

## **SAN MANUEL TRIBAL GAMING COMMISSION REGULATION**

### **SUBJECT: CLASSIFICATION DETERMINATIONS FOR CLASS II GAMES PLAYED USING ELECTRONIC, COMPUTER OR OTHER TECHNOLOGIC AIDS**

#### **I. PURPOSE**

The Indian Gaming Regulatory Act (“IGRA”) permits the use of electronic, computer, or other technologic aids in connection with the play of Class II gaming. Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind, however, are Class III gaming and can only be played on Indian lands in accordance with an approved Tribal-State Compact or Secretarial Procedures. This Gaming Commission Regulation (“GCR”) establishes a process and standards by which the San Manuel Tribal Gaming Commission shall determine whether a game intended for play within the San Manuel Indian Bingo & Casino (“Casino”) as a Class II game satisfies the requirements of IGRA.

#### **II. GENERAL POLICY**

This GCR is intended to address only gaming equipment (typically server-based gaming systems serving multiple player interfaces, sometimes called electronic player stations) intended for play outside the bingo hall but within the Casino as a Class II game. For ease of reference, this gaming equipment is herein referred to as a “Gaming System.” Except as otherwise provided herein, a Gaming System must receive a Classification Determination finding the game to be Class II gaming before it can be put into operation. A Class II Gaming System must comply with all other applicable requirements.

Importantly, gaming equipment whose sole purpose is to aid in the play of live bingo games where outcomes are determined by a traditional ball draw do not require classification where such equipment is, in the opinion of the San Manuel Tribal Gaming Commission, clearly Class II Gaming. Examples of such gaming equipment include the bingo blower, display signs, and bingo minders.

#### **III. DEFINITIONS**

For the purposes of this GCR, the following definitions apply:

1. “Applicant” means the member(s) of the Casino’s senior management team who is applying for a Classification Determination in accordance with this GCR.
2. “Classification Determination” means a formal determination by the San Manuel Tribal Gaming Commission that a game or gaming activity is either Class II or Class III gaming as those terms are defined in IGRA.

3. “Gaming System” means all components, whether or not electronic, computer, mechanical, electro-mechanical, or other technologic form, that function together to enable the play of any game or gaming activity. A Gaming System can be found to be either Class II or Class III gaming.
4. “NIGC” means the National Indian Gaming Commission.
5. “NIGC Technical Standards” means the Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games, found at 25 CFR Part 547.
6. “Player Interface” means any component(s) of a Gaming System, including an electronic or technologic aid (not limited to terminals, player stations, handhelds, fixed units, etc.), that directly enables player interaction in a game.
7. “Random Number Generator (‘RNG’)” means an electronic or mechanical method for determining numbers or other designations in a game of chance that must meet the applicable standards for randomness set forth in the NIGC Technical Standards or established by the San Manuel Tribal Gaming Commission.
8. “San Manuel Tribal Gaming Commission” or “SMTGC” means the independent governmental entity established by the San Manuel Band of Mission Indians within the San Manuel Gaming Act of 1989 to regulate all gaming on the San Manuel Reservation.
9. “Server” means a computer that controls one or more applications or environments within a Gaming System.

#### **IV. APPLICATION FOR A CLASSIFICATION DETERMINATION**

1. Only senior Casino management may apply for a Classification Determination under this GCR. Such individual(s) shall be referred to herein as the “Applicant.”
2. An Applicant may apply for a Classification Determination at any time, but must do so before offering a Gaming System for play under the following circumstances:
  - a. If the Applicant wishes to introduce a Gaming System as Class II gaming and it is not the subject of an existing Classification Determination; or
  - b. If the Applicant wishes to modify a previously approved Class II Gaming System and the modification has not been deemed “non-material” by the SMTGC under Section VII of this GCR.

3. An application for a Classification Determination must include all of the following information:
  - a. A request for a Classification Determination signed by the Applicant(s).
  - b. Applicant's statement that, to the best of Applicant's knowledge and belief, the subject Gaming System meets the standards established in this GCR.
  - c. Designation of a point of contact authorized to provide additional information if required.
  - d. Certification by the vendor and/or manufacturer of the Gaming System that, to the best of their knowledge and belief, the Gaming System:
    - i. Is Class II gaming under IGRA (a legal opinion may be required);
    - ii. Complies in all respects with the specifications and standards set forth in the application; and
    - iii. Complies with all other regulations applicable to such Gaming System.
  - e. A complete description of each of the Gaming System's components.
  - f. A complete description of the Gaming System's operational characteristics, including:
    - i. A thorough description of game play and any specific rules controlling the play of the game;
    - ii. The number of players required in a game;
    - iii. A complete description of the method used for accepting payment from players and any allocation of such payment (for example, into a prize pool, progressive pool, etc.);
    - iv. A complete description of the manner in which a game is won and game winners are determined;
    - v. A complete description of the method used for calculating and distributing prizes to winners, including a description of all prizes available in a game; and

- vi. A complete description of the method used for determining, retaining or paying any amounts to anyone other than the player, including the operator or vendor, including the source of such payments.
- g. A complete description of whether and where the Gaming System is currently in play and whether such play is considered Class II or Class III gaming.
- h. If the Gaming System is linked to any other jurisdiction, a detailed description of:
  - i. The name and location of each linked property; and
  - ii. A complete description of how the two systems interact during game play.
- i. A description of where the Gaming System server resides or will reside, and a description of security and access controls.
- j. A copy of any sales or promotional literature, including video presentations.
- k. A video depicting the play of each game played using the Gaming System from beginning to end.
- l. A copy of an independent test laboratory report finding that the system complies with the technical specifications set forth in the NIGC Technical Standards.
- m. An example of all chips (for example: EPROMs) or other electronic storage or control devices used in connection with the Gaming System, the source code of the program contained on each chip or device, and sufficient programmer's notes to facilitate rapid analysis of the code. At the request of the SMTGC, the Applicant shall provide these materials through its vendor to an independent testing laboratory designated by the SMTGC. That laboratory shall be bound to maintain the confidentiality of such information.
- n. Copies of any determinations that have been made by any other Tribal or non-Tribal gaming jurisdiction or authority, including but not limited to any legal opinion, court order, judgment or decision, or other materials relevant to the classification of the Gaming System.

- o. For Gaming Systems already in play at the Casino, a complete list of the serial numbers or other identifiers of each Player Interface or other device used in the play of the Gaming System.
- 4. Upon request of the SMTGC, the Applicant may be required to provide:
    - a. A live demonstration of the Gaming System;
    - b. A prototype of the Gaming System, including any Player Interfaces used with the Gaming System;
    - c. Descriptions of any new models or variations of an existing, approved Gaming System;
    - d. A legal opinion finding the Gaming System to be Class II gaming; or
    - e. Any further information or clarification the SMTGC determines it requires.
  - 5. All information submitted by the Applicant is subject to verification by the SMTGC.

## **V. CLASSIFICATION STANDARDS**

- 1. The critical factors in determining whether a Gaming System is Class II gaming are:
  - a. Whether the underlying game satisfies IGRA’s definition of Class II gaming; and
  - b. Whether any electronic equipment utilized in connection with the game:
    - i. Is an electronic, computer or other technologic aid, which is permitted within Class II gaming; or
    - ii. Transforms the game into an electromechanical facsimile of a game of chance, which can only be offered for play as Class III gaming.
- 2. Class II gaming, in relevant part, is defined to include the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith):
  - a. Which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;

- b. In which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
  - c. In which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo.
3. Electronic, computer or other technologic aid:
- a. Means any machine or device that:
    - i. Assists a player or the playing of a game;
    - ii. Is not an electronic or electromechanical facsimile; and
    - iii. Is operated in accordance with applicable federal communications law.
  - b. Includes, but is not limited to, machines or devices that:
    - i. Broaden the participation levels in a common game;
    - ii. Facilitates communication between and among gaming sites; or
    - iii. Allow a player to play a game with or against other players rather than with or against a machine.
  - c. Examples include pull-tab dispensers and/or readers, telephones, cables, televisions, screens, satellites, bingo blowers, electronic player stations, electronic cards for participants in bingo games and computerized servers.
4. An electromechanical facsimile is a game played in an electronic or electromechanical format that replicates a game of chance by incorporating all of the characteristics of the game, except when, for bingo, lotto, and other games similar to bingo, the electronic or electromechanical format broadens participation by allowing multiple players to play with or against each other rather than with or against a machine.

**VI. ISSUANCE OF A CLASSIFICATION DETERMINATION**

1. If the SMTGC determines that the Gaming System is a Class II game, it shall issue a written Classification Determination and shall provide a copy of such Classification Determination to the Applicant.
2. If the SMTGC determines that the Gaming System is not a Class II game, it shall issue a written determination specifically addressing the reasons for its determination and shall provide a copy of such determination to the Applicant.
3. The decision of the SMTGC shall be final and binding. The SMTGC may, in its sole discretion, allow a request for reconsideration upon a showing of new factual evidence or legal support.

**VII. OPERATION OF A GAMING SYSTEM ON A TRIAL BASIS**

1. The SMTGC may authorize temporary operation of a Gaming System that is not the subject of a Classification Determination within the Casino under the following circumstances:
  - a. No more than twenty-five (25) Player Interfaces may be operated at any given time; and
  - b. The Gaming System cannot be operated for more than sixty (60) days under such terms and conditions as the SMTGC may approve or require.
2. Before operating any Gaming System on a trial basis, the Applicant must submit the following information to the SMTGC:
  - a. A written request to operate the Gaming System on a trial basis, including the reason(s) for wanting to do so.
  - b. Designation of a point of contact authorized to provide additional information if required.
  - c. A complete description of each of the Gaming System's components.
  - d. A complete description of the Gaming System's operational characteristics, including:
    - i. A thorough description of game play and any specific rules controlling the play of the game;
    - ii. The number of players required in a game;

- iii. A complete description of the method used for accepting payment from players and any allocation of such payment (for example, into a prize pool, progressive pool, etc.);
    - iv. A complete description of the manner in which a game is won and game winners are determined;
    - v. A complete description of the method used for calculating and distributing prizes to winners, including a description of all prizes available in a game; and
    - vi. A complete description of the method used for determining, retaining or paying any amounts to anyone other than the player, including the operator or vendor, including the source of such payments.
  - e. A copy of an independent test laboratory report finding that the system complies with the technical specifications set forth in the NIGC Technical Standards.
  - f. Any other information the Applicant wishes to provide.
  - g. Any further information or clarification the SMTGC determines it requires.
3. The Applicant must receive written authorization by the SMTGC before it may operate a Gaming System on a trial basis.

## **VIII. MODIFICATION OF A GAMING SYSTEM**

1. Except as provided in subsection (2) below, an Applicant must notify the SMTGC before it modifies any Gaming System that is the subject of a Classification Determination. Such notification must include a detailed description of the proposed modification and how the modification affects the Gaming System. At the discretion of the SMTGC, a new Classification Determination may be required.
2. An Applicant is not required to notify the SMTGC before it modifies a Gaming System that is the subject of a Classification Determination so long as the modification does not result in a material change to the operation of the Gaming System. The SMTGC shall maintain a list of modifications determined by the SMTGC to be non-material.



**IX. PROCUREMENT OF GAMING SYSTEMS**

1. Any manufacturer, distributor or supplier of Gaming Systems, whether for purchase, lease or any other use or storage at the Casino, must adhere to all other applicable regulations of the SMTGC, including licensing and investigation.
2. Any Gaming System purchased, leased or otherwise provided for use at the Casino must at a minimum comply with all other technical and regulatory requirements set forth in the NIGC Technical Standards, this GCR, and all other applicable SMTGC regulations.
3. All Gaming Systems to be used at the Casino must be tested and certified by an independent test laboratory approved by the SMTGC. Both hardware and software must be certified by a SMTGC approved test laboratory to comply with the standards set forth in this GCR or any other directive of the SMTGC. Manufacturers, suppliers or distributors of Player Interfaces and other Class II Gaming System components shall comply with all submission requirements specified by the test laboratory, in order to meet testing and certification requirements.

**X. FIELD TESTING, FORENSIC TESTING, AND ASSOCIATED COSTS**

1. The SMTGC may, at its discretion, require the assistance of independent laboratory expert personnel, to field test, troubleshoot, and certify compliant functionality prior to, during, or after a Class II Gaming System is placed into operation.
2. The SMTGC may require forensic inspections, testing, or investigations by expert laboratory personnel in the event of failures, malfunctions or other anomalies of the Class II system or any of its components.
3. The costs for any laboratory experts conducting activities as described in subsections (1) or (2) above shall be the responsibility of the manufacturer or supplier of the Class II Gaming System.

**XI. LABELING REQUIREMENTS FOR APPROVED GAMING SYSTEMS**

1. Once a Gaming System has been determined to be Class II gaming, the Casino will provide a serial number and description of each Player Interface on which the approved game is played and will certify that the operation of each such Player Interface is identical in every material respect to the operation of the game that was determined by the SMTGC to be a lawful Class II Gaming System.

2. The SMTGC shall affix a seal or label on each Server and the internal components of each Player Interface to indicate proper determination. The seal or label will be visible when the Player Interface door is open and will show the version number(s) or other unique identifier(s), as documented by the testing laboratory. The seal or label will be promptly removed from the Server and any individual Player Interface when the version number(s) of the software operated thereon is changed and a new seal or label affixed showing the version(s) of the software in use. Any new version(s) must satisfy the standards established in this GCR.
3. All Gaming Systems will comply with the provisions of the SMTGC's minimum internal control standards.

## **XII. AMENDMENT**

This GCR may be amended or repealed upon approval by the SMTGC.

## **XIII. EFFECTIVE DATE**

Thus GCR shall take effect immediately upon adoption as approved by the SMTGC.