

SYCUAN CONSERVATORSHIP CODE  
(August 29, 2019)

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## Section 1. Scope and Purpose

The Sycuan Band of the Kumeyaay Nation (“Sycuan” or “Tribe”) enacts this Code for the protection of its vulnerable adult members in need of assistance with their property, finances, or personal needs. This Code provides the legal process of establishing an adult Conservatorship of the Estate, Person, or both. The careful selection process of a Conservator and the ongoing oversight of the Conservatorship by Sycuan is of overriding importance to the Tribe and its members. The Sycuan Tribal Court will hear and review Conservatorships and ensure adult Tribal members or others coming within jurisdiction of this Code will not be victims of financial or physical abuse.

## Section 2. Jurisdiction

The Tribal Court shall have jurisdiction over Conservatorship proceedings when the proposed Conservatee is not under an existing Conservatorship in California, another state or tribe *and* any of the following criteria exist:

- (a) The potential Conservatee is a Sycuan tribal member, living on or off the Tribe’s reservation, regardless of residency; or
- (b) The potential Conservatee is a Sycuan member and:
  - (1) Residing on the Sycuan Reservation or Sycuan Tribal Lands; or
  - (2) Has property or assets on the Reservation, or funds held by the Tribe for the potential Conservatee; or
  - (3) The Conservatorship replaces or supplements an existing California Conservatorship for real or personal property, including money, held by the Tribe; or
  - (4) The Tribal Court determines that commencement of the Conservatorship in the Sycuan Tribal Court is in the best interest of the proposed Conservatee.

## Section 3. Definitions

As used in this Code:

- (a) “Adult” means a person over the age of 18 years.
- (b) “California Tribe” means a federally recognized tribe located in California.
- (c) “Code” means the Sycuan Conservatorship Code.

- (d) “Conservatee” means an adult person for whom a Conservator has been appointed, and for whom Letters of Conservatorship have been issued by the Sycuan Tribal Court.
- (e) “Conservator of the Estate” means a person appointed by a court to manage another adult person’s financial resources when the person is substantially unable to manage his or her own financial resources or to prevent and resist fraud or undue influence.
- (f) “Conservator of the Person” means a person appointed by a court to provide for an adult person who is unable to provide properly for his or her personal needs such as physical or mental health, medical needs, or provision of food, clothing, and shelter.
- (g) “Immediate Family” means spouse, domestic partner, children, step-children, parents, siblings, grandparents, grandchildren, aunts, uncles.
- (h) “Incapacitated” means a person adjudged by Sycuan’s Tribal Court to be substantially incapable of managing his or her property or caring for himself or herself by reason of infirmities of aging, developmental disabilities, serious mental illness, chronic alcohol or drug addiction or other like incapacities. Physical disability without mental incapacity is not sufficient to establish incapacitation.
- (i) “Interested Person” means a person who has a close relationship and substantial interest in the health and well-being of the Conservatee such as a caregiver, close companion, social worker, or friend. For purposes of the Sycuan Conservatorship Code, the Tribe is considered an Interested Person or Party.
- (j) “Indian” means a person who is an enrolled member of a federally recognized tribe or has Indian blood, holds themselves out as being Indian and is recognized in the tribal community as Indian.
- (k) “Letters” means and includes Letters of Conservatorship, either of the Person or Estate, or both, allowing the Conservator to act as the legal representative of the Conservatee.
- (l) “Limited Conservator” is for adults with developmental disabilities or where the adult needs help taking care of him/herself or his/her finances, or educational and vocational training.
- (m) “Member” means an enrolled member of the Sycuan Band of the Kumeyaay Nation.
- (n) “Reservation” means lands set aside for Sycuan and held in trust by the federal government for the benefit of the Tribe as well as allotted or fee lands within the boundaries of the Sycuan’s Reservation.

- (o) “Tribe” means the Sycuan Band of the Kumeyaay Nation, a federally recognized tribe.
- (p) “Tribal Court” or “Court” means the judicial body of Sycuan with authority to interpret, and apply tribal laws and make legal judgments.

Section 4. Commencement of Proceeding—Petition

- (a) Proceedings for the appointment of a Conservator commence by the filing of a Petition for Conservatorship in the form proscribed by this Code. The proposed Conservatee, immediate family member, interested person, or tribal government agency or department representative authorized by tribal law to act as a Conservator, may petition for Conservatorship. Such petition shall state:
  - (1) The name, date of birth, residence and address of the proposed Conservatee and if he or she is a Sycuan tribal member or Indian;
  - (2) If a voluntary Conservatorship, the grounds upon which the proposed Conservatee believes that he or she is unable to properly manage his or her property or income and is in need of a Conservatorship of the Estate, or is unable to provide properly for his or her personal needs such as physical or mental health, medical needs, or provision of food, clothing, and shelter, or has other functional limitations;
  - (3) If an involuntary Conservatorship, the nature of the proposed Conservatee’s incapacity with specification, including but not limited to family or interested person’s declarations, written statements from a medical doctor, mental health care provider and/or other professional who is credentialed in the medical or mental health field and has personal knowledge of the proposed Conservatee’s mental and/or physical condition, or other functional limitations;
  - (4) Documentation if available or other information to the best of the Petitioner’s knowledge regarding the approximate value and inventory of the proposed Conservatee’s property, assets, and liabilities;
  - (5) The proposed Conservatee’s income and source of the income;
  - (6) Any other income, compensation, pension, insurance, government benefits, or allowance to which the proposed Conservatee may be entitled;
  - (7) The name and address of the person nominated as Conservator by the Petitioner, or nominated by the proposed Conservatee;

- (8) The names and addresses of the proposed Conservatee's Immediate Family members known to the Petitioner or that can with reasonable diligence be ascertained; and
- (9) The name and address of the person or institution currently having the care and custody of proposed Conservatee, if applicable.

Section 5. Notice of Proceeding and Service of the Petition

- (a) The Petitioner shall serve the Petition in the manner and method provided for under the Rules of the Sycuan Tribal Court or Tribal Rules of Civil Procedure. If such Rules are not provided by Court, the Petition shall be personally served or served by certified mail return receipt requested. A proof of service verifying that the Petition and all attachments must be filed with the Court at the time of filing of the Petition or within thirty (30) days from the filing of the Petition.
- (b) The Petition shall be served on the proposed Conservatee. Notice of the filing and first hearing date shall be served by mail on all persons, institutions, or facilities named in the Petition, as well as any Immediate Family members, and the Tribe.
- (c) The initial Petition must be personally served on the Conservatee. All subsequent papers or filings may be served by mail.
- (d) Emergency Orders: When necessary for the protection of the proposed Conservatee, or the Conservatee's property, the Tribal Court may issue an emergency order appointing a Conservator pending a formal hearing as provided in this Code. The emergency orders shall be effective for no longer than sixty (60) days, unless extended for good cause by the Tribal Court.

Section 6. Opposition to the Petition

- (a) Any party served with the Petition, or any Interested Person may file an Opposition or Objection to the Conservatorship within thirty (30) days from service;
- (b) The Opposition or Objection shall be served on all persons named in the Petition in the manner and method provided for under the Rules of Tribal Court, or as proscribed under Section 5(a) above.

## Section 7. Independent Evaluation and Interview

(a) The Tribal Court shall appoint an independent evaluator that can be from: (i) Sycuan Family Services; (ii) another appropriate tribal or local social services agency; or (iii) from outside the Tribal government to conduct a personal interview and assessment of the Conservatee to explain:

- (1) The Conservatorship hearing procedure;
- (2) The right to counsel at his or her own expense;
- (3) The right to secure an independent medical or psychological examination at his or her own expense, and to present a report from this independent evaluation or call the evaluator to testify at the hearing.
- (4) The required presence of the proposed Conservatee at the hearing. If the proposed Conservatee is not able to attend the hearing due to his or her condition or stay in a facility that will not permit travel, the evaluator shall inform the Court immediately. In the event the proposed Conservatee cannot attend the hearing, the Petitioner shall obtain a medical statement from the proposed Conservatee's doctor explaining the inability of the proposed Conservatee to attend the hearing.

(b) The independent evaluator shall also meet with the proposed Conservator(s) to:

- (1) Conduct a home study on any proposed or nominated Conservator; and
- (2) Assist the proposed Conservator and other adults in his or her household with submitting to a criminal background check at the proposed Conservator's expense and provide the Court with the results. If the proposed Conservator or any adult residing in his or her home has prior felonies, serious misdemeanor convictions or an extensive criminal history, the Court in its discretion may determine the proposed Conservator is disqualified.

## Section 8. Hearing Process and Procedures

- (a) All Conservatorship proceedings will be closed to the public, provided that the Tribe is an Interested Party and may both appear and be represented by its legal counsel at all Conservatorship proceedings.
- (b) The standard of proof shall be clear and convincing evidence.

- (c) The Petitioner, in a case of incapacitation, has the burden of establishing that the proposed Conservatee is incapacitated and that the proposed Conservator is qualified and fit to act on behalf of the proposed Conservatee.
- (d) The proposed Conservatee may be represented by licensed legal counsel at his or her own expense. If the Conservatee cannot afford an attorney, the Tribal Court has discretion to appoint legal counsel. The Tribal Court may appoint the proposed Conservatee a legal representative, at the expense of the Court or Sycuan, if it determines that such representation is necessary to protect the proposed Conservatee's rights, and that the proposed Conservatee is indigent or financially unable to pay for legal counsel.
- (e) At the hearing, the Petitioner, the proposed Conservatee and any person who filed a timely Opposition to the Petition may call and cross-examine witnesses to testify and present documentary and physical evidence.
- (f) If the Tribal Court, in its discretion, determines that additional expert testimony is needed on the issue of incapacity, the Tribal Court may call medical, mental health or other appropriate professionals to submit documentation and/or testify as to their expert opinions of the evidence produced to establish incapacity. To assist the Tribal Court in its determination the proposed Conservatee may voluntarily submit to an evaluation to demonstrate his or her capacity.
- (g) Expert testimony shall be presented at the hearing if the Petitioner is seeking authority to place the Conservatee involuntarily in a facility, hospital or institution.
- (h) If the Petitioner is seeking a voluntary Conservatorship, he or she will be personally questioned by the Tribal Court and demonstrate an understanding of the conservatorship and why a conservatorship is necessary. If the Court is satisfied that the Petitioner desires a Conservator and that the designated Conservator is suitable, the Tribal Court may appoint him or her. If there is no designated Conservator, the Tribal Court shall proceed to appoint one as provided for under the Code in cases of where the Conservatee is determined incapacitated. All Conservator of the Estate sections of this Code shall be applied to a voluntary appointment of a Conservator.

#### Section 9. Required Findings and Orders

- (a) At the conclusion of the hearing, the Tribal Court shall issue an order determining whether the proposed Conservatee is incapacitated, or in the case of a voluntary Conservatorship, whether the person knowingly and willingly consented to the Conservatorship.

- (b) In cases of incapacity the Tribal Court's final written order, based on the evidence, shall consider the proposed Conservatee's:
- (1) Alertness and attention, including without limitation, level of arousal or consciousness, ability to concentrate and orientation to time, place, person, and situation;
  - (2) Ability to process information, including without limitation, short- and long-term memory (including immediate recall), ability to understand or communicate with others (either verbally or otherwise), recognition of familiar objects and familiar persons, ability to understand and appreciate quantities, ability to reason using abstract concepts, ability to reason logically, and ability to plan, organize, and carry out actions in one's own rational self-interest;
  - (3) Deficiencies in his or her thought processes such as in organized thinking, hallucinations, delusions, or uncontrollable, repetitive, or intrusive thoughts; and
  - (4) Ability to modulate mood and affect, such as pervasive and persistent or recurrent state of euphoria, anger, anxiety, fear, panic, depression, hopelessness or despair, helplessness, apathy or indifference, that is inappropriate in degree to the individual's circumstances;
- (c) In appointing a Conservator, the Tribal Court shall determine what is in the best interests of the Conservatee. The Tribal Court shall consider the proposed Conservator named in the Petition as well as nominations by the proposed Conservatee, immediate family members, interested parties and Tribal government representatives. The Tribal Court may also consider any person named by the proposed Conservatee identified in a written instrument executed by the Conservatee during a time the Conservatee was deemed competent;
- (d) Tribal Conservator: The Tribe may designate a tribal officer to serve as a Tribal Conservator and act as the Office of Adult Protective Services where there is no one else qualified or willing to act and it is in the best interests of the Conservatee to appoint an independent Tribal Conservator. If a Tribal Conservator is appointed, Letters shall be issued in the same manner and by the same proceedings as Letters are issued for other persons. The official bond and oath of the Tribal Guardian will satisfy the Conservator's bond and oath on the grant of Letters.
- (e) In making its decisions on the appointment of a Conservator the Tribal Court shall take into consideration tribal law, customs, practices, and traditions;
- (f) The Tribal Court may split, or divide the duties of the appointed Conservator, with one Conservator appointed to care for the Conservatee's personal and physical needs and another Conservator to manage the property or business



affairs of the Conservatee, in such instance separate Letters of Conservatorship shall be issued;

- (g) Prior to the appointment of a Conservator of the Estate of the Conservatee, the Tribal Court may require the Conservator pay or post a bond to be deposited with the Court by a licensed surety to ensure the faithful performance of the duties by the Conservator;
- (h) The Tribal Court may waive the requirement of a bond at any time upon a proper showing and by stating its factual basis and findings in the record;
- (i) A Conservator of the Person shall make an annual report on the condition of the Conservatee to the Tribal Court that ordered the Conservatorship. The report shall include, but not be limited to the location of the Conservatee; his or her health condition; any recommendations regarding the Conservatee; and a statement of whether or not the Conservatee is living in the least restrictive environment consistent with his or her needs.
- (j) A Conservator of the Estate shall deposit any and all funds in a federally insured account protected by the FDIC or equivalent. The Court may require, and condition that funds be kept in a restricted and/or blocked account. The Court may further limit any expenditures or distribution of funds for education, training, living expenses, medical expenses, and maintenance of the Conservatee and all other expenditures will require consent of the Tribal Court.

#### Section 10. Letters of Conservatorship—Duties and Responsibilities of the Conservator

- (a) The Tribal Court shall issue Letters of Conservatorship setting forth the Conservator's powers and duties. The Court shall require the Conservatee to read and review a handbook on the duties of a Conservator and file a declaration of affirmation with the Tribal Court. Additionally, the Letters shall define, when appropriate, the retained authority and powers of the Conservatee to care for himself or herself or to manage his or her financial resources commensurate with his or her ability to do so. The following is not an all-inclusive list and it will be in the discretion of Court whether a duty will need Court approval before it is exercised:
  - (1) Establish a new place of residence within or outside the jurisdiction of Sycuan;
  - (2) Whether in the custody of the Conservator or in a hospital, institution or facility, the Conservator will be responsible for ensuring for the Conservatee's care, comfort, and maintenance needs, including ensuring food, clothing, shelter, health care, social and recreational requirements are being met, also, when appropriate, provide the Conservatee with

training, education, and rehabilitation. The Conservator has no duty to pay for these requirements out of his or her own funds. Whenever appropriate, the Conservator has the duty to meet these requirements through governmental benefits or services to which the Conservatee is entitled before accessing funding from the Conservatee's estate.

- (3) Take reasonable care of the Conservatee's clothing, furniture, vehicles, and other personal effects and begin protective proceedings if other property of the Conservatee is in need of protection;
- (4) Consent to or approve any necessary medical or other professional care, counseling, treatment or service for the Conservatee;
- (5) Upon order of the Court, a Conservator of a Person may receive legal and other notices on behalf of the Conservatee, and may appear in all proceedings as an advocate of the person, but may not have the power to bind the Conservatee or the Conservatee's property without an Order of the Tribal Court. A Conservator of the Estate may represent the Conservatee in any civil legal proceedings pertaining to the property but may not enter judgment or a stipulation without an Order of the Tribal Court.
- (6) A Conservator of the Person may admit the Conservatee to a residential facility by order of the Court or make an emergency protective placement. The Conservator of the Person has the power to apply for placement of the Conservatee within the state protective services law, or for commitment in state court under the state mental health law;
- (7) In all cases, the Court shall make a specific finding as to which legal rights the person is competent to exercise. Such rights include but are not limited to the right: to register to vote; vote; obtain a marriage license and/or marry; obtain a motor vehicle operator's license or other state license; and to testify in any judicial or administrative proceeding. Such rights may be conditioned on prior Court approval before being exercised by the Conservator.
- (8) Retain, sell or transfer the Conservatee's real and personal property, or to insure the same;
- (9) Provide reasonable approval or withhold approval of any contract the Conservatee wishes to sign, or to ratify a contract previously entered by the Conservatee;
- (10) Pay out of the Conservatee's account all just and lawful debts, including taxes or assessments or expenses incurred in the collection, care administration and protection of the estate;

- (11) Initiate or defend a civil suit on behalf of the Conservatee;
- (12) Invest all funds not necessary for the satisfaction of debts and charges of the Conservatee's estate in secure and guaranteed accounts with low risk to the Conservatee's assets;
- (13) Execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the Conservator;
- (14) Do all other things necessary for the protection of the Conservatee, including applying for tribal benefits, housing assignments, make arrangements for the Conservatee's minor children—provided that notice is given to Sycuan, and if the minor children are removed or placed outside the Conservatee's home in a non-Indian home, that the Indian Child Welfare Act is followed; and
- (15) The Conservator will not be personally liable to third persons for the acts of the Conservatee solely arising out of the Conservatorship relationship.

Section 11. Special Requirements for a Conservator of the Estate

- (a) Inventory: When a Conservator of the Estate has been appointed an inventory and appraisal shall be made within thirty (30) days, and in the same manner and subject to the same requirements as are provided for the inventory of a decedent's estate found in the Tribe's Probate Code or if the Tribe does not have a Probate Code the inventory shall include but is not limited to the following:
  - (1) Real property owned by the Conservatee with appraised or estimated value of each piece of property;
  - (2) Personal property owned by the Conservatee;
  - (3) The Conservatee's income, including the monthly amount, the source, where the income is deposited or maintained, the amount in savings, investments, stocks, bonds, dividends, Certificates of Deposit, IRS, and other financial vessels;
  - (4) The nature and amounts of the Conservatee's debts, whether they are secured or unsecured, the source(s) of the debt, and whether payments are being made on the debt;
  - (5) The Conservatee's expenses; and
  - (6) Any other financial item of the Conservatee's that requires management.

- (b) The Conservator's inventory shall be itemized and submitted in written schedules or complete lists, certified under penalty of perjury that it reflects all property belonging to the Conservatee and was prepared to the best of the Conservator's knowledge after a diligent inquiry. The inventory shall be signed, and dated and reflect all property in possession of Conservator on that date. The Court may examine the Conservator in relation to any property listed or in relation to any potential omissions.
- (c) If the Conservator neglects to file the inventory or account when required by Court, the Court shall notify the Conservator and provide the Conservator a reasonable amount of time to comply. If the Conservator continues to neglect filing the necessary inventory, he or she may be held in contempt and fined and/or removed as Conservator.

#### Section 12. Management of Conservatee's Estate

- (a) The Conservator shall take possession of all of the Conservatee's real and personal property, rents, income, and benefits whether accruing before or after his or her appointment, and of the proceeds arising from the sale, mortgage, lease or exchange of any of the Conservatee's property as of the date that the Letters of Conservatorship are issued. It is the duty of the Conservator to protect and preserve the Conservatee's property, but the Conservator may retain, sell or invest the property for the benefit of the Conservatee under this Code.
- (b) In all cases where the Tribal Court deems it advantageous to continue the business of a Conservatee, such business may be continued by the Conservator of the Estate on such terms and conditions as may be specified in the order of the Court.
- (c) The Conservator of the Estate may, with the approval of the Tribal Court, after such notice as the Court directs, invest the proceeds of sale of any Conservatorship assets and any other moneys in his possession in such real or personal property as the court determines to be in the best interests of the Conservatorship Estate.
- (d) No Conservator shall lend Conservatorship funds to himself or herself.
- (e) On application by the Conservator (and with proper notice) the Tribal Court may authorize the Conservator to sell, mortgage, pledge, lease or exchange any property of the Conservatorship estate. Such sale must be made upon such terms as the Tribal Court may order, and only for the purpose of paying the Conservatee's debts, providing for his or her care, maintenance, education; or the care, maintenance and education of his or her dependents; investing the proceeds; or for any other purpose which is in the best interest of the Conservatee.

- (f) No Conservator shall purchase property of the Conservatee, unless sold at public sale with the approval of the Tribal Court, and then only if the Conservator is immediate family of the Conservatee or is a cotenant with the Conservatee in the property.
- (g) The limitations of this section relating to retention, sale, investment or reinvestment of any asset shall not be applicable to any bank or trust company authorized to exercise trust powers.
- (h) The Conservator of the Estate, with the Tribal Court's approval, may create or modify an Indian Will disposing of the Conservatee's federally held trust assets upon his or her passing.

### Section 13. Fraud, Waste, or Mismanagement

If the Tribal Court has reason to believe that a Conservator within its jurisdiction has filed a false inventory, claims property or permits others to claim and retain property belonging to the estate which he or she represents, and is guilty of waste or mismanagement of the estate or is unfit for the proper performance of duties, the Tribal Court shall order the Conservator to file the accounting with the Court. The Tribal Court will appointment a temporary Conservator for the Conservatee. If upon the examination of the accounting the Tribal Court deems it necessary to proceed further, a time and place for the adjustment and settlement of the accounting shall be fixed by the Tribal Court, and at least 10 days' notice shall be given to the temporary Conservator and to all persons named in the Petition for Conservatorship. If upon the adjustment of the accounting, the Tribal Court is of the opinion that the interests of the estate and of the Conservatee requires it, the Conservator may be removed and another appointed pursuant to this Code.

### Section 14. Voting.

A Conservatee is presumed competent to vote regardless of his or her conservatorship status, *unless* the Tribal Court finds by clear and convincing evidence that the person cannot communicate or comprehend with or without reasonable accommodations, or that the person does not desire to participate in Tribal elections. The Tribal Court shall make a finding whether the Conservatee is competent to vote, and if so, what specific accommodations are warranted. The Court shall also notify the Tribal Secretary so that notice can be given to the appropriate tribal committees and offices.

## Section 15. Annual Accounting

- (a) No later than twelve (12) months after the Letters are issued the Conservator shall file an annual Account & Report of Conservator. The Account & Report of Conservator shall be signed under oath, and specify the amount of property received by Conservator; property remaining in Conservator's hands or invested; the nature and manner of such investments; and the Conservator's receipts and expenditures during the preceding calendar year. Whenever ordered by the Tribal Court, the Conservator shall, within thirty (30) days, render and file an Account & Report for any shorter term. The annual accounting and report shall be filed every year thereafter, but need not be served on Immediate Family Members or Interested Persons unless they request special notice and disclosure, and the Tribal Court approves disclosure. In all other respects, the annual accounting shall be confidential and not subject to public disclosure, except to the Sycuan Tribal Council and its legal counsel.
- (b) The account shall be promptly examined under the Tribal Court's direction and if it is not satisfactory, notice shall be given to the Conservator to appear before the Court to address the Tribal Court's issues and concerns. Notice to the Conservator may be served personally or by certified mail as the Tribal Court directs.
- (c) If the Conservator cannot reconcile the accounting to the satisfaction of the Tribal Court, the Court may remove the Conservator as provided for under this Code and require the Conservator to reimburse the Conservatee's estate for any loss due to mismanagement or self-dealing and/or fine the Conservator.

## Section 16. Failure to File Accounting

If a Conservator fails to file his or her account as required by this Code or ordered by the Tribal Court, the Court may, upon its own motion or upon the Petition of any immediate family member, interested party or representative of the Tribe, issue an order to show cause before the Tribal Court why he or she should not immediately make and file his or her report or account. If a Conservator fails, neglects or refuses to make and file any report or account after having been cited by the Tribal Court so to do, or he or she fails to appear in Tribal Court as directed, the Court shall find the Conservator in contempt and issue a fine against the Conservator not to exceed \$2,500.00.

## Section 17. Removal of Conservator

- (a) The Tribal Court may remove a Conservator upon written complaint by the Conservatee, the Conservatee's immediate family member, an interested party, or third party with personal knowledge or information about the Conservator relating to allegations of:

- (1) Failing or neglecting the discharge his/her duties and responsibilities;
  - (2) Concealment of the Conservatee's assets or property, theft or conveyance of any of the money, goods, effects or instruments in writing belonging to the Conservatee and/or allegations of mismanagement; and/or
  - (3) Mistreatment of the Conservatee and/or not caring for the Conservatee's personal or health needs.
- (b) If the Tribal Court determines the complaint has merit, it shall issue notice to the Conservator, all persons named in the original Conservatorship Petition and the complainant to appear before the Court for a hearing on the specific grounds being alleged against the Conservator. If good cause is established at a hearing then the Conservator shall be removed.
- (c) If the Tribal Court finds that the Conservatee's estate has been harmed due to (gross) negligence of the Conservator, the Conservator's bond shall be forfeited. In the event no bond was issued, the Court may hold the released Conservator liable for the loss to the Conservatee's estate.

#### Section 18. Appointment of Successor Conservator

When a Conservator dies, is removed by order of the Court, or resigns and such resignation is accepted by the Court, the Court may appoint another Conservator in his or her place in the same manner and subject to the same requirements as are herein provided for an original appointment of a Conservator.

#### Section 19. Duration and Termination of Conservatorship

- (a) Any Conservatorship shall continue during the life of the incapacitation, upon the request of a Conservatee under a voluntary Conservatorship, or until terminated by the Tribal Court upon a determination that the Conservatorship is no longer needed. The Tribal Court shall make a specific finding of any rights that the Conservatee retains and may exercise during his or her incapacitation. The Tribal Court shall hold an annual review of a Conservatorship, and review the necessity for continuing the Conservatorship, make any necessary modifications or removal of any powers of the Conservator, as well as any amendments to the Letters. The annual review shall take place twelve (12) months after the Letters were issued and each year thereafter until the Conservatorship terminates.

- (b) The Tribal Court shall review and may terminate a Conservatorship upon marriage to any person who is not subject to a Conservatorship.
- (c) Any person on behalf of the Conservatee or the Conservator may petition the Tribal Court to have the Conservator discharged and a new Conservator appointed, or to have the Conservator designated as a Limited Conservator.
- (d) The Conservator, Conservatee or any person acting on the behalf of the Conservatee may petition for a review of incompetency. Upon such a petition for review, the Tribal Court shall conduct a hearing at which the Conservatee shall be present. After the hearing or on its own motion, the Tribal Court may terminate if the Conservatee is determined to no longer be incapacitated or modify a Conservatorship if the Tribal Court determines that the Conservatee remains limited and/or incapacitated to manage his or her personal needs and estate.
- (e) A Conservatorship shall terminate at the death of the Conservatee.

#### Section 20. Settlement of Accounts

Upon termination of a Conservatorship, or upon resignation, removal or death of a Conservator, such Conservator or his personal representative shall forthwith render his or her final account to the Tribal Court and to the former Conservatee, the successor Conservator or the deceased Conservatee's personal representative as the case may be. Upon approval of the account and filing proper receipts the Conservator shall be discharged and his or her bond released.

#### Section 21. Conservator Compensation

The Conservator may incur reasonable expenses in the execution of his or her trust responsibilities, including necessary compensation paid to attorneys, accountants, brokers and other agents and servants. He or she may also request reasonable compensation from the Court for services, so long as the Court deems the compensation just and reasonable and authorizes such compensation when the Conservatee's accounts are submitted and settled annually.



Section 22. Registration and Enforcement

A Conservatorship order issued pursuant to this Code appointing a Conservator of the Person, Conservator of the Estate, or a Conservator of the Person and Estate, may be registered and enforced in a California court.

Section 23. Right to Appeal

Any appeal by a party to an action under this Code will be made in accordance with Sycuan Tribal Appellate Court Rules and Procedures, or by such procedure specified by the Sycuan General Council.

Section 24. Amendments

This Code, and the procedures promulgated hereunder, may only be modified or amended by the Sycuan General Council at a duly called meeting where a quorum is present.

Section 25. Severability

If any section, provision or portion of this Code is invalidated by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby.

Section 26. Effective Date

This Code shall take effect on August 29, 2019 by a Sycuan General Council Resolution.