PROCEDURES FOR HANDLING DEFECTIVE GAMES

I. Definition.

Defective Games. A game or deal of pull tabs, club special, tip board, seal board, prize board, and punchboard that does not conform to the manufacturer's quality standards for the production of these games in accordance with the North Dakota Games of Chance Administrative Rules. (N.D.A.C. 99-01.3-16-04 – Quality standards for pull tabs and 99-01.3-16-05 – Quality standards for punchboards)

II. Defective Game Return form (SFN 51104).

The purpose of the "Defective Game Return" form is to document and track the status of defective games. All games returned by the gaming organization to a licensed distributor because of apparent manufacturing errors or other problems should be documented using this form. The forms are provided to the distributors upon request.

The Defective Game Return form contains two sections, one to be completed by the distributor and the other by the manufacturer. The distributor section is to be completed by the distributor upon receipt of the information submitted by the gaming organization relating to the defective game. The distributor is also required to provide a brief description of the problem with the defective game. The manufacturer section is to be completed by the manufacturer upon reviewing the defective game information and determining the cause of the defect.

At the top of the distributor section is a list of items the gaming organization may submit as evidence of the defective game and to support any loss incurred by the organization from the play of the defective game. This information is necessary to ensure the manufacturer has sufficient information to analyze the defective game, determine the cause of the problem, and credit the organization for any loss it incurred.

The distributor must complete this section of the form and send it along with the information submitted by the gaming organization to the manufacturer within fourteen business days of receiving the information. The distributor must issue a copy of the Defective Game Return form to the gaming organization for their records. The distributor may retain a copy of the form for their records.

Upon receipt and review of the Defective Game Return form and the accompanying information, the manufacturer shall determine the cause of the defective game and complete the manufacturer's section of the form. Once the manufacturer has determined the cause of the problem and proper credit to be issued, the manufacturer shall then return the completed form to the distributor within fourteen days of receipt of the defective game. The manufacturer may

retain the defective game if the organization had not put the game into play. If the game was in play when the defect was discovered, the manufacturer must return the game to the distributor along with the completed Defective Game Return form. The manufacturer may retain a copy of the form for its record.

Once the distributor has received the completed Defective Game Return form and game from the manufacturer, the distributor shall forward the canary copy of the completed form to the organization along with the defective game. If any credit is due the gaming organization, the distributor shall prepare a credit invoice and also send it to the organization. The canary copy of the Defective Game Return form must be kept along with the organization's daily records relating to the commingled game in which the defective game was played. The form must be retained for three years from the end of the quarter in which the game was put into play. The defective deal including the deal's flare, redeemed tickets, and unsold tickets must be retained for one year from the date of the end of the quarter during which the deal was put into play.

III. Organization's procedures for handling defective games.

A. ***Incorrect invoice*** **-- The games received by the organization do not match the description of the games listed on the sales invoice.** The organization is required to maintain inventory records that shall include information from the sales invoice. In order to maintain accurate inventory records, the organization must verify that the games received from the distributor are the same as those listed on the sales invoice. If the sales invoice incorrectly list the games received, the organization shall immediately notify the distributor of the error. The distributor shall issue a credit invoice to the organization for the incorrect item(s) and issue a new corrected invoice relating to the specific item(s).

B. ***Incorrect flare*** **-- The manufacturer or distributor may issue a deal with an incorrect flare.** If the organization finds a deal with an incorrect flare prior to the deal being put into play, the organization must immediately notify the distributor of the problem and obtain a correct flare before the deal can be put into play. The distributor must issue a credit invoice for the deal being returned and then void the state gaming stamp affixed to the incorrect flare issued with that deal. If the organization receives a new deal, the distributor must issue a sales invoice for the deal. A correct flare with the new gaming stamp affixed must accompany the deal.

If an organization has placed a deal in a commingled game and then later determines that an incorrect flare was sent with the deal, the organization shall immediately notify the distributor. As long as the deal is identical to the other commingled deals, the deal with the incorrect flare does not have to be removed from play and the organization can continue to play the game. The distributor shall void the state gaming stamp and record the voided stamp on a Record of Voided Gaming Stamps log. The distributor must provide a correct flare with a new gaming stamp affixed

and issue a sales invoice with the name of the deal and new gaming stamp number for that deal.

C. ***Quality of construction*** -- **Manufacturers are required to manufacture pull tab games and punchboards according to the quality standards adopted under N.D. Admin. Code 99-01.3-16-04 and 99-01.3-16-05. If these standards are not met, the games are considered defective and should not be played in North Dakota.**

If an organization discovers a deal is defective prior to the deal being put into play, the organization shall immediately notify the distributor from whom the deal was purchased. The defective deal must be returned in its original container to the distributor, unless otherwise directed. The distributor will void the gaming stamp affixed to the flare that was issued with the defective deal. If the organization is to receive credit for the defective deal, the distributor shall issue a credit invoice.

If a deal is determined to be defective after it has been put into play, the organization shall suspend play of the commingled game. The organization shall perform an audit of the commingled game and then remove any unsold tickets remaining from the defective deal. The organization shall also remove all redeemed winning tickets from the defective deal and separate them by denomination. The organization shall prepare a record of the number of unsold tickets and redeemed winning tickets by denomination from the defective deal. The organization shall contact the distributor and advise them of the defective game. The defective deal, including the unsold tickets and all redeemed winning tickets, a copy of the audit for the commingled game, and the record of unsold tickets and redeemed winning tickets for the defective deal should be sent to the distributor in the deals original container, if available. The organization should also include a brief written explanation of the problem.

The organization shall place the remaining tickets from the commingled game back into play. A new deal may have to be added to the game to replace the defective deal that was removed. If the organization posts information relating to the number of winners remaining in the game, that information should also be adjusted accordingly and to the best of the organization's knowledge. The organization shall include the activity from the defective deal with the activity of the game it had been commingled with when reporting the game on the Schedule B of the gaming tax return. The unsold tickets from the defective deal should be included in the Unsold/Defective tickets and the actual redeemed winning tickets in the Actual Prizes. The organization shall indicate on the Schedule B which deal was defective. The organization must retain a copy of the audit that was performed when the defective deal was removed from the game with its daily records.

D. ***Mixed game serial numbers, mixed game form numbers, and tickets of a different game type*** **-- This occurs when wrong game pieces are included with a deal.**

If an organization discovers that the deal contains pull tabs with mixed game serial numbers, mixed game form numbers, and/or pull tabs of a different game type prior to the game being put into play, the organization shall contact the distributor and advise them of the problem. The organization must return the defective deal in its original container, if available, to the distributor.

IMPORTANT NOTE. *An organization may not pay a prize to a player who is redeeming a winning pull tab that has a game serial number different from the deals in the commingled game. North Dakota Administrative Code § 99-01.3-06-02(16) states that an employee may not pay, from gaming funds or any other source, a prize to a player unless the player redeems an actual winning pull tab, except for a last sale prize, from a game conducted at the site. If a player attempts to redeem a winning pull tab that has a game serial number different from the deals in the commingled game, the employee or bar employee must retain the pull tab and record the player's name and address from a pictured identification. Unless approved by the attorney general, if a prize is paid out to a player for a pull tab not matching the game serial number of any deals commingled in the game, the organization will not be allowed to include the prize when reporting the commingled game on the gaming tax return. The organization must also reimburse the cash bank from which the prize was paid with non-gaming funds.*

If an organization discovers that a commingled game contains pull tabs with mixed serial numbers, game form numbers, and/or pull tabs of a different game type, the organization shall immediately suspend play of the commingled game. The organization must perform an audit of the commingled game and remove all remaining unsold pull tabs and all redeemed winning pull tabs from the defective deal. The organization shall count and record the value of the unsold and redeemed winning pull tabs from the defective deal.

The defective deal including the unsold and redeemed winning pull tabs, the record of actual unsold and redeemed winning pull tabs from the defective deal, a copy of the commingled game audit results, and a brief written explanation of the problem must be sent to the distributor. If the organization can determine which container the defective deal originally came in and it is still available, the organization must also send it to the distributor. The organization shall place the remaining commingled game back into play. A new deal may have to be added to the game to replace the defective deal that was removed. If the organization posts information relating to the number of winners remaining in the game, that information should be adjusted accordingly and to the best of the organization's knowledge.

The organization shall report the activity from the defective deal with the game it had been commingled with on Schedule B of the gaming tax return. The unsold pull tabs from the defective deal should be included in the Unsold/Defective tickets and the actual redeemed winning pull tabs in the Actual Prizes. Indicate on Schedule B which deal was defective. The organization must retain a copy of the audit that was performed for the commingled game in which the defective deal was discovered and retain the audit with its daily records relating to the commingled game.

If the organization cannot determine which deal the defective pull tabs came from, the organization shall do one of the following:

(1) Immediately close the entire commingled game and conduct an audit to determine the status of the game. A copy of the audit results, the defective pull tabs, including all unsold and redeemed winners, and a brief written explanation of the problem must be sent to the distributor. The organization shall report the commingled game, including the activity from the defective deal, on Schedule B.

(2) Suspend play and audit the commingled game. The organization shall then remove the defective unsold pull tabs from the commingled game and separate all defective redeemed winners from the other winners. The defective pull tabs, including all unsold and redeemed winning pull tabs, a copy of the audit results, and a brief written explanation of the problem must be sent to the distributor. The organization shall then place the commingled game back into play. The organization shall report the commingled game, including the activity from the defective deal, on Schedule B.

The organization shall indicate on Schedule B which deal in the commingled game is defective.

E. ***Incorrect ticket count, and incorrect prize structure*** **-- This includes deals with too many tickets, too few tickets, extra winning tickets, not enough winning tickets, or the wrong combination of winning tickets.** Generally, defective deals of this type are discovered after a deal has been put into play or played out. If the organization determines that a deal contains an incorrect ticket count and/or incorrect prize structure prior to the deal being put into play, the organization shall immediately contact the distributor and return it to the distributor in its original container.

If it is discovered that a deal contains an incorrect ticket count and/or an incorrect prize structure after the game has been put into play, the organization shall suspend play of the commingled game, audit the game, notify the distributor of the defect, and return the defective deal along with a copy of the audit results to the distributor. When returning the defective deal, it should include all unsold and unopened pull tabs

and all redeemed winning pull tabs from the deal. If it is discovered that a deal contains an incorrect ticket count and/or an incorrect prize structure after the game has been removed from play, the organization must notify the distributor of the defective deal and return it to the distributor along with a copy of the summary audit of the game.

Prior to returning the defective deal to the distributor, the organization shall audit the entire commingled game. Then all remaining defective pull tabs must be removed from the commingled game, counted, and recorded. The organization shall review, separate, and record by denomination all redeemed winners from the defective deal. This information must also be sent to the distributor. If the defect was discovered while the game was in play, the organization shall place the remaining commingled game back into play. A new deal may have to be added to the game to replace the defective deal that was removed. If the organization posts information relating to the number of winners remaining in the game, that information should also be adjusted accordingly and to the best of the organization's knowledge. The organization shall include the activity from the defective deal with the activity of the game it had been commingled with when reporting the game on Schedule B of the gaming tax return. The organization shall indicate on Schedule B which deal was defective. The organization must retain a copy of the audit that was performed when the defective deal was removed from the game with its daily records relating to the commingled game.

If the manufacturer, distributor, or Gaming Division determines that a deal is defective, the organization will be contacted by either the distributor or Gaming Division and directed to remove the deal(s) from their unplayed inventory, commingled game currently in play, or their played inventory. The organization must follow the same procedures for sending the defective game to the distributor as set forth above depending on whether the deal(s) was in unplayed inventory or in play or played.

F. *Others* -- Any other problems not described above but impact the integrity of the game.

Anytime an organization identifies a problem with a deal of pull tabs or punchboards that do not fall into one of the categories previously mentioned, contact the Gaming Division immediately. The Gaming Division will provide direction on how to handle the game.

IMPORTANT NOTE: *It is imperative that organizations report all their defective deals on Schedule B of the gaming tax return with the commingled game the deal was put into play with. The defective deal must be reported for the quarter during which the game was put into play. Failure to report the defective deals will cause the unreported games to appear on the organization's inventory of outstanding gaming stamps. If you have any questions regarding how to report the defective deal, contact the Gaming Division for assistance.*

Once the defective game has been analyzed it will be returned to the organization along with all the documentation originally submitted. The organization is required to retain the defective deal along with the documentation for the required retention period. The unsold tickets, all redeemed winning tickets, and the flare with the state gaming stamp affixed must be retained for one year from the end of the quarter during which the deal was removed from play. The audit records and other documentation relating to the defective deal must be kept for three years.

IV. Distributor's procedures for handling defective games.

The gaming organizations are required to return all defective deals of pull tabs and punchboards that are or appear to be defective. The deals should be sent to the distributor from whom the defective deal was purchased. If the problem with the deal is due to a distributor error, the distributor will be responsible for resolving the problem and notifying the Gaming Division by completing and submitting the Defective Game Return form. If applicable, the distributor must void the state gaming stamp, correct the game serial number on the state gaming stamp, or issue a new flare with a new state stamp. Any reimbursement due the organization will be determined and issued by the distributor.

If the problem is due to a manufacturing error, the distributor shall send the deal and all other accompanying information submitted by the organization to the manufacturer within fourteen days of receipt of the information. The accompanying information should include all unsold tickets, redeemed winners, copies of the audit, and if applicable, copy of the redeemed defective ticket summary and the Defective Game Return form. If the organization has the package the defective deal originally came in, that should also be submitted by the organization. The distributor must complete the distributor's section of the Defective Game Return form before submitting it to the manufacturer. The distributor may provide the organization with a photocopy of the Defective Game Return form as a receipt for taking possession of the deal. The distributor should also retain a photocopy of the Defective Game Return form for the distributor's records.

A distributor must void a state gaming stamp and record the voided gaming stamp number on the Record of Voided Gaming Stamps for unplayed deals returned to the distributor as defective. A distributor must not void a state gaming stamp for a defective deal that had been in play or played by the gaming organization.

Once the manufacturer has reviewed the defective deal and completed the Defective Game Return form, the form and defective deal, if it had been put into play, will be returned to the distributor. The distributor must forward the original of the Defective Game Return form to the Gaming Division. The distributor must also forward the carbon copy of the form and the defective deal to the organization who will retain it for the required retention period.

If a deal that has been in play or played by the gaming organization is determined not to be defective, the distributor may not issue credit to the organization for that deal.

V. Manufacturer's procedures for handling defective games.

The manufacturer must review the defective deal and accompanying information, determine if it is defective due to a manufacturing error and if so, the cause and what action the manufacturer will take to prevent the problem from reoccurring. The manufacturer will determine if the organization is due any credit as a result of the defective game. The manufacturer is required to complete the manufacturer section of the Defective Game Return form. If the defective deal had been put into play by the organization, the manufacturer must return the deal and the completed Defective Game Return form to the distributor. If the defective deal had not been put into play, the manufacturer need only return the Defective Game Return form to the distributor. The manufacturer must return the appropriate items and documentation to the distributor within fourteen days of receiving the defective deal. The manufacturer will advise the distributor if any credit is due the organization and the amount. The manufacturer may photocopy the completed Defective Game Return form for their records.