

DEPARTMENT OF FINANCE
OFFICE OF THE STATE LOTTERY

Statutory Authority: 29 Delaware Code, Section 4805 (29 **Del.C.** §4805)

FINAL

ORDER

After due notice in the *Register of Regulations* and two Delaware newspapers, written comments on proposed regulations relating to a sports lottery were invited. These regulations resulted from recent legislation amending 29 **Del.C.** Ch. 48, activating a sports lottery, which legislation also directed the Director of the Lottery to issue regulations.

The proposed regulations establish definitions and set rules relating to licensing and a variety of other issues relating to the sports lottery.

The proposed amendments were published in the *Register of Regulations*, Vol. 13, Issue 1, on July 1, 2009.

Summary of the Evidence and Information Submitted

No written comments were received.

Findings of Fact and Conclusions of Law

The public was given notice and an opportunity to provide written comments and testimony on the proposed amendments.

The Lottery finds that the proposed amendments to the rules are necessary and in the public interest.

Pursuant to 29 **Del.C.** §4805, the Lottery has statutory authority to promulgate regulations governing the establishment and operation of lottery matters.

Decision and Effective Date

The Lottery hereby adopts the proposed rules in the manner to be published in the *Register of Regulations* in September, 2009, to be effective ten days after publication of the Order in the *Register of Regulations*.

Text and Citation

The text of the revised rules shall be as published in the *Register of Regulations* in September, 2009 as attached hereto as Exhibit A.

SO ORDERED this 24th day of August, 2009.

DELAWARE STATE LOTTERY OFFICE

Wayne Lemons, Director

460 Sports Lottery Rules and Regulations

1.0 Introduction

These regulations are authorized pursuant to 29 Del.C. §4805 of Title 29 of the Delaware Code. Sports lottery operations in the State of Delaware are strictly regulated by the Delaware State Lottery Office through the powers delegated to the Director of the Lottery pursuant to Title 29 of the Delaware Code.

2.0 Definitions

The following words shall be accorded these meanings:

"**agency**" - the Delaware State Lottery Office created pursuant to 29 Del.C. Ch. 48.

"**agent**" or "**licensed agent**" or "**licensed sports lottery agent**" - any person licensed by the Director of the agency to conduct sports lottery operations.

"**applicant**" - any person applying for a license authorized under these regulations.

"**background investigation**" - the security, fitness and background checks conducted of an applicant.

"**business plan**" - a document containing information regarding sports lottery operations as may be required by the Director.

"**central system**" - the hardware, software and network components, which link and support all required sports lottery machines and the central site.

"**central system provider**" - a person with whom the agency has contracted for the purpose of providing and maintaining a central communication system and the related management facilities with respect to operating and servicing the sports lottery machines.

"**central site**" - the location where the central sports lottery communications control systems shall be located.

"**certification**" - the authorization by the lottery in accordance with its inspection and approval process of sports lottery machines, such certification to relate to either hardware or software.

"**credit**" - the opportunity provided to a player to play a sports lottery game or redeem the credit for cash.

"**credit slip**" – the ticket (receipt) resulting from a sports lottery game.

"**Director**" - the Director of the Delaware State Lottery Office as established by Title 29 of the Delaware Code.

"**key employee**" - an individual employee, person or agent of an applicant or licensee who has the power to exercise significant influence over significant decisions concerning the applicant's or licensee's business.

"**kind, type and number**" - the generic varieties of sports lottery machines that may be selected for installation, and the quantities in which they may be installed.

"**license**" - the authorization granted by the agency which permits an applicant to engage in defined sports lottery activities as an agent or technology provider; and authorization granted by the agency which permits an applicant to perform employment duties as a key employee or sports lottery operations employee.

"**license application**" - the process by which a person requests licensing for participation in the sports lottery operations.

"**licensee**" - any person authorized by the Director to participate in sports lottery operations.

"**lottery**" - the public gaming system or games established and operated by the Delaware State Lottery Office.

"**maximum wager limit**" - the maximum amount that can be wagered on a single sports lottery wager be it head-to-head or parlay, as determined by the Lottery Director from time to time.

"**net proceeds**" – All proceeds net of proceeds returned to players.

"**owner**" - a person who owns, directly or indirectly, ten percent or more of an applicant or licensee.

"**person**" - an individual, general partnership, limited partnership, corporation or other legal entity.

"**player**" - an individual who plays a sports lottery game.

"premises" - the building and grounds occupied by a licensed agent where the agent's sports lottery operations occur or support facilities for such operations exist, such as facilities for the service of food or drink, including those areas not normally open to the public, such as areas where records related to sports lottery operations are kept. The boundaries of the premises will be delineated on the floor plan in an agent's business plan.

"request for proposals and qualifications" - a document developed under the direction of the Delaware State Lottery Office for the purpose of soliciting responses from potential technology providers as a means of acquiring bids for goods or services.

"service technician" - any person who performs service, maintenance and repair operations on sports lottery machines.

"sports lottery" shall mean a lottery in which the winners are determined based on the outcome of any professional or collegiate sporting event, including racing, held within or without the State, but excluding collegiate sporting events that involve a Delaware college or university, and amateur or professional sporting events that involve a Delaware team.

"sports lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play a sports lottery game. A machine shall be considered a sports lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

"sports lottery operations employee" shall mean an individual employee, person or agent of an applicant or licensee who is responsible for the security of sports lottery operations or proceeds.

"sports lottery systems" – systems provided by a technology provider that consist of sports wagering products, risk management (bookmaking), operations and support services.

"technology provider" - any person or entity who proposes to contract with a sports lottery agent or the agency for the provision of goods or services related to a sports lottery, the provision of which requires a license pursuant to 29 Del.C. Ch. 48.

"terminal" – see "sports lottery machine".

"VLEU"- the Video Lottery Enforcement Unit of the Delaware State Police. This unit is also responsible for the security of the Sports Lottery.

3.0 Licensing of Agents; Business Plans

- 3.1 Any applicant desiring to obtain a license to act as an agent shall apply to the agency on forms specified by the Director from time to time. Application forms shall require the applicant to provide the following, without limitation:
 - 3.1.1 The applicant's legal name, form of entity (e.g., general or limited partnership, corporation), the names, addresses, employer identification or social security numbers (if applicable) and dates of birth (if applicable) of its directors, officers, partners, owners, and key employees and sports lottery operations employees.
 - 3.1.2 A description of the applicant's organizational structure.
 - 3.1.3 With respect to any persons named in subparagraph 3.1.1 that are not individuals, the names, addresses, social security numbers, and birth dates of all individuals who are directors, officers, owners, partners, key employees, or sports lottery operations employees of any such persons.
 - 3.1.4 The percentages of shares of stock, if any, held by each person named in subparagraph 3.1.1 or subparagraph 3.1.3 above. The Director may, at his or her discretion, cause periodic reexamination of the percentage of shares held by persons subject to such disclosures under these regulations.
 - 3.1.5 The names of all persons principally involved in the original creation of the applicant's enterprise.
 - 3.1.6 The names, if any, and addresses, social security numbers, and dates of birth of any person who is or was a director, officer, owner, partner, key employee, or sports lottery operations employee of the applicant who has been charged with or convicted of a felony, a crime involving gambling, or a crime of moral turpitude.

- 3.1.7 Certified copies of the applicant's charter, articles of incorporation, partnership agreement, and other documents which constitute or explain the legal organization of the applicant.
- 3.1.8 The name, address, social security or employer identification number and date of birth of the record owner of the premises or the property upon which the premises are located or, if the applicant is not the sole owner of the premises or property, the information required by subparagraph 3.1.1 above with respect to all persons having an ownership interest in the premises or property and copies of all agreements pursuant to which the applicant occupies the premises or property, as well as copies of all documents relating to the premises or property including, without limitation, all mortgages, deeds of trust, bonds, debentures, pledges of corporate stock and voting trust agreements, but excluding easements; utility agreements; subdivision and plot plans; and, for the period prior to three years before the filing of the application, deeds in the chain of title and satisfied mortgages.
- 3.1.9 The information required by subparagraph 3.1.1 above as to any operator of any business conducted by such applicant and any other contractor (which is not a publicly traded entity) utilized by such applicant which has received compensation from such applicant in excess of \$50,000 in any of the three (3) preceding fiscal years together with a copy of all agreements between such applicant and such operator or contractor and a statement of all compensation paid to such operator or contractor during said three-year period.
- 3.1.10 Copies of the applicant's audited financial statements for the preceding three (3) fiscal years and a copy of internally prepared financial statements for the current fiscal year as at the close of the most recent fiscal quarter.
- 3.1.11 Copies of the applicant's State and Federal tax returns for a period of three (3) fiscal years.
- 3.1.12 Copies of the declaration pages of all insurance policies insuring the applicant or the premises.
- 3.1.13 The information required by subparagraph 3.1.1 above as to the ten (10) largest unsecured creditors which are not publicly traded entities or accounting firms or legal firms of the applicant who are owed more than \$25,000 by the applicant for a period in excess of sixty days.
- 3.1.14 Disclosure regarding the applicant or any other persons identified in subparagraphs 3.1.1 or 3.1.3 who were rejected for any gambling or gaming license or permit in any other jurisdiction.
- 3.1.15 Any and all other information as the Director may require to determine the competence, honesty and integrity of the applicant as required by Title 29 of the Delaware Code.
- 3.2 The application, as well as other documents submitted to the agency by or on behalf of the applicant for purposes of determining the qualifications of the applicant or agent, shall be sworn to or affirmed before a notary public. If any form or document is signed by an attorney for the applicant, the signature shall certify that the attorney has read the forms or documents and that, to the best of his or her knowledge, information and belief, based on diligent inquiry, the contents of the form or documents so supplied are true.
- 3.3 Upon request of the agency, the applicant shall supplement the information provided in the application form as deemed necessary by the agency. The applicant shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, tax returns, cancelled checks or other materials required or requested by the agency for purposes of determining the qualifications of the applicant or agent.
- 3.4 To the extent, if any, that the information supplied in the application or otherwise supplied by the applicant or on the applicant's behalf, becomes inaccurate or incomplete, the applicant shall so notify the agency in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to correct the inaccuracy or incompleteness of the information.
- 3.5 The applicant shall cooperate fully with the agency and the VLEU with respect to its background investigation of the applicant. Among other things, the applicant, upon request, shall make available any and all of its books or records for inspection by the agency or the VLEU.
- 3.6 The applicant shall submit with the application a proposed business plan for the conduct of sports lottery operations. The plan shall include, without limitation, the following items: a floor plan of the area to be used for sports lottery operations; an advertising/marketing plan; the proposed placement of

- sports lottery machines on the premises; the kind, type and number of sports lottery machines proposed; money control procedures; a security plan; a staffing plan for sports lottery operations; accounting and tax compliance procedures; and the method to be utilized for payments of winnings by players.
- 3.7 As soon as the agency has determined that the application is complete, it shall forward same to the VLEU which shall, as soon as practicable, undertake and complete the background investigation of the applicant, its officers, directors, partners, owners and key employees, sports lottery operations employees and report its findings to the agency.
- 3.8 The Director shall weigh the following factors in his or her evaluation of the application:
- 3.8.1 The criminal background, if any, of the applicant, or any of its officers, directors, partners, owners, key employees, and sports lottery operations employees. No license shall be issued to any applicant if any of the persons identified in this subsection have been convicted, within 10 years prior to the filing of the application, of any felony, a crime of moral turpitude or a crime involving gambling.
- 3.8.2 The extent to which, if any, the applicant would be subject to the control or influence of its activities by any person having a financial interest pertaining to the applicant, including a mortgage or other lien against property of the applicant or, who in the opinion of the agency, might otherwise influence its activities. In such case the Director shall consider the character, honesty and integrity of whoever has the ability to control or influence the activities of the applicant.
- 3.8.3 The degree to which the applicant has demonstrated its ability to finance the proposed sports lottery operations, as well as the source of such financing.
- 3.8.4 The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these regulations.
- 3.8.5 Whether the applicant holds a license as a technology provider. An agent license shall not be granted to an applicant who is an owner of a technology provider.
- 3.8.6 Whether the applicant has demonstrated the business ability and experience necessary to satisfactorily conduct the sports lottery operations.
- 3.8.7 The extent to which the applicant has cooperated with the agency and the State Police in connection with the background investigation.
- 3.8.8 Whether the person, or any of its officers, directors, partners, owners, key employees, or sports lottery operations employees are known to associate with persons of nefarious backgrounds or disreputable character such that the association could adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the lottery.
- 3.8.9 With respect to any past conduct which may adversely reflect upon the applicant, the nature of the conduct, the time that has passed since the conduct, the frequency of the conduct and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license.
- 3.8.10 The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the federal, state or local governments.
- 3.8.11 The adequacy of the applicant's business plan, as it reflects on the applicant's competency or capability to conduct sports lottery operations in conformance with the requirements of these regulations.
- 3.8.12 Any other information before the Director, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competency, financial capability, honesty, integrity, reputation, habits, or associations.
- 3.9 A license shall be issued to the applicant if the Director is satisfied, upon consideration of the factors specified in subsection 3.8, that the applicant would be a fit agent and not pose a threat to the public interest, the reputation of the lottery, or the effective control of the lottery.
- 3.10 The approval of any license or the renewal of a license to an agent is subject to the following conditions:

- 3.10.1 Operation pursuant to a license issued under these regulations shall signify agreement by the agent to abide by all provisions of the regulations, including those contained in this section.
- 3.10.2 The agent shall at all times make its premises available for inspection by authorized representatives of the agency or the VLEU personnel, on a 24-hour unannounced basis. The VLEU shall be authorized entry to the premises and access to any sports lottery machines or records of the agent without acquiring a warrant.
- 3.10.3 The agent and any entity owned by the agent in which the agent has a controlling ownership interest shall consent in writing to the examination of all accounts, bank accounts, and records under the control of the agent or the owned entity; and, upon request of the agency, shall authorize all third parties in possession or control of the said documents to allow the agency to examine such documents.
- 3.10.4 To the extent permitted by law, an agent accepts all risks of adverse public notice, embarrassment, criticism, damages, or financial loss which may result from any disclosure or publication of material or information supplied to the agency in connection with the application for the agent's operations.
- 3.10.5 An agent shall immediately notify the agency of any proposed or effective change regarding the makeup of the owners, directors, officers, partners, or key employees of the agent.
- 3.10.6 The agent shall certify by a sworn notarized statement that it has not entered and does not intend to enter into any joint venture, partnership or teaming agreement in order to fulfill its obligations in connection with the sports lottery operations; that it is not acting as a distributor of products manufactured by another entity; and that it has not entered and does not intend to enter into any agreement whereunder the proceeds generated by any agreement between the agent and the agency would be shared with one or more other persons. Provided, however, that an agent may enter into a management agreement with a third-party, who is not licensed under these regulations as a technology provider, for the operation of the sports lottery on the agent's premises provided that: (1) the proposed management agreement is provided to and approved by the agency, and (2) the third-party complies with all these regulations which apply to agents, including without limitation the licensure requirements.
- 3.11 Any license granted may not be transferred, assigned or pledged as collateral. A change of ownership which occurs after the Director has issued a license shall automatically terminate the license ninety (90) days thereafter. Provided, however, that the Director may issue a license to the new owner if satisfied, after the submission of an application that the new owner has met the requirements contained in 29 **Del.C.** §4806(a)(1-4), as well as the fitness and background standards contained in such law and these regulations. In the case of a death of an owner, the estate of such owner shall be deemed to have met the requirements of §4806(a)(1-4) for a period of one year following such death without the need for submitting an application, and, thereafter, need only supply such additional information as the Director may request. In the case of a shift in equity positions of owners, or a transfer among owners, notice shall be given the Director, but the license shall not terminate so long as no new owner is created or results. An agent may also seek approval of a proposed change in ownership prior to the actual change.
- 3.12 If the Director proposes to deny a license application and the agency is subject to the requirements contained in subchapter IV of 29 **Del.C.** Ch. 101, the agency shall first give written notice to the applicant of the intended action, the reasons therefor, and the right to a hearing as provided for in 29 **Del. C.** Ch. 101.
- 3.13 At the time of issuance of the license or thereafter, in the Director's sole discretion, the Director may approve the proposed business plan of the applicant or the agent. If the Director determines that an amendment or amendments to the plan are necessary to increase revenues from the sports lottery, protect the public welfare or ensure the security of the sports lottery, he or she may amend the plan accordingly. An agent may request an amendment to an approved business plan, which proposed amendment shall be subject to the approval of the Director.
- 3.14 Any potential sports lottery agent who is already licensed as a Delaware State Lottery Video Lottery Agent is not required to apply for a separate sports lottery license. Any such Agent must, however, file

with the agency, the names, addresses, employer identification or social security numbers (if applicable) and dates of birth (if applicable) of its directors, officers or partners, owners, key employees and sports lottery operations employees not already provided under the Agent's Video Lottery license application. The Agent must also submit an amendment to its video lottery business plan that shall include, without limitation, the items as described in section 3.6 of this regulation.

- 3.15 To the extent provided by law, any information obtained pursuant to this Section 3 shall be held in confidence and not subject to the Delaware Freedom of Information Act, 29 Del.C. Ch. 100.

4.0 Licensing of Technology Providers

- 4.1 As deemed necessary, the Director shall give public notice of the agency's intent to select technology providers of sports lottery systems that consist of sports wagering products, risk management (bookmaking), operations and support services through a request for proposal and qualifications by advertising in a newspaper of general circulation in Delaware and in a prominent trade publication requesting expressions of interest to serve as a technology provider. The licensing of a technology provider shall not serve as the basis of requiring the Director to select the technology provider under the procurement procedures set forth in Chapter 69 of Title 29 of the Delaware Code.

- 4.2 Each person desiring to obtain a license from the agency as a technology provider shall submit a license application on a form specified and supplied by the agency. Any person or entity who proposes to contract with a sports lottery agent or the Lottery for the provision of goods or services related to sports lottery operations, must obtain a technology provider license pursuant to these Sports Lottery Regulations. The license application shall, among other things:

4.2.1 Give notice that the applicant will be required to submit to a background investigation, the cost of which must be borne by the applicant.

4.2.2 Require the applicant to supply specified information and documents related to the applicant's fitness and the background of its owners, partners, directors, officers, key employees, and sports lottery operations employees, including but not limited to copies of financial statements, tax returns, insurance policies, and lists of creditors.

4.2.3 Require the applicant to disclose the identity of all customers to whom it has furnished sports lottery systems within the three years immediately preceding the date of the application.

4.2.4 Require the applicant to disclose whether the applicant, or any of its present or former officers, directors, owners, partners, key employees, or sports lottery operations employees, is or has been the subject of an investigation in another jurisdiction, the nature of the investigation, and the outcome, if any, of such investigation.

4.2.5 Provide a description of the means by which the applicant exercises security and financial control over the activities of service technicians in order to insure the integrity of sports lottery operations.

4.2.6 Require the applicant to disclose its legal name, form or entity (e.g., general or limited partnership, corporation), the names, addresses, social security numbers and dates of birth of its directors, officers, partners, owners, key employees and sports lottery operations employees.

4.2.7 Require the applicant to disclose the names and addresses of individuals who have been authorized by the applicant to engage in dealings with the agency for purposes of representing the interests of the applicant.

4.2.8 Require the applicant to enclose copies of its audited financial statements for the preceding three (3) fiscal years and a copy of internally prepared financial statements for the current fiscal year or at the close of the most recent fiscal quarter.

4.2.9 Require the applicant to provide a description of its risk management capabilities, engineering and software development resources, technical and maintenance support capabilities and ability to manufacture and deliver the sports lottery machines.

4.2.10 Require persons who are proposing to contract with the agency or a sports lottery agent to provide a copy of their contract proposal.

- 4.3 Upon request, the applicant shall supplement the information provided in the application form as deemed necessary by the Director.

- 4.4 To the extent, if any, that the information in the application or the supplemental information provided by the applicant becomes inaccurate or incomplete, the applicant shall so notify the agency in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to make the application or supplementary information accurate and complete.
- 4.5 The applicant shall cooperate fully with the agency and the Delaware State Police VLEU in any background investigation of the applicant.
- 4.6 The applicant, upon request of the agency or the Delaware State Police VLEU, shall make any and all of its books and records available for inspection by the agency or the Delaware State Police VLEU. Provided, however, that any information obtained pursuant to this subsection shall, to the extent provided by law, be held in confidence and not subject to the Delaware Freedom of Information Act.
- 4.7 As soon as the agency has determined that the application form is complete and that the applicant is otherwise qualified, it shall forward the same to the Delaware State Police VLEU which shall conduct as soon as practicable a background investigation of the applicant, its officers, partners, owners, directors, key employees, and sports lottery operations employees, and report its findings to the agency.
- 4.8 Notwithstanding any other provision contained herein to the contrary, the Director may determine, upon review of the licensing standards of another state, that such standards are so comprehensive, thorough, and provide similar adequate safeguards, that the license of an applicant in such other state precludes the necessity of a full application and background check. In such case, the Director shall require a limited application and background check, as determined by the Director in his sole discretion, as are necessary to assure that the applicant is fit for the license and does not pose a threat to the public interest of the State or to the reputation of or effective regulation of the sports lottery.
- 4.9 In evaluating applications, the Director shall consider:
- 4.9.1 Whether the applicant has demonstrated that it has the resources, experience and ability necessary to supply the necessary sports lottery systems as may be required under a contract with the agency.
- 4.9.2 Any past conduct of the applicant, or any of its present or former officers, directors, partners, owners, key employees, or sports lottery operations employees which may adversely reflect upon the applicant, the nature of the conduct, the time that has passed since the conduct, the frequency of the conduct and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license. No license shall be issued to any applicant if any of the persons identified in this subsection have been convicted, within ten years prior to the filing of the application, of any felony, a crime of moral turpitude or a crime involving gambling.
- 4.9.3 Any findings provided by the Delaware State Police VLEU following its background investigation.
- 4.9.4 The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the Federal, State or local governments.
- 4.9.5 The association of the applicant, or any of its officers, directors, owners, partners, key employees, or sports lottery operations employees with persons of known criminal background or persons of disreputable character, that may adversely affect the general credibility, security, integrity, honesty, fairness or reputation of sports lottery operations.
- 4.9.6 Any other information supplied in connection with the application, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competence, financial capability, honesty, integrity, reputation, habits, or associations.
- 4.9.7 The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these regulations.
- 4.9.8 Whether the applicant is in compliance with the section of Title 29, ch. 48, §4805 (a) (17) that states: "The risk manager must be a bookmaker currently licensed to operate, and operating, sports books in the United States and the sports lottery technology system provider must be licensed to operate lotteries in the United States."

- 4.10 A license shall not be issued to a technology provider if the applicant technology provider has any direct or indirect financial interest in an agent licensee or the real or personal property of an agent licensee.
- 4.11 A license shall be issued to the applicant if the Director is satisfied, upon consideration of the factors specified in subsection 4.9, that the applicant would be a fit technology provider and not pose a threat to the public interest, the reputation of the lottery or to the effective control of the lottery.
- 4.12 An applicant for a technology provider's license shall, prior to issuance of the license, post a bond or irrevocable letter of credit in a manner and in an amount established by the agency. Any such bond shall be issued by a surety company authorized to transact business in Delaware and said company shall be approved by the State Insurance Commissioner as to solvency and responsibility.
- 4.13 The agency, with the assistance of the VLEU, may require licensed technology providers to annually update information submitted with their initial license application.

5.0 Technology Providers: Contracts; Requirements; Duties

- 5.1 The Director shall, pursuant to the procedures set forth in chapter 69 of title 29 of the **Delaware Code**, enter into contracts with licensed technology providers as he or she shall determine to be appropriate, pursuant to which the technology providers shall furnish to the State, a sports lottery system that results in the efficient and economical operation of the lottery, convenience of the players, and is in accordance with the agents' business plans as approved and amended by the Director.
- 5.2 All contracts with technology providers who are sports lottery system providers shall include without limitation, provisions to the following effect:
 - 5.2.1 The technology provider shall furnish a person to work with the agency and its consultants to provide assistance as needed in establishing, planning and executing acceptance tests on the sports lottery machines provided by such technology provider. Technology provider assistance shall be provided as requested by the agency in troubleshooting communication and technical problems that are discovered when sports lottery machines are initially placed at the agent's site;
 - 5.2.2 The technology provider shall submit sports lottery machine illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, program source code and object code and any other information requested by the Director for purposes of analyzing and testing the sports lottery machines;
 - 5.2.3 For testing, examination and analysis purposes, the technology provider shall furnish working models of sports lottery machines, associated equipment, and documentation at locations designated by the Director. The technology provider shall maintain the current software and sports lottery machines in good working order acceptable to the agency. The technology provider shall pay all costs of any testing, examination, analysis and transportation of the sports lottery machines, which may include the entire dismantling of the machines and some tests that may result in damage or destruction to one or more electronic components of the machines. The agency and its agents shall have no liability for any damage or destruction. The agency may require that the technology provider provide specialized equipment or the agency may employ the services of an independent technical laboratory expert to test the sports lottery machine at the technology provider's expense;
 - 5.2.4 Technology providers shall submit all hardware, software, and test equipment necessary for testing of their sports lottery machines, and shall provide the Director with keys and locks subject to the Director's specifications for each approved sports lottery machine;
 - 5.2.5 The software or other equivalent technology of each sports lottery machine shall be certified to be in compliance with published specifications;
 - 5.2.6 No sports lottery machine shall be put into use prior to certification of its model by the Director.
- 5.3 All contracts with technology providers shall include without limitation, provisions to the following effect:
 - 5.3.1 Technology providers shall agree to promptly report any violation or any facts or circumstances that may result in a violation of these rules; provide immediate access to all its records and its

- physical premises for inspection at the request of the Director; attend all trade shows or conferences as required by the Director;
- 5.3.2 Technology providers shall agree to modify their hardware and software as necessary to accommodate sports game changes directed by the agency from time to time;
- 5.3.3 Technology providers shall provide such bonds and provide evidence of such insurance as the Director shall require from time to time and in such amounts and issued by such companies as the Director shall approve; and
- 5.3.4 Technology providers shall have a valid license to conduct business in the State of Delaware, shall comply with all applicable tax provisions, and shall in all other respects be qualified to conduct business in Delaware.
- 5.4 Each sports lottery machine certified by the Director shall bear a unique serial number and shall conform to the exact specifications of the sports lottery machine model tested and certified by the Director.
- 5.5 Technology providers shall hold harmless the agency, the State of Delaware, and their respective employees for any claims, loss, cost, damage, liability or expense, including, without limitation, legal expense arising out of any hardware or software malfunction resulting in the wrongful award or denial of credits or cash.
- 5.6 A technology provider shall not distribute a sports lottery machine for placement in the state unless the machine has been approved by the agency. Only licensed technology providers may apply for approval of a sports lottery machine or associated equipment. The technology provider shall submit two copies of sports lottery machine illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, program source code and object code, and any other information requested by the agency for purposes of analyzing and testing the sports lottery machine or associated equipment.
- 5.7 The agency may require that two working models of a sports lottery machine be transported to the location designated by the agency for testing, examination, and analysis. The technology provider shall pay all costs of testing, examination, analysis and transportation of such sports lottery machine models, which may include the entire dismantling of the sports lottery machine and tests which may result in damage or destruction to one or more electronic components of such sports lottery machine model. The agency may require that the technology provider provide specialized equipment or the services of an independent technical expert in testing the terminal.
- 5.8 After each test has been completed, the agency shall provide the sports lottery systems provider with a report that contains findings, conclusions, and pass/fail results. Prior to approving a particular sports lottery machine model, the agency may require a trial period not in excess of sixty (60) days for a licensed agent to test the sports lottery machine. During the trial period, the technology provider may not make any modifications to the sports lottery machine model unless such modifications are approved by the agency.
- 5.9 The technology provider is responsible for the assembly and initial operation, in the manner approved and licensed by the agency, of all its sports lottery machines and associated equipment. The technology provider may not change the assembly or operational functions of any of its sports lottery machines approved for placement in Delaware unless a "request for modification to an existing sports lottery machine prototype" is made to the agency, that request to contain all appropriate information relating to the type of change, reason for change, and all documentation required. The agency must approve such request prior to any changes being made, and the agency shall reserve the right to require second testing of sports lottery machines after modifications have been made.
- 5.10 Each sports lottery machine approved for placement in a licensed agent's place of business shall conform to the exact specifications of the sports lottery machine prototype tested and approved by the agency. Any sports lottery machine which does not so conform shall be disconnected from the Delaware sports lottery system until compliance has been achieved. Each sports lottery machine shall at all times operate and be placed in accordance with the provisions of these regulations.
- 5.11 The following duties are required of all licensed technology providers, without limitation:

- 5.11.1 Manufacture terminals and associated equipment for placement in Delaware in accordance with the specifications of the agency.
- 5.11.2 Manufacture terminals and associated equipment to ensure timely delivery to licensed Delaware agents.
- 5.11.3 Maintain and provide an inventory of associated equipment to assure the timely repair and continued, approved operation and play of licensed sports lottery machines acquired under the contract for placement in Delaware, provided further that said equipment will be maintained at a Delaware storage facility or warehouse.
- 5.11.4 Provide an appropriate number of service technicians with the appropriate technical knowledge and training to provide for the service and repair of its licensed sports lottery machines and associated equipment so as to assure the continued, approved operation and play of those machines acquired under contract for placement in Delaware.
- 5.11.5 Obtain any certification of compliance required under the applicable provisions of rules adopted by the Federal Communications Commission.
- 5.11.6 Promptly report to the agency any violation or any facts or circumstances that may result in a violation of State or Federal law and/or any rules or regulations adopted pursuant thereto.
- 5.11.7 Conduct sports lottery operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Delaware, or reflect adversely on the security or integrity of the sports lottery.
- 5.11.8 Hold the agency and the State of Delaware and its employees harmless from any and all claims that may be made against the agency, the State of Delaware, or the employees of either, arising from the technology provider's participation in or the operation of a sports lottery game.
- 5.11.9 Defend and pay for the defense of all claims that may be made against the agency, the State of Delaware, or the employees of either, arising from the technology provider's participation in sports lottery operations.
- 5.11.10 Maintain all required records.
- 5.11.11 Provide only those licensed sports lottery machines, validation units and associated equipment approved under these regulations.
- 5.11.12 It shall be the continuing duty of the technology provider licensee to provide the Director with an updated list of the names and addresses of all its employees who are involved in the daily operation of the sports lottery machines. These employees will include individuals or their supervisors involved with (1) the repair or maintenance of the sports lottery machines, or (2) positions that provide direct access to the sports lottery machines. It shall be the continuing duty of the technology provider licensee to provide for the bonding of each of these individuals to ensure against financial loss resulting from wrongful acts on their parts.
- 5.11.13 It shall be the ongoing duty of the technology provider licensee to notify the Director of any change in officers, partners, directors, key employees, sports lottery operations employees, or owners. These individuals shall also be subject to a background investigation. The failure of any of the above-mentioned individuals to satisfy a background investigation may constitute "cause" for the suspension or revocation of the technology provider's license.
- 5.11.14 Supervise its employees and their activities to ensure compliance with these rules.
- 5.11.15 Promptly report to the Lottery any violation or any facts or circumstances that may result in a violation of State or Federal law and/or any rules or regulations pursuant thereto, excluding violations concerning motor vehicle laws.
- 5.11.16 Comply with such other requirements as shall be specified by the Director.

6.0 Agents: Duties

The following duties are required of all licensed agents:

- 6.1 Provide a secure location for the placement, operation, and play of all licensed sports lottery machines located on the licensed agent's premises.

- 6.2 Permit no person to tamper with or interfere with the approved operation of any licensed sports lottery machine without prior written approval of the agency and the VLEU, unless otherwise directed by the Lottery.
- 6.3 Assure that telephone lines from the central computer system to the licensed sports lottery machines located on the licensed agent's premises are at all times connected, and prevent any person from tampering or interfering with the continuous operation of the lines.
- 6.4 With respect to sports lottery operations, contract only with officers, directors, owners, partners, key employees, and suppliers of sports lottery equipment and paraphernalia authorized by the agency to participate in sports lottery operations within the State of Delaware.
- 6.5 Ensure that licensed sports lottery machines are placed and remain as placed unless the agency authorizes their movement within the sight and control of the agent or a designated employee, through physical presence and by the use of surveillance cameras at all times.
- 6.6 Ensure that licensed sports lottery machines are placed and remain as placed in the specific area of the premises as approved by the lottery. The initial placement and any subsequent relocation of any sports lottery machine requires the prior written approval of the agency.
- 6.7 Monitor sports lottery play and prevent play by persons who are under the age of twenty-one (21) years or who are intoxicated, or whom the agent has reason to believe are intoxicated, and prohibit play by persons who are barred by law or self-banned from playing the sports lottery.
- 6.8 Commit no violations of the laws of this State concerning the sale, dispensing, and consumption on the premises of alcoholic beverages that result in suspension or revocation of an alcoholic beverage license.
- 6.9 Maintain at all times sufficient cash for daily operations.
- 6.10 Exercise caution and good judgment in extending credit for sports lottery play, and comply with all applicable federal and state laws.
- 6.11 Exercise caution and good judgment in providing cash for checks presented for sports lottery play. The agent shall also ensure that any contractor who performs check-cashing services for the agent also exercises caution and good judgment in providing cash for checks under this Regulation.
- 6.12 Report promptly all sports lottery machine malfunctions to the appropriate technology provider and notify the agency of any technology provider failure to provide service and repair of such terminals and associated equipment.
- 6.13 Conduct agency approved advertising and promotional activities related to sports lottery operations.
- 6.14 Install, post and display prominently at locations within or about the premises signs, redemption information and other promotional material as may be required by the agency.
- 6.15 Conduct sports lottery operations only during those hours established and approved by the Director or designee.
- 6.16 Assume responsibility for the proper and timely payment to players of winning sports lottery wagers.
- 6.17 Prohibit the possession, use or control of gambling paraphernalia on the premises not directly related to the lottery or horse racing or harness horse racing and prohibit illegal gambling on the premises.
- 6.18 Attend all meetings, seminars, and training sessions required by the agency.
- 6.19 Supervise its employees and their activities to ensure compliance with these rules.
- 6.20 Assume responsibility for the proper and immediate redemption of all credits; however, no credits may be redeemed by a person under twenty-one (21) years of age, and no credits submitted for redemption beyond the one year time limit will be redeemed. No credits or prizes may be redeemed by any person illegally on the agent's premises or persons who have requested that they be self-banned from the Agent's premises.
- 6.21 Provide dedicated power and a proper sports lottery environment in accordance with the specifications of the agency. The agent shall permit no person to completely shut off power to an operational sports lottery machine without the prior approval of the agency.
- 6.22 Furnish to the Director complete information pertaining to any change in ownership of the agent or the owner of the premises or beneficial owner (other than a change in ownership by an owner of less than

- twenty (20) percent of the issued and outstanding capital stock of the agent or premises owner if such stock is publicly traded).
- 6.23 Promptly report to the lottery any violation or any facts or circumstances that may result in a violation of State or Federal law and/or any rules or regulations pursuant thereto, excluding violations concerning motor vehicle laws.
- 6.24 Conduct sports lottery operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Delaware, or reflect adversely on the security or integrity of the lottery.
- 6.25 Hold the Director, the State of Delaware, and employees thereof harmless from and defend and pay for the defense of any and all claims which may be asserted against the Director, the State or the employees thereof, arising from the participation in the sports lottery, except claims arising from the negligence or willful misconduct of the Director, the State or the employees thereof.
- 6.26 Maintain all required records.
- 6.27 Provide at the request of the Director or the VLEU immediate access to the premises and to all records related to any aspect of these regulations, including without limitation the duties imposed by these regulations.
- 6.28 Keep current on all payments, tax obligations and other obligations to the agency and other licensees with whom sports lottery business is conducted. The agent shall pay the players and transfer the net proceeds to the State lottery fund in conformity with the requirements set forth in these regulations and 29 Del.C. Ch. 48.
- 6.29 Locate all sports lottery machines within the viewing range of closed circuit television cameras at all times, including both normal business hours and those periods when sports lottery operations are closed. The presence of these cameras is to ensure the integrity of the lottery, the sports lottery operations, and the safety of the patrons. Surveillance tapes will be maintained by the agent according to a schedule established by the Director and the VLEU. The installation of any new closed circuit television or repositioning of any CCTV cameras or new surveillance system must be reviewed and approved by the Director and the VLEU before being placed in operation.
- 6.30 Comply with such other requirements as shall be specified by the Director. The agent shall submit to the Director a description of its system of internal procedures and administrative and accounting controls which shall conform to the rules and regulations of the agency and be otherwise satisfactory to the Director in his or her sole discretion.
- 6.31 Provide, on a continuing basis, to the Director the names and addresses of all employees who are involved in the daily operation of the sports lottery. These employees will include individuals or their supervisors involved with (1) the security of the sports lottery, (2) the handling or transporting of proceeds from sports lottery, or (3) positions that provide direct access to sports lottery machines. It shall be the continuing duty of the sports lottery agent licensee to provide for the bonding of any of the above-mentioned employees to ensure against financial loss resulting from wrongful acts on their parts. Likewise, the agent shall post a bond or irrevocable letter of credit in a manner and in an amount established by the agency. Any such bonds shall be issued by a surety company authorized to transact business in Delaware and said company shall be approved by the State Insurance Commissioner as to solvency and responsibility.
- 6.32 Notify the Director on a continuing basis of any change in officers, partners, directors, key employees, sports lottery operations employees, and owners.
- 6.32.1 The sports lottery agent shall provide this information to the Lottery and the VLEU on a weekly basis. Such persons will also be subject to a background investigation. The failure of any of the above-mentioned persons to satisfy a background investigation may constitute "cause" for the suspension or revocation of the sports lottery agent's license, provided that an agent is first given a reasonable opportunity to remove or replace such person if the agent was unaware of such "cause" prior to the background investigation. The agent must supply the VLEU with the completed License Application Form ("LAF") and fingerprint cards for each employee before the employee begins employment. Agent employees required to be licensed by the Delaware Lottery laws, 29 Del.C. Ch. 48, and these Regulations must have been successfully completed and been

issued a valid license under section 14.0 of these Regulations prior to commencement of employment.

- 6.32.2 The agent must notify the VLEU of the transfer of any employee within the agent's organization on a weekly basis. The Lottery and the VLEU will determine if a new or updated LAF must be submitted for the transferred employee.
- 6.32.3 The agent must notify the Lottery and the VLEU of the termination of any employee and the reason for the termination on a weekly basis.
- 6.32.4 The agent must submit to the Lottery and the VLEU on a weekly basis the names of all new employees who will work on the sports lottery premises.
- 6.32.5 The agent must obtain advance approval before any temporary employee, consultant, or contractor will be permitted access to secure locations. Any such temporary employee, consultant, or contractor must submit a Request for Temporary Work Approval Form to the VLEU at least forty-eight (48) hours prior to the date of assignment. Any such temporary employee, consultant, or contractor must also submit a license application pursuant to Regulation 14.0 and must be employed by a licensed technology provider. Any vendor who proposes to contract with a sports lottery agent or the Lottery for the provision of goods or services, related to the sports lottery operations, must obtain a technology provider license pursuant to Sports Lottery Regulation 4.0. The Lottery will consider secure areas to include, but not be limited to, access to the inside of a sports lottery machine, surveillance rooms, cash vaults, and cash booths.
- 6.33 As soon as it is known to the agent, file with the Director a copy of any current or proposed agreement and disclose to the Director any other relationship between the agent, its parents, subsidiaries, related entities, partners, owners, directors, officers or key employees for the sale, lease, maintenance, repair or other assignment of the agent's premises, or any other relationship of any vendor, manufacturer or other person who stands to benefit financially from the possession or use of sports lottery machines by such agent. Failure to file such information shall constitute grounds for the revocation or suspension of a license.
- 6.34 The agent shall file with the Director for approval every contract in excess of \$50,000 which pertains to the agent's sports lottery operations. The agent shall notify the Director of any contract with an entity that is subject to the license requirements for vendors or technology providers under 29 Del.C. §4805(a)(17) and Chapter 4 of these Regulations.
- 6.35 Comply with the provisions of the business plans as approved and amended.
- 6.36 Comply on a continuing basis with the requirements for obtaining or retaining a license under the provisions of these regulations and 29 Del.C. Ch. 48.

7.0 Sports lottery

- 7.1 The Director shall authorize a sports lottery on the agent's premises in conformity with approved business plans, as amended.
- 7.2 The sports lottery shall be based on bills, coins, or credits and the wagering limits shall be set by the Lottery in cooperation with the technology provider.
- 7.3 Each sports lottery machine shall display the amount wagered and the payout based on the amount wagered.
- 7.4 Each player shall be at least twenty-one (21) years of age. In the event an underage player attempts to claim any winning payout, the sports lottery agent should treat the wager as void and the underage player shall not be entitled to any winning payouts or a refund of amounts bet. In the event a person illegally on the premises or a self-barred person attempts to claim any winning payout, the sports lottery agent will also treat the wager as void and the person shall not be entitled to any winning payouts or a refund of amounts bet. This policy prohibiting persons underage, persons illegally entering the premises, and persons self-barred from winning prizes shall be prominently displayed on the premises of the sports lottery agent.
- 7.5 Agents shall redeem credit slips presented by a player in accordance with procedures proposed by the agent and approved by the Director prior to the opening of the premises for sports lottery wagering.

Such procedures shall be modified at the direction of the Director in his or her sole discretion at any time. Players claiming winning payouts may be required to present sufficient identification as required by the agency.

- 7.6 Credit slips may be redeemed by a player at the designated place on the premises where the sports lottery is located during the one year redeeming period commencing on the date that the last wagered event occurred.
- 7.7 No credit slip or winning ticket shall be redeemed more than one (1) year from the date that the last wagered event occurred. Funds reserved for the payment of a credit slip or expired winning ticket shall be paid into the State Lottery Fund if unredeemed one year from the date that the last wagered event occurred. The one-year redemption policy in this regulation shall be prominently displayed on the premises of the sports lottery agent.
- 7.8 No payment for a credit slip may be made unless the credit slip meets the following requirements:
 - 7.8.1 It is presented on a fully legible, valid, printed credit slip on paper approved by the agency, containing the information as required;
 - 7.8.2 It is not mutilated, altered, unreadable, or tampered with in any manner, or previously paid;
 - 7.8.3 It is not counterfeit in whole or in part; and
 - 7.8.4 It is presented by a person authorized to play.
- 7.9 Method of Payment - The management of each licensed agent shall designate employees authorized to redeem credit slips during the hours of operation. Credits shall be immediately paid in cash or by check when a player presents a credit slip for payment meeting the requirements of this section.
- 7.10 Restrictions on Payment - Agents may only redeem credit slips from sports lottery machines located on its premises.
- 7.11 Redeemed Tickets Defaced - All credit slips redeemed by a licensed agent shall be marked or defaced in a manner that prevents any subsequent presentment and payment.
- 7.12 Liability for Malfunction - The agency and the State of Delaware are not responsible for any sports lottery machine malfunction or for any error by the agent that causes credit to be wrongfully awarded or denied to players.
- 7.13 Sports lottery machines shall not be operated or available for play on Christmas, or after 4:00 a.m. on Easter.

8.0 Accounting and Distribution Procedures

- 8.1 The technology provider will provide an accounting mechanism for the sports lottery system as a whole, which mechanism shall achieve compliance with the standards of integrity, security and control established by the agency.
- 8.2 Each agent and technology provider shall submit to the Director such financial and operating information as the Director shall require from time to time at such times and in such format as the Director shall specify. For purposes of submission of this and other information, each agent shall have a computer on the premises which is suitable for this purpose.
 - 8.2.1 Each agent, unless specifically exempted by the Agency, shall file weekly, monthly, quarterly, and annual reports and statistical data in a format specified by the Director. The data may be used by the Agency to evaluate the financial position and operating performance of individual sports lottery agents and to compile information regarding the performance and trends of the sports lottery industry in the State of Delaware.
 - 8.2.2 Each agent, unless specifically exempted by the Agency, shall at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in the State of Delaware.
 - 8.2.3 The annual financial statement shall be prepared on a comparative basis for the current and prior fiscal year, and shall present the sports lottery agent's present financial position and results of operations in conformity with generally accepted accounting principles.

- 8.2.4 The Agency may periodically prescribe a set of standard reporting forms and instructions to be used by each sports lottery agent for filing the weekly, monthly, and quarterly reports.
- 8.2.5 Each sports lottery agent and technology provider, unless specifically exempted by the Agency, shall conduct its sports lottery operations to meet the minimum requirements set forth in the Agency's Minimum Internal Control Standards (MICS).
- 8.3 The agency or its designated agents shall have the right to audit the books and records including without limitation tax returns and IRS withholding and reporting records of any agent and each technology provider. To such end, the agents and technology providers shall fully cooperate with whomever undertakes the audit.
- 8.4 All proceeds, net of proceeds returned to players, from the operation of the sports lottery shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated State Lottery account by the agent. To the extent, if any, that such daily or weekly remission cannot be achieved due to the unavailability of bank services, the remission shall be made on the first day that such services are available. Agents shall furnish to the agency all information and bank authorizations required to facilitate the timely transfer of monies to the State lottery fund. Agents shall provide the agency thirty (30) days advance notice of any proposed account changes in order to assure the uninterrupted electronic transfer of funds.
- 8.6 The agency is not responsible for resolving net proceeds discrepancies which are differences between actual money collected and the amount shown on the billing statement. Further, the agency is not responsible for the loss or theft of money prior to its deposit in the agency's account in the bank.
- 8.7 Agents shall comply with all prescribed Federal requirements for tax withholding, recording and reporting, including, without limitation, those requirements relating to the transfer of funds withheld from player winnings from the agents to the tax authorities.
- 8.8 Any discrepancy regarding settlement of accounts will be resolved by the Director as he or she deems appropriate.

9.0 Maintenance of Sports Lottery Machines

- 9.1 No sports lottery machine may be placed in operation in Delaware until the technology provider has provided its personnel with sufficient and appropriate training in the service and repair of each of its approved sports lottery machine models.
- 9.2 Each technology provider shall service and maintain its sports lottery machines, current software, and associated equipment in the manner and condition required by the agency and in accordance with its contractual arrangements.
- 9.3 Technology providers shall provide the agency or its designee upon request with a master key for access into each locked compartment of each sports lottery machine placed in operation.

10.0 Standards for Advertising, Marketing and Promotional Materials

- 10.1 All advertising, marketing and promotional materials, related to the sports lottery or referencing the sports lottery, to be utilized by an agent or person acting on behalf of the agent shall be submitted to the agency for review and approval prior to use, except that such materials need not be submitted for review and approval if identical materials have been previously submitted and approved. Materials are not identical for purposes of this provision if they vary in any respect, such as in the size of a billboard.
- 10.2 The agency shall review any materials submitted pursuant to this section and approve their use unless in the judgment of the agency such materials, if used, would result in an appearance which reflects adversely on the agency, would reasonably be expected to offend a substantial number of people, contain inaccurate or misleading information, or otherwise be inappropriate.

11.0 Enforcement

- 11.1 The license of a sports lottery agent or technology provider may be suspended or revoked for the following reasons:

- 11.1.1 Failure of the agent to file with the Director the information required pursuant to 29 Del.C. §4820(a); and
- 11.1.2 For cause, such as, but not limited to falsifying any application for license or report to the agency; failure to report information required by the regulations; the material violation of the regulations; or any conduct by the licensee, or any of its owners, officers, directors, partners, key employees, or sports lottery operations employees, which undermines the public confidence in the sports lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any Federal, State or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director, or a longer period where the sports lottery agent has made diligent efforts to cure. For purposes of this provision, the licensee is deemed to be familiar with all the provisions of these regulations and unintentional violations shall not include violations which the agent or technology provider asserts are unintentional because of lack of awareness of these regulations. Likewise, for purposes of this provision, diligent efforts to cure shall not constitute a defense to a suspension or revocation of the license arising out of situations where the violation would not have occurred had the licensee exercised diligent efforts to comply with the requirements when they were first applicable.
- 11.2 Prior to the revocation or suspension of any license, the agency shall notify the licensee of the intended revocation or suspension of the license, and the reasons therefor. No revocation or suspension shall be effective until a final order is issued pursuant to the following procedure, except when the public welfare clearly requires emergency action and the agency's order so states. The notice of the intended revocation or suspension shall comply with any applicable requirements of the Delaware Administrative Procedures Act and, at a minimum, afford the licensee with an opportunity for a hearing.
- 11.3 If the licensee desires a hearing, it shall provide the agency with a written statement within ten days of receipt of the notice which contains the following:
- 11.3.1 A clear and concise assignment of each error which the licensee alleges to have been committed in the tentative determination to suspend or revoke the license. Each assignment of error should be listed in a separately numbered paragraph.
- 11.3.2 A clear and concise statement of the facts on which the licensee relies in support of each assignment of error.
- 11.3.3 A prayer setting forth the relief sought.
- 11.3.4 The signature of the licensee or an officer authorized to request the hearing.
- 11.3.5 A verification by the licensee or counsel for the licensee that the statements contained in the statement are true.
- 11.4 The Secretary of Finance with respect to petitions filed by agents, and the Director with respect to petitions filed by technology providers, shall appoint a hearing officer within a reasonable time of receipt of the statement referenced in the preceding paragraph. Notice of the hearing shall be given at least 20 days before the date it is to be held.
- 11.5 The licensee may appear individually, by legal counsel, or by any other duly authorized representative. In the absence of the licensee, written evidence of a representative's authority shall be presented to the hearing officer in a form satisfactory to the hearing officer.
- 11.6 The licensee or his duly authorized representative, may, with the approval of a hearing officer, waive the hearing and agree to submit the case for decision on the record, with or without a written brief. Such a waiver or agreement shall be in writing and placed in the record.
- 11.7 The licensee shall be given an opportunity for argument within the time limits fixed by the hearing officer following submission of the evidence. The hearing officer, upon request of the licensee, may accept briefs in lieu of argument. The briefs shall be filed within ten days after the hearing date or within such other time as fixed by the hearing officer.
- 11.8 The hearing officer may admit any relevant evidence, except that it shall observe the rules of privilege recognized by law. The hearing officer may exclude any evidence which is irrelevant, unduly repetitious, or lacking a substantial probative effect.

- 11.9 A record shall be made of all hearings and all witnesses shall be sworn and subject to cross examination.
- 11.10 Following the conclusion of the hearing and within ten days of the receipt of the transcript thereof, or within such other time as fixed by the hearing officer but in no event later than forty-five days following the hearing, the hearing officer shall in proceedings involving agents prepare a final decision, including his or her findings of fact and conclusions of law, and the order signed by the hearing officer shall be final. A copy of said order shall be served upon the licensee and any attorney of record in person or by registered or certified mail. In proceedings involving technology providers, the hearing officer shall submit his or her recommendations to the Director for decision.
- 11.11 Notwithstanding the procedures set forth herein regarding technology providers, there shall be no right of hearing or judicial review allowed with respect to decisions involving technology providers unless otherwise provided by law.
- 11.12 Whoever violates the Lottery chapter 29 Del.C. Ch. 48, or any Lottery rule or regulation duly promulgated thereunder, or any condition of a license issued pursuant to 29 Del.C. §4805, or any Administrative Order issued pursuant to Lottery statutes or Regulations shall be punishable as follows:
- 11.12.1 If the violation has been completed, by a civil penalty imposed by Superior Court, which by 29 Del.C. §4823 shall have jurisdiction of civil penalty actions brought pursuant to this section, of not less than \$1000 nor more than \$10,000 for each completed violation. Each day of a continued violation shall be considered as a separate violation if, on each such day, the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violation shall not be a defense to a continued violation with respect to the first day of its occurrence.
- 11.12.2 If the violation is continuing or there is a substantial likelihood that it will reoccur, the Director may also seek a temporary restraining order, preliminary injunction, or permanent injunction in the Court of Chancery, which shall have jurisdiction of an action for such relief.
- 11.12.3 In his discretion, the Director may impose an administrative penalty of not more than \$1,000 for each administrative penalty for each violation. Each day of continued violation shall be considered as a separate violation if the violator has knowledge of the facts constituting the violation and knows or should know that such facts constitute or may constitute a violation. Lack of knowledge regarding such facts or violations shall not be a defense to a continued violation with respect to the first day of its occurrence. Prior to the assessment of an administrative penalty, written notice of the Director's proposal to impose such penalty shall be given to the violator, and the violator shall have 30 days from receipt of such notice to request a public hearing. Any public hearing, if requested, shall be held prior to the imposition of the penalty and shall be governed by §10125 of Title 29. If no hearing is timely requested, the proposed penalty shall become final and shall be paid no later than 60 days from receipt of the notice of proposed penalty. Assessment of an administrative penalty shall take into account the circumstances, nature, and gravity of the violation, as well as any prior history of violations, the degree of culpability, the economic benefit to the violator resulting from the violation, any economic loss to the State, and such other matters as justice may require. In the event of nonpayment of an administrative penalty within 30 days after all legal appeal rights have been waived or otherwise exhausted, a civil action may be brought by the Director in Superior Court for the collection of the penalty, and for interest, from the date payment was due, attorneys' fees and other legal costs and expenses. The validity or amount of such administrative penalty shall not be subject to review in an action to collect the penalty. Any penalty imposed after a public hearing is held pursuant to this subsection shall be appealable to Superior Court, and such appeal shall be governed by §10142 of Title 29.
- 11.12.4 In his discretion, the Director may endeavor to obtain compliance with requirements of the Lottery chapter, 29 Del.C. Ch. 48, by written Administrative Order. Such order shall be provided to the responsible party, shall specify the complaint, and propose a time for correction of the violation. It may also provide an opportunity for a public hearing at which the Director shall hear and consider any submission relevant to the violation, corrective action, or the deadline for correcting the violation.

- 11.13 The Director shall enforce Ch. 48, 29 **Delaware Code** and any rules, regulations, or Administrative Orders issued thereunder.
- 11.14 Any interest, costs or expenses collected by the Lottery under actions instituted by 29 **Del.C.** §4823 or these regulations shall be appropriated to the State Lottery Office to carry out the purposes of 29 **Del.C.** Ch. 48.

12.0 Employee License Procedure

- 12.1 The license applicant, licensee, or sports lottery agent or technology provider employee will contact the State Bureau of Identification (SBI) or the Delaware State Police Video Lottery Enforcement Unit to make arrangements for fingerprint processing.
 - 12.1.1 The applicant will complete the license application form for a Sports Lottery license as required by the Lottery and VLEU.
 - 12.1.2 The completed license application form will be reviewed and witnessed by the applicant's human resources personnel or designee.
- 12.2 Rehires/Transfers
 - 12.2.1 A licensee that voluntarily ends his or her employment or is terminated while in good standing with a former employer may apply for a new Sports Lottery license in the following manner:
 - 12.2.1.1 Applicants will be required to follow the procedures in Sports Lottery Regulations 12.1-12.8 if twelve (12) months or more have passed since the end of the applicant's former employment.
 - 12.2.1.2 Applicants will be required to follow the procedures in Sports Lottery Regulations 12.1-12.8, except for the fingerprinting requirements, if less than twelve (12) months but more than thirty (30) days have passed since the end of the applicant's prior employment.
 - 12.2.1.3 Applicants will be required to complete a License Application Update Form including a release of information waiver form and submit to a new background investigation if less than thirty (30) days have passed since the end of the applicant's prior employment.
 - 12.2.2 Transfers. Licensees transferring employment from one licensed entity to another licensed entity under these Sports Lottery Regulations will be required to complete a License Application Update Form and submit to a new background investigation including a release of information waiver form.
- 12.3 A fee is required to be paid for state and federal processing of fingerprint cards and criminal history cards and criminal history records. The fee is set by the State Bureau of Identification and payment is to be made directly to that agency.
- 12.4 An applicant must complete fingerprint cards/process with the necessary personal information, and sign an Authorization for Release of Information form to release criminal history to the VLEU. At the time of the processing, the applicant must show proof of identification to complete the criminal history request and pay the appropriate fee.
 - 12.4.1 The applicant must contact the VLEU and submit the completed license application form and fingerprint verification/receipt for processing. No investigation will proceed without a copy of the SBI fingerprinting receipt.
 - 12.4.2 Investigators assigned to the VLEU will conduct an initial investigation to determine the suitability of the applicant. If the applicant is approved, a temporary license may, at the discretion of the Director, be issued at that time pending SBI's final report. This temporary license is valid for thirty (30) days from the issue date.
 - 12.4.3 A waiver will be signed by the applicant indicating that should an unfavorable criminal history background check be received by the VLEU, including any detrimental information or failure to fully disclose criminal history, the applicant's temporary license may be revoked. If revoked, the applicant will then be required to respond to VLEU within five (5) working days for another interview.
 - 12.4.4 Should the Director determine the applicant is to be fully licensed, the permanent license badge will be delivered to the appropriate agent for delivery to the employee. The employee upon receipt

of the permanent license badge shall turn in his temporary badge to the agent representative who in turn shall destroy the badge.

- 12.5 Certified copies of the criminal history record will be forwarded to the Video Lottery Enforcement Unit.
- 12.6 The State Bureau of Identification shall act as the intermediary for the receipt of the federal criminal history record checks performed by the Federal Bureau of Investigation. The State Bureau of Identification shall forward the results of these federal record checks to the attention of the VLEU in a confidential manner.
- 12.7 A person subject to 29 Del.C. §4807A shall have the opportunity to respond to the Lottery Director regarding any information obtained prior to a determination of suitability for licensure. Such a response shall be made within ten (10) working days of the person's receipt of the criminal background information from the Lottery. The determination of suitability for licensure shall be made by the Lottery pursuant to the factors listed in 29 Del.C. §4807A regarding an applicant's criminal history. The Lottery will also consider the factors contained in 29 Del.C. Ch. 48 and these Sports Lottery Regulations in considering applications for licensure. The Lottery will consider the truthfulness of the applicant, licensee, or employee in disclosing their criminal history. Under 29 Del.C. §4805(a)(16)(17), the Lottery Director shall consider the background of key employees or sports lottery operations employees in order to determine if the person's reputation, habits, and associations pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the sports lottery. It is specifically provided, pursuant to 29 Del.C. §4805(a)(16)(17), that any person convicted of any felony, a crime involving gambling, or a crime of moral turpitude within ten (10) years prior to applying for a license or at any time thereafter shall be deemed unfit. The Director may determine whether the licensing standards of another state are comprehensive, thorough and provide similar adequate safeguards and, if so, may in the Director's discretion, license an applicant already licensed in such state without the necessity of a full application and background check. The Delaware State Police shall conduct the security, fitness, and background checks required by §4805(a)(16)(17) and the Sports Lottery Regulations. The Director may deny a license application if an applicant fails to provide the required information necessary for the Lottery and the VLEU to determine and evaluate the applicant's background as required by 29 Del.C. §4805(a)(16)(17).
- 12.8 The Lottery shall communicate the results of the determination of suitability in writing, to the license applicant or licensee within thirty (30) days of receipt of the criminal history information, unless extenuating circumstances require a longer period. If the Lottery determines that an applicant has satisfied the licensing requirements of Sports Lottery Regulation 12.7, the applicant will be issued a Sports Lottery License. If a determination is made to deny a person licensure, the person shall have an opportunity to appeal for reconsideration as set out below.
- 12.8.1 Appeal shall be initiated by a person notified that he/she is being denied a license pursuant to 29 Del.C. §4807A and Sports Lottery Regulation 11.3 by submitting a request for a hearing to the Director within ten (10) working days of the receipt of the written notice.
- 12.8.2 The appeal shall be reviewed by the Lottery Director and the person shall be given the right to be heard by the Director or the Director's designee within thirty (30) working days of the receipt of the letter of appeal, unless extenuating circumstances require a longer period. Any hearing will be pursuant to the procedures in the Sports Lottery Regulations 11.5-11.11, whichever is applicable.
- 12.8.3 A written decision shall be rendered by the Director or the Director's designee within thirty (30) working days of the hearing unless extenuating circumstances require a longer period. All decisions made by the Lottery under this appeal procedure are final.
- 12.8.4 A person determined to be unsuitable for licensure pursuant to these Regulations shall be prohibited from reapplying for licensure for a period of twelve (12) months.
- 12.8.5 Every license issued by the Lottery shall bear thereon the distinguishing number assigned to the licensee and shall contain the name and photograph of the licensee. The license shall also contain the name of the sponsoring employer, agent, or technology provider.
- 12.8.6 The Sports Lottery License is the property of the Lottery. The Sports Lottery license shall be returned to the Lottery or the VLEU if the Director issues a decision to suspend or revoke a

person's license to participate in sports lottery operations. A license may be revoked or suspended for violations of 29 Del.C. Ch. 48 or these Sports Lottery Regulations.

- 12.9 The Lottery or the Video Lottery Enforcement Unit will communicate the results of suitability in writing regarding an employee to either the sports lottery agent or technology provider employing said individual. The Lottery will provide a copy of the criminal history record to the employee upon request.
- 12.10 All records pertaining to criminal background checks, pursuant to 29 Del.C. §4807A and copies of suitability determinations of applicants for licensure, shall be maintained in a confidential manner, including, but not limited to the following:
 - 12.10.1 Access to criminal background check records, and letters of reference accompanying out-of-state criminal background checks, and determinations of suitability of applicants shall be limited to the Director and designated personnel;
 - 12.10.2 All such records shall be kept in locked, fireproof cabinets;
 - 12.10.3 No information from such records shall be released without the signed release of the applicant.
- 12.11 All licensees will prominently display their license while on duty or acting in their official capacity at the approved sports lottery facility.
- 12.12 License renewal. The Lottery license shall expire and be renewable on the last day of the month on the third anniversary of the issuance date. At a minimum of sixty (60) days prior to expiration, each licensee shall contact the VLEU and submit a new and updated license application form (and fingerprints) for a background investigation. The background investigation will follow the procedures set forth in Sports Lottery Regulations 12.7-12.8
- 12.13 Terminations/End of Employment. The Lottery license is the property of the Lottery and shall be returned to the Lottery or the VLEU when the licensee's employment is either terminated involuntarily by the employer or terminated at the request of the employee.
- 12.14 Any person licensed under these Sports Lottery Regulations or any employee who has submitted a license application shall notify the VLEU within seventy-two hours of any change in his/her criminal history information. This subsequent criminal history information shall be used by the Lottery in making a determination about the person's continued suitability as a licensee or employee of a sports lottery agent or other licensed entity.
- 12.15 Any employee who currently holds a valid video lottery license shall not be required to be re-licensed for the sports lottery.

13.0 Self-Excluded Players

- 13.1 A "self-excluded person" means any person whose name is included, at his or her request, on the self-exclusion list maintained by the Lottery Director or Deputy Director.
- 13.2 "Self-exclusion list" means a list of names of persons who, pursuant to this subchapter, have voluntarily agreed to be excluded from all sports lottery agent premises and to be prohibited from collecting any winnings or recovering any losses at all licensed sports lottery agents.
- 13.3 Request for Self-Exclusion
 - 13.3.1 Any person may have his or her name placed on the self-exclusion list by submitting a request for self-exclusion in the form and manner required by these Sports Lottery Regulations.
 - 13.3.2 Any person requesting placement on the self-exclusion list shall submit in person, a completed request for self-exclusion as required in this Regulation. The request shall be delivered to the Delaware State Lottery Office, 1575 McKee Road, Dover, DE. Any person submitting a self-exclusion request shall be required to present valid identification credentials containing his or her signature and a photograph and general physical description. Any person requesting self-exclusion pursuant to these Regulations shall be required to have his or her photograph taken by the VLEU upon submission of the request.
 - 13.3.3 A request for self-exclusion shall be in a form prescribed by the Lottery which form shall include:
 - 13.3.3.1 The following identifying information concerning the person submitting the request for self-exclusion:

- 13.3.3.1.1 Name, including any aliases or nicknames;
 - 13.3.3.1.2 Date of birth;
 - 13.3.3.1.3 Address of current residence.
 - 13.3.3.1.4 Telephone number of current residence;
 - 13.3.3.1.5 Social security number;
 - 13.3.3.1.6 A physical description of the person, including height, weight, gender, hair color, eye color, and any other physical characteristic that may assist in the identification of the person;
 - 13.3.3.2 The length of minimum self-exclusion requested by the person:
 - 13.3.3.2.1 One year;
 - 13.3.3.2.2 Five years; or
 - 13.3.3.2.3 Lifetime;
 - 13.3.3.3 A waiver and release which shall release and forever discharge the State of Delaware, its employees, and agents, and all sports lottery agents, and their employees and agents from any liability to the person requesting self-exclusion and his or her heirs, administrators, executors, and assigns for any harm, monetary or otherwise, which may arise out of or by reason of any act or omission relating to the request for self-exclusion or request for removal from the self-exclusion list, including:
 - 13.3.3.3.1 Its processing or enforcement;
 - 13.3.3.3.2 The failure of a sports lottery agent to prevent sports lottery play by a self-excluded person, or the failure by the agent to restore the ability of self-excluded person to play sports lottery.
 - 13.3.3.3.3 Permitting a self-excluded person to engage in sports lottery play at a sports lottery agent's premises while on the list of self-excluded persons; and
 - 13.3.3.3.4 Disclosure of the information contained in the self-exclusion request or list, except for a willfully unlawful disclosure of such information.
 - 13.3.3.4 The signature of the person submitting the request for self-exclusion indicating acknowledgement of the following statement:

"I am voluntarily requesting exclusion from all gaming activities at all licensed Delaware sports lottery agents. I certify that the information provided above is true and accurate, and that I have read and understand and agree to the waiver and release included with this request for self-exclusion. I am aware that my signature below authorizes the Lottery and the VLEU to direct all licensed sports lottery agents to prohibit my access to all sports lottery facilities in accordance with this request and unless I have requested to be excluded for life, until such time as the Lottery removes my name from the self-exclusion list in response to my written request to terminate my voluntary self-exclusion. I am aware and agree that during any period of self-exclusion, I shall not collect any winnings or recover any losses resulting from any sports lottery play at all licensed sports lottery agents premises, and that any money or thing of value obtained by me from, or owed to me by a sports lottery agent as a result of sports lottery play by me while on the self-exclusion list, shall be subject to forfeiture."
 - 13.3.3.5 The type of identification credentials examined containing the signature of the person requesting self-exclusion, and whether said credentials included a photograph and general physical description of the person; and
 - 13.3.3.6 The signature of an authorized Lottery employee accepting the request, indicating that the signature of the person on the request for self-exclusion appears to agree with that contained on his or her identification credentials and that any photograph and physical description of the person appears to agree with his or her actual appearance.
- 13.4 Self-exclusion list.

13.4.1 The Lottery shall maintain the official self-exclusion list and shall notify each sports lottery agent of any addition to or deletion from the list by mailing a notice to each sports lottery agent. The Lottery may provide copies of the official self-exclusion list to the VLEU.

13.4.2 Each sports lottery agent shall maintain its own copy of the self-exclusion list and shall establish procedures to ensure that its copy of the self-exclusion list is updated and that all appropriate employees and agents of the sports lottery agent are notified of any addition to or deletion from the list within forty eight (48) hours after the notice is mailed by the Lottery or VLEU. The notice mailed by the Lottery/VLEU shall include the name and date of birth of any person whose name shall be removed from self-exclusion list and the following information concerning any person whose name shall be added to the self-exclusion list:

13.4.2.1 Name, including any aliases or nicknames;

13.4.2.2 Date of birth;

13.4.2.3 Address of current residence;

13.4.2.4 Telephone number of current residence;

13.4.2.5 Social security number;

13.4.2.6 A physical description of the person, including height, weight, gender, hair color, eye color, and any other physical characteristic that may assist in the identification of the person; and

13.4.2.7 A copy of the photograph taken by the Lottery or VLEU.

13.4.3 Information furnished to or obtained by the Lottery or VLEU shall be deemed confidential and not be disclosed except in accordance with these Regulations.

13.4.4 No sports lottery agent or employee or agent thereof shall disclose the name of, or any information about, any person who has requested self-exclusion to anyone other than employees of the agent whose duties and functions require access to such information. Notwithstanding the foregoing, a sports lottery agent may disclose the name of and information about a self-excluded person to appropriate employees of another sports lottery agent for the purpose of alerting other sports lottery agents that a self-excluded person has tried to play sports lottery or obtain access to the premises of a sports lottery agent.

13.5 Duties of Sports Lottery Agent

13.5.1 Each sports lottery agent shall establish procedures that are designed, to the greatest extent practicable, to:

13.5.1.1 Permit appropriate employees of the sports lottery agent to identify a self-excluded person when present in a sports lottery facility and, upon such identification, notify:

13.5.1.1.1 Those employees of the sports lottery designated to monitor the presence of the self-excluded persons;

13.5.1.1.2 Designated representatives of the Lottery and the VLEU.

13.5.1.2 Refuse access to the premises for any self-excluded person;

13.5.1.3 Deny check cashing privileges, player club membership, complimentary goods and services, and other similar privileges and benefits to any self-excluded person;

13.5.1.4 Ensure that self-excluded persons do not receive, from the sports lottery agent any solicitations, targeted mailings, telemarketing promotions, player club materials or other promotional materials relating to sports lottery activities at the sports lottery agent's premises;

13.5.2 Each sports lottery agent shall submit to the Lottery and the VLEU, a copy of its procedures established to comply with these self-exclusion regulations within thirty (30) days of the effective date of these Regulations. The agent's procedures will be incorporated into the agent's internal control submission with the agency. Any amendments to said procedures shall be submitted to the Lottery and the VLEU at least three business days prior to the implementation. If the Lottery and the VLEU do not object to said procedures or amendments thereto, such procedures or amendments shall be deemed to be approved.

13.6 Removal from Self-Exclusion List

13.6.1 Except for those persons choosing a lifetime self-exclusion, any self-excluded person may, upon the expiration of the period of self-exclusion requested pursuant to Sports Lottery Regulation 13.3, request removal of his or her name from the self-exclusion list by submitting, in person, a completed request for removal as required in subsection (2) below. The request shall be delivered to the Lottery Office, 1575 McKee Road, Dover, DE. Any person submitting a request for removal from the list shall be required to present valid identification credentials containing his or her signature and a photograph and general physical description.

13.6.2 A request for removal from the self-exclusion list shall be in a form prescribed by the Lottery, which form shall include:

13.6.2.1 The identifying information specified in Sports Lottery Regulation 13.3:

13.6.2.2 The signature of the person requesting removal from the self-exclusion list indicating acknowledgement of the following statement: "I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for self-exclusion, and I authorize the Lottery to permit all sports lottery agents to reinstate my sports lottery privileges at licensed sports lottery premises;"

13.6.2.3 The type of identification credentials examined containing the signature of the person requesting removal from the self-exclusion list, and whether said credentials included a photograph and general physical description of the person; and,

13.6.2.4 The signature of a Lottery or VLEU employee authorized to accept such request, indicating that the signature of the person on the request for removal from the self-exclusion list appears to agree with that contained on his or her identification credentials and that any photograph and physical description appears to agree with his or her actual appearance.

13.6.3 The Lottery shall delete the name of the person requesting the removal from the self-exclusion list and notify each sports lottery agent of such removal by mailing a notice to each sports lottery agent.

14.0 Severability

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of the State of Delaware, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect.

13 DE Reg. 24 (07/01/09) (Prop.)

13 DE Reg. 406 (09/01/09) (Final)