

# SANTA YSABEL TRIBAL GAMING COMMISSION

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SYGC 14-I009

## Commission Regulation

### Establishing Procedures and Requirements for Approval of Class II Bingo Gaming Systems and Equipment

Pursuant to SYGC Gaming Ordinance Section XI (F) & (G), regulation of gaming activity, the Santa Ysabel Gaming Commission hereby adopts the following regulation:

#### **1.0 Purpose of Regulation**

- (a) The Iipay Nation of Santa Ysabel (“Nation”) has adopted the Iipay Nation of Santa Ysabel Gaming Ordinance (“Gaming Ordinance”), and, effective as of April 30, 2010, the Gaming Ordinance has been approved by the Chairman of the National Indian Gaming Commission (“NIGC”) pursuant to the federal Indian Gaming Regulatory Act of 1988 (“IGRA”), P.L. 100-497, 25 U.S.C. §2701, *et seq.*, as it may be amended from time to time, and the regulations of the NIGC promulgated thereunder.
- (b) The Santa Ysabel Gaming Commission (“Gaming Commission”) was established under Section XI, Paragraph A of the Gaming Ordinance to exercise regulatory authority over all gaming activities conducted within the jurisdiction of the Nation and, pursuant to Section XI, Paragraph G, is empowered, subject to Executive Branch and Legislative Branch review and comment, to promulgate regulations to implement the provisions of the Gaming Ordinance, including those necessary to the interpretation and application of the Gaming Ordinance by the Gaming Commission in connection with exercising its regulatory powers.
- (c) In order to describe the regulatory requirements for Class II Bingo Gaming Systems and Equipment conducted within the boundaries of the Santa Ysabel Indian Reservation, the Gaming Commission finds it necessary in connection with exercising its regulatory powers to promulgate a regulation governing the procedures for approval of Class II Bingo Gaming Systems and Equipment.

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## **2.0 Definitions**

The terms used herein shall have the meanings described below (and any others not otherwise described shall have the meaning ascribed to them in the Gaming Ordinance).

- (a) “Account Holder” means an individual at least twenty-one (21) years of age who has used a Class II Gaming System to establish an account to become a properly registered account holder with the Gaming Enterprise.
- (b) “Bingo” means the Class II Gaming activity described and set forth in IGRA at 25 U.S.C. §2703(7)(A)(i)(I-III), (whether or not Electronic, Computer, or other Technologic Aids are used in connection therewith).
- (c) “Classification Determination” means a formal determination made by the Gaming Commission under this Regulation that a Bingo game played using a designated Class II Gaming System is Class II Gaming activity permitted by the Gaming Ordinance and IGRA.
- (d) “Class II Gaming” means those gaming activities defined as “class II gaming” in IGRA, 25 U.S.C. §2703(7).
- (e) “Class II Gaming System” means a “Class II gaming system” as defined in 25 CFR §547.2; including any components that facilitate access to the system or communication between Account Holders, their proxy agents and the Gaming Enterprise.
- (f) “Electronic, Computer or other Technologic Aid” or “Technologic Aid” has the meaning set forth in Section 6(b) of this Regulation.
- (g) “Electronic or Electromechanical Facsimile” has the meaning set forth in Section 6(c) of this Regulation.
- (h) “Gaming Enterprise” means a tribal gaming business, owned and operated by the Nation, that is licensed by the Gaming Commission to conduct Class II Gaming activities, and receives the revenues, issues the prizes, and pays the expenses associated with such Class II Gaming activities

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- (i) “Gaming Enterprise Manager” means the individual employed by the Nation who serves as the general manager of a Gaming Enterprise conducting Class II Gaming activities.
- (j) “NIGC Technical Standards” means the technical standards described in 25 CFR Part 547.
- (k) “Prize Pool” means the cumulative amount of contributions paid by participants in one or more games of Bingo, which is used to fund prizes specified in the Rules of Play.
- (l) “Progressive Prize” means a designated Prize Pool which accumulates until the conditions set forth in the Rules of Play are met for it to be won.
- (m) “Rules of Play” means the specific rules, as defined and approved by the Gaming Commission from time to time, controlling the play of the subject game of Bingo.
- (n) “Nation” means the Iipay Nation of Santa Ysabel, a federally recognized Indian Nation (federally recognized as the Iipay Nation of Santa Ysabel, California – previously listed as the Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation).
- (o) “Vendor” means a Class II Gaming System supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide in any twelve (12) month period at least twenty-five thousand dollars (\$25,000) in Class II Gaming resources to the Gaming Enterprise, or who has received at least twenty-five thousand dollars (\$25,000) from the Gaming Enterprise in any consecutive twelve (12) month period.

### **3.0 Technological Aids Generally Allowed**

Pursuant to IGRA and the Gaming Ordinance, a Gaming Enterprise is permitted to conduct Class II Gaming activities, including Bingo games, using Electronic, Computer or other Technologic Aids. At the same time, IGRA strictly prohibits the play of Class III Gaming activities, including the use of Electronic or Electromechanical Facsimiles, without a tribal-state compact approved by or Class III Gaming procedures issued by the Secretary of the Interior. Therefore, any Class II Gaming System which the Gaming Commission determines is not

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a Technologic Aid to the play of Bingo shall not be used or operated by a Gaming Enterprise.

## **4.0 Classification Determination Process**

### (a) Application Process

(1) Either the Gaming Enterprise Manager (including his/her duly authorized representative) or a Vendor may apply to the Gaming Commission for a Classification Determination under this Regulation.

(2) The Gaming Enterprise Manager (including his/her duly authorized representative) or a Vendor may apply to the Gaming Commission for a Classification Determination at any time under the following circumstances, but must do so before any new Class II Gaming System is offered for play:

(i) The Gaming Enterprise wishes to install a new Class II Gaming System that is not the subject of an existing Classification Determination; or

(ii) The Gaming Enterprise wishes to introduce a material modification to a previously approved Class II Gaming System, including a Class II Gaming System approved before the effective date of this Regulation.

(3) Although not required, the Gaming Enterprise Manager (including his/her duly authorized representative) or a Vendor also may apply for a Classification Determination under this Regulation in connection with a Class II Gaming System approved by the Gaming Commission before the effective date of this Regulation to confirm the classification of that Class II Gaming System.

### (b) Application Submission Requirements

(1) To obtain a Classification Determination, either the Enterprise Manager (including his/her duly authorized representative) or a Vendor must submit an application to the Gaming Commission, which consists of the following documentation and information:

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- (i) Request for a Classification Determination;
- (ii) Certification by the Vendor that the Class II Gaming System to be used by the Gaming Enterprise satisfies the following:
  - (a) the game played using the Class II Gaming System is Bingo consistent with the standards of this Regulation;
  - (b) complies in all respects with the specifications and standards set forth in the application; and
  - (c) complies with any applicable regulations concerning such Class II Gaming System.
- (iii) A legal opinion, which may be obtained from the Vendor and/or the Gaming Enterprise's legal counsel or other source, that concludes that the Class II Gaming System is a Technologic Aid to the play of Bingo consistent with the standards of this Regulation;
- (iv) The Gaming Enterprise Manager's statement that the subject Class II Gaming System, to the best of his/her knowledge, meets the standards in this Regulation;
- (v) Designation of a point of contact authorized to provide additional information if required;
- (vi) Designation from the Vendor whether and where the Gaming Class II System is already in play;
- (vii) Complete written description from the Vendor of the Class II Gaming System, including the operational characteristics and Rules of Play;
- (viii) Complete description of the method used for accepting consideration from Account Holders, paying or distributing prizes, determining, retaining or paying any amounts to the Gaming Enterprise or Vendor from the consideration or any other source, and the awarding or funding of Prize Pools;
- (ix) If requested by the Gaming Commission, a copy of any of the Vendor's sales or promotional literature for the Class II Gaming System; and
- (x) Copies of any court or administrative decisions or other materials, supplied by the Vendor, which address the classification of the proposed Class II Gaming System, if any.

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(c) Submission of Additional Information

Upon request of the Gaming Commission, the Gaming Enterprise Manager or the Vendor may be required to provide any further information or clarification as the Gaming Commission deems necessary to make a Classification Determination.

(d) Report of Laboratory Tests

The Class II Gaming System must be submitted to an independent testing laboratory, which shall provide a report to the Gaming Commission to validate that the Class II Gaming System complies in all respects with the specifications and standards set forth in the application and meets the requirements of 25 CFR Part 547.

(e) Modification of Class II Gaming Systems

(1) Either the Gaming Enterprise Manager (including his/her duly authorized representative) or a Vendor shall submit to the Gaming Commission a request for a review of a Class II Gaming System that is to be modified by providing a detailed description of the modification and how the modification affects the Class II Gaming System. If the Gaming Commission determines that the modification may represent a material change impacting the classification of the Class II Gaming System, either the Gaming Enterprise Manager or a Vendor must submit a new application pursuant to subsection (b) of this Section.

(2) An application for a new Classification Determination shall not be required if the modification does not result in a material change to the classification of the Class II Gaming System. However, even if the Gaming Commission determines that the proposed modification will not impact the classification of the Class II Gaming System, the modification is still subject to the review process set forth in 25 CFR Part 547.

(3) The Gaming Commission shall maintain a list of modifications determined by the Gaming Commission to be non-material, which shall be updated periodically by the Gaming Commission as technology advances.

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## 5.0 Classification Criteria

- (a) Factors to be considered by the Gaming Commission in making a Classification Determination include:
- (1) Whether the game played using the Class II Gaming System is Bingo consistent with the standards of this Regulation; and
  - (2) Whether the electronic equipment utilized in connection with the game:
    - (i) is an Electronic, Computer or other Technologic Aid, which is permitted with Class II Gaming activities; or
    - (ii) causes the game to be deemed an Electronic or Electromechanical Facsimile of a game of chance.
- (b) Electronic, Computer or other Technologic Aid:
- (1) Is defined as electronic, computer, or other technologic equipment used in connection with a game of Bingo that:
    - (i) assists Account Holders 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.
  - (2) Includes, but is not limited to, electronic, computer, or other technologic equipment used in connection with a Bingo game that:
    - (i) broadens participation in the game;
    - (ii) facilitates communication between and among gaming sites or Account Holders, their proxy agents and the Gaming Enterprise; or
    - (iii) requires Account Holders to play a game with or against other Account Holders rather than with or against a machine.

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- (3) Examples include, but are not limited to, auto-daub readers or other card cover assist features, proxy play software programs, telephones, cables, televisions, screens, satellites, bingo blowers, electronic player stations and electronic cards.
- (c) An Electronic or 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 a Class II game such as 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.
- (d) Determination that the Class II Gaming System is a Technologic Aid to the play of Bingo
- (1) A game played using the Class II Gaming System will be determined to be Bingo if the game is played consistent with the standards for Bingo required by this Regulation, and the fundamental aspects or characteristics of the game are preserved, unaltered by the game's electronic format.
- (2) The Gaming Commission has determined that Bingo is at its core essentially a peer-to-peer number and card pattern matching game, and that the following are the fundamental aspects or characteristics of Bingo to be played consistent with the standards required by this Regulation:
- (i) The game is played for prizes, including monetary prizes:
- (a) with cards bearing numbers;
- (b) in which card holders match (i.e., cover) the numbers contained on their cards when objects with similar numbers are drawn or electronically determined; and
- (c) the game is won by the first person holding a card containing a match of the previously designated game-ending pattern;



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- (ii) The Class II Gaming System mechanism for drawing or electronically determining the objects to be used for matching pre-designated patterns on a card must meet applicable standards for ensuring randomness as set forth in the NIGC Technical Standards or as established by the Gaming Commission;
  - (iii) Actual prize values must be defined before a prize can be awarded, but need not be defined before the start of a game; and
  - (iv) A game must require peer-to-peer competition between at least two (2) participants; however, those participants do not need to be physically located at the same location if the game is played using a Class II Gaming System.
- (3) The Gaming Commission has determined that the following aspects or characteristics are consistent with, but not required for Bingo to be played consistent with the standards required by this Regulation:
- (i) The numbers to be drawn or electronically determined in a game is not fixed; it may be varied from game to game, in accordance with the Rules of Play. The “numbers” to be drawn or electronically determined in a game may be displayed as any type of symbol, without limitation, as numbers, letters, icons, any other graphic or other enhancement, or any combination thereof.
  - (ii) A game may include any number of cards. The card may be in physical or electronic/digital form, and may be multi-dimensional.
  - (iii) Each digital card used in a Class II Gaming System may consist of a traditional 5X5 “bingo” matrix with numbers for each card. The five columns of the digital card face are to be labeled “B” “I” “N” “G” and “O” from left to right. The center space on the digital card may be marked “Free Space” and considered automatically filled when contained in a pattern. The range of numbers may be restricted by column, with the “B” column containing numbers between one and fifteen inclusive, the “I” column containing sixteen through

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thirty, the “N” column containing thirty-one through forty-five, the “G” column containing forty-six through sixty, and the “O” column containing sixty-one through seventy-five. All digital cards to be used for a common game of bingo are to be unique (i.e., each card will contain a uniquely identifying serial number).

- (iv) Prize winning patterns can be of any configuration of matched numbers on a card. Interim and consolation prizes also can be awarded for the absence of matched numbers and based on other aspects of the game.
- (v) When playing Bingo, a fixed number of numbers may be drawn or electronically determined before cards are purchased and distributed for the game; provided that once cards are purchased by a least two (2) participants for a common game and the game commences, the drawn numbers must be released in the same sequence and delivered to all participants at the same time. Subsequent draws of numbers in a game may take place to assure that a game-ending pattern prize is awarded.
- (vi) Multiple prizes may be specified in a game based on, but not necessarily limited to, different patterns or the number of drawn numbers required to achieve a specified pattern. There may be multiple winners, on multiple cards. Prize levels can also vary for the same pattern as a function of the consideration paid for the card and/or how far the number draw row has progressed for the game. Prizes may include interim or consolation prizes. Progressive Prizes may also be awarded based on specified criteria reflecting sequence or specific characteristics of the numbers matched on a card.
- (vii) A game participant may purchase and hold more than one card in a game of Bingo.
- (viii) Account Holders may engage agents located on the Indian lands of the Nation to assist with the play of the Bingo game on behalf of the Account Holders (also known as “proxy play”).
- (ix) Account Holders may engage their proxy play agents using a Class II Gaming System containing a component that facilitates access through a secure

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virtual private network connection between Account Holders and their proxy agents located on the Nation's Indian lands which assists with proxy play on behalf of the Account Holder.

- (x) Use of technologic aids such as auto-daub features or reader/dauber devices are expressly permitted to assist the proxy agent playing Class II bingo games on the Account Holder's behalf in determining whether a held card has a pre-designated pattern matching the numbers drawn for the Class II bingo game.
  - (xi) There is no requirement for the proxy agent playing the Bingo game on the Account Holder's behalf to manually declare a "bingo" upon matching the numbers drawn with the pre-designated game-ending pattern on a card in order to collect the game-ending prize award;
- (4) In determining whether a game played using a Class II Gaming System is Bingo, the Gaming Commission has determined that it is not necessary to impose any requirements that are intended to:
- (i) Limit the use of Technologic Aids in connection with assisting with the play of Bingo games, displaying cards, assisting with automatically and electronically identifying numbers drawn and determining whether any card contains those numbers as they are drawn, or assisting with identifying game-ending and other prize winning patterns and claiming prizes associated with those patterns;
  - (ii) Limit the speed of play, card configuration, or the total number of number draws in a game;
  - (iii) Limit how or when cards are distributed for a game;
  - (iv) Limit the sequence of a numbers draw for a game;
  - (v) Limit how prizes are to be claimed;
  - (vi) Limit the type of entertaining display contained in a Class II Gaming System;
  - (vii) Limit the maximum number of participants in any game of Bingo; or
  - (viii) Limit the use of proxy play agents to assist with proxy play of Bingo on behalf of Account Holders.

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## **6.0 Classification Decisions**

### (a) Issuance of a Written Classification Determination

When the Gaming Commission receives an application pursuant to this Regulation and determines that such Class II Gaming System meets the criteria described in Section 6(d) above, such determination shall be memorialized in a written Classification Determination and copies of such Classification Determination will be provided to the executive branch, the Legislature and the Gaming Enterprise Manager. Such determination is final and binding as a matter of tribal law.

### (b) Issuance of an Unfavorable Classification Determination

If the Gaming Commission determines that the Class II Gaming System does not meet one or more of the criteria described in Section 6(d) above, such determination shall be memorialized in a written decision specifically addressing the reasons for its determination and copies of such decision shall be provided to the Executive Branch, the Legislature and the Gaming Enterprise Manager. The decision of the Gaming Commission will be final and binding as matter of tribal law. The Gaming Commission may, however, in its discretion allow a request for reconsideration upon a showing of new factual evidence or legal support.

## **7.0 Installation of Class II Gaming Systems**

### (a) Confirmation of Specifications

The Gaming Commission shall require the Vendor of any Class II Gaming System intended for use in a Gaming Enterprise to certify, in writing, that prior to delivery to the Gaming Enterprise, the Class II Gaming System:

- (1) Conforms precisely to the exact specifications of the system prototype tested and approved by the test laboratory.

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- (2) Can be tested using one or more unique signatures, checksum values or similar technology for the operating programs used with the Electronic Computer, or other Technologic Aid.
- (3) Operates and plays in accordance with the 25 CFR Part 547 technical standards, this Regulation and all other applicable Gaming Commission regulations.

(b) Integrity of Seals

Upon delivery of a Class II Gaming System to the Gaming Enterprise, no one will break the seal of any delivery container, nor will any system be removed from the shipping container without the physical presence and authorization of a Gaming Commission official.

(c) Modifications

The Gaming Enterprise Manager shall develop policies and procedures to be approved by the Gaming Commission for installing, accessing, maintaining, repairing, and configuring the Class II Gaming System components, in the same manner as set forth in Gaming Commission regulations.

(d) Delivery of Class II Gaming Systems

At least fourteen (14) calendar days prior to shipping and delivery of a Class II Gaming System, each Vendor shall report in writing to the Gaming Commission the following information for the Class II Gaming System:

- (1) the means by which the Class II Gaming System components will be transported into the Nation's Indian lands, and the name and street address of any common carrier or other person transporting the Class II Gaming System components.
- (2) The date of shipping and anticipated delivery date of the Class II Gaming System components.

(e) Notice of New or Upgraded Software

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The Gaming Commission shall be notified by the Gaming Enterprise Manager, or his/her designated representative, within ten (10) calendar days of the date of purchase or receipt of any new or upgraded software used in connection with the Class II Gaming System that consists of operational program(s) governing the play of the Bingo game, display of results, and/or awarding of prizes for the Bingo game.

## **8.0 Labelling of Approved Class II Gaming Systems**

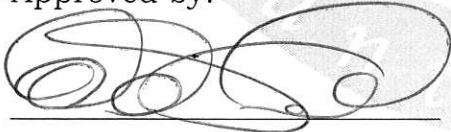
### (a) Serial Numbers

Once a Class II Gaming System has been determined to be a Technologic Aid to Class II Gaming, the Gaming Enterprise Manager will provide a serial number and description of Class II Gaming System components to the Gaming Commission in manner to be established by the Gaming Commission.

### (b) Requirement for Seals or Labels

The Gaming Commission shall affix a seal or a label on each of the internal components of each Class II Gaming System component as to be determined by the Gaming Commission to indicate proper determination. The seal or other label will show the version number(s) or other unique identifier(s), as documented by the testing laboratory. The seal or other label will be promptly removed from each Class II Gaming System component as to be determined by the Gaming Commission when the version number(s) or other unique identifier(s) of the software operated thereon are changed and a new seal or other label is affixed showing the version(s) of the software in use; provided the new version(s) meet the standards established in this Regulation.

Approved by:



July 1, 2014

Dave Vialpando, Chairman

Date

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