employee charged with managerial responsibility for, or agent for any Licensee;

(2) any consultant, joint venture partner, or person who materially participates in the conduct of the affairs of Licensees; and

(3) any independent contractor who knowingly or recklessly participates in any (i) violation of any provision of law or regulation; or (ii) breach of any contract with a Licensee, or (iii) breach of a fiduciary duty.

(q) “**Service Provider**” means any Person who contracts for fees or a revenue-share with a Tribal Entity or Licensee to offer; underwrite; or collect interest, payments, or principal on a Covered Loan, and has the control and ability to possess monies collected from Covered Loans.

(r) “**Tribal Entity**” means an arm of the Tribe which is an instrumentality, agency, unincorporated department or division, subdivision, or business entity that is wholly owned by the Tribe, by a Tribal corporation wholly owned by the Tribe, including a federally chartered corporation, or a Tribal subsidiary of a wholly-owned Tribal corporation.

(s) “**Tribal Lands**” means all lands within the limits of the Tribe’s reservation, and any lands title to which is either held in trust by the United States for the benefit of the Tribe or a member of the Tribe, or held by the United States for the benefit of the Tribe or a member of the Tribe subject to restriction by the United States against alienation and over which the Tribe exercises governmental power.

(t) “**Tribal Law**” means all laws of the Tribe, including (1) this Ordinance; (2) any rules, regulations, policies, and guidelines adopted pursuant to Section 3.2 hereof; and (3) any enabling laws or principles adopted by the Tribe to address a current lack of Tribal common law such as references to a particular jurisdiction’s law or the Restatement of the Law of Contracts, or that is made applicable by a Covered Loan agreement between the Lending Operation and the Covered Loan Consumer. For the avoidance of doubt, any matter governed by Tribal Law shall be subject to Federal Consumer Protection Laws, which are not in any manner negated by this Ordinance.

(u) “**Tribe**” or “**Tribal**” means the Robinson Rancheria of Pomo Indians.

SECTION 3. TRIBAL LENDING REGULATORY COMMISSION

3.1. The Tribe hereby establishes the Robinson Rancheria Lending Regulatory Commission to regulate loans, Covered Loans, Loan Products, Lending Operations, and Regulated Entities related to Covered Loans. The Commission shall act independently and autonomously from the Citizens Business Council and Lending Operations. As part of the Tribe's government, the Commission possesses all the privileges and immunities of Tribal sovereignty as established by Tribal law and as recognized by federal law. Nothing in this Ordinance, nor any action of the Commission shall be deemed or construed to be a waiver of sovereign immunity of the Tribe from suit or counterclaim or consent of the Tribe to the jurisdiction of any court.

3.2. The Commission shall, in accordance with this Ordinance:

- (a) promulgate rules, regulations, policies, and guidelines as needed to implement all provisions of this Ordinance;
- (b) issue Licenses;
- (c) examine while on-site each Licensee annually and more frequently if the Commission considers it necessary;
- (d) supervise the activities of Lending Operations and applicable activities of Service Providers in connection with services provided to Lending Operations to ensure compliance with Tribal Law and this Ordinance, and applicable Federal Consumer Protection Laws;
- (e) ensure that Covered Loan Consumers have adequate and accessible opportunities to enforce their rights under Covered Loan agreements, this Ordinance, and applicable Federal Consumer Protection Laws;
- (f) ensure that Licensees abide by Commission orders or orders issued through binding arbitration;
- (g) perform all other duties the Commission deems appropriate for the proper regulation of the Lending Operations, Service Providers, Covered Loans and Loan Products;
- (h) engage consultants as needed to conduct regulatory compliance examinations of the Lending Operations and perform other functions as requested by the Commission; and
- (i) assess initial and annual License fees, which may be paid in quarterly installments.

3.3. The Commission shall consist of at least one (1) and as many as three (3) Commissioners.

The Citizens Business Council may, by resolution, increase the number of Commissioners as it deems necessary to conduct the governmental operations of the Commission.

3.4. The Citizens Business Council shall make nominations by motion for each Commissioner position at either a regularly scheduled meeting or a special meeting of the Citizens Business Council. The Citizens Business Council shall, by majority vote, either approve by resolution or motion the appointment of a Commissioner or disapprove the candidate.

3.5. Commissioners shall serve a renewable term of at least one (1) year and up to three (3) years and shall be removable by the Citizens Business Council for cause prior to the expiration of that term.

3.6. Commissioner compensation shall be established from time to time by the Citizens Business Council.

3.7. Any person appointed as a Commissioner must be at least twenty-five (25) years of age; show proof of high school diploma or equivalent; possess expertise, experience, education, or a combination thereof in lending, finance, management, business, governmental regulation, law, and/or Tribal policy; and, in the Citizens Business Council's sole opinion, the organizational abilities to effectively manage the Commission and make decisions on behalf of the Commission. No person shall serve as a Commissioner if convicted of or has entered a plea of no contest to any felony or to a misdemeanor involving breach of trust or dishonesty in any jurisdiction; or, in the Citizens Business Council's sole discretion, has reputation, habits, or associations that could undermine the integrity of the Commission or its role in protecting Consumers. A prospective Commissioner must submit to a background check before being appointed to his or her position.

3.8. A Member of the Commission may not:

- (a) be a Citizens Business Council member, while serving as such;
- (b) possess a financial or managerial interest in a Service Provider or a Lending Operation, except for any interest that derives solely from being a member of the Tribe;
- (c) apply for or obtain Covered Loans with a Lending Operation; or
- (d) have a spouse, child, sibling, parent, stepchild, stepparent, as well as mother-, father-, son-, daughter-, brother- or sister-in-law, and any other person living with them or who is otherwise a dependent who are Key Employees of a Lending Operation.

3.9. No Person in possession of a Commission record that the Commission has not already made public, shall disclose such records or duplicates thereof, without authorization from the Citizens Business Council, to any person who is not an employee of the Commission or who serves on the Citizens Business Council or is legal counsel to either. All Commission records authorized for disclosure shall remain the Commission's property unless the Commission or Citizens Business Council provides otherwise.

SECTION 4. LENDING OPERATIONS, LOANS, AND LOAN PRODUCTS; USE OF NET PROFITS

4.1. The Tribe shall have a substantial beneficial interest in all Lending Operations through a Tribal Entity.

4.2. Each Lending Operation shall:

- (a) be authorized and licensed in accordance with this Ordinance;
- (b) be owned and controlled by the Tribe through a Tribal Entity; but nothing in this Ordinance shall prohibit Lending Operations from entering into contracts with Service Providers, including contracts for management, marketing, or other services related to the Lending Operation;
- (c) comply with Tribal Law, this Ordinance, and Federal Consumer Protection Laws;
- (d) maintain a Compliance Management System designed to ensure that the Lending Operation is in full compliance with Tribal Law, this Ordinance and Federal Consumer Protection Laws. The “Compliance Management System” is the process that must be established by a Lending Operation to:
 - (1) establish its compliance responsibilities;
 - (2) communicate those responsibilities to employees;
 - (3) ensure that responsibilities for meeting legal requirements and internal policies are incorporated into business processes;
 - (4) review operations to ensure responsibilities are carried out and legal requirements are met;
 - (5) take corrective action and update tools, systems, and materials as necessary; and
 - (6) maintain independent control components that address:
 - i. board of directors and management oversight;
 - ii. corporate and business line compliance programs;
 - iii. Covered Loan Consumer complaint management; and
 - iv. compliance examinations.
- (e) The Compliance Management System shall include, at a minimum:
 - (1) the designation of an individual responsible for day-to-day compliance with this Ordinance;

- (2) compliance policies and procedures, risk-focused internal controls, and a Service Provider management program for compliance with this Ordinance;
- (3) ongoing internal oversight, testing, and auditing of compliance procedures, recording of results, and reporting of results to management and the Commission;
- (4) initial and ongoing training in compliance with this Ordinance for all employees and managers, consistent with respective positions, and a Covered Loan Consumer complaint response protocol that allows for recording of complaints, prompt resolution, and the incorporation of information gathered into compliance program revisions; and
- (5) risk-based transaction testing and recording of results, and reporting of results to management and the Commission.

4.3. Net Profit after payment of operating expenses, loans, reinvestment, capitalization, management fees and other like expenses from Lending Operations shall be used only for the purposes set forth in Section 1.6(f).

4.4. A Lending Operation may, subject to the provisions of this Ordinance, extend credit to a Consumer in accordance with the terms and conditions set forth in any agreement between a Consumer and a Lending Operation.

4.5. All Loan Products shall be Licensed and adhere to this Ordinance and Federal Consumer Protection Laws. Without limiting the general application of the foregoing, the following conduct is required under this Ordinance:

- (a) all Loan Product terms and conditions must be presented clearly and conspicuously in a manner that is readily understandable; if an interest rate or charges are used to describe a loan term, they must be stated in the manner and form required by Federal Consumer Protection Laws;
- (b) each Loan Product shall be subject to a written agreement between the Lending Operation and the Covered Loan Consumer that contains each of the following:
 - (1) a clause requiring binding arbitration (subject to such limited exceptions as the Licensee may reasonably include) and which provides borrowers the instructions for filing an arbitration claim;
 - (2) a choice of law provision that expressly states that the loan and any disputes arising shall be interpreted in accordance with Tribal Law, this Ordinance, and Federal Consumer Protection Laws;
 - (3) an acknowledgement by the Covered Loan Consumer that the Covered Loan originates on Tribal land, therefore the Covered Loan and the Covered Loan Consumer are subject to Tribal Law.

1.2. All Service Providers shall adhere to Tribal Law, this Ordinance and the Federal Consumer Protection Laws. Service Providers shall be subject to applicable sections of this Ordinance without regard to place of incorporation or headquarters location.

1.3. All Key Employees of a Licensee shall be Licensed and adhere to this Ordinance and Federal Consumer Protection Laws. Licensed Key Employees shall be subject to applicable sections of this Ordinance without regard to place of residence or Tribal membership.

SECTION 2. LENDING LICENSES REQUIRED, APPLICATIONS, AND LICENSE FEES

2.1. Each Lending Operation, Key Employee, and Loan Product shall be licensed by the Commission. The form and content of the license application shall be determined by the Commission. The Commission may promulgate rules regarding licensing, provisional and temporary licenses, and application materials.

2.2. Each application shall include payment of the appropriate license fee as set forth by the Commission.

2.3. Each License shall be valid for 5 years.

2.4. A License may not be assigned or transferred and is only valid for use by the Person in whose name it is issued.

2.5. Evidence that the Commission has licensed the Lending Operation shall be conspicuously displayed in all marketing materials related to Covered Loans.

2.6. Every Person who applies for a License and accepts that License thereby acknowledges the civil enforcement jurisdiction and authority of the Commission and consents to that authority and jurisdiction.

2.7. Consistent with Section 4 of this Ordinance, the Commission may deny, suspend, revoke, or refuse renewal of any License issued under this Ordinance only if the Commission issues a final order that the applicant or Licensee has:

- (a) intentionally or recklessly used any deceptive, unfair, or abusive practice;
- (b) forged another Person's name on any Covered Loan application;
- (c) discriminated on a prohibited basis against any Person in the application or servicing of Covered Loans;
- (d) engaged in a pattern or practice of violating any provision of this Ordinance;
- (e) refused to comply with an order issued under Section 4 of this Ordinance.

2.8. The Commission shall make the final administrative decision as to whether a License shall be issued, suspended, or revoked. License denials, suspension, revocation, or refusal shall be subject to review by binding arbitration.

SECTION 3. DEBT COLLECTION

3.1. The Tribe hereby directs and proclaims that current and past-due accounts be collected in a manner that is consistent with Federal Consumer Protection Laws.

3.2. It is not a violation of this Section or this Ordinance for Licensees to do the following:

(a) accept payments for a Covered Loan in any form or through any method offered by or agreed to by the Covered Loan Consumer, including mobile payment services, third-party payment services, cyber currency, or another credit instrument;

(b) Communicate with the Covered Loan Consumer by voice or written message at a number or address provided by the Covered Loan Consumer, unless the Licensee knows that the number or address is incorrect;

(c) Communicate to an authorized representative of a decedent Covered Loan Consumer the existence of the Debt, that the decedent's estate is responsible for the Debt, and to truthfully answer the representative's questions about the account or Debt;

(d) file a proof of claim in a bankruptcy court for an obligation that arose directly or indirectly from a Covered Loan, provided that the claim is substantiated; or

(e) file a claim for payment or for enforcement of an arbitration award in any state court for an obligation that arose directly or indirectly from a Covered Loan, provided that the claim is substantiated.

3.3. Safe Harbor for Remediated Violations.

In the event that a Licensee or Regulated Entity violates or allegedly violates any provision of this Section and reverses, corrects, and remediates fully the effects of such violation, no Person may initiate an administrative or civil proceeding for penalties or damages against the Licensee or Regulated entity provided that:

(a) the Licensee or Regulated Entity fully remediates any harm within a reasonable time after discovering the harm, including reimbursing borrowers for Non-sufficient fund fees proximately caused by the violation;

(b) the Licensee or Regulated Entity performs an investigation into the cause of the violation or alleged violation and takes reasonable measures to prevent such violation from reoccurring;

(c) the act or omission was not due to willful, knowing, reckless, or grossly negligent

conduct; and

(d) the Licensee or Regulated Entity informs the Commission within a commercially reasonable amount of time not to exceed thirty (30) calendar days of the date of the violation or alleged violation's discovery, informs the Commission of the remediating measures taken under this Section, as applicable, and cooperates in any special examination arising from the violation or alleged violation.

SECTION 4. REGULATION OF CONSUMER DATA

4.1. All Personal Information that is collected from an applicant for a Covered Loan by any Regulated Entity acting in connection with a Covered Loan shall be deemed to have entered into Tribal Lands and is protected by this Ordinance and Federal Consumer Protection Laws. Such Personal Information is within the regulation of the Commission.

4.2. All Personal Information shall be protected from corruption, unauthorized transfer, or unauthorized use with physical, contractual, electronic, and encryption security measures appropriate for the nature of the data.

(a) Licensees shall limit access to Personal Information to those Persons with a business need use or access such Personal Information.

(b) Licensees shall monitor access to Personal Information.

(c) Licensees shall destroy in a method appropriate for the nature of the data any Personal Information that does not have a business purpose.

(d) Licensees shall possess a data breach response and remediation plan appropriate for the nature of Personal Information it accesses.

(e) Licensees shall report to the Commission all discovered security breaches and unauthorized transfers as soon as possible, but not later than forty-eight hours after a breach or unauthorized transfer was discovered.

(f) Licensees shall implement data and record retention schedules based on industry-wide security protocols and retention periods required by applicable federal law (which may include federal tax law). Where not otherwise specified, records may generally be destroyed after five years.

4.3. Regulated Entities that have Covered Loan Consumer contact must disclose clearly and conspicuously to applicants for a Covered Loan that Personal Information is protected by Federal Consumer Protection Laws, and any regulations promulgated hereunder.

(a) Adherence to the policies and practices required hereunder shall be warranted by the Licensee on any contract for a Covered Loan, disclosed on any public internet site or

other electronic media portal operated as related to the Covered Loans to the extent required by Federal Consumer Protection Laws, and shall be made available by electronic linking on any email communications to borrowers of Covered Loans.

(b) A Regulated Entity's or Service Provider's policies and practices related to Personal Information shall be warranted and are a material term of any contract related to the provision of Covered Loans.

(c) Absent an express agreement providing otherwise, or as required by Tribal Law, this Ordinance or the Federal Consumer Protection Laws a Regulated Entity's or Service Provider's license to use Personal Information shall be rescinded upon the termination of any contract with a Licensee related to the provision of Covered Loans. It is not a violation for a Regulated Entity or Service Provider to keep data that cannot be reasonably returned or destroyed, so long as the data is protected by sufficient security and is not used or transferred to any Person.

(d) The Commission shall promulgate rules to regulate further the handling of Personal Information, data, and record retention.

SECTION 5. PROHIBITED ACTS; VIOLATIONS

5.1. Prohibited Acts:

(a) No Person other than the Tribe through a Tribal Entity may engage in providing loans from Tribal Lands;

(b) No Person shall provide Covered Loans without a Lending Operation License and Loan Product License issued by the Commission in accordance with this Ordinance;

(c) No Person shall knowingly submit misleading information, or make false statements to the Commission or the Tribe, or make an omission of data or facts in an attempt to mislead the Commission;

(d) No Person shall falsely attribute any Covered Loan Consumer financial product or service to the Tribe or Tribal Lands;

(e) No Person shall offer a Loan Product that does not comply with this Ordinance and Federal Consumer Protection Laws.

5.2. Any Person with privity of contract with a Licensee may file a claim for binding arbitration to enforce rights and seek remedies under the contract or this Ordinance. Licensees shall not abridge Covered Loan Consumer's rights under this subsection by contract or otherwise.

SECTION 6. NOTICE OF VIOLATION

6.1. The Commission, upon complaint or upon its own initiative, or whenever it may deem it necessary in the performance of its duties or the exercise of its powers, may investigate and examine operations and facilities related to Covered Loans.

6.2. The Commission may use any means, designated by regulation or otherwise, to inform Regulated Entities that they are violating Ordinance provisions or engaging in activities that are likely to violate Ordinance provisions and to identify matters requiring attention or correction. The Commission may resolve such matters by consent.

6.3. The Commission may issue a Notice of Violation (“NOV”) to any Person for violation of any provision of this Ordinance pursuant to subsection 9.2.

6.4. The NOV shall include:

- (a) a citation to the Ordinance provision that has been or is being violated;
- (b) a description of the circumstances surrounding the violation;
- (c) measures required to correct the violations;
- (d) a statement that the violation must be corrected within a specified number of calendar days from the date the notice was issued; and
- (e) a statement of the alleged violator’s procedural rights.

SECTION 7. CIVIL PENALTIES

7.1. In issuing a NOV, the Commission may impose a civil penalty for each violation in accordance with a schedule of civil penalties, and if such violation is a continuing one, for each day the violation occurs; provided, however, remedies against a Service Provider shall be limited to normal contract remedies of the Licensee under the terms of the Service Provider’s contract with a Licensee.

7.2. Procedures for assessment of a civil fine:

- (a) within ten (10) calendar days after service of a Notice of Violation, the alleged violator may submit written information to the Commission about the violation and any corrective measures undertaken or any mitigating factors, which shall be taken into account by the Commission in determining the penalty;
- (b) within twenty (20) calendar days after service of a Notice of Violation, the Commission shall serve a copy of the proposed civil penalty on the alleged violator;

(c) within thirty (30) calendar days after service of a Notice of Violation, the alleged violator may request a hearing pursuant to Section 12 of this Ordinance and applicable regulations to review any portion of the Notice of Violation or civil penalty;

(d) the Commission may extend deadlines under this Section for good cause shown.

7.3. Final Assessment:

(a) If the alleged violator fails to request a hearing as provided in this Ordinance, the proposed civil penalty shall become a final order of the Commission; and

(b) the Commission shall donate all civil penalties paid under this Ordinance to a Certified Native American Community Development Financial Institution or other non-profit organization that provides education to Native Americans.

SECTION 8. ENFORCEMENT

8.1. The Commission can take any one or a combination of the following actions with respect to any Regulated Entity who violates any provision of this Ordinance:

(a) order any Licensee to discontinue its relationship with any Regulated Entity who violates any provision of this Ordinance;

(b) revoke, suspend, or refuse to renew the License of an applicant, subject to the limitations of Ordinance Section 5.7; or

(c) impose one or more of the following sanctions:

(1) enjoin activities of a Regulated Entity;

(2) collect any unpaid fees, interest, penalties, or any civil fines unpaid after thirty (30) calendar days; or

(3) garnishment or execution of any nonexempt property of a violator located within the exterior boundaries of Tribal Land; or

(4) restitution, contract rescission, disgorgement, compensatory damages, money penalties, or other relief as justice may require.

(d) Any party to any proceeding under this Section may obtain a review of any final order served pursuant to this Section (other than an order issued with the consent of the person concerned) by the filing of a written petition for binding arbitration praying that the Commission's order be modified, terminated, remanded for further consideration, or set aside. The judgment and decree of the arbitrator shall be final.

(e) The Commission is empowered to seek comity and enforcement of the orders of the Commission or arbitrator by the court of any other jurisdiction whose assistance may be required to give effect to the orders of the Commission or arbitrator; such action does

not waive sovereign immunity or submit the Tribe, Tribal Entity or Commission to the court's authority or jurisdiction.

(f) All matters and occurrences, contrary to this Ordinance, rules or regulations promulgated by the Commission which are not covered under a criminal code or Ordinance shall be deemed to be a civil violation.

SECTION 9. HEARINGS AND APPEALS

(a) The Commission shall hold a hearing on the proposed revocation or suspension of a License. The Licensee shall be notified by the Commission of the time and place for the hearing.

(b) Upon timely submission of a hearing request related to: (a) a violation alleged in a Notice of Violations; or (b) civil fines proposed by the Commission, the Commission shall set the matter for hearing no later than thirty (30) business days and no sooner than three (3) business days after receipt of the petition. Within ninety (90) days after the hearing, the Commission shall issue its final decision and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Review of any such order shall be exclusively by binding arbitration.

(c) The petition shall specifically set forth the reasons for the hearing; the petitioner's requested relief, and a brief statement of facts and law in support of the petitioner's position. The petition may request that the entirety of the hearing be done on the papers.

(d) Any Licensee aggrieved by a decision or action taken by the Commission after notice and opportunity for hearing may petition the Commission for reconsideration. The reconsideration petition must be filed with the Commission no later than thirty (30) business days after the Commission's decision or action. The Commission may, upon establishing that it has jurisdiction, affirm, modify, reverse, and/or vacate the Commission's prior order. Unless determined upon a motion, the petition for reconsideration does not stay the order.

SECTION 10. SAVINGS PROVISION

10.1. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance, which can be given effect without the invalid provisions or application, and, to this end, the provisions of this Ordinance are severable.

10.2. In interpreting the provisions of this Ordinance, unless otherwise plainly declared or clearly apparent from the context:

(a) Words in the present tense shall include the future tense;

- (b) “Including,” shall not be limiting;
- (c) Words in masculine, feminine, and neutral genders shall include all genders; and
- (d) Words in the singular shall include the plural, and words in the plural shall include the singular.

SECTION 11. EFFECTIVE DATE - EXEMPTIONS FOR BANKS AND OTHERS

11.1. The provisions of this Ordinance shall be in full force and effect upon this Ordinance’s adoption.

11.2. Nothing in this Ordinance, nor any action of the Commission, shall be deemed or construed to be a waiver of sovereign immunity of the Tribe from suit or counterclaim or consent of the Tribe to the jurisdiction of any court.

11.3. The following persons or entities are expected to comply with applicable laws but are otherwise exempt from any other provision or application of this Ordinance:

- (a) any Person or third-party provider of products or services whose only connection to the Lending Operation is:
 - (1) in support of a Licensee business not related to Covered Loans;
 - (2) participating in future revenues of Covered Loans;
 - (3) providing a funding source or access to a revolving credit line to a Licensee; or
 - (4) providing technical service or software support to a Licensee;
- (b) any credit reporting agency, payment processor, entity engaged in the business of insurance, or any third-party that is subject to supervision under federal law, including the Consumer Financial Protection Act, Securities and Exchange Act, Federal Credit Union Act, Commodities and Futures Trading Commission Act, Farm Credit Administration, or the Federal Reserve Act;
- (c) any financial institution insured by the Federal Deposit Insurance Corporation;
- (d) any employee of the above; or
- (e) any Person the Commission, after due consideration of potential impacts on consumer of Covered Loans, issues an order exempting such person.

CERTIFICATION

As duly elected officials for the Robinson Rancheria of Pomo Indians, we hereby certify that at a meeting called and convened on the ____ day of _____, 2021, at which time a quorum was present, the forgoing Ordinance #____ was adopted by a vote of ____ in favor, ____ against, and ____ abstaining.

Beniakem Cromwell, Chairman

Irenia Quitiquit, Secretary/Treasurer