

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

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| VALLEY FORGE CONVENTION | : | COMMONWEALTH OF |
| CENTER PARTNERS, LLC | : | PENNSYLVANIA |
| DBA: Valley Forge Casino Resort | : | |
| | : | PENNSYLVANIA GAMING |
| | : | CONTROL BOARD |
| IN RE: Memorandum of | : | |
| Understanding Regarding | : | LICENSING NO. 19421-3 |
| Unattended Children | : | INVESTIGATION ID NO. |
| | : | 19421-E6762-21 |

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into by the Commonwealth of Pennsylvania, Gaming Control Board (“Board”), an independent administrative board of the Commonwealth of Pennsylvania, Office of Enforcement Counsel (“OEC”), and Valley Forge Convention Center Partners, LLC, DBA: Valley Forge Casino Resort (“Valley Forge”). Valley Forge and OEC collectively are referred to as the “Parties;” and

WHEREAS, Valley Forge has its principal place of business at 1160 First Ave., King of Prussia, PA 19406 and is the holder of a Category 3 slot machine license as issued by the Board; and

WHEREAS, Valley Forge is a resort hotel and convention center that includes two hotel towers, numerous meeting rooms, 100,000 square feet of meeting space for conventions and major events, and a Category 3 licensed facility with 850 slot machines, 50 table games and a sports book; and

WHEREAS, OEC is the prosecutorial body established by 4 Pa. C.S. § 1517 and has the power and duty to: (i) Advise the bureau on all matters, including the granting of licenses, permits, and registrations, the conduct of background investigations, audits, inspections and the investigation of potential violations under the Pennsylvania Race Horse Development and Gaming Act (“Act”); (ii) File recommendations and objections relating to the issuance of licenses, permits, and registrations on

behalf of the bureau; (iii) Initiate, in its sole discretion, proceedings for noncriminal violations of the Act by filing a complaint or other pleading with the Board; (iv) Petition the board for the appointment of a trustee under the Act; and (v) Prepare all final background investigation reports for inclusion in a final report regarding an applicant's suitability for licensure; and

WHEREAS, pursuant to 4 Pa.C.S. § 1102(1), the primary object of the Act, to which all other objectives and purposes are secondary, is to protect the public through the regulation and policing of all activities involving gaming and practices that continue to be unlawful; and

WHEREAS, pursuant to 4 Pa.C.S. § 1331 of the Act, "Any licensee, key employee or gaming employee shall have a duty to: (1) provide any assistance or information required by the board and the Pennsylvania State Police and to cooperate in any inquiry, investigation or hearing; and (3) inform the board of any actions which they believe would constitute a violation of this part ... "; and

WHEREAS, pursuant to 4 Pa.C.S. §1207(11), the Board shall "require each slot machine license applicant to provide detailed site plans of its proposed licensed facility which shall be reviewed and approved by the board for the purpose of determining the adequacy of the proposed security and surveillance measures inside and outside the facility. Applicants will cooperate with the board in making changes to the plans suggested by the board and will ensure that the plans as modified and approved are implemented"; and

WHEREAS, pursuant to section 423a.6. (b)(4) of the Board's Regulations (58 Pa. Code § 423a.6. (b)(4)), an individual who has applied for the issuance or renewal of a license, permit, certification, registration or authorization shall execute a statement of conditions in the manner and form required by the Board. The execution of the Statement of Conditions constitutes the acceptance of each provision contained in the Statement of Conditions; and

WHEREAS, pursuant to Condition 1 of the Statement of Conditions to its Category 3 License, signed on March 14, 2019, Valley Forge agreed "To at all times comply with any and all

provisions of the Act, as amended, and any rules, regulations, technical standards, orders, Statement of Conditions and, if required by the Board, an amended Statement of Conditions to reflect any amendments to the Act or the passage of any gaming-related legislation, commitments made to the Board in writing and/or under oath and to immediately inform the Board of any actions which they know or suspect constitute a violation of the Act or any rules, regulations, technical standards or orders in effect as of this date or later amended or promulgated by the Board."; and

WHEREAS, pursuant to Condition 20 of the Statement of Conditions to its Category 3 License, signed on March 14, 2019, Valley Forge agreed "To at all times provide adequate and effective surveillance of activities inside and outside the licensed facility to ensure the integrity of gaming and the safety of employees, patrons and the public. Specifically, Valley Forge Convention Center Partners, LLC expressly agrees to immediately implement any change in camera configuration or recording format specification requested by the Board should Board review of the surveillance system as implemented, or subsequent compliance audit or financial audit results, support the conclusion that the system is not in compliance with the regulations and technical standards in effect as of this date or as later amended or is insufficient to ensure a meaningful surveillance function."; and

WHEREAS, pursuant to Condition 32 of the Statement of Conditions to its Category 3 License, signed on March 14, 2019, Valley Forge agreed in part "To at all times comply with the system of internal controls and audit protocols approved by the Board pursuant to 58 Pa. Code § 465a.2 and any Board requirements with regard to changes or amendments in this system of internal controls."; and

WHEREAS, pursuant to section 465a.11(b) of the Board's Regulations (58 Pa. Code §465a.11(b)), a slot machine licensee's system of internal controls must include "(1) A surveillance department supervised by an individual located at the licensed facility who

functions, for regulatory purposes, as the director of surveillance. The director of surveillance shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee. The surveillance department shall be responsible for the following:

- (i) The clandestine surveillance of the operation of, and gaming conducted at, slot machines and table games.
- (ii) The clandestine surveillance of the operation of automated bill breaker, gaming voucher, coupon redemption and jackpot payout machines.
- (iii) The clandestine surveillance of the operation of the main cage, Poker room cage and any satellite cage.
- (iv) The video recording of activities in the count room and the video recording of movements of cash, slot cash storage boxes and table game drop boxes.
- (v) The clandestine surveillance of areas used for the storage of gaming chips, plaques, cards, dice, Sic Bo shakers, Roulette balls, Pai Gow tiles and other equipment used to conduct table games.
- (vi) The detection of cheating, theft, embezzlement and other illegal activities within the licensed facility.
- (vii) The detection of the presence of any individual who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the Act (relating to regulation requiring exclusion or ejection of certain persons; and repeat offenders excludable from licensed gaming facility) and Chapters 511a and 513a (relating to persons required to be excluded; and underage gaming), or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the Act (relating to list of persons self-excluded from gaming activities) and Chapter 503a (relating to casino self-exclusion).

- (viii) The video recording of those locations, individuals, activities or transactions required under § 465a.9(e) (relating to surveillance system; surveillance department control; surveillance department restrictions) and of any illegal and unusual activities monitored by the surveillance department.
- (ix) The provision of immediate notice to supervisors designated in the internal controls, the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting, and also upon commencing video recording of, an individual who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities, including an individual who is required to be excluded or ejected from the licensed facility under section 1514 of the Act, who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the Act and Chapter 511a or 513a or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act and Chapter 503a.
- (x) The clandestine surveillance of any slot computer system or equipment designated for coverage by the Board in conjunction with the approval of a slot machine system, including a slot monitoring system, electronic gaming table system, casino management system, wide area progressive system, gaming voucher system and any communication equipment with the central control computer.
- (xi) The installation, maintenance and repair of the surveillance system equipment used by the surveillance department.
- (xii) The submission of a surveillance staffing plan as part of the slot machine

licensee's internal controls detailing the minimum staffing and the manner in which the responsibilities of this subsection shall be met.”; and

WHEREAS, pursuant to section 465a.11(b) of the Board’s Regulations (58 Pa. Code §465a.11(b)), a slot machine licensee's system of internal controls must include “(5) A security department supervised by an individual located at the licensed facility who functions, for regulatory purposes, as the director of security. The director of the security department shall be licensed as a key employee and be responsible for the overall security of the licensed facility including the following:

- (i) The physical safety of individuals.
- (ii) The physical safeguarding of assets.
- (iii) The protection of the property of both the patron and the slot machine licensee from illegal activity.
- (iv) The design, implementation and enforcement of a system for the issuance of temporary access credentials.
- (v) The recording of any unusual incidents within the licensed facility in which the security department is involved. Each incident shall be recorded by security department personnel in a book with bound numbered pages that cannot be readily removed or be maintained in an electronic format which has an audit function that prevents modification of information after the information has been entered into the system. The log shall be stored and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents).

The following information shall be recorded:

- (I) The assignment number of the incident.
- (II) The date and time.

- (III) The nature of the incident.
- (IV) The individuals involved in the incident.
- (V) The security department employees assigned to cover the incident.
- (vi) The identification and removal of any individual who is required to be excluded or ejected from the licensed facility under section 1514 of the Act, who may be excluded or ejected from the licensed facility under section 1515 of the Act or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the Act.
- (vii) The performance of the duties and responsibilities required under the system of internal controls submitted and approved under § 465a.2.
- (viii) The provision of immediate notice to the Pennsylvania State Police upon detecting the presence in the licensed facility of an individual possessing a weapon in violation of § 465a.13 (relating to possession of weapons within a licensed facility).
- (ix) The provision of immediate notice to supervisors designated in the internal controls and the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting any individual who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities.
- (x) The provision of immediate notice to supervisors designated in the internal controls and the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting any individual who is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the Act and Chapter 511a or 513a or is self-excluded from the gaming floor and

gaming activities at all licensed facilities under section 1516 of the act and Chapter 503a.

WHEREAS, the Parties share a mutual desire to mitigate risks to children who may be left unattended by their responsible parent or guardian with a particular focus on children left unattended in vehicles by investing in specific measures to deter and detect such conduct by a responsible parent or guardian; and

WHEREAS, Valley Forge examined the history of children left unattended on its property to develop and invest substantial resources in a data driven strategy to deter and detect such conduct by the responsible parent or guardian; and

WHEREAS, Valley Forge and OEC, through their authorized representatives whose signatures are affixed hereto, have investigated the history of parents who left children unattended at Valley Forge Casino Resort from 2018 to present and efforts undertaken by Valley Forge to deter, detect and respond to such incidents that are the subject of this MOU, have conferred extensively, and now desire to conclusively and amicably resolve all matters arising out of such events, and enter into a MOU to memorialize their mutual desire and understanding regarding measures that Valley Forge has or will implement in the non-gaming areas of its resort and convention center to deter and detect such conduct by a responsible parent or guardian; and

THEREFORE, the Parties stipulate and agree, and present to the Board for its consideration, the following:

STIPULATION OF FACTS

Background

The Board held a regularly scheduled public Board meeting on February 10, 2021. During that meeting, a matter involving the involuntary placement of a patron who left two young children unattended in a parked vehicle at another licensed gaming facility was addressed. The Board

expressed several concerns and made several inquiries related to the response made to the unattended children by that other licensed gaming facility in that instance. Generally, the Board's inquiries involved: (1) Why did it take so long to identify the issue of unattended children in a vehicle?; (2) Why did certain members of law enforcement not respond to the incident?; (3) Why was the patron/guardian of the child permitted to leave the area prior to the arrival of law enforcement?; (4) Why was the patron/guardian of the child not criminally charged by law enforcement?; and (5) Should there be a consistent Pennsylvania Gaming Control Board Statement of Policy for casinos when children are left unattended in vehicles? The matter concluded with the Board's desire to have the Office of Enforcement Counsel and Bureau of Investigations and Enforcement review the policies and procedures of all Category 1, 2, 3, and 4 slot machine licensees relating to children left unattended and the history of such events.

The Law Regarding Unattended Children

There are two (2) separate laws which have been used by law enforcement to prosecute parents or guardians who leave children unattended. Under Section 3701.1 of the Pennsylvania Vehicle Code, it is an offense for such parent or guardian to leave a child in a vehicle unattended if the child is under the age of six (6). This is a strict liability offense and no intent on the part of the parent must be proven. Section 3701.1 of the Pennsylvania Vehicle Code reads in full as follows:

§ 3701.1. Leaving an unattended child in a motor vehicle

(a) General rule. --A person driving or in charge of a motor vehicle may not permit a child under six years of age to remain unattended in the vehicle when the motor vehicle is out of the person's sight and under circumstances which endanger the health, safety or welfare of the child.

(a.1) Applicability. --This section shall apply to the highways and trafficways of this Commonwealth and, for the purposes of this section only, the term “trafficways” shall include, but not be limited to, parking lots.

(b) Penalty. --A person who violates this section commits a summary offense. It is a separate offense for each child left unattended;

Additionally, under Section 4304 of the Pennsylvania Crimes Code (Endangering the Welfare of Children): “A parent, guardian, or other person supervising the welfare of a child under 18 years of age commits a misdemeanor of the second degree if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.” The crime of endangering the welfare of a child is a specific intent offense. The intent element required by § 4303 is a knowing violation of a duty of care. When charged with the crime, the prosecution must establish the “knowing” element. In interpreting when an accused knowingly violates his or her duty of care, Courts have looked to the section of the Crimes Code that defines kinds of culpability, 18 Pa.C.S.A. § 302(b), which provides, in relevant part: (2) A person acts knowingly with respect to a material element of an offense when: (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result. The “nature of his conduct” is interpreted to mean overall conduct, including omissions to act as well as acts.

Bureau of Investigations and Enforcement Review

The Bureau of Investigations and Enforcement (“BIE”) conducted an investigation related to the history of parents who left children unattended at Valley Forge Casino Resort from 2018 to

present and efforts undertaken by Valley Forge to deter, detect and respond to such incidents. During the course of the investigation, BIE reviewed Valley Forge Surveillance reports, e-mails, the Surveillance Department's Daily Log, Security reports, the Valley Forge Surveillance Standard Operating Procedures, the Valley Forge Security Standard Operating Procedures, Bureau of Casino Compliance Reports, and camera schematics for areas where children could be left unattended, such as the parking areas, food courts, hotel lobby, and convention center. Additionally, BIE conducted interviews with Valley Forge personnel which include the Vice President/General Manager, Compliance Manager, Surveillance Manager, and Security Manager. BIE also interviewed members of the Pennsylvania Gaming Control Board staff and representatives of the Pennsylvania State Police. The locations at Valley Forge where parents have or could leave children left unattended include the parking lot, hotel towers, convention center, and food court. Schematics, including the location of the surveillance cameras, for each of the locations were reviewed by BIE in detail.

Office of the Executive Director Correspondence

On or about April 19, 2021, the Board's Executive Director, Kevin O'Toole, contacted Valley Forge to express the concern of the Board regarding the issue of children being left unattended in vehicles, hotel rooms or other locations by parents or guardians. In an April 26, 2021 response, Valley Forge advised that they share the Board's concern for unattended children and they have zero tolerance for any patron who leaves children unattended in a vehicle or another unsafe condition while patronizing the gaming floor or sports book. Valley Forge advised that when a patron has been found to do so, they are permanently evicted from the facility. This zero-tolerance policy is intended to deter patrons from leaving children unattended and prevent anyone from repeating this dramatic error in judgment. Valley Forge further advised that while the Surveillance and Security Departments have primary responsibility for responding to unattended children, all employees at Valley Forge

bear responsibility to assist with reporting any actual or possible unattended children to be investigated.

Joint Review and Examination of Children Left Unattended by Parents at Valley Forge

In the years 2018, 2019 and 2020, there were fifteen instances in which a parent or guardian left minors unattended at Valley Forge. In 2021, there were twenty-two instances in which a parent or guardian left minors unattended at Valley Forge as of September 30th. During such instances, parents left minors who ranged in age from ten (10) months to seventeen (17) years of age in vehicles in the parking lot, the hotel, and the food court for between approximately one (1) minute and ninety (90) minutes.

Of the 22 instances in 2021, a Valley Forge employee discovered the unattended minor or minors in 20 instances (90.9%) and Valley Forge's response time for discovering the unattended minor or minors was under 5 minutes in 12 instances and under 10 minutes in 16 instances. In 6 instances, a Valley Forge employee observed the adult in the act of leaving the child(ren) unattended and reported the matter to Valley Forge Security for an immediate response.

The Parties acknowledge that the circumstances in which a child is left unattended may vary in severity or exigency depending on factors such as the age of the child, the environment in which the child is left (e.g. inside the climate-controlled resort versus outside exposed summer heat or winter cold), and the duration in which the child is unattended prior to the child's discovery. In one such instance on June 18, 2021 illustrative of Valley Forge's vigilance with respect to such matters, a Valley Forge employee at Valet Drop Off observed an adult male parking and then leaving a child (later identified to be 1 year old) unattended in the vehicle. The employee immediately reported the matter to Valley Forge Security prompting an immediate security response to the vehicle and surveillance review to track the adult. In addition, Valley Forge Surveillance alerted Pennsylvania

State Police (PSP) and the Board's Casino Compliance Representatives and Valley Forge Security alerted the Upper Merion Police Department (UMPD). The surveillance review confirmed that the adult arrived on property at 4:12 PM, pulled in to the Valet Drop Off before parking and left the vehicle at 4:14:36 PM with the child buckled in his car seat and the windows fully closed. Valley Forge Security first responded to the vehicle 1 minute and 59 seconds later at 4:16:35 PM with PSP responding to the vehicle at 4:22 PM, UMPD arriving on property at 4:27 PM, and an ambulance arriving on property at 4:46 PM. With law enforcement present, Valley Forge Security utilized a rescue hammer to break the front driver side window of the vehicle at 4:24 PM. Although Valley Forge Surveillance tracked and located the adult on the gaming floor at 4:23 PM, the adult walked past Valley Forge Security without stopping, returned to the vehicle at 4:25 PM and attempted to drive away. In his attempt to drive away, the vehicle became lodged on large rocks in the grass in front of where the vehicle was parked, at which time PSP removed the adult from the vehicle. The adult was ultimately placed under arrest by UMPD. Since the adult was placed under arrest, the child was held in the care of the UMPD who released the child into the care of the child's aunt at 5:38 PM.

Valley Forge's Unattended Child Mitigation Plan

Based on its review and examination of the instances in which a parent or guardian left a child or minor unattended on property, Valley Forge has, in consultation with OEC, developed a six-part mitigation plan to enhance its efforts to deter and detect such conduct by the responsible parent or guardian. It is respectfully submitted that these data-driven solutions represent a substantial investment by Valley Forge to mitigate the risks presented by parents who leave children unattended. Except as noted below, Valley Forge has already implemented each element its mitigation plan.

1. *Additional Support from Upper Merion Township Police* – Valley Forge has requested that the Upper Merion Township Police deploy additional resources in the form of a police

officer and a police mobile unit on site at Valley Forge during in-season football game days. This additional coverage started week 1 of the National Football League season and Valley Forge is reimbursing Upper Merion Township for the cost of the same.

2. *Outside Security to Supplement Valley Forge Security* – In addition, Valley Forge has engaged an outside contractor to provide additional personnel to patrol the parking lot in a vehicle provided by the contractor for 16 hours per day, 4 days per week. Valley Forge selected the days and times based on its review of the actual and examination of the typical instances in which a parent or guardian left a child or minor unattended on property.

3. *Infrared Cameras Pilot Plan for Parking Lot* – Valley Forge has purchased and installed two infrared cameras for additional surveillance coverage of Valley Forge’s parking lot. These infrared cameras provide substantially greater visibility of the parking lot under variable weather conditions and can enable a surveillance member potentially to see a person inside a parking lot. The two infrared cameras are strategically located so that they can survey the full area of Valley Forge’s parking lot on a rotating schedule every hour. In addition, Valley Forge will also increase the staffing level in its Surveillance Department so that a new staff member will be available to monitor this new 2 camera system.

4. *Refreshed and Enhanced Signage* – Valley Forge previously installed twelve (12) large banner signs throughout the parking lot with the child safety message: “WE LOVE KIDS, BUT IT’S A CRIME TO LEAVE THEM UNATTENDED IN YOUR CAR. Please be responsible.” However, five (5) of those signs had been removed due to wear and tear. Valley Forge has replaced its prior parking lot signage with a child safety message on 50 new banner parking lot poles in the parking lot. In addition, Valley Forge has installed five acrylic signs and will install five additional acrylic signs with a child safety message at strategic, high visibility locations, including building entrances, the food court and in the entrance to the sports book. Finally, Valley Forge purchased

1,000 in-room table tent signs with the child safety message to place in each hotel room and has an electronic version of the child safety message displayed on a rotating basis on monitors in hotel rooms. *See Exhibit 1.*

5. *Reinforced Team Member Involvement* – With an expansive resort and hotel convention center with events, Valley Forge wants all of its employees to take responsibility and demonstrate leadership detecting and reporting any actual or possible unattended children to be investigated. To that end, Valley Forge required all of its existing employees to review, understand and sign an unattended child policy that reinforces their obligation to detect and report unattended kids. In addition, Valley Forge requires all new hires to review, understand and sign the same unattended child policy.

6. *Extending Surveillance Camera Coverage in Casino Tower* – Finally, Valley Forge’s surveillance coverage presently does not include coverage inside the hotel elevators or the elevator vestibule in either the Casino Tower or Hotel Tower. Valley Forge has committed to install additional surveillance cameras in the hotel elevators and the elevator vestibule on each floor of both the Casino Tower and Hotel Tower with such installation scheduled to be completed in FY 2022 at an approximate cost of \$420,000.

In the aggregate, Valley Forge has allocated approximately \$776,000 towards implementation of the foregoing six-part mitigation plan, including recurring annual expenses for (i) reimbursing the Upper Merion Police Department, (ii) outside security parking lot patrol, and (iii) the increased surveillance payroll expense (at an estimated annual cost of approximately \$323,000).

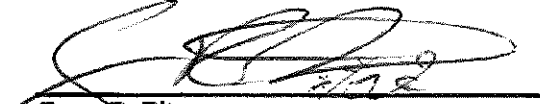
CONCLUSION

NOW THEREFORE, in order to provide and implement a plan to combat the incidents of unattended minors occurring at the Valley Forge facility, the Office of Enforcement Counsel and

Valley Forge Convention Center Partners, LLC, DBA Valley Forge Casino Resort desire to enter into this Memorandum of Understanding. The Office of Enforcement Counsel and Valley Forge agree that for as long as this Memorandum of Understanding is in effect, the procedures expressed above will be adhered to by the personnel of both parties.

The terms of this Memorandum of Understanding are agreed to and accepted on behalf of the Office of Enforcement Counsel and Valley Forge by the undersigned on the dates indicated below.

**Pennsylvania Gaming Control Board
Office of Enforcement Counsel**



Cyrus R. Pitre
Director

DATED: 10/28/2021

**Valley Forge Convention
Center Partners, LLC
DBA: Valley Forge Casino Resort**



Ronald E. Bailey, II
Vice President & General Manager

DATED: 10-28-2021

Exhibit 1



**NO MINORS
MAY BE LEFT
UNATTENDED
WITHOUT AN
ADULT.**

**VIOLATORS WILL
BE CITED BY LAW
ENFORCEMENT
AND EVICTED.**

THANK YOU

