

## INTERIM SETTLEMENT AGREEMENT

This INTERIM SETTLEMENT AGREEMENT (the "Agreement") is made and entered as of October 24, 2017, by and between Oregon Racing, Inc. ("ORI"), and the Oregon State Lottery ("Lottery"). ORI and the Lottery are hereafter collectively referred to as the "Parties," and each a "Party."

### **RECITALS**

A. On June 26, 2017, Lottery issued an order terminating ORI's Lottery Retailer Contract (the "Contract"), effective July 16, 2017. The termination order was based on alleged violations of Portland's social gaming ordinance (PCC 14A.70.040) occurring on ORI's premises. The termination also referenced, but did not specify violations of state law.

B. On July 13, 2017, ORI provided Lottery with a request for reconsideration asserting that ORI and its tenant Sarchi Consulting were in compliance with Portland's social gaming ordinance and Oregon law, and that the Lottery's termination of the Contract was unlawful. Included with this request was a June 29, 2017, letter from Terri Williams, the Tax Division Manager for the City of Portland's Revenue Division, stating that the social gaming occurring at ORI's premises was in compliance with the City's ordinance, as well as a settlement agreement between the City of Portland and Sarchi Consulting regarding the poker games conducted by Sarchi Consulting.

C. On August 30, 2017, Lottery issued an Order on Reconsideration to ORI, effective October 30, 2017. The Order on Reconsideration addressed the legal issues raised by ORI, concluding that Lottery's process and basis for termination were lawful. For purposes of the Order on Reconsideration, Lottery assumed without deciding that the settlement agreement was consistent with the City of Portland's social gaming ordinance, and instead based the termination primarily on violations of state gambling law.

D. The City of Portland and ORI interpret state law regarding the definition of permissible "social games" differently than Lottery in two key respects: (1) whether the charging of a door fee to all patrons who enter an area where poker games are conducted is considered "house income," and (2) whether exchanging player money for chips and safeguarding of players' money during gameplay qualifies a public establishment as a "house bank" for purposes of Oregon's gambling laws.

E. The Parties now desire to pause the termination of ORI's retailer contract so that ORI can submit a petition for declaratory order to Lottery concerning these two key issues. The petition will permit efficient judicial review to ultimately resolve the two interpretive questions stated in Recital D.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and obligations contained in this Agreement, the sufficiency of which is acknowledged by the Parties, the Parties hereby agree as follows:

1. Withdrawal of Termination Notice. Pursuant to OAR 177-040-0030 and the Lottery Director's authority under the Oregon Constitution and ORS chapter 461, ORI hereby requests that Lottery reconsider and withdraw the August 30, 2017, Order on Reconsideration based on the changed circumstances and additional information contained in this Agreement and its related Petition for Declaratory Ruling. Lottery hereby withdraws and rescinds the Order on Reconsideration to ORI dated August 30, 2017, and will issue an order of Withdrawal and Rescission to ORI by October 27, 2017, in the form of order commonly used by Lottery.

2. Filing of Petition for Declaratory Order. No later than October 27, 2017, ORI will file a petition for declaratory ruling to Lottery concerning the interpretation of OAR 177-040-0010(3)(b)(D) and (E) and ORS 117.167(21), and request an agency ruling from Lottery on the two issues raised in Recital D.

3. Abatement of Related Termination Actions. Until after Lottery issues an order in response to ORI's petition, and final judicial review thereof on appeal, Lottery agrees to not take any enforcement action against ORI, or issue an order to terminate ORI's retailer contract, on the grounds that ORI is violating the provisions of state gambling law by charging an entry fee to all patrons who enter an area where poker games are conducted or by exchanging player money for chips and holding players' money during gameplay, or for convenience pursuant to section 15.1 of the Contract. Lottery reserves its authority to initiate enforcement action, including up to termination, based on grounds unrelated to the subject matter of this Agreement.

4. Interim Agreement Only. Lottery's withdrawal of the Order on Reconsideration is only for the purpose of allowing ORI to file the petition for declaratory ruling and judicial review thereof. Following issuance of Lottery's declaratory ruling and judicial review thereof, Lottery may issue a new termination order that is consistent with its declaratory ruling and the result of any final judicial review thereof. ORI will comply with a final judicial resolution of this matter on appeal.

5. No Admission of Wrongdoing. The Parties acknowledge and agree that this Agreement does not constitute an admission of wrongdoing, fault, or impropriety by either Party.

6. Integration and Modification. This Agreement represents the complete understanding between the Parties. All agreements, covenants, representations, or warranties, express or implied, oral or written, concerning the subject matter of this Agreement are contained herein. All prior and contemporaneous conversations, negotiations, agreements, representations, covenants, or warranties concerning the subject matter of this Agreement are merged into this Agreement. This is a fully-integrated agreement. This Agreement may be amended or modified only by a written instrument executed by all of the Parties. The terms of this Agreement may be waived only by a written instrument executed by the Party against whom such waiver is sought to be enforced.

7. Construction and Counterparts. The Parties, with assistance of counsel, have negotiated this Agreement. The rule of construction that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. This Agreement may be delivered by facsimile or e-mail and signed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

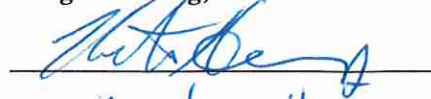
**Oregon State Lottery**



By: Barry Pack

Its: Director

**Oregon Racing, Inc.**



By: Karsten Hennze

Its: General Manager

