

New York State Gaming Commission

REQUEST FOR APPLICATIONS

FOR

**Mobile Sports Wagering
Platform Providers**

July 9, 2021

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PART 1 – GENERAL INFORMATION

The New York State Gaming Commission (“Commission”) is the only entity authorized to clarify, modify, amend, alter, or withdraw the provisions of this RFA.

1.1 INTRODUCTION

The Commission, on behalf of the State, issues this RFA to solicit Applications from Applicants’ interest in obtaining a license to operate a Mobile Sports Wagering Platform.

1.2 BACKGROUND INFORMATION

The Act set forth, among other things, statutory requirements for casino gaming in New York. The Act is codified at Article 13 of the PML.

The Act, at PML Section 1367, authorized potential sports wagering at the licensed gaming facilities upon “such time as there has been a change in federal law authorizing such or upon a ruling of a court of competent jurisdiction that such activity is lawful.” On May 14, 2018, the U.S. Supreme Court issued a decision in Murphy v. National Collegiate Athletic Association, which ruled that the Professional and Amateur Sports Protection Act (“PASPA”) was unconstitutional, thereby removing the federal prohibition on sports wagering in jurisdictions not permitted by PASPA.

Chapter 59 of the Laws of 2021 amended PML Section 1367 and added a new PML Section 1367-a to authorize mobile sports wagering when the sports wager is made through virtual or electronic means from a location within New York and is transmitted to and accepted by electronic equipment located at a Licensed Gaming Facility. The statute directs the Commission to conduct a competitive bidding process to award licenses to Mobile Sports Wagering Platform Providers based on the ability of the Platform Provider to maximize sustainable, long-term revenue for the State. Pursuant to that authority, the Commission issues this RFA to license two or more Mobile Sports Wagering Platform Providers.

1.3 SCHEDULE

The following dates are established for informational and planning purposes. The Commission reserves the unilateral right to make adjustments to this schedule.

RFA Issued	July 9, 2021
Applicants’ First Questions Due by 3:00 p.m. EDT	July 16, 2021
Commission Response to First Questions	July 22, 2021

Applicant's Second Questions Due by 3:00 p.m. EDT	July 27, 2021
Commission Response to Second Questions	August 2, 2021
Applications Due by 4:00 p.m. EDT	August 9, 2021
Oral Presentations of Applications May Begin	September 1, 2021
Selection of Applicants Considered for Licensure	Before December 6, 2021
Amended Applications Due by 4:00 p.m. EDT	One Week after Notification of Need for Amendment
Award of Licenses	Next Commission Meeting

1.4 RFA APPENDICES, ATTACHMENTS, AND EXHIBITS

The following documents are incorporated into this RFA:

- Appendix A: Draft Regulation Part 5330
(including draft changes to Part 5329)
- Appendix B: Pricing Matrix
- Appendix C: Previous Questions and Answers (revised 1 July 2021)
- Appendix D: Non-Collusive Application Certification Form
- Appendix E: Licensing Documentation

- Attachment 1: Applicant Acknowledgement of Addendum
- Attachment 2: Attachment 2: Waiver, Release, Indemnification Agreement and Covenant Not to Sue

1.5 MINIMUM QUALIFICATIONS

Any Applicant in response to this RFA, in order to have such Application reviewed, must meet the minimum qualifications for licensure as if it were a Casino Vendor Enterprise. Information demonstrating the qualifications set forth in this RFA shall be included in the Application. To commence operation, an Applicant will be required to hold a license as a Mobile Sports Wagering Licensee according to the standards of a Casino Vendor Enterprise pursuant to all applicable law.

1.6 LOBBYING RESTRICTIONS

The Commission wishes to impose certain restrictions on communications between the Commission and an Applicant during the RFA process, similar to the restrictions that would apply to State contracting pursuant to State Finance Law Sections 139-j and 139-k.

1.7 DESIGNATED CONTACTS

An Applicant is restricted from making contact from the issuance of this RFA through final award resulting in a License issued by the Commission (“Restricted Period”) to persons other than designated staff members, unless the contact is permitted, using the statutory exceptions set forth in State Finance Law Section 139-j (3)(a) as guidance. Designated staff members are identified below.

Commission employees are permitted to communicate with Applicants concerning this RFA only under circumstances described in State Finance Law Sections 139-j and 139-k. Any Applicant causing or attempting to cause a violation or circumvention of those requirements may be disqualified from further consideration for selection.

The Commission reserves the right to revoke a License in the event that the Commission determines that the certification filed by the Applicant as required by this RFA was intentionally false or intentionally incomplete.

The Commission Employees designated below are the only points of contact in regard to matters relating to this RFA, unless additional points of contact are designated by them.

ALL APPLICANTS RESPONDING TO THIS RFA AND ALL COMMUNICATIONS CONCERNING THIS RFA PROCESS MUST BE ADDRESSED IN WRITING TO EITHER OF THE COMMISSION EMPLOYEES NOTED BELOW:

N.Y.S. Gaming Commission
Office of the Secretary, 5th Floor
One Broadway Center
Schenectady, New York 12305

Secretary to the Commission
Kristen.Buckley@gaming.ny.gov

or

Contract Management Specialist 3
Stacey.Relation@gaming.ny.gov

or

Contract Management Specialist 2
Alysan.Bowers@gaming.ny.gov

1.8 QUESTIONS AND INQUIRIES

- A. Questions Authorized. Questions from potential Applicants in regard to this RFA must be submitted by electronic mail no later than the date and time specified in the “**1.3 SCHEDULE**” section of this RFA. If questions are provided in an attachment to electronic mail, such attachment must be in Microsoft Word format. Neither faxed nor telephone questions will be accepted. Questions submitted should be grouped by applicable Part.

Applicants are cautioned that an RFA inquiry must be written in generic terms and must not contain specific information about an Application or proposed Application in an inquiry. The Commission reserves the right to answer or refrain from answering questions in its discretion.

- B. Responses. Responses to questions and any changes to the RFA resulting from such questions will be communicated in published addenda, which will be posted on the Commission’s website, www.gaming.ny.gov. An Addendum Acknowledgement Form, a form of which is incorporated into this RFA only for informational purposes as Attachment 1, will be provided with each addendum. An Applicant is required to include with its Application a signed Addendum Acknowledgement Form for each addendum issued.
- C. Responsibility to Review. Applicants are responsible for checking the Commission’s website for updated information relating to the RFA and the Application selection process. The Commission is not responsible for an Applicant’s failure to obtain updated information.
- D. Previous Questions and Answers Incorporated. Please note that the Commission has provided answers to various mobile sports wagering questions submitted before the issuance of this RFA. These questions and answers have been appended to and are considered part of this RFA. See **Appendix C: Previous Questions and Answers**. Please note that several Questions and Answers, previously deferred in anticipation of draft regulations or RFA release, have now been answered.
- E. Questions in Regard to Appendix A: Draft Regulations. Questions in regard to **Appendix A: Draft Regulations** must be submitted independently of general RFA questions. Questions submitted should be grouped by applicable Part. The Commission will consider such regulatory questions in the context of a forthcoming pre-proposal process, outside the RFA Question and Answer process.

In the interim, any regulatory questions should be directed to:

gamingrules@gaming.ny.gov

1.9 LICENSING

A successful Applicant, any associated Operator, and any other Casino Vendor Enterprise of a Mobile Sports Wagering Licensee as determined by the Commission will be required to successfully complete a licensing process pursuant to applicable law.

1.10 BACKGROUND INVESTIGATIONS

The Commission will initiate, or cause to be initiated, investigations into the backgrounds of the Applicant, its associated proposed Operators, and any officers, principals, investors, creditors, owners, subcontractors, employees, or any other associates of such entities or persons the Commission deems appropriate. Such background investigations will be similar in scope to those conducted for casinos and will include criminal history fingerprint identification using the resources of the N.Y.S. Division of Criminal Justice Services, N.Y.S. Police, and the Federal Bureau of Investigation. The fees for the background investigations shall be paid by the Applicant, proposed Operator and/or vendors, as the Commission may direct. The Commission may reject an Application or revoke a License based upon the results of these investigations.

Please note that the various applications necessary for licensure are located at **Appendix E: Licensing Documentation**. For purposes of timely license consideration, an Applicant [Platform Provider(s) and all Operator(s)] may tender applicable forms, fingerprints, and supporting documentation in advance of Application submission. In any case, an Applicant that has not otherwise advanced its material shall file all outstanding forms, fingerprints, and supporting documentation with its Application.

1.11 CONTINUING DUTY TO UPDATE APPLICATION

After the submission of an Application and prior to the award of a Mobile Sports Wagering License, each Applicant has a continuing duty to disclose to the Commission promptly, in writing (and electronically), any changes or updates to the information submitted in its Application or any related materials submitted in connection therewith. Upon receipt of any updated materials, the Commission may, in its sole discretion, determine to accept the update as an amendment to the Application. The Commission, however, is not under any requirement to accept any such information. Failure to promptly notify the Commission of any changes or updates to information previously submitted in its Application may be grounds for disqualification.

1.12 NON-COLLUSIVE BIDDING REQUIREMENTS

The Commission has determined to impose a non-collusive bidding requirement in connection with this RFA, similar to the requirement set forth in State Finance Law Section 139-d. Each Applicant must warrant, under penalty of perjury, that its Application was arrived at independently and without collusion aimed at restricting competition. Each

Applicant must further warrant that, at the time the Applicant submitted its Application, an authorized and responsible person executed and delivered to the Commission a Non-Collusive Bidding Certification on the Applicant's behalf.

The **Appendix D: Non-Collusive Application Certification Form** must be completed and submitted with an Application.

1.13 PUBLIC NOTIFICATION/NEWS RELEASES

Any proposed news release pertaining to a selection of an Applicant for potential licensure pursuant to this RFA may not be made without prior written Commission approval, and then only in accordance with written instructions from the Commission. No outcome of any selection under this RFA may be released without prior approval by the Commission and then only to persons designated by the Commission.

1.14 ADVERTISING

Each Applicant agrees not to use the Commission's name, logos, images, nor any data or results arising from this RFA or License as part of any commercial advertising without prior written approval by the Commission, and then only in consultation and cooperation with the Commission.

1.15 CLARIFICATION PROCESS

The Commission, through its designees, reserves the right to contact any Applicant after the submission of an Application exclusively for the purpose of clarifying any item submitted in the Application to ensure mutual understanding. This contact may include written questions, interviews, or requests for corrective pages in the Application. Responses must be submitted to the Commission within the time specified in the request. As applicable, clarifications will be treated as addenda to an Application. Failure to comply with requests for additional information may result in rejection of the Application as noncompliant.

1.16 STATE'S RESERVED AUTHORITY

In addition to any authority set forth elsewhere in this RFA, the Commission reserves the sole discretion and authority to:

- A. waive any requirement of this RFA that is not prescribed by the PML Sections 1367 or 1367-a, or any defects of any Application if, in the judgment of the Commission, such waiver furthers the policy objectives of the PML;
- B. eliminate any non-mandatory specifications that cannot be complied by any of the Applicants;

- C. amend the RFA and direct Applicants to submit modifications to their Applications accordingly;
- D. change any of the scheduled dates stated in this RFA;
- E. reject any or all Applications received in response to this RFA, and reissue a modified version of this RFA;
- F. withdraw the RFA at any time;
- G. seek clarifications and revisions to Applications;
- H. use information obtained through possible site visits, management interviews, the State's investigation of an Applicant's qualifications, experience, ability or financial standing, any material or information submitted by the Applicant in response to the request by the Commission for clarifying information in the course of evaluation and/or selection under this RFA or otherwise;
- I. disqualify any Applicant whose conduct and/or Application fails to conform to the requirements of this RFA; and
- J. request best and final offers.

1.17 WAIVER, RELEASE, COVENANT NOT TO SUE AND INDEMNIFICATION

As a condition to submitting an Application, each Applicant, on behalf of itself and any direct or indirect owner of such Applicant, shall execute and deliver a **Waiver, Release, Indemnification Agreement and Covenant Not to Sue** in the form attached hereto as Attachment 2.

1.18 HEADINGS / SECTIONS OF THIS RFA

The headings used in this RFA are for convenience only and shall not affect the interpretation of any of the terms and conditions of this RFA. Further, the division of this RFA into headings, sections and items, which may roughly correspond to items required to be included in the Application as provided under the PML, is only for the convenience of Applicants and the Commission. The request from or provision by Applicants of information under or in connection with any section, heading or item of this RFA shall not imply or be construed to limit the applicability of such information to such section, heading or item or any apparently corresponding provision of the PML. The Commission and its representatives and designees shall have the right, in their discretion, to use or consider any information provided or disclosed anywhere in an Application or otherwise provided by an Applicant for any purpose under the PML notwithstanding the heading,

section or item of this RFA to which such information may respond or its apparent relevance, or lack thereof, to any other heading, section or item.

PART 2 – LICENSEE DUTIES AND DISTINCTIONS

This Part provides an overview of the responsibilities of the Mobile Sports Wagering Platform Provider and the Operator, including required segregation of activities between the Licensees in the offering of Mobile Sports Wagering.

2.1 MOBILE SPORTS WAGERING PLATFORM PROVIDER

The Platform Provider is the primary Applicant in response to this RFA. If more than one Platform Provider is included within an Application, one Platform Provider must be designated as the Primary Applicant. The Primary Applicant is responsible for identifying all other Platform Providers and the Operator or Operators that will be hosted by the Platforms. They are also responsible for the submission of all information and documentation required of all Platform Providers and Operators as part of their Application.

If the Applicant is awarded a Mobile Sports Wagering License, the Platform Provider will be responsible for the operation and maintenance of a Platform for the integration of Operator(s) to accept and process Mobile Sports Wagers.

2.2 SERVICES TO BE PROVIDED BY A PLATFORM

The Platform offered by the Applicant must perform the following activities and services in the offering of Mobile Sports Wagering:

- A. fully integrate the Operator’s wagering system into the Platform;
- B. accept and register all wagers;
- C. generate all electronic wagering tickets;
- D. compute wagering and payoffs;
- E. maintain records of all wagering activities; and
- F. generate and/or submit to the Commission all required reports.

2.3 SERVICES TO BE PROVIDED BY AN OPERATOR

The licensed Operator shall be the entity establishing Sports Wagering using the Platform. Responsibilities, duties and requirements of an Operator are defined and determined, by context, in the draft regulation Part 5330, which has been included as **Appendix A: Draft Regulation Part 5330**.

PART 3 – APPLICATION INSTRUCTIONS

3.1 GENERAL

This RFA does not constitute an offer of any nature or kind to any Applicant or its agents. The Commission is under no obligation to issue a License to any of the Applicants. By submitting an Application, the Applicant is deemed to agree to all of the terms and processes of the RFA.

3.2 OFFICIAL SUBMISSION

To apply for a License, a completed Application must be received by the Commission by August 2, 2021 at 4:00 p.m. Eastern Daylight Time. The Commission will not accept or review any Application submitted after the established deadline.

3.3 APPLICATION FORMAT

- A. Minimum. All Applications submitted in response to this RFA must consist of at least:
1. one original and five clearly identified hard copies of the Application, including all required attachments;
 2. one original and one clearly identified electronic copy of the Application, including all required attachments contained on digital media (such as a USB drive); and
 3. one electronic copy of the Application with all confidential information fully redacted.
- B. Order. Each hard copy version of the Application must be submitted in three-ring binders. Each set of hard copies shall have a minimum of three sub-binders:
1. Primary Binder: Information required to be submitted pursuant to Part 4 – APPLICANT INFORMATION under the headings “EXECUTIVE SUMMARY” and “PLATFORM APPLICANT INFORMATION” and a copy of the executed version of each form attached as an Attachment to this RFA.
 2. Sub-Binder 1: Information required to be submitted pursuant to Part 5 – OPERATORS under the heading “OPERATOR INFORMATION”
 3. Sub-Binder 2: Information required to be submitted pursuant to Part 6 – APPLICANT TECHNICAL PROPOSAL under the heading “PLATFORM PROVIDER APPLICANT TECHNICAL PROPOSAL”
 4. Tax-Rate Binder: Information required to be submitted pursuant to Section 6.8 – PRICING MATRIX AND ACCOMPANYING ANALYSIS under the heading “PRICING MATRIX AND ACCOMPANYING ANALYSES”

If information to be included in a particular binder cannot fit in a single binder, that section may be split between multiple binders, but more than one section may not appear in a single binder. Each binder must be clearly labeled with the Applicant's name, the section name, and the words "Binder # of #" if one section comprises multiple binders.

Each exhibit included within each binder shall be tabbed and each tab must clearly identify the corresponding exhibit number.

3.4 ORAL PRESENTATION

After the submission deadline, but no earlier than September 1, 2021, each Applicant may be required to make an informational introductory presentation of its Application to the Commission. The presentation may afford each Applicant an opportunity to provide the Commission with an overview of the contents of the Application, demonstrate the Applicant's Platform interface and capabilities, explain any particularly complex information, and highlight any specific areas the Applicant wishes.

If such presentation opportunity is offered, the Commission and its authorized representatives will have the opportunity to ask Applicants questions following the Applicants' presentations. Timing and scheduling of introductory presentations, if any, will depend upon the Applications received. The order of the presentations, if any, will be determined by the Commission, drawn by lot.

Each presentation may, at the Commission's discretion, be made in-person or through a video or web conferencing service arranged by the Applicant. The Applicant will also be responsible for recording the presentation video or web conference and providing the Commission with a copy of such recording.

3.5 PUBLIC DISCLOSURE OF APPLICATION MATERIALS

The Commission intends to treat Applications as public records and will make them available to the public, with applicable exemptions pursuant to the FOIL.

The FOIL provides for certain exemptions from public disclosure including, among others, an exemption from disclosure for trade secrets or information the disclosure of which would cause substantial injury to the competitive position of a commercial enterprise. This exemption applies both during and after the evaluation process. The FOIL also provides an exemption for records that are "specifically exempted from disclosure by state or federal statute." Section 87.2.(d) of the Public Officers Law, provides an

exemption from disclosure under the FOIL for “trade secrets [...] submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise.”

Any Application submitted that contains Confidential Information must be conspicuously marked on the outside as containing Confidential Information, and each page upon which Confidential Information appears must be conspicuously marked as containing Confidential Information. Identification of the entire Application as confidential may be deemed non-responsive and may disqualify the Applicant. If an Applicant designates any portion of an Application as containing Confidential Information, the Applicant must submit copies of its Application from which the Confidential Information has been excised or redacted. These copies of an Application are referred to as the “REDACTED” copies as described herein under “APPLICATION INSTRUCTIONS – OFFICIAL SUBMISSION”. The Confidential Information must be redacted or excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Application as possible.

All determinations concerning whether Applications and/or related documents submitted in response to this RFA are subject to disclosure under the FOIL will be made by the Commission, as applicable, in its sole discretion.

3.6 REGULATIONS

The Commission will propose regulations to govern mobile sports wagering in the State. A draft of these proposed rules can be found at **Appendix A: Draft Regulation Part 5330** and may be viewed at the following link:

<https://www.gaming.ny.gov/proposedrules.php>.

While the draft proposed regulations must proceed through the State Administrative Procedures Act rulemaking process to be finalized, the draft proposed regulations will provide guidance on the Commission’s intended approach to mobile sports wagering.

The Commission hereby advises that the draft proposed rules attached at **Appendix A: Draft Regulation Part 5330** may be revised during the administrative rulemaking process and whatever rules are adopted will be binding and must be complied with.

3.7 INCURRED EXPENSES AND ECONOMY OF PREPARATION

Neither the Commission nor the State is responsible for any costs incurred by an Applicant in preparing and submitting an Application, responding to requests for clarification, in making an oral presentation or in providing a demonstration, completing the Commission's background investigation, or in performing any other activities related to this RFA. Applications should be prepared simply and economically, providing a straightforward and concise description of how the Applicant proposes to meet the requirements of this RFA.

PART 4 – APPLICATION INFORMATION

The Applicant shall include a separate subdivision within the Primary Binder for each Platform Provider, comprised of material required to be submitted in response to each section contained within this Part.

4.1 EXECUTIVE SUMMARY

The Primary Applicant shall include an executive summary, not to exceed four pages in length, highlighting the principal terms of the Application.

4.2 NAME OF APPLICANT

The Applicant's full name as it appears on the Applicant's certificate of incorporation, charter or other official formation document (as amended), as well as any D/B/A or trade names.

4.3 CONTACT PERSON

The name, title, email address and telephone number of the individual to be contacted for the Applicant in reference to the Application.

4.4 LOCATION OF THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS

The street address, city, state, zip code and telephone number for the Applicant's principal place of business, as well as the URL for any website maintained by or for the Applicant.

4.5 TYPE OF BUSINESS FORMATION

The type of business entity under which the Applicant is formed (*e.g.*, corporation, limited liability company, partnership), the state (or other jurisdiction) of formation and the Federal Tax Identification Number (also known as the Federal Employer Identification Number). Attach evidence of the entity's current ability to conduct business (*e.g.*, certificate of good standing, certificate of status) from the state (or other jurisdiction) of formation as of a date not earlier than 10 days prior to the submission of the Application.

4.6 TABLE OF OWNERSHIP

A full and complete ownership chart for the Applicant and its affiliates including percentage ownership interests in the Applicant by its respective direct and indirect

owners, illustrating the ultimate beneficial owners. For a publicly held company, disclosure of owners may be limited to owners owning five percent or more of the publicly held company.

4.7 ORGANIZATIONAL CHART

An organizational chart of the Applicant including all key employees anticipated to be licensed as such pursuant to **Appendix A: Draft Regulation Part 5330** of the Commission's regulations, when adopted.

4.8 NAMES, ADDRESSES AND EXPERIENCE OF DIRECTORS AND OFFICERS

The name, address, and title of each Director or General Partner of the Applicant and each officer and proposed key employee of the Applicant, within the meaning of **Appendix A: Draft Regulation Part 5330** and resumes or C.V.s of all principals and known individuals who will perform executive management duties or oversight of the Applicant.

4.9 LOBBYIST REGISTRATION REQUIREMENT

PML Section 1329 requires each lobbyist seeking to engage in lobbying activity on behalf of a client or a client's interest before the Commission to first register with the secretary of the Commission. While this obligation falls to the lobbyist, Applicant identification of its lobbyists is requested.

4.10 NAMES, ADDRESSES AND OWNERSHIP AND OTHER INTERESTS

The name and business address of each person or entity who or that has a direct or indirect ownership or other proprietary interest (financial, voting or otherwise) in five percent or more in the Applicant.

4.11 CONFLICTS OF INTEREST

A description of any relationship or affiliation of the Applicant or any of the Applicant's affiliates that currently exists or existed in the past five years with any member, employee, consultant or agent of the Commission that is a conflict of interest or may be perceived as a conflict of interest during the RFA process. Further, if any such conflict should arise during the term of the RFA process, the Applicant shall notify immediately the Commission, in writing, of such conflict.

The Commission shall make the final determination as to whether any activity constitutes a conflict of interest pursuant to this provision. The Commission's decision shall be final; however, the Commission will not make any such decision without providing the Applicant with an opportunity to present comments.

If an Applicant does not identify any direct or indirect conflict of interest, or perceived conflict of interest, at the time the Applicant submits the Applicant's Application, the Applicant shall state that no conflict or perceived conflict of interest exists with respect to such Application. If the Applicant identifies a conflict of interest or perceived conflict of interest, the Applicant shall disclose the conflict and the steps the Applicant will take to resolve such conflict.

4.12 PUBLIC OFFICIALS

Submit a list of names, titles, addresses and telephone numbers of any public officials or officers or employees of any governmental entity, and immediate family members of any such public officials, officers or employees, to the extent known, who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of, hold any debt instrument issued by, or hold or have an interest, direct or indirect, in any contractual or service relationship with the Applicant or their Affiliates. Also submit a statement listing all persons and entities not listed in the immediately preceding sentence who or that have any arrangement, written or oral, to receive any compensation from anyone in connection with the Application, the RFA process or the process of obtaining of a License from the State, describing the nature of the arrangement, the service to be provided and the amount of such compensation, whether actual or contingent.

4.13 CONTRACTS WITH THE STATE OF NEW YORK

Submit a list of any current or previous contracts that the Applicant or its affiliates has had with, and any current or previous licenses that the Applicant has been issued by or under, any department or agency of the State. Include the contract or license name and number and a concise explanation of the nature of the contract or license.

4.14 ORGANIZATIONAL DOCUMENTS

Submit, as applicable, copies of the following documents that apply to the Applicant or the Applicant's owners:

- A. certified copy of each relevant certificate of incorporation, articles of incorporation or corporate charter;

- B. by-laws as amended through the date of the Application;
- C. certified copy of its certificate of formation or articles of organization of a limited liability company;
- D. limited liability company agreement or operating agreement as amended through the date of the Application;
- E. certified copy of each relevant certificate of partnership;
- F. partnership agreement as amended through the date of the Application;
- G. certified copy of each relevant certificate of limited partnership;
- H. limited partnership agreement as amended through the date of the Application;
- I. other legal instruments of organization;
- J. joint venture agreement;
- K. trust agreement or instrument, each as amended through the date of the Application;
- L. voting trust or similar agreement; and
- M. stockholder, member or similar agreement.

PART 5 – OPERATORS

The Applicant shall include a separate subdivision within Sub-Binder 1 for each Operator to be hosted, comprised of material required to be submitted in response to each section contained within this Part.

5.1 OPERATOR

The responsibilities, duties and requirements of an Operator are defined and determined, by context, in the draft regulation Part 5330, which has been included as **Appendix A: Draft Regulation Part 5330**.

5.2 NUMBER OF OPERATORS TO BE HOSTED

The Applicant shall identify the number of Operators the Applicant proposes to host on the Applicant's Platform.

5.3 OPERATOR ORGANIZATION

For each Operator the Applicant proposes to host as part of this Application, the Applicant shall provide the full name of the Operator as it appears on such Operator's certificate of incorporation, charter or other official formation document, along with any D/B/A or trade names.

The Application shall include for each proposed Operator, information on the Operator consistent with that required for the Applicant pursuant to Sections 4.3 through 4.14 of Part 4 of this RFA.

5.4 APPLICANT AS AN OPERATOR

If the Applicant intends also to be an Operator tied to the Application, the Applicant must identify itself as such.

5.5 LICENSURE

Each Operator must be licensed as a Mobile Sports Wagering Licensee, separate from the Mobile Sports Wagering License issued to the Platform Provider. The standard for licensing shall be equivalent to that of a Casino Vendor Enterprise pursuant to PML Article 13 Title 4 – Enterprise and Vendor Licensing and Registration.

5.6 ADVERTISING AND PROMOTIONAL PLANS

The Applicant shall provide detailed information demonstrating the marketing and promotion efforts proposed by its Operators, including:

- estimated marketing budget;
- promotion and player loyalty programs;
- advertising plans;
- player acquisition models; and
- efforts to be undertaken to convert customers from wagering through unlicensed channels to wagering legally in the State.

The Applicant shall provide examples and samples of marketing, advertising, and promotional activities recently undertaken in other jurisdictions by each of the proposed Operators in the Application.

PART 6 – APPLICANT TECHNICAL PROPOSAL

This Part provides the requirements for development of the technical proposals, explains the proposal clarification process, and outlines the Application submission process. In preparation of the proposal, the Applicant should pay special attention to the requirements and information being requested to respond fully to the RFA. In cases where multiple Platform Providers and/or Operators are included in an Application, the Applicant shall provide information required by this Part in context of and including all Platforms and Operators.

6.1 EXPERIENCE

- A. The Applicant shall provide a description of comparable mobile sports wagering platforms developed and operated by the Applicant. Multiple examples may be used to demonstrate experience, but the Applicant shall limit detailed examples to no more than the five most comparable Platform operations. The description shall include the following:
- an overview of the wagering activity conducted through the Platforms;
 - the jurisdictions where the Applicant operates the Platforms;
 - current integration of the Platforms with other wagering operators;
 - the number of accounts maintained through the Platforms;
 - wagering volume processed annually through the Platforms; and
 - additional information the Applicant believes relevant to demonstrate the Applicant's experience.
- B. For each Operator the Applicant proposes to host on the Applicant's Platform, the Applicant shall provide a description of Sports Wagering operated by the Operator. Multiple examples may be used to demonstrate experience, but the Applicant shall limit detailed examples to no more than the five most comparable Sports Wagering operations. The description shall include the following:
- the jurisdictions where the Operators is licensed and operating;
 - wagering volume of Sports Wagering;
 - estimated market share within each jurisdiction;
 - the Platforms currently used to accept wagers; and
 - additional information the Applicant believes relevant to demonstrate the Operator's experience, including, without limitation, the Operator's experience in mobile sports wagering.

6.2 EXPERTISE

- A. The Applicant shall provide a summary narrative, not to exceed two pages, highlighting the Applicant's expertise in mobile sports wagering and how the Applicant's expertise is applicable to this RFA. In addition to the summary, each Applicant shall provide:
- an overview of the technical features and operation of the Mobile Sports Wagering Platform;
 - an overview of how the Applicant will provide continual support and maintenance of the Mobile Sports Wagering Platform;
 - an outline of the features of the Mobile Sports Wagering Platform designed to support the Operators;
 - an outline of any technology to be used or features offered that the Applicant believes sets the Applicant apart from other potential Applicants; and
 - additional information the Applicant believes relevant to demonstrate the Applicant's expertise.
- B. The Applicant shall provide a summary narrative, not to exceed two pages per proposed Operator, highlighting the expertise in sports wagering that such proposed Operator demonstrates. In addition to the summary, each Applicant shall provide:
- an overview of the integration between the Applicant's Platform and the Operator's wagering system;
 - an outline of the features offered or used by the Operator that the Applicant believes sets it apart from other potential Applicants;
 - a sample wagering menu the Operator intends to offer if such wagers are approved by the Commission;
 - an illustration of the proposed Operator's ability to rapidly effectuate the commencement of mobile sports wagering on the Applicant's Platform; and
 - additional information the Applicant believes relevant to demonstrate the Operator's expertise, including, without limitation, experience in the field of mobile sports wagering.

6.3 INTEGRITY, SUSTAINABILITY AND SAFETY

The Applicant shall provide detailed information on how the Applicant or the Applicant's proposed Operators will ensure the responsibilities, duties and requirements in draft regulations Part 5330 in regard to:

- A. wager acceptance;
- B. verification of information provided by Authorized Sports Bettors opening a new account;
- C. the systems used for monitoring structured wagers and unusual or suspicious wagering activity;
- D. the systems used to ensure that Authorized Sports Bettors are physically located within the State of New York while placing a wager;
- E. the technology to ensure that any wager is accepted through equipment physically located at a licensed gaming facility in the State;
- F. description and location of redundant servers, if any;
- G. security of servers, applications, and communication networks; and patron personal and wagering information;
- H. integrity monitoring and reporting, including any current affiliations related to integrity monitoring; and
- I. responsible gaming.

6.4 CAPACITY TO BRING AUTHORIZED SPORTS BETTORS TO PLATFORM

The Applicant shall demonstrate the Applicant's ability to effectuate rapidly the commencement of mobile sports wagering on the Applicant's platform and to bring Authorized Sports Bettors effectively onto the Platform.

The Applicant shall provide a time from award of license to the date on which each Operator shall be prepared to accept mobile sports wagers through the Applicant's Platform.

6.5 WORKFORCE DIVERSITY

The Applicant and each of its Operators shall provide information demonstrating how the Applicant fosters racial, ethnic and gender diversity within the organization's workforce. Such demonstration shall include:

- A. the organization’s policy on workforce diversity;
- B. workforce demographics demonstrating the organization’s current workforce diversity; and
- C. efforts the Applicant and Operators will undertake to foster workforce diversity as it relates to operations undertaken pursuant to a License, if awarded.

6.6 OTHER FACTORS IMPACTING REVENUE TO THE STATE

The Applicant shall provide a narrative and analysis of any other factor or aspect of the Applicant’s Application that the Applicant believes the Commission should take into consideration when evaluating other factors that could impact the revenue from mobile sports wagering paid to the State. The applicant shall limit all narrative and analysis in response to this section to no more than five pages.

6.7 REVENUE-SHARING AGREEMENTS

If applicable, an Applicant shall provide an executed copy of any agreement that provides for sharing of mobile sports wagering revenue with a Native American tribe or nation that is party to a compact with the State.

6.8 PRICING MATRIX AND ACCOMPANYING ANALYSIS

Applicants shall complete and submit a pricing matrix, the form of which is set forth in Appendix B: Pricing Matrix. This matrix requires the Applicant to set forth the tax rate that an Applicant accepts under varying competitive scenarios of total Platform Providers and Operators. An Applicant must provide a tax rate that is fifty (50) percent or greater for its Preferred Scenario. However, if the Applicant’s Preferred Scenario alone is less than the statutory minimum of two Platform Providers and four Operators, the Applicant must instead provide a tax rate that is fifty (50) percent or greater for such statutory minimum scenario. If an Applicant does not wish to participate in mobile sports wagering with particular levels of Platform Providers and Operators, the Applicant should enter a tax rate of 0 (zero). If a cell is left blank or unintelligible, such cell will be deemed to be a tax rate of 0 (zero).

In addition to the matrix, an Applicant shall submit an analysis using the Applicant’s Preferred Scenario of Platform Providers and Operators. Such analysis shall contain the following:

- A. estimate of the total Mobile Sports Wagering Gross Gaming Revenue to be generated annually from all Platform Providers and Operators;

- B. the Applicant's estimated share of the Mobile Sports Wagering Gross Gaming Revenue to be generated annually from all Platform Providers and Operators;
- C. the Applicant's basis and methodology for estimates; and
- D. any other information that the Applicant believes relevant for the Committee to consider in maximizing sustainable, long-term revenue for the State.

The Applicant also shall submit a similar analysis for each of the competitive scenarios for which the Applicant has responded on the Matrix. Given the slight variations between scenarios, an Applicant is permitted to band or group various scenarios together for purposes of such analysis.

6.9 INTERNAL CONTROLS

The Applicant shall provide a draft of its proposed internal controls in regard to the operation of mobile sports wagering in this State and a draft of the proposed internal controls of each of the proposed Operators for the Applicant's Platform in this State.

PART 7 – EVALUATION CRITERIA AND SELECTION PROCESS

In awarding a Mobile Sports Wagering License to a Platform Provider, the Commission is required to follow the provisions of PML Section 1367-a, which require the evaluation of an Applicant based on factors designed to ensure maximized sustainable, long-term revenue for the State. PML Section 1367-a(7)(d) requires the Commission to award a license to each of the two highest scoring Platform Providers, at minimum, such that the result will be the hosting of a minimum of four Operators in the State.

The Commission may select additional Platform Providers for potential licensure if the Commission determines that such additional licenses are in the best interests of the State, so long as any additional Platform Providers selected for a potential license also agree to pay the same tax rate as the Platform Providers selected initially for potential licensure.

7.1 EVALUATION METHODOLOGY

The Committee will conduct a comprehensive, fair, and impartial evaluation of all Applications timely received.

Applications will be scored by consensus of the Committee.

The Committee will review and rank each Application based on the evaluation criteria set forth in Section 7.2 of this RFA. No Applicant may advance to consideration for potential licensure unless such Applicant receives a Technical Factor Score of 60 points out of a possible 75 points, exclusive of the State-based compacted Native American tribe or nation bonus and their pricing matrix conforms with the requirements set forth in Section 6.8 – PRICING MATRIX AND ACCOMPANYING ANALYSIS.

7.2 EVALUATION CRITERIA

Applications determined to meet the minimum qualifications set forth at Section 1.5 of this RFA will be evaluated based on the following criteria:

Technical Factor	Value Up To
Expertise in the market of the Applicant and the Applicant's Proposed Operators	25 points
Integrity, sustainability and safety of the Mobile Sports Wagering Platform	20 points
Past relevant experience of the Applicant and the Applicant's proposed Operators	15 points
Advertising and promotional plans	7.5 points
Capacity to rapidly and efficiently bring Authorized Sports Bettors into the Applicant's Platform	2.5 points

Applicant’s efforts to foster racial, ethnic, and gender diversity in Applicant’s workforce and the each of the Applicant’s proposed Operators’ workforce	2.5 points
Other factors impacting revenue to the State	2.5 points
Maximum cumulative score to be awarded for Technical Factors	75 points

Bonus	
Applicant with an agreement(s) that provides for revenue-sharing related to mobile sports wagering with a Native American tribes or nations that is party to a compact with the State.	5 points

Only those with a Technical Factor Score (excluding the Native American bonus, if any) at or exceeding 60 points out of 75 points will be considered a Qualified Applicant.

Pricing Factor	Value
Proposed taxation rate on Mobile Sports Wagering Gross Gaming Revenue	
12.5 percent up to 30 percent	3 Points
30 percent up to 40 percent	10 Points
40 percent up to 50 percent	15 Points
50 percent	20 Points
An Applicant shall be awarded an additional point for each full percentage point over 50 percent	

An Applicant’s final score shall be computed by adding the Technical Factor Score, the Tribe or Nation Bonus (if any) and the Pricing Factor Score. In the event of a tie, the applicant with the higher Pricing Factor Score shall be ranked higher.

7.3 RECOMMENDATION METHODOLOGY

All Qualified Applicants will be ranked by the sum of the score for Technical Factors and the State-based compacted Native American tribes or nations Bonus (such sum, the “Initial Ranking Score”), to establish an initial ranking.

A. Establishment of Number of Platform Providers and Operators.

1. If the Qualified Applicant with the highest Initial Ranking Score contains at least two Platform Providers and four Operators, the Committee will proceed to Section 7.3(B) of this Part.
2. If the Qualified Applicant with the highest Initial Ranking Score contains fewer than two Platform Providers and four Operators, then the Committee shall add the Qualified Applicant with the next highest Initial Ranking Score and continue to add Qualified Applicants with the next-highest Initial

Ranking Score until, in the aggregate, there are at least two Platform Providers and four Operators identified.

This process will establish the number of Platform Providers and Operators to be selected, before the additional license consideration process set forth in Section 7.5 of this Part commences.

B. Pricing Consideration.

1. The Committee will identify the tax rate that each Qualified Applicant submitted in Appendix B (Pricing Matrix) for the number of Platform Providers and Operators established in Section 7.3(A). Using such tax rates, the Committee will calculate a Pricing Factor score for each Qualified Applicant. The Committee will then add each Qualified Applicant's Technical Factor score, and Pricing Factor score to calculate a Total Score for such Qualified Applicant.
2. All Qualified Applicants shall be re-ranked based on Total Score calculated pursuant to Section 7.3(B)(1). Using such re-ranking, the Committee shall identify the Qualified Applicants with the highest Total Scores that would, collectively, ensure the existence of an aggregate of at least two Platform Providers and four Operators in the State. If the Qualified Applicants so identified are the same as those identified pursuant to the process that had been followed pursuant to Section 7.3(A), then the Qualified Applicants so identified shall be the Committee's selection of Applicants for potential licensure as Platform Providers (the "Selected Applicants") and the Committee will proceed to Section 7.5 of this Part to determine if additional Platform Provider licenses are advisable.

If the re-ranking based on Total Score results in the identification of Qualified Applicants that are different than those that had been identified to establish the number of Platform Providers pursuant to the process set forth in Section 7.3(A), then the Committee shall revert back to Section 7.3(A) and substitute the revised Total Score, in lieu of the Initial Ranking Score. The Committee will then repeat the process until the Qualified Applicants identified by Total Score contained in Sections 7.3(A) and 7.3(B) remains unchanged. At that point, the Qualified Applicants so identified shall be Applicants the Committee selects for potential licensure (the "Selected Applicants").

7.4 FINAL TAX RATE MATRIX DETERMINATION

After conclusion of the process set forth in Section 7.3 to identify the Selected Applicant(s), the Committee shall compare the **Appendix B: Pricing Matrix** submitted

from each Selected Applicant. The highest tax rate for each scenario among the Selected Applicant(s)'s Application(s) shall be established to complete the Final Tax Rate Matrix.

Once established, the Committee will then offer each Applicant five business days to amend such Applicant's **Appendix B: Pricing Matrix** to conform with the Final Tax Rate Matrix. If an Applicant declines to or fails to amend its Application to reflect the Final Tax Rate Matrix, such Applicant shall be disqualified from additional license consideration.

7.5 ADDITIONAL LICENSE CONSIDERATION

The Committee may recommend award of additional licenses to Qualified Applicants, in addition to the Selected Applicants, if the Committee determines that such additional awards are in the best interests of the State. Such recommendation, if any, will be made according to this Section.

To determine if the award of additional licenses is in the best interest of the State, the Committee will re-rank all remaining Qualified Applicants, based only on each Qualified Applicant's Technical Factor Score. The Committee will establish a potential number of Platform Providers and Operators by adding to the aggregate number of such licensees in the Selected Applicants' Applications the number of additional Platform Providers and Operators proposed in the Application of the remaining Qualified Applicant with the highest Technical Factor Score. Using this potential number of Platform Providers and Operators, the Committee will use the Selected Tax Rate Matrix to determine the percentage of Mobile Sports Wagering Gross Gaming Revenue to be paid to the State if an additional license were awarded to such next-highest-scoring remaining Qualified Applicant and the potential percentage of available Mobile Sports Wagering market revenue captured based on market analysis.

If the Committee determines that such aggregate revenue is higher than the aggregate revenue without the additional Platform Provider(s) and Operator(s) associated with such next-highest-scoring remaining Qualified Applicant, then the Committee shall recommend such Qualified Applicant as an additional Applicant for licensure.

The Committee will then continue the evaluation process of this Section until adding the next-highest-scoring remaining Qualified Applicant would no longer increase the benefit to the State.

PART 8 – TERM OF LICENSE AND POST-LICENSURE RESPONSIBILITIES

8.1 TERM OF LICENSE

The term of license awarded will correspond to the Final Tax Rate Matrix.

Final Tax Rate	Term of License
12.5 percent up to 30 percent	3 years
30 percent up to 50 percent	5 years
50 percent and over	10 years

8.2 PAYMENT OF LICENSING FEE

A Mobile Sports Wagering Platform Licensee must pay a licensing fee of \$25,000,000 to the Commission within 30 days of approval of the Applicant's License conditioned upon payment of such fee, as required by PML Section 1367-a(3). No License to conduct Mobile Sports Wagering shall be effective until the Commission is in receipt of the Applicant's licensing fee.

8.3 COMPLIANCE WITH LAW

Each Mobile Sports Wagering Licensee shall comply with applicable law, including, without limitation, the PML and Commission regulations.

PART 9 – DEFINITIONS

Terms used throughout this RFA shall have the following meanings, unless context requires otherwise:

“Act” means Chapter 174 of the Laws of 2013, known as the Upstate New York Gaming Economic Development Act, as amended by Chapter 175 of the Laws of 2013.

“Applicant” means an entity or person submitting this Application or any prospective Applicant, as the context may require.

“Application” means a completed response to this RFA or an application for a Mobile Sports Wagering License, as the context may require.

“Authorized Sports Bettor” means an individual who is physically present in the State, who is not a prohibited sport bettor, and who participates in sports wagering offered by a casino or Mobile Sports Wagering Licensee.

“Casino Vendor Enterprise” means entities offering goods and services that directly relate to gaming activity, including, without limitation, manufacturers, suppliers, software providers and repair companies related to a Mobile Sports Wagering Licensee.

“Commission” means the New York State Gaming Commission.

“Committee” means an evaluation committee the Commission establishes to evaluate Applications.

“Confidential Information” means material an Applicant proposes to be deemed exempt from disclosure pursuant to FOIL.

“FOIL” means the Freedom of Information Law, Sections 84-90 of the New York Public Officers Law.

“Licensed Gaming Facility” or “Gaming Facility” means a facility licensed by the Commission pursuant to PML Section 1311 to offer casino gambling on the premises of the facility.

“Mobile Sports Wager” means cash or cash equivalent that is paid by an authorized sports bettor to a Mobile Sports Wagering Licensee to participate in sports wagering offered by such Mobile Sports Wagering Licensee.

“Mobile Sports Wagering Gross Gaming Revenue” shall equal the total of all mobile sports wagers received less voided mobile sports wagers, cancelled mobile sports wagers and amounts paid out for winning mobile sports wagers.

“Mobile Sports Wagering Operator” or “Operator” means the public-facing entity that accepts sports wagers from Authorized Sports Bettors through a Platform Provider.

“Mobile Sports Wagering Platform” or “Platform” means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and any associated wagering accessible by any electronic means including mobile applications and internet websites accessed via a mobile device or computer.

“Mobile Sports Wagering Platform Provider” or “Platform Provider” means an entity that has been licensed by the Commission to operate a Mobile Sports Wagering Platform and to host Operators.

“Mobile Sports Wagering Licensee” or “Licensee” means either a Mobile Sports Wagering Platform Provider or Operator licensed by the Commission to conduct mobile sports wagering.

“Operator” means a skin, as defined in draft proposed regulation section 5330.1.

“PML” means the New York Racing, Pari-Mutuel Wagering and Breeding Law.

“Preferred Scenario” means the total number of Platform Providers and Operators contained in an Application.

“Primary Applicant” means the Platform Provider responsible for coordinating the submission of an Application.

“Qualified Applicant” means an Applicant that received at least a minimum Technical Factor Score as set forth in the RFA.

“RFA” means this Request for Applications.

“Sports Wagering” means the business of accepting wagers on any sports event by any system or method of wagering.

“State” means the State of New York.

Appendix A Draft Pre-Proposal Regulation Part 5330
(includes draft changes to Part 5329)

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PART 5329

Sports Wagering at Casino Lounges and Other Public Casino Locations

Section

- 5329.1 [Definitions] Applicability and definitions
- 5329.2 [Sports pool] Casino sports wagering license [petition] application
- 5329.3 Term of casino sports wagering license and review
- 5329.4 Vendor licensing
- 5329.5 Reporting of changes
- 5329.6 Licensing of individuals
- 5329.7 Misconduct and improper associations
- 5329.8 Internal controls
- 5329.9 Sports wagering lounge
- 5329.10 Sports pool system requirements
- 5329.11 Automated ticket machines
- 5329.12 House rules
- 5329.13 [Wager] Sports wager types
- 5329.14 Parlay card wagers
- 5329.15 Layoff wagers
- 5329.16 Information posting
- 5329.17 Manner of placing wagers
- 5329.18 [Wagering] Sports wagering tickets
- 5329.19 [Wagering] Sports wagering restrictions
- 5329.20 Certain payouts; wagering ticket control
- 5329.21 Cancellation or rescission of sports wagers
- 5329.22 Structuring of multiple sports wagers
- 5329.23 [Patron] Authorized sports bettor complaints
- 5329.24 [Operator reserve] Reserve requirements
- 5329.25 Prohibited actions
- 5329.26 Duties to report
- 5329.27 Sports pool integrity; confidential information
- 5329.28 Tax
- 5329.29 Gross gaming revenue reports and reconciliation
- 5329.30 Accounting and financial records
- 5329.31 Duties to give evidence
- 5329.32 Reporting of compliance
- 5329.33 Review, examination of records
- 5329.34 Responsible gaming
- 5329.35 Other regulations apply
- 5329.36 Suspension, fines, revocation and other discipline

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§ 5329.1. [Definitions] Applicability and definitions.

(a) Applicability. This Part applies to sports wagering conducted by a casino sports wagering licensee pursuant to Racing Pari-Mutuel Wagering and Breeding Law section 1367. For rules and regulations that apply to mobile sports wagering conducted through servers or other electronic equipment at casinos pursuant to Racing, Pari-Mutuel Wagering and Breeding Law sections 1367 and 1367-a, see Part 5330 of this subchapter, some sections of which may refer back to and incorporate certain provisions of this Part.

(b) Definitions. Unless the context indicates otherwise, the following definitions and the definitions set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1367 are applicable throughout this Part:

[(a)] (1) Authorized sports bettor means an individual who is physically present in a casino when placing a sports wager and who is not a prohibited sports bettor.

[(a)] (2) Automated ticket machine means an electronic device that, at a minimum, is used for the execution of permitted sports wagers placed by [a patron] an authorized sports bettor directly and permissible redemption of winning sports wagers within a sports wagering lounge or other location within the [gaming facility] casino as approved by the commission.

(3) Casino sports wagering licensee means a casino licensed to operate sports pools pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1367(2)(a), equivalent to the definition of operator set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(1)(n).

[(b)] (4) Event number means a set of alphabetic and/or numeric characters that corresponds to a sports event or occurrence within a sports event.

[(c)] Integrity monitoring provider means a vendor approved by the commission to receive reports of unusual betting activity from sports pool operators for the purpose of assisting such operators in identifying suspicious betting activity.

(d) (5) Odds maker means a person licensed as a casino key employee or as an employee of a [casino vendor enterprise licensee] sports pool vendor responsible for the final approval of all odds established on any sports wager made pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1367 and this Part.

[(e)] (6) Operations wagering manager means a person licensed as a casino key employee or as an employee of a [casino] sports pool vendor [enterprise licensee] responsible for the operations of sports wagering at a casino.

[(f)] (7) Parlay card means a physical instrument offering a multi-contest sports wager.

[(g)] (8) Parlay card wager means a transaction on the outcome of a series of three or more sports events with a predetermined fixed payout.

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[(h)] (9) *Prohibited sports [pool participant] bettor* means any person whose participation may undermine the integrity of wagering on a sports event or the conduct of such sports event itself, or any person who is prohibited for other good cause, including, without limitation, the following, as prescribed by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(1) and this paragraph:

[(1)] (i) any individual placing a sports wager as an agent or proxy;

[(2)] (ii) any athlete whose performance may be used to determine, in whole or in part, the outcome of such wagering;

[(3)] (iii) any person who is an athlete, player, coach, referee or other game official, physician, trainer, team employee or governing body employee, in any sports event overseen by such person's sports governing body;

[(4)] (iv) any person with access to material, non-public confidential information about a sports event that is the subject of such wagering;

[(5)] (v) a person identified to the commission by a sports governing body that the commission agrees is a person who should be a prohibited sports [pool participant] bettor; [or]

[(6)] (vi) any person who holds a position of authority or influence sufficient to exert influence over the participants in a sports event that is the subject of a sports wager, if such person is not otherwise described by this subdivision;

(vii) any officer or employee of the commission;

(viii) any principal or key employee of a casino and its affiliates, except as may be permitted by the commission;

(ix) any casino gaming or non-gaming employee at the casino that employs such person;

(x) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of a casino sports wagering licensee if such person is directly involved in the operation or observation of sports wagering, or the processing of sports wagering claims or payments;

(xi) any person subject to a contract with the commission if such contract contains a provision prohibiting such person from participating in sports wagering;

(xii) any spouse, child, sibling or parent residing in the principal place of abode of any of the foregoing persons at the same casino sports wagering licensee where the foregoing person is prohibited from participating in sports wagering;

For Part 5329, text to be deleted appears in [brackets]
For Part 5329, text to be added is underlined

(xiii) any sports agent, owner or employee or independent contractor of a team, player and umpire union personnel, and employee referee, coach or official of a sports governing body, if the sports wager is based on any sport or athletic event overseen by the individual's sports governing body; or

(xiv) any minor.

[(i)] (10) *Sports pool vendor* means a licensed casino vendor enterprise, as defined in section 5307.1 of this subchapter, that operates on behalf of a casino or assists a casino in the operation of a sports pool.

[(j)] (11) *Structured wager* means to place knowingly a series of sports wagers in any amount, at one or more facilities, on one or more days, in any manner, to circumvent knowingly the recording and reporting requirements of section 5329.22 of this Part. The sports wager or wagers need not exceed the dollar thresholds in section 5329.22 at any single facility in any single day in order to constitute structuring within the meaning of this definition.

[(k)] *Suspicious betting activity* means wagering activity that might be related to an attempt or effort to fix the outcome of a sports event, or any portion thereof, or occurrence within a sports event.

[(l)] (12) *Suspicious wager* means a sports wager that [an operator] a casino sports wagering licensee knows or has reason to suspect is being attempted or was placed, including, without limitation:

[(1)] (i) in violation of or as part of a plan to violate or evade local, state or Federal law or regulation prohibiting wagering on a type of sports event; or

[(2)] (ii) in violation of or as part of a plan to violate or evade local, state or Federal law or regulation prohibiting wagering by, or on behalf of, a prohibited person, as defined in subdivision (b) of section 5329.19 of this Part; or

[(3)] (iii) by a person who has no business or apparent lawful purpose in placing such wager or is not the sort of wager that a particular [patron] authorized sports bettor would normally be expected to place.

[(m)] *Wager* means a transaction placed by a patron on an authorized sporting event or events or an occurrence or occurrences therein.

[(n)] (13) *Wagering cashier* means an employee of [an operator] casino sports wagering licensee or sports pool vendor who accepts wagers at a sports wagering lounge.

[(o)] (14) *Wagering platform* means the combination of hardware, software and data networks used to manage, administer and control sports wagering.

For Part 5329, text to be deleted appears in [brackets]
For Part 5329, text to be added is underlined

[(p)] (15) *Wagering ticket* means a physical record issued and maintained by the wagering platform that evidences a sports wager.

§ 5329.2. [Sports pool] Casino sports wagering license [petition] application.

(a) *Eligibility*.

(1) Only licensed casinos in good standing shall be eligible to obtain a [sports pool] casino sports wagering license. As set forth in Racing, Pari-Mutuel Wagering and Breeding Law section [1367(3)(a)] 1367(2)(a), a casino that wishes to operate sports pools shall first obtain a [sports pool] casino sports wagering license from the commission, which shall be in addition to the casino's gaming facility license. Any entity holding a casino operating [license] certificate issued pursuant to [article 13] Racing, Pari-Mutuel Wagering and Breeding Law section 1331 shall be deemed to have the requisite financial stability, integrity and responsibility and good character, honesty and integrity so long as such license is in good standing.

(2) A prohibited sports [pool participant] bettor shall not be permitted to have any ownership interest in, control of or otherwise be employed by [an operator] a casino sports wagering licensee or a sports pool vendor, unless otherwise approved by the commission. This prohibition shall not apply to any person who has less than 10 percent direct or indirect ownership interest in the [operator] casino sports wagering licensee or sports pool vendor.

(b) *Plan of operation*. Each applicant for a [sports pool] casino sports wagering license shall submit a detailed plan of operation that includes such information as the commission deems necessary, including, without limitation, [to] the name of the sports pool vendor, if any, casino key employees responsible for the sports pool operation, specifications of the sports pool lounge, hours of operation, staffing plan and an integrity monitoring plan.

(c) *Evidence of experience in sports pools*. An applicant for a [sports pool] casino sports wagering license shall disclose such applicant's experience, if any, and the experience of any sports pool vendor proposed to be involved in such applicant's sports pool operations, in the operation of sports pools in any jurisdiction, including, without limitation:

(1) a list of each jurisdiction in which such applicant or proposed sports pool vendor has been authorized to operate or assist in the operation of sports pools, including dates of authorized operation;

(2) all regulatory infractions, discipline or other sanctions that have been imposed on such applicant or proposed sports pool vendor relating to any gaming activity, including sports pools, along with a detailed description of the conduct involved and the nature of the sanction or discipline; and

(3) whether the applicant or proposed sports pool vendor has operated gaming activity, including sports pools, in any jurisdiction in an unauthorized manner or been accused or adjudicated to have engaged in illegal gambling or wagering of any kind,

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including a detailed description of the conduct involved and the nature of the sanction or discipline.

(d) *Internal Controls.* Prior to the issuance of a license, an applicant for a casino sports [pool] wagering license shall submit for commission approval such applicant's proposed internal controls, pursuant to section 5329.8 of this Part.

(e) *Amendment.*

(1) Each applicant and licensee shall promptly file with the commission an update explaining any new or changed facts or circumstances whenever such occurs with respect to any matter set forth in a casino sports [pool] wagering license application.

(2) All applicants and licensees shall have an obligation to ensure that information, documentation and assurances submitted to the commission are not misleading considering the circumstances in which such were submitted.

(3) The commission may permit any applicant to file an amendment to its application at any time prior to the commission's final action thereon.

(4) The failure of an applicant or licensee to comply with applicable laws and regulations shall be grounds for denial of the application or for suspension or revocation of a casino sports [pool] wagering license.

(f) *Determination of application.* Upon evaluation of each application, the commission shall either:

(1) grant the application for a casino sports [pool] wagering license;

(2) grant the application with conditions the commission deems necessary or advisable;

(3) request additional information or documentation; or

(4) deny the application.

The commission may deny a casino sports [pool] wagering license to an applicant that has failed to establish such applicant's competence to operate a sports pool or provide an adequate plan of operation (including acceptability of a sports pool vendor). An applicant may request a de novo hearing to challenge an application denial or condition imposed. Such hearing shall be held pursuant to procedures the commission may establish.

§ 5329.3. Term of casino sports wagering license and review.

(a) *Term.* A casino sports [pool] wagering license shall remain valid for the period of the casino's gaming facility license, unless a condition of such casino sports [pool] wagering

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license pursuant to paragraph (2) of subdivision (f) of section 5329.2 of this Part establishes a shorter casino sports [pool] wagering license period.

(b) *Review.* No later than three months before each five-year anniversary of the issuance of a casino sports [pool] wagering license, unless a condition of such casino sports [pool] wagering license pursuant to paragraph (2) of subdivision (f) of section 5329.2 of this Part establishes a shorter time period, [an operator] a casino sports wagering licensee shall submit to the commission the following information to enable the executive director of the commission to determine, pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section [1367(3)(a)] 1367(2)(a), that such [operator] casino sports wagering licensee continues to meet the requirements of article 13 of the Racing Pari-Mutuel Wagering and Breeding Law and this Part:

(1) a list of each jurisdiction in which such [operator] casino sports wagering licensee or a sports pool vendor with which such [operator] casino sports wagering licensee has contracted, has been authorized within the prior five years to operate or assist in the operation of sports pools, including dates of authorized operation;

(2) all regulatory infractions, discipline or other sanctions that have been imposed on such [operator] casino sports wagering licensee or a sports pool vendor with which such [operator] casino sports wagering licensee has contracted, within the prior five years relating to gaming activity, including sports pools. The submission shall include a detailed description of the conduct involved and the nature of the sanction or discipline;

(3) whether the [operator] casino sports wagering licensee or sports pool vendor has operated sports pools in any jurisdiction within the prior five years in an unauthorized manner or been accused or adjudicated to have engaged in illegal gambling or wagering of any kind, including a detailed description of the conduct involved and the nature of the sanction or discipline;

(4) whether the [operator] casino sports wagering licensee or sports pool vendor has committed any misconduct or engaged in any improper associations within the meaning of section 5329.7 of this Part; and

(5) the annual financial statements audited according to generally accepted accounting principles, of the sports pool vendor, if any, for the prior three years.

§ 5329.4. Vendor licensing.

(a) *Sports pool vendor.* [An operator] A casino sports wagering licensee may contract with a sports pool vendor to operate or assist in the operation of sports pools on behalf of such [operator] casino sports wagering licensee, as permitted by Racing, Pari-Mutuel Wagering and Breeding Law section [1367(3)(f)] 1367(2)(h). As required by such statute, any such sports pool vendor shall obtain a casino vendor enterprise license pursuant to Part 5307 of this subchapter prior to the execution of any contract to so operate. [An operator] A casino sports wagering licensee always shall remain responsible for compliance with article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and

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this subchapter, even if such licensee has engaged a sports pool vendor to conduct sports pool wagering on behalf of such licensee. The acts, omissions and knowledge of a sports pool vendor with respect to matters addressed in article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and this subchapter shall be imputed to and also be the responsibility of the casino sports wagering licensee. A sports pool vendor shall also be independently responsible for compliance with article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and this subchapter.

(b) *Equipment and software providers.* All manufacturers, suppliers and service providers of sports [pool] wagering equipment, including, without limitation, wagering platforms, shall be licensed as casino vendor enterprises pursuant to section 5307.1 of this subchapter.

§ 5329.5. Reporting of changes.

Each [operator] casino sports wagering licensee and sports pool vendor shall have a continuing duty to disclose any material change or changes in such entity's business form or activity, information submitted in support of a review pursuant to section 5329.3 of this Part; information provided to [patrons] authorized sports bettors; information provided to investors; or information provided in an annual report, or statutory duty to provide information, to the commission.

§ 5329.6. Licensing of individuals.

(a) *Persons directly involved.* A person directly involved in the conduct and operation of a sports pool shall be licensed or registered by the commission as a casino key employee or as a casino employee, as determined by the commission pursuant to title 3 of article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and Parts 5303, 5304 and 5305 of this subchapter, as applicable, as required by Racing, Pari-Mutuel Wagering and Breeding Law section [1367(4)(a)] 1367(3)(a).

(b) *Persons not directly involved.* A person employed in a sports wagering lounge but not directly involved in wagering may be required to register with the commission as a casino employee, consistent with the registration standards applicable to persons not directly involved in casino gaming, as set forth in Part 5306 of this subchapter, as required by Racing, Pari-Mutuel Wagering and Breeding Law section [1367(4)(a)] 1367(3)(a).

(c) *Employees of a sports pool vendor.* Employees of a sports pool vendor shall be licensed or registered as section 5307.5 of this subchapter and Racing, Pari-Mutuel Wagering and Breeding Law section [1367(4)(a)] 1367(3)(a) require.

§ 5329.7. Misconduct and improper associations.

The commission may impose penalties or take other appropriate action against [an operator] a casino sports wagering licensee or a sports pool vendor if the commission finds that any such licensee, or any person employed by or associated with such licensee:

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(a) is associating, consorting or negotiating with persons who have been convicted of an unauthorized gambling or gambling-related crime;

(b) is guilty of any fraud or has attempted any fraud or misrepresentation in connection with sports pools or otherwise;

(c) has violated any law, rule or regulation with respect to sports pools or sports wagers in any jurisdiction; or

(d) has violated any rule, regulation or order of the commission.

§ 5329.8. Internal controls.

(a) *Submission and requirements.* Each [operator] casino sports wagering licensee shall submit to the commission for approval internal controls for all aspects of sports pool wagering operations prior to commencing operations. Such internal controls shall address the following items in regard to the sports pool system, at a minimum:

(1) user access controls for all sports pool personnel;

(2) description of segregation of duties;

(3) automated and manual risk management procedures;

(4) procedures for identifying and reporting fraud and suspicious conduct;

(5) procedures to prevent wagering by [patrons] prohibited sports pool bettors [from wagering];

(6) procedures to ensure no sports wagering shall be based on a prohibited sports event;

[(6)] (7) description of anti-money laundering compliance standards;

[(7)] (8) description of all types of sports wagers available to be offered;

[(8)] (9) description of all integrated third-party systems;

[(9)] (10) procedures for the reconciliation of assets and documents contained in the wagering cashier drawers and automated ticket machines, which shall provide for the reporting of any overage or shortage; [and]

[(10)] (11) in the event of a failure of [the sports pool's] a casino sports wagering licensee's ability immediately to pay winning wagers, the licensee shall have internal controls detailing the method of ultimately paying winning wagers. The licensee also shall file with the commission an incident report for each system failure and document the date, time and reason for the failure along with the date and time the system is restored [with the commission]; and

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(12) all data sources used in sports wager determination. Official data from a sports governing body shall be used to determine all sports wagers, unless a casino sports wagering licensee demonstrates to the satisfaction of the commission that wagers for such wager type may be determined objectively, reliably, accurately and timely by an alternative data source. See Racing, Pari-Mutuel Wagering and Breeding Law section 1367(14).

(b) *Reconciliation*. The internal controls shall detail the reconciliation of assets and documents contained in a sports wagering lounge cashier's drawer.

§ 5329.9. Sports wagering lounge.

(a) *Lounge*. Sports wagering conducted by a casino sports wagering licensee shall occur only in [a sports wagering lounge of an operator, as required by] the locations set forth in Racing, Pari-Mutuel Wagering and Breeding Law section [1367(3)(b)] 1367(2)(b). Any [such] sports wagering lounge shall [be] measure no less than 500 square feet and promote optimum security of the facility, which shall include the installation and maintenance of security and surveillance equipment consistent with the requirements of sections 5314.4 and 5314.5 of this Part, including closed-circuit television equipment, according to specifications submitted to and approved by the commission. No wagering ticket shall be sold except at regular ticket windows, properly designated by signs, except that wagering tickets and vouchers may be issued by automated ticket machines within a sports wagering lounge or other location within the [gaming facility] casino as approved by the commission.

(b) *Booth*. Each lounge shall include a booth that:

(1) shall be designed and constructed to provide maximum security for the materials stored and the activities performed therein;

(2) includes one or more cashier windows, each of which shall contain:

(i) a cashier's drawer and terminal through which financial transactions related to sports wagering are conducted;

(ii) a permanently affixed number, which shall be visible to the CCTV surveillance system;

(iii) a physical barrier designed to prevent direct access to the materials stored and activities performed in such booth if a cashier is cashing a winning wagering ticket or voucher of more than \$10,000. Such windows shall be secured physically from any other cashier locations within the booth; and

(iv) manually triggered silent alarm systems, which shall be connected directly to the monitoring rooms of the casino surveillance;

(3) includes manually triggered silent alarm systems, which shall be connected directly to the monitoring rooms of the casino surveillance;

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(4) includes closed circuit television cameras capable of accurate visual monitoring and taping of any activities, including the capturing of the patron's facial image when conducting transactions at the counter;

(5) has an alarm for each emergency exit door that is not a mantrap; and

(6) includes a secure location for the purpose of storing funds issued by a cage to be used in the operation of a sports pool.

(c) *Required personnel.* Each [operator] casino sports wagering licensee shall have, or otherwise retain through a sports pool vendor, one or more persons to serve as an:

(1) oddsmaker; and

(2) operations wagering manager.

§ 5329.10. Sports pool system requirements.

(a) *Submission to laboratory.* Prior to operating a sports pool, all equipment and software used in conjunction with its operation shall be submitted to a licensed independent gaming test laboratory for review and approval.

(b) *Server and wager creation.* The server or other equipment to accept sports wagers [at a sports pool] shall be located within the casino. In creating sports wagers that will be offered to the public, a sports pool operations manager may receive advice and recommendations from any source or entity in other jurisdictions and may take into consideration information in regard to odds and wagers placed on sports events.

(c) *Risk management framework.* A sports pool system submission shall contain a description of the risk management framework, including, without limitation:

(1) user access controls for all sports pool personnel;

(2) information in regard to segregation of duties;

(3) information in regard to automated risk management procedures;

(4) information in regard to fraud detection;

(5) controls ensuring regulatory compliance;

(6) description of anti-money laundering compliance standards;

(7) description of all software applications that comprise the system;

(8) description of all types of sports wagers available to be offered by the system;

(9) description of all integrated third-party systems; and

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(10) description of the method to prevent past posting.

(d) *Data retention.* A sports pool system shall maintain all transactional [betting] sports wagering data for a period of 10 years.

(e) *Information recording.* A sports pool system shall be capable of recording the following information for each sports wager made:

- (1) description of event;
- (2) event number;
- (3) sports wager selection;
- (4) type of sports wager;
- (5) amount of sports wager;
- (6) date and time of sports wager;
- (7) unique wager identifier; and
- (8) [an indication of] when the sports wagering ticket expires.

(f) *Wagering tickets.* Each sports wagering ticket a cashier or automated ticket machine generates shall include:

- (1) all of the information set forth in subdivision (e) of this section;
- (2) name and address of the party issuing the sports wagering ticket;
- (3) a barcode or similar symbol or marking as approved by the commission, corresponding to the unique sports wager identifier;
- (4) method of redeeming winning sports wagering ticket via mail; and
- (5) identification of the cashier or automated ticket machine generating the sports wagering ticket.

(g) *Vouchers.* Sports pool vouchers issued by a sports pool system shall contain the following information:

- (1) date, time, and location of issuance;
- (2) amount of the voucher;
- (3) unique voucher identifier;
- (4) expiration date of the voucher;

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(5) name of [gaming facility] casino; and

(6) [an indication] a statement that the voucher can be redeemed only in exchange for a sports wager or cash.

(h) *Voucher redemption*. If a sports pool system issues and redeems a sports pool voucher, the system shall be capable of recording the following information for each voucher:

(1) amount of voucher;

(2) date, time, and location of issuance;

(3) unique voucher identifier;

(4) expiration date of the voucher; and

(5) date, time, and location of redemption, if applicable.

(i) *Required system functions*. A sports pool system shall be capable of performing the following functions:

(1) creating sports wagers;

(2) settling sports wagers;

(3) voiding sports wagers;

(4) cancelling sports wagers;

(5) processing lost, destroyed or expired sports wagering tickets;

(6) preventing any sports [pool] wager in excess of \$10,000 or making a payout in excess of \$10,000 until authorized by a supervisor; and

(7) maintaining the following:

(i) description of the event;

(ii) event number;

(iii) sports wager selection;

(iv) type of sports wager;

(v) amount of sports wager;

(vi) amount of potential payout;

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- (vii) date and time of sports wager;
- (viii) identity of the cashier accepting the sports wager;
- (ix) unique sports wagering ticket or voucher identifier;
- (x) expiration date of sports wagering ticket;
- (xi) [patron] the authorized sports bettor's name, if known;
- (xii) date, time, amount, and description of the settlement;
- (xiii) location where the sports wager was made;
- (xiv) location of redemption; and
- (xv) identity of cashier settling the sports wager, if applicable.

(j) *Voided and cancelled sports wagers.* When a sports [pool] wager is voided or cancelled, the system shall indicate clearly that the sports wagering ticket is voided or cancelled, render such ticket nonredeemable and make an entry in the system indicating the void or cancellation and identity of the cashier or automated process.

(k) *Past posting and known event outcomes.* A sports pool system shall prevent past posting of sports wagers and the voiding or cancellation of sports wagers after the outcome of an event is known.

(l) *Self-authentication.* A sports pool system shall, at least once every 24 hours, perform a self-authentication process on all software used in the sports pool system to offer, record and process sports wagers to ensure there have been no unauthorized modifications. In the event [of an authentication failure] that an unauthorized modification is identified as a result of this process, at a minimum, the system immediately shall notify the casino operations wagering manager using an automated process. The operations manager shall notify the commission promptly of the authentication failure. The system shall record the results of all self-authentication attempts and [maintained] maintain such record for a period of not less than 90 days.

(m) *Controls.* A sports pool system shall have controls in place to review the accuracy and timeliness of any data feeds used to offer or settle sports wagers. In the event that an incident or error occurs that results in a loss of communication with data feeds used to offer or redeem sports wagers, such error shall be recorded in a log capturing the date and time of the error, the nature of the error and a description of such error's impact on the system's performance. Such information shall be maintained for a period of not less than six months.

(n) *Commission access to data.* Consistent with existing commission authority, the [operator] casino sports wagering licensee and sports pool vendor shall provide access

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to sports wagering transaction data and related data the commission may deem necessary, in a manner approved by the commission.

(o) *Sports pool system.* A sports pool system shall be capable of preventing any sports [pool] wager in excess of \$10,000 or making a payout in excess of \$10,000 until authorized by a supervisor. A sports pool system shall be capable of maintaining the following:

- (1) description of the event;
- (2) event number;
- (3) sports wager selection;
- (4) type of sports wager;
- (5) amount of sports wager;
- (6) amount of potential payout;
- (7) date and time of sports wager;
- (8) identity of the cashier accepting the sports wager;
- (9) unique wagering ticket or voucher identifier;
- (10) expiration date of sports wagering ticket;
- (11) [patron] the authorized sports bettor's name, if known;
- (12) date, time, amount, and description of the settlement;
- (13) location where the sports wager was made;
- (14) location of redemption; and
- (15) identity of cashier settling the sports wager, if applicable.

(p) *Redeemed lost wagering tickets.* For all lost sports wagering tickets that are redeemed, a sports pool system shall record and maintain the following information:

- (1) date and time of redemption;
- (2) employee responsible for redeeming the sports wagering ticket;
- (3) name of [patron] the authorized sports bettor redeeming the sports wagering ticket;
- (4) unique sports wagering ticket identifier; and

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(5) location of the redemption.

§ 5329.11 Automated ticket machines.

(a) *Permitted.* [An operator] A casino sports wagering licensee may use an automated ticket machine or machines for sports wagering transactions in conjunction with an approved sports pool system in a sports wagering lounge or other location within the [gaming facility] casino.

(b) *Restrictions.* An automated ticket machine used in accordance with this section shall not:

(1) issue or redeem a sports pool wagering ticket or voucher with a value of more than \$3,000;

(2) issue a sports wagering ticket or voucher with a potential payout of more than \$10,000; and

(3) redeem a sports wagering ticket or voucher with a value of more than \$3,000.

(c) *Drop.* On a daily basis, [an operator] a casino sports wagering licensee shall remove the bill validator boxes in the automated ticket machines (the *automated ticket machine drop*). Surveillance shall monitor and record the automated ticket machine drop. [An operator] A casino sports wagering licensee shall submit an automated ticket machine drop schedule to the commission, which shall include:

(1) the time the drop is scheduled to commence; and

(2) the number and locations of automated ticket machines.

(d) *Keys.* A security department member and a cage department member shall obtain the keys necessary to perform the automated ticket machine drop and/or currency cassette replacement, in accordance with the casino's key sign-out and sign-in procedures.

(e) *Cage department member.* A cage department member with no incompatible functions shall place empty bill validator boxes needed for the automated ticket machine drop into a secured cart and prepare an automated ticket machines bill validator drop form, which shall include the following:

(1) gaming date;

(2) identification number of the secured cart;

(3) number of empty boxes placed into the secured cart; and

(4) signature of the cage department member documenting that the number of empty boxes equals the number of automated ticket machines in use.

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(f) *Completion of drop.* In the presence of a security department member, a cage department member shall complete the automated ticket machines drop at each automated ticket machine by:

- (1) unlocking the cabinet housing the bill validator boxes;
- (2) removing the bill validator boxes and [place] placing the removed bill validator boxes into a secured cart and [insert] inserting the empty bill validator boxes and reject bins;
- (3) locking the cabinets housing the bill validator boxes; and
- (4) transporting the secured cart to a count room or other location approved by the commission for the count of the automated ticket machine drop.

(g) *Count.* The contents of the bill validator boxes shall be counted by one or more accounting department employees with no incompatible function, who shall:

- (1) document the contents, by item and amount, for each box on a balance receipt;
- (2) prepare or generate an automated ticket machine drop totals report that summarizes the total currency, sports wagering tickets[,] and sports pool vouchers counted;
- (3) verify that the number of bill validator boxes counted equals the number of empty boxes initially recorded on the automated ticket machine bill validator drop form. Any exceptions encountered during the drop and count process shall be documented on this form;
- (4) transfer the currency to a main bank cashier with a copy of the automated ticket machine drop totals report;
- (5) transport the sports wagering tickets and vouchers to a secured location approved by the commission for storage until permitted to destroy; and
- (6) transport the balance receipts, the automated ticket machine drop totals report and automated ticket machine bill validator drop form to the casino accounting department.

(h) *Replenishment.* On a daily basis or at a greater frequency as needed, [an operator] a casino sports wagering licensee shall replenish the currency cassettes in the automated ticket machines. A cashier with no incompatible functions shall prepare the currency cassettes to replenish the automated ticket machines, which shall be documented on a two-part automated ticket machines cassette fill form. The cashier shall retain one copy of such form and the duplicate shall be used to document the completion of the transaction. The form shall include:

- (1) designation of the automated ticket machine to which the fill is to be performed;

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- (2) for each denomination, the number of bills and total value;
- (3) the total value of all currency cassettes;
- (4) date and time prepared; and
- (5) signature of the cashier.

(i) *Completion of replenishment.* A finance department employee shall place the replacement currency cassettes and empty reject bins into a secured cart. In the presence of a security department member, the accounting department employee shall complete the sports pool currency cassette replenishment at each automated ticket machine by:

- (1) unlocking the cabinets housing the currency cassettes and reject bins;
- (2) removing all currency cassettes and the reject bin, which shall be placed in a secure cart and generate a credit receipt that, at a minimum, includes:
 - (i) an identification number of the automated ticket machine;
 - (ii) the date and time;
 - (iii) the denomination of each currency cassette; and
 - (iv) the total value of the total number of bills per denomination remaining in each currency cassette being replenished and the reject bin;
- (3) inserting the replacement currency cassettes and currency cassette reject bin; and
- (4) entering data into the automated ticket machine that describes the fill and generating a fill receipt that, at a minimum, includes:
 - (i) an identification number of the automated ticket machine;
 - (ii) the date and time the fill was performed;
 - (iii) the denomination of currency for each currency cassette inserted into the machine; and
 - (iv) the total value of the total number of bills per denomination, for each currency cassette being inserted into the machine;
- (5) locking the cabinet and signing the duplicate copy of the automated ticket machine cassette fill attesting that the fill was completed. The fill receipt and the credit receipt shall be deposited in a locked accounting box; and
- (6) returning all removed currency cassettes and reject bins in a secured cart to the count room or other location approved by the commission.

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(j) *Count and documentation.* One or more accounting department employees with no incompatible function shall count and document the value of the contents of each removed currency cassette and currency cassette reject bin by:

- (1) documenting the count of each currency cassette and reject bin on a balance receipt, by automated ticket machine;
- (2) preparing or generating a sports pool currency cassette replenishment totals report that summarizes the total currency counted;
- (3) transferring the currency to a main bank cashier with a copy of the currency cassette replenishment totals report; and
- (4) transporting the balance receipts and currency cassette replenishment totals report to the casino accounting department.

(k) *Reconciliation.* The casino accounting department shall reconcile the automated ticket machines on a daily basis pursuant to internal controls. Any variance shall be documented by the accounting department and reported in writing to the commission within 72 hours of the end of the gaming day during which the variance was discovered. The report shall indicate the cause of the variance and shall contain any documentation required to support the stated explanation.

§ 5329.12. House rules.

(a) *Content.* Each [operator] casino sports wagering licensee shall adopt comprehensive house rules, which shall be submitted for written approval by the commission. Such house rules shall include the following, at a minimum:

- (1) method for calculation of and [payment of] amounts to be paid on winning sports wagers;
- (2) effect of schedule changes for all markets offered;
- (3) method of notifying [patrons] authorized sports bettors of odds or proposition changes;
- (4) acceptance of sports wagers at other than posted terms;
- (5) expiration of any winning sports waging ticket one year after the date of the event;
- (6) method of contacting the [operator] casino sports wagering licensee for questions and complaints;
- (7) [description] acknowledgment of prohibited sports [pool participants] bettors;

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(8) method of the process for any employee of a sports governing body or member team who is not prohibited from sports wagering to register with the commission prior to placing a sports wager; [and]

(9) method of funding a sports wager;

(10) minimum and maximum sports wagers by sports governing body; and

(11) description of sports wagering rules as it relates to in-play wagers.

(b) *Availability.* [An operator's] A casino sports wagering licensee's house rules, together with any other information the commission deems appropriate, shall be displayed conspicuously in the sports wagering lounge, posted on the [operator's] casino sports wagering licensee's website[,] included in the terms and conditions of the sports pool system and made readily available to [patrons] authorized sports bettors in printed form, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(5).

§ 5329.13. [Wager] Sports wager types.

(a) *Approval of sports wagering menu.* [An operator] A casino applying for licensure shall submit to the commission the types of sports wagers such [operator] casino would like to offer and the sports leagues, associations or organizations on whose contests the [operator] casino wishes to offer such sports wagers. Each type of sports wager and each sports league, association or organization on whose contests such [operator] casino wishes to offer sports wagering is subject to commission approval and may be subject to such conditions as the commission may determine. After licensing of [an operator] a casino sports wagering licensee, commission approval is required before such [operator] licensee is permitted to offer any type of sports wager not previously offered by such [operator] licensee, or an existing sports wager type for a sport, league, association or organization on whose contests the commission has not previously authorized wagering. To obtain commission approval, [an operator] a casino sports wagering licensee shall specify the underlying sport and sports league, association or organization upon which the proposed type of sports wager is based, provide rules for the sports wager and demonstrate that the new type of sports wager will comply with Racing, Pari-Mutuel Wagering and Breeding Law section 1367 and this Part. Following review of the proposed sports wager type, the commission shall inform all [operators] casino sports wagering licensees whether the proposed sports wager type is approved or denied or whether additional information from such [operator] licensee is required.

(b) *Limitations on sports wager type.*

(1) No sports wager type shall be approved unless:

(i) the event on which the sports wager is based is an event whose outcome can be verified;

(ii) the outcome of the sports wager can be generated by a reliable and independent process;

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(iii) the outcome of the event is not affected by any sports wager placed; and

(iv) the event is conducted in conformity with all applicable laws, rules and regulations.

(2) [An operator] A casino sports wagering licensee shall not offer sports wagers on:

(i) any prohibited sports event, as defined in Racing, Pari-Mutuel Wagering and Breeding Law section [1367(1)(f)] 1367(1)(s);

(ii) any horse race;

(iii) any amateur or youth sports event, except collegiate sports events approved by the commission;

(iv) any event that is not a sports event; and

(v) any sports event on which the commission deems wagering to be contrary to public policy, either on the commission's own initiative or upon commission affirmation of a request by a league or governing body that governs such sports event, so long as such request has been made in writing to the commission at least 60 days in advance of such sports event with an explanation of why wagering on such event should not be permitted as a matter of public policy. The commission shall make available a list on its website of sports events on which wagers are not permitted to be offered and may determine, if it believes such prohibitions should be permanent, amend this section accordingly to enumerate such prohibited events.

(3) The commission may, in considering whether to approve or condition a sports wager type pursuant to this section, consider the views of a league, association or organization as the commission may deem advisable.

(c) *Variations on sports wager types.* [An operator] A casino sports wagering licensee may introduce variations of permissible types of sports wagers by seeking commission approval. [An operator] A casino sports wagering licensee is not required to amend a previously approved submission to describe a variation if approved by the commission.

(d) *Conditions placed on sports wager type.* The commission may approve conditionally a sports wager type or the use of a sports wager type for a particular sport, league, association or organization as the commission may deem advisable, such as establishing a limited trial period for a type of sports wager or imposing limits on a particular sports wager, to protect the wagering public, the integrity of sports wagers, the integrity of the sports event upon which a sports wager is based, in whole or in part, or for any other reason consistent with the policies underlying article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or this subchapter.

(e) *Withholding of approval.* The commission may, in the exercise of discretion, withhold approval of any proposed sports wagering type that directly or indirectly violates any

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requirement for permissible sports wagers or that the commission determines to be contrary to public policy.

(f) *Information to commission.* [An operator] A casino sports wagering licensee shall comply with every commission request for information about any type of sports wager that such [operator] casino sports wagering licensee proposes to offer to the public.

(g) *Wagering tournaments.* No wagering tournament shall be conducted without prior approval of the commission. [An operator] A casino sports wagering licensee shall submit the rules of any proposed wagering tournament for commission approval no later than 30 days prior to the anticipated start date of such wagering tournament.

§ 5329.14. Parlay card wagers.

This section applies to parlay card wagers and not parlay wagers.

(a) *Requirements for parlay card wagers.* Each [operator] casino sports wagering licensee that offers parlay card wagers shall disclose fully, accurately and unambiguously on all parlay card wagering forms:

- (1) the amounts to be paid to winners, the method by which such amounts are to be determined and aggregate payout amount;
- (2) the minimum and maximum [betting] wagering limits, if any;
- (3) the effect of ties or draws in sports events;
- (4) the effect of a sports event not being played on the date specified and of other occurrences that will cause selections to be invalid;
- (5) the procedure for claiming winnings, including, without limitation, the documentation [a patron] an authorized sports bettor must present to claim winnings;
- (6) the requirement that a parlay card wager must consist of at least three selections that have not become invalid under applicable house rules or the wager will be void and will be refunded;
- (7) the rights, if any, reserved by the [operator] casino sports wagering licensee, including, without limitation, the right to eliminate any selection prior to the acceptance of a wager, or to withhold payouts of specified amounts until the outcome of each proposition offered by the parlay card has been determined;
- (8) the requirement that the point spreads, if any, printed on the parlay card wagering form when the wager is accepted will be used to determine the outcomes of the wagers; and
- (9) that the [operator's] casino sports wagering licensee's house rules apply to parlay cards unless otherwise stated on the parlay card wagering form.

(b) *Payout.*

(1) [An operator] A casino sports wagering licensee may limit, with commission approval, the aggregate amount to be paid to winners on a parlay card. Any such aggregate limit shall not be less than an amount disclosed on the parlay card (the *aggregate limit*).

(2) When [an operator] a casino sports wagering licensee knows or reasonably should know that actual payouts on a parlay card will be limited by an aggregate limit, the [operator] casino sports wagering licensee shall cease accepting wagers on such parlay card and making payouts on such parlay card.

(3) When [an operator] a casino sports wagering licensee ceases accepting wagers and making payouts on a parlay card pursuant to paragraph (2) of this subdivision, if the parlay card, [patron] authorized sports bettor receipts and related documentation are distinguishable from the parlay card, receipts and documentation as to which the [operator] casino sports wagering licensee has ceased accepting wagers, then the [operator] casino sports wagering licensee may accept wagers on only those sports events listed on the parlay card whose outcomes have not been determined, in which case such parlay card shall be considered a different parlay card for purposes of this subdivision.

(4) After the outcome of the final sports event offered on a parlay card has been determined, the [operator] casino sports wagering licensee shall determine the total amount of all winning wagers on such parlay card from all [patrons] authorized sports bettors. If such total amount exceeds the aggregate limit, the [operator] casino sports wagering licensee, unless paragraph (5) of this subdivision applies, may pay each winning wager, instead of the amount that would have been due in the absence of such aggregate limit, an amount equal to the amount of such winning wager multiplied by such aggregate limit and divided by the total amount of all winning wagers (including payouts made prior to the suspension of payouts) that would otherwise have been made without regard to such aggregate limit.

(5) Notwithstanding the aggregate limit, if [an operator] a casino sports wagering licensee pays a winner of a parlay card wager more than 10 percent of the aggregate limit before the outcome of every proposition offered by such parlay card has been determined, such [operator] casino sports wagering licensee shall pay every winner of a wager on such parlay card the proper payout amount stated on such parlay card in full and without regard to any aggregate limit.

(6) In specific cases, the commission, only in writing, may waive the requirements of this subdivision or impose requirements more restrictive than the requirements of this subdivision.

§ 5329.15. Layoff wagers.

[An operator] A casino sports wagering licensee may, in its discretion, accept a layoff wager from another New York [State licensed operator] State-licensed casino sports

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wagering licensee or skin, as skin is defined in section 5330.1 of this subchapter. Any such wager shall be placed in the name of the [operator] casino sports wagering licensee itself or skin itself. A layoff wager and, if applicable, a resultant payout shall not be included in the calculation of sports pool gross gaming revenue. Each layoff wager shall be reported to the commission, [in such manner as the commission may direct] if possible, prior to the placement of such wager. If not possible, a casino sports wagering licensee or skin shall submit the details of the layoff wager to the commission's division of gaming within 24 hours of the placement of such wager. Layoff wagers shall not be executed with operators in other jurisdictions unless all Federal law requirements are met.

§ 5329.16. Information posting.

(a) *Information posting.* [An operator] A casino sports wagering licensee shall make available in written form in conspicuous locations in the sports wagering lounge and on conspicuously accessible electronic screens a general explanation of each type of sports wager offered and the point or money line odds. Any explanation shall not be misleading or unfair to [patrons] authorized sports bettors.

(b) *Display of available sports wagering information.* The available sports wagering information for specific sports events shall be displayed in a manner visible to the public. The display shall include the event number, corresponding odds and a brief description of the event. Such information also shall be available on conspicuously accessible electronic screens. Any display shall not be misleading or unfair to [patrons] authorized sports bettors.

[(c)*Lock times.* An operator shall establish a lock time for a wager after which no further wagering shall be accepted, which may correspond to the happening of an event. Such lock time shall be disclosed conspicuously and shall not be changed unless the official start time of an event has changed. No wager shall be accepted after such disclosed lock time.]

§ 5329.17. Manner of placing wager.

(a) *Placement of sports wagers.* All sports wagers accepted by a casino sports wagering licensee pursuant to this Part shall be placed within a sports wagering lounge with a sports wagering cashier at a sports wagering counter or at an automated ticket machine located within a sports wagering lounge or other location within the [gaming facility] casino as approved by the commission.

(b) *Forms of payment.* [Wagers] Sports wagers pursuant to this Part shall be made in cash, vouchers, gaming chips or [validated] wagering tickets of value or any other form of payment approved by the commission.

[(c)*Rescission.* An operator shall not rescind any wager made pursuant to this Part unless extraordinary circumstances exist and the prior written approval of the commission has been obtained.]

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§ 5329.18. [Wagering] Sports wagering tickets.

(a) [*Wagering*] *Sports wagering ticket requirements.* Upon accepting a sports wager, a sports wagering cashier shall cause the sports wagering platform to generate a sports wagering ticket. The sports wagering ticket shall include, at a minimum, the following:

- (1) [operator's] casino sports wagering licensee's name;
- (2) event number;
- (3) description of event;
- (4) type of sports wager;
- (5) unique sports wagering ticket identifier;
- (6) a barcode or similar symbol or marking, as approved by the commission, corresponding to the unique sports wagering ticket number;
- (7) date and time of issuance;
- (8) cashier identifier or automated ticket machine identifier;
- (9) location of issuance;
- (10) amount of the sports wager;
- (11) date, or dates, of the sports event or events;
- (12) payout odds;
- (13) amount to be paid on a winning sports wager, unless the sports wager is a pari-mutuel wager;
- (14) the [patron's] authorized sports bettor's player card account number, if any; and
- (15) mail-in redemption instructions;
- (16) the sports wagering ticket's expiration date.

(b) *Expiration date of sports wagering ticket.* Any winning sports wagering ticket shall be deemed lapsed and ineligible for payment one year after the date of the last sports event that forms the basis of such sports wager. Any lapsed sports wagering ticket shall be unclaimed funds and shall be deposited by the commission pursuant to the requirements of Racing, Pari-Mutuel Wagering and Breeding Law section 1354 and subdivision (c) of section 5329.29 of this Part. [The wagering ticket shall display clearly on the wagering ticket, such expiration date.]

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§ 5329.19. [Wagering] Sports wagering restrictions.

(a) *Age.* No person under 21 years of age may place a sports wager with [an operator] a casino sports wagering licensee, as required by Racing, Pari-Mutuel Wagering and Breeding Law section [1367(3)(d)] 1367(2)(d).

(b) *Prohibited persons.* [An operator] A casino sports wagering licensee shall not knowingly accept any sports wager from any prohibited sports [pool participant] bettor. No prohibited sports [pool participant] bettor is permitted to make such a sports wager [at any operator] with any licensee or collect winnings from any such sports wager, which sports wager shall be deemed void. Any person who is a direct or indirect legal or beneficial owner of 10 percent or greater of a sports governing body or any of such body's member teams shall not place or accept sports wagers on a sports event in which any member team of such sports governing body participates.

(c) *Proxy wagering and collection prohibited.* [An operator] A casino sports wagering licensee shall not make payment on a winning sports wager to a person who the [operator] licensee knows or reasonably should know is collecting the payment on behalf of another for monetary consideration or in violation of local, state or Federal law. [An operator] A casino sports wagering licensee shall not make payment on a winning sports wager to a person who the [operator] licensee knows or reasonably should know is engaging in such activity for profit or as a business enterprise. [An operator] A casino sports wagering licensee may withhold payment of a winning sports wager if a customer refuses to supply identification or any other documentation required by this Part or article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law.

(d) *Minimum and maximum [wager] sports wagers.* Minimum and maximum amounts of sports wagers shall be as established by [an operator's] a casino sports wagering licensee's house rules approved by the commission. [An operator] A casino sports wagering licensee shall disclose clearly the [maximum and] minimum and maximum sports wagers applicable to the sports wagers such [operator] licensee offers.

§ 5329.20. Certain payouts; wagering ticket control.

(a) [*Wagers*] Sports wagers and payouts greater than \$10,000.

(1) Prior to accepting any sports wager in excess of \$10,000 or making a payout in excess of \$10,000 on a winning sports wagering ticket or voucher, [an operator] casino sports wagering licensee shall:

(i) create [a patron] an authorized sports bettor identification file and identify the [patron] authorized sports bettor;

(ii) obtain and record the [patron's] authorized sports bettor's Social Security number in the patron identification file; and

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(iii) record, on a log, the following information, at a minimum:

- (a) date of the sports wager or payout;
- (b) name of the [patron] authorized sports bettor;
- (c) name and signature of the employee authorizing the acceptance of the sports wager; and
- (d) name and signature of the cashier identifying the [patron] authorized sports bettor and generating the sports wagering ticket or making the payout.

(2) For the purposes of this section, signatures may be electronic.

(3) [An operator] A casino sports wagering licensee shall monitor all sports wagering transactions to ensure [patrons] authorized sports bettors are not circumventing the identification requirements of paragraph (1) of this subdivision.

(b) *Redemption.* Winning sports wagering tickets shall be redeemed by a wagering cashier, an automated ticket machine located within a sports wagering lounge or a commission-approved mail-in procedure after verifying the validity of the sports wagering ticket through the sports wagering platform. The sports wagering platform shall redeem electronically and cancel the sports wagering ticket upon redemption. Should [the] a casino's sports wagering lounge be closed, the [casino] casino's cage shall be made available to redeem a winning sports wagering ticket.

(c) *Marking cashed sports wagering tickets.* [An operator] A casino sports wagering licensee shall establish procedures, approved by the commission, ensuring that each cashed or refunded sports wagering ticket shall not have the ability to be cashed or refunded again.

(d) *Storage.* [An operator] A casino sports wagering licensee shall maintain facilities and procedures that ensure the security of cashed sports wagering tickets and the integrity of records of outstanding sports wagering tickets. [An operator] A casino sports wagering licensee shall store, physically or by electronic record, cashed sports wagering tickets for one year and one day following the [sporting] sports event in a secure area consistent with such [operator's] casino sports wagering licensee's internal controls as approved by the commission.

(e) *Access.* [An operator] A casino sports wagering licensee shall prohibit unauthorized individuals from having access to the cashed sports wagering tickets and related storage areas. A list of authorized individuals with access to such storage areas shall be filed with the commission. Any storage area shall comply with surveillance requirements set forth in sections 5314.4 and 5314.5 of the Part.

(f) *[Betting] Sports wagering data retention.* Each [operator] casino sports wagering licensee shall maintain all [betting] sports wagering data for a sports wager for at least 10 years and shall make any such data available to the commission upon request.

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§ 5329.21. Cancellation or rescission of sports wagers.

(a) *Commission void*. The commission may order the voiding of sports wagers, and require refunds, on any event for which wagering, or the continuation of wagering, would be contrary to the public policies of [the state] this State.

(b) [Patron] Authorized sports bettor cancellation. A sports wagering ticket may be cancelled by [a patron] an authorized sports bettor at the discretion of the [operator] casino sports wagering licensee, so long as no [sporting] sports event upon which the sports wager was made has commenced.

(c) Rescission. A casino sports wagering licensee shall not rescind any sports wager made pursuant to this Part unless extraordinary circumstances exist and the prior written approval of the commission has been obtained.

[(c)] (d) *Payout adjustments*. House rules shall state clearly circumstances in which the payouts are to be adjusted, including, without limitation:

- (1) when sports wagers are affected by cancelled events;
- (2) when and for what reason or reasons sports wagers will be cancelled; and
- (3) application of aggregate limits as outlined in subdivision (b) of section 5329.14 of this Part.

§ 5329.22. Structuring of multiple sports wagers.

(a) *Prohibition*. [An operator] A casino sports wagering licensee shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through [a patron] an authorized sports bettor making a structured sports wager, including multiple sports wagers or a series of sports wagers that are designed to accomplish indirectly that which could not be accomplished directly. A sports wager or wagers need not exceed the dollar thresholds at any single [operator] casino sports wagering licensee in any single day in order to constitute prohibited structuring. No [operator] casino sports wagering licensee shall encourage or instruct the [patron] authorized sports bettor to structure or attempt to structure sports wagers. This section does not prohibit [an operator] a casino sports wagering licensee from informing [a patron] an authorized sports bettor of the regulatory requirements imposed upon the [operator] casino sports wagering licensee, including the definition of structured sports wagers. [An operator] A casino sports wagering licensee shall not knowingly assist [a patron] an authorized sports bettor in structuring or attempting to structure sports wagers.

(b) *Recording requirements*. Each [operator] casino sports wagering licensee shall maintain multiple transaction logs to monitor compliance. Such logs shall record all sports wagers made within any 24-hour period in excess of \$10,000, or in smaller amounts that aggregate in excess of \$10,000, when any single officer, employee or agent of such [operator] licensee has actual knowledge of the sports wagers or would in the ordinary course of business have reason to know of the sports wagers. Each log entry shall be

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made by the employee accepting or approving the sports wager, immediately after accepting the sports wager, and shall include at a minimum:

- (1) [patron's] authorized sports bettor's name and address;
- (2) window number or other identification of the location where the sports wager occurred;
- (3) time and date of the sports wager;
- (4) dollar amount of the sports wager;
- (5) signature or electronic signature of person accepting or approving the sports wager; and
- (6) [patron's] authorized sports bettor's player card number, if known.

(c) *Aggregating requirement.* Each [operator] casino sports wagering licensee shall aggregate all sports wagers in excess of \$10,000 when any single officer, employee or agent of such [operator] casino sports wagering licensee would in the ordinary course of business have knowledge of the sports wagers.

(d) *Identification requirement.* If [a patron] an authorized sports bettor places a sports wager that is to be aggregated with previous sports wagers for which a record has been completed pursuant to this section, the [operator] casino sports wagering licensee shall complete the identification, recordation and reporting procedures for any additional sports wager regardless of amount occurring during the 24-hour period.

§ 5329.23. [Patron] Authorized sports bettor complaints.

[An operator] A casino sports wagering licensee shall investigate diligently all [patron] authorized sports bettor complaints within five calendar days from receipt. Where a complaint is made to commission staff, consistent with existing commission authority, the commission shall have unfettered access to all information related to [patron] authorized sports bettor wagers and application of this Part or house rules as such information relates to assisting in addressing [patron] authorized sports bettor complaints. Any [patron] authorized sports bettor complaint that results in a dispute in excess of \$5,000 shall be brought immediately to the attention of the commission by the casino sports wagering licensee.

§ 5329.24. [Operator reserve] Reserve requirement.

Each [operator] casino sports wagering licensee must establish a cash reserve in an amount necessary to ensure the ability to cover outstanding sports pool liability, as approved by the commission.

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§ 5329.25. Prohibited actions.

(a) *Dishonest obtaining of a benefit.* No person shall, in relation to an authorized sports wager, obtain a benefit by any dishonest act, practice or scheme or otherwise dishonestly obtain a benefit through the use of any device or item.

(b) *Altering or falsification of information.* Any person who knowingly alters or falsifies information recorded on any record, document or report required under this Part, for any purpose, including, without limitation, for the purpose of concealment, deception or circumvention of minimum internal control procedures, may be subject to penalties and other actions the commission may take pursuant to law (e.g., a fine, penalty or revocation of a [sports pool] license by the commission).

§ 5329.26. Duties to report.

(a) *Dishonest or unlawful acts.* In the event that [an operator] a casino sports wagering licensee or its employee, sports pool vendor or employee of a sports pool vendor, becomes aware, or reasonably suspects, a person has obtained a personal benefit or a benefit for another person by a dishonest or unlawful act affecting the conduct of a sports wager or a sports event, the results of which formed the basis, in whole or in part, of a sports wager; and/or there has been an unlawful act that has affected a sports wager or a sports event the results of which formed the basis, in whole or in part, of a sports wager, such [operator] casino sports wagering licensee, [operator's] casino sports wagering licensee's employee, sports pool vendor or sports pool vendor's employee shall give promptly the commission a written notice advising the commission of all material facts known about the matter and any documents or other evidence in the possession or control of such entity or person in connection with the matter.

(b) *Bribes.* If [an operator] a casino sports wagering licensee, [operator's] casino sports wagering licensee's employee, sports pool vendor or sports pool vendor's employee is approached with an offer or promise of a bribe or with a request or a suggestion for a bribe or for any improper, corrupt or fraudulent act or practice in relation to a sports wager or a sports event relating to a sports wager or with a suggestion that any sports wager or sports event relating to a sports wager be conducted otherwise than in accordance with the rules and regulations of the commission, it shall be the duty of such person to report such suggestion, offer, promise or bribe promptly to the commission. Failure to so report shall subject such person or persons and such [operator] casino sports wagering licensee and/or sports pool vendor associated with such person to the penalties and other actions the commission may take.

(c) *Suspicious activity.* [An operator] A casino sports wagering licensee shall report promptly to the commission any other suspicious activity involving such [operator] licensee in the operation of sports pools, whether such acts are committed by such [operator] casino sports wagering licensee, [operator's] casino sports wagering licensee's employee, sports pool vendor or sports pool vendor's employee, or whether such acts are committed against such [operator] casino sports wagering licensee or sports pool vendor, including, without limitation, criminal activity, financial irresponsibility, fraud,

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misrepresentation, security breaches, breach of confidentiality of [a patron's] an authorized sports bettor's personal information or any violation of article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or this Part.

(d) *Criminal activity.* Any casino sports wagering licensee and sports pool vendor shall immediately report any suspected criminal activity to the commission.

(e) *Sports event integrity.* In the event [an operator] a casino sports wagering licensee or sports pool vendor becomes aware of or reasonably suspects that the integrity of a sports event or occurrence within a sports event has been affected or compromised by sports wagering activity, such licensee or vendor shall report to the commission promptly all facts and circumstances relating to such awareness or suspicion.

[(e)] (f) *Money laundering.* In the event [an operator] a casino sports wagering licensee or sports pool vendor becomes aware or reasonably suspects that there is a fraudulent or suspicious transaction in the operation of sports pools that may involve money laundering, or an activity similar to money laundering, as set forth in section 5315.17 of this subchapter, the [operator] casino sports wagering licensee or sports pool vendor shall report promptly in writing the suspicious activity to the commission. Nothing in this section shall relieve [the operator] a licensee from any related reporting requirements under any other local, state or Federal laws. Such [operator] licensee shall make available to the commission any documents or access to computer or other data systems that the commission may request in connection with the matter.

[(f)] (g) *Suspicious [betting] sports wagering activity and suspicious sports wagers.* [An operator] A casino sports wagering licensee:

(1) shall file with the commission a report of any suspicious [betting] wagering activity or suspicious sports wager, if such suspicious [betting] wagering activity or suspicious sports wager involves or aggregates to more than \$10,000 in funds or other assets;

(2) may file a report of any suspicious [betting] wagering activity or suspicious sports wager, without regard to the amount, if the [operator] casino sports wagering licensee believes that such reporting may be relevant to the possible violation of any law or regulation; and

(3) shall file any report pursuant to paragraphs (1) or (2) of this subdivision no later than two calendar days after the initial detection by the [operator] casino sports wagering licensee of facts that may constitute a basis for filing such a report. If no suspect was identified on the date of the detection of the incident requiring the filing, [an operator] a casino sports wagering licensee may delay filing a report for an additional seven calendar days to identify a suspect. In no case shall reporting be delayed more than nine calendar days after the date of initial detection of a reportable transaction. In situations involving violations that require immediate attention, [an operator] a casino sports wagering licensee shall notify commission staff immediately, in addition to timely filing a report.

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~~[(g)]~~ (h) Retention period. ~~[An operator]~~ A casino sports wagering licensee shall maintain a copy of any report filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the report.

(i) Other reporting requirements. Each casino sports wagering licensee shall report promptly to the commission any of the information and material required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(12)(e)(i).

(j) Investigation of reports made to the commission. The commission shall investigate any report of conduct made pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1367(12)(i) or subdivision (d) of this section. If the commission determines that there has been a violation of law, including, without limitation, commission regulations, the commission shall have the discretion to take appropriate measures, including, without limitation, discipline of licensees and registrants through actions on licenses and registrations and fines. The commission shall make appropriate referrals to other law enforcement agencies when such investigations reveal evidence of a violation of law, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 104(12).

(k) Interstate integrity monitoring. The commission may, in the commission's discretion, share information or data in regard to the integrity of sports events with other jurisdictions, or entities or agencies thereof, or with any entity maintaining an interstate database of sports wagering information for the purpose of integrity monitoring, as permitted by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(12)(g) and (h).

§ 5329.27. Sports pool integrity; confidential information.

(a) Identification and reporting of unusual [betting] wagering activity. Each ~~[operator]~~ casino sports wagering licensee shall have controls in place to identify unusual ~~[betting]~~ wagering activity and report such activity to an independent integrity [monitoring provider] monitor, or to the commission if the commission so directs.

(b) Notification to all [operators] casino sports wagering licensees and reporting of similar activity. Each independent integrity [monitoring provider] monitor shall share information in regard to any unusual ~~[betting]~~ wagering activity with each other independent integrity [monitoring provider] monitor working with other ~~[operators]~~ casino sports wagering licensees in this State and shall provide a report of such unusual ~~[betting]~~ wagering activity to all participating casino sports [pool operators] wagering licensees. Each casino sports [pool operator] wagering licensee shall review each such report and notify the independent integrity [monitoring provider] monitor of whether or not such ~~[operator]~~ licensee has experienced similar activity.

(c) Suspicious [betting] wagering activity identification and notification. If an independent integrity [monitoring provider] monitor finds that previously reported unusual ~~[betting]~~ wagering activity rises to the level of suspicious ~~[betting]~~ wagering activity, such independent integrity [monitoring provider] monitor immediately shall notify all other independent integrity [monitoring providers] monitors, each ~~[sports pool operator]~~ casino

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sports wagering licensee and sports pool vendor, the commission, the appropriate sports governing authority and, if so directed by the commission, other regulatory agencies.

(d) *Suspension of sports wagering*. A casino sports [pool operator] wagering licensee receiving a report of suspicious [betting] wagering activity shall be permitted to suspend sports wagering on events related to such report, but may cancel related sports wagers only upon commission approval to do so.

(e) *Commission access to monitoring system*. Each independent integrity [monitoring provider] monitor shall provide the commission with remote access to the following information of such provider:

- (1) all reports of unusual [betting] wagering activity;
- (2) whether the unusual [betting] wagering activity was determined to be suspicious [betting] wagering activity; and
- (3) the actions taken by the independent integrity [monitoring provider] monitor.

(f) *Information sharing*. The commission and sports governing bodies may share information in regard to the integrity of sports events, as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(12)(e)(ii).

(g) *Hardware access*. The commission may require a casino sports [pool operator] wagering licensee to provide any hardware necessary to the commission for evaluation of a sports [pool] wagering offering or to conduct further monitoring of data provided by the system of such [operator] licensee.

(h) *Confidentiality*. All information and data received pursuant to this Part by the commission related to unusual or suspicious [betting] wagering activity shall be considered confidential and shall not be revealed in whole or in part, except

- (1) upon the lawful order of a court of competent jurisdiction; or
- (2) with any law enforcement entity, team, college or university, sports governing body or regulatory agency that the commission deems appropriate.

§ 5329.28. Tax.

(a) *Tax rate*. Gross gaming revenue from sports pool wagering conducted by a casino sports wagering licensee shall be taxed at the rate [applied to gross gaming revenue from all other sources within the meaning of] set forth in Racing, Pari-Mutuel Wagering and Breeding Law section [1351] 1367(7).

(b) *Payment*. Tax attributable to sports pool wagering conducted by each casino sports wagering licensee, including any applicable interest and penalties, shall be transmitted weekly by electronic funds transfer to the commission. All gross gaming taxes relating to

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sports wagering conducted by a casino sports wagering licensee are the responsibility of, and shall be paid by, [an operator] such casino sports wagering licensee.

(c) *Reports*. All weekly gross gaming revenue tax reports filed with the commission pursuant to this section shall reflect all gross gaming revenue received by the [operator] casino sports wagering licensee for the period of the return.

(d) *Additional tax or refunds*. When the commission finds that [an operator] a casino sports wagering licensee is required to pay additional taxes or finds that [an operator] a casino sports wagering licensee is entitled to a refund of taxes, the commission shall report to such [operator its] licensee the commission's findings, along with the legal basis upon which such findings are made.

§ 5329.29. Gross gaming revenue reports and reconciliation.

(a) *Gross gaming revenue*. Gross gaming revenue generated pursuant to this Part shall equal the total of all sports wagers received less voided sports wagers, [or] cancelled sports wagers and amounts paid out for winning sports wagers. The amounts of sports wagers placed by [an operator] a casino sports wagering licensee and amounts received by [the operator] a casino sports wagering licensee as payments on layoff wagers made pursuant to section 5329.15 of this Part or section 5330.15 of this subchapter shall not affect the computation of the [operator's] casino sports wagering licensee's gross gaming revenue.

(b) *Daily gross gaming revenue*. For sports wagering operations, [an operator's] a casino sports wagering licensee's accounting department member shall determine the daily gross gaming revenue amount as set forth in such [operator's] casino sports wagering licensee's internal controls.

(c) *Unclaimed funds*. Unclaimed funds, cash and prizes shall be reported to the commission on the gross gaming revenue report during the week in which the funds, cash and prizes expire and shall be remitted to the commission with the gross gaming revenue for that week for deposit pursuant to the requirements of Racing, Pari-Mutuel Wagering and Breeding Law section 1354.

(d) *Forfeiture of winnings*. Forfeiture of winnings as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1345 and gross gaming tax as prescribed in Racing, Pari-Mutuel Wagering and Breeding Law section [1351] 1367(7), including any applicable interest and penalties, shall be transmitted weekly by electronic funds transfer to the commission. Such transmissions are the responsibility of, and shall be made by, the [operator] casino sports wagering licensee.

(e) *Calendar year recap*. Each casino sports wagering licensee shall submit a report to the commission on or before February twenty-eighth of each year, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(6)(a), detailing for such casino:

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(1) the total amount of sports wagers received in currency and number of bets placed;

(2) the total amount of sports wagers won by authorized sports bettors in currency and number of bets;

(3) the total amount of gross gaming revenue received by the casino sports wagering licensee;

(4) the total amount wagered on each sports governing body's events;

(5) the number of accounts, if applicable, held by authorized sports bettors;

(6) average account balance, if applicable;

(7) the total number of new accounts, if applicable, established in the previous year, as well as the total number of accounts permanently closed in the previous year; and

(8) the total number of voluntary self-exclusions in the previous year.

[(e)] (f) Examination by commission. [The operator] Each casino sports wagering licensee shall permit duly authorized representatives of the commission to examine [the operator's] such licensee's accounts and records for the purpose of certifying gross revenue.

[(f)] (g) Promotions. Promotional [gaming credits] spend shall not be [used in a sports wagering lounge] deducted from revenue or added to loss when calculating gross gaming revenue. No promotion related to sports wagering may be offered without the prior approval of the commission.

§ 5329.30. Accounting and financial records.

(a) *Record of transactions.* [An operator] Each casino sports wagering licensee shall maintain complete, accurate and legible records of all transactions pertaining to such licensee's revenues, expenses, assets, liabilities and equity in conformance with generally accepted accounting principles. The failure of [an operator] a casino sports wagering licensee to maintain such records according to such principles shall be a violation of this section.

(b) *Accounting requirements.* The accounting records maintained by [an operator] a casino sports wagering licensee shall be maintained using a double-entry system of accounting with transactions recorded on the accrual basis and supported by detailed subsidiary records. Such subsidiary records shall include, at a minimum, each of the following:

(1) detailed general ledger accounts identifying all revenue, expenses, assets, liabilities and equity for such [operator] licensee;

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(2) a record of all investments, advances, loans and accounts receivable balances due to such [operator] casino sports wagering licensee;

(3) a record of all loans and other accounts payable by such [operator] casino sports wagering licensee;

(4) a record of all accounts receivable written off as uncollectible by such [operator] casino sports wagering licensee;

(5) records that identify total winnings paid out:

(i) on each sports wager; or

(ii) by another accounting period pre-approved in writing by the commission;

(6) records required by such [operator's] casino sports wagering licensee's system of internal controls;

(7) work papers supporting the monthly reconciliation of cash accountability; and

(8) other records that the commission may require, in writing, to be maintained.

(c) *Retention period.* Notwithstanding anything in this section to the contrary, each accounting record shall be kept by [an operator] a casino sports wagering licensee for a period of not less than five years from date of creation of such record.

§ 5329.31. Duties to give evidence.

It shall be the duty of each [operator] casino sports wagering licensee and each employee or other person associated with each such licensee to report promptly when requested or ordered to do so by any official of the commission in furtherance of an investigation or hearing pursuant to this subchapter and to testify under oath concerning any facts within such licensee's or such person's knowledge and to produce any books, records, written matter or other evidence within such licensee's or such person's possession or control relevant to such matter.

§ 5329.32. Reporting of compliance.

Each [operator] casino sports wagering licensee shall, prior to commencing operations, and annually thereafter, perform a system integrity and security assessment conducted by an independent professional selected by [the operator] such licensee, subject to the approval of the commission. The independent professional's report on the assessment shall be submitted to the commission and shall include:

(a) scope of review;

(b) name and company affiliation of each person who conducted the assessment;

(c) date of the assessment;

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(d) findings;

(e) recommended corrective action, if applicable; and

(f) the [operator's] casino sports wagering licensee's response to the findings and recommended corrective action.

§ 5329.33. Review, examination of records.

The commission or the commission's designee may:

(a) conduct periodic examinations of the accounting and financial records of [operators] casino sports wagering licensees;

(b) review the accounting principles and procedures used by [operators] casino sports wagering licensees;

(c) review and observe methods and procedures used by [operators] casino sports wagering licensees to count and handle sports wagers made with cash, vouchers, gaming chips or wagering tickets of value;

(d) examine accounting and financial records of [an operator] a casino sports wagering licensee or a person controlling, controlled by or under common control with such [operator] casino sports wagering licensee;

(e) obtain copies from the [operator] casino sports wagering licensee of outstanding deposited check instruments, checks returned and held, collection activities taken and settlement of disputed items.

§ 5329.34. Responsible gaming.

Each [operator] casino sports wagering licensee and sports pool vendor [licensee] shall comply with the problem gaming, self-exclusion and excluded person requirements set forth in Parts 5325 and 5327 of this subchapter and Part 5402 of this subtitle.

§ 5329.35. Other regulations apply.

Unless the context of this Part indicates otherwise, the regulations set forth elsewhere in this subchapter are applicable to sports wagering.

§ 5329.36. Suspension, fines, revocation and other discipline.

(a) *Discipline.* Consistent with existing commission authority, and in addition to authority to suspend licenses or registrations of individuals, the commission may suspend or revoke a casino sports [pool] wagering license, sports pool vendor license or a gaming vendor license, or fine or otherwise discipline [an operator or gaming vendor] any such licensee for any reason or combination of reasons set forth in this subdivision:

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- (1) violations of article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law, this subchapter or any other applicable law [or regulation], including regulation;
- (2) failure to comply with instructions of the commission concerning a licensed activity;
- (3) conviction of any:
 - (i) felony offense, as such term as defined in Penal Law section 10.00(5), or an equivalent offense committed in another jurisdiction;
 - (ii) a misdemeanor related to gambling, gaming, bribery, fraud or any other offense prejudicial to public confidence;
- (4) failure to file any returns or reports, keep records or to pay any fee or submit revenue as may be required;
- (5) fraud, deceit, misrepresentation or conduct prejudicial to public confidence in gaming;
- (6) whenever the commission finds that the [operator's] experience, character[,] and general fitness of a licensee are such that participation in operating a sports pool is inconsistent with the public interest or convenience; or
- (7) for any other reason within the discretion of the commission.

(b) *Opportunity to be heard.* The commission shall allow [an operator] a casino sports wagering licensee or sports pool vendor an opportunity to be heard before imposing any discipline pursuant to this section. [An operator or sports pool vendor] A licensee that has been disciplined pursuant to this section may request a de novo hearing before a hearing officer, with the matter to be decided by the commission.

A new Part 5330 would be added, to read as follows:

PART 5330

Mobile Sports Wagering

Section	
5330.1	Applicability and definitions
5330.2	Licensing of platform providers and skins
5330.3	Term of mobile sports wagering license and renewal
5330.4	Vendor licensing
5330.5	Reporting of changes
5330.6	Licensing of individuals
5330.7	Misconduct and improper associations
5330.8	Internal controls for mobile sports wagering
5330.9	[Reserved]
5330.10	System requirements for mobile sports wagering
5330.11	[Reserved]

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- 5330.12 House rules
- 5330.13 Sports wager types
- 5330.14 [Reserved]
- 5330.15 Layoff wagers
- 5330.16 [Reserved]
- 5330.17 Acceptance of sports wagers
- 5330.18 [Reserved]
- 5330.19 Sports wagering restrictions
- 5330.20 [Reserved]
- 5330.21 Cancellation or rescission of sports wagers
- 5330.22 [Reserved]
- 5330.23 Authorized sports bettor complaints
- 5330.24 Skin reserve requirements
- 5330.25 Prohibited actions
- 5330.26 Duties to report
- 5330.27 Mobile sports wagering integrity; confidential information
- 5330.28 Tax
- 5330.29 Gross gaming revenue reports and reconciliation
- 5330.30 Accounting and financial records
- 5330.31 Duties to give evidence
- 5330.32 Reporting of compliance
- 5330.33 Review, examination of records
- 5330.34 Responsible gaming
- 5330.35 [Reserved]
- 5330.36 Suspension, fines, revocation and other discipline
- 5330.37 Authorized sports bettor account requirements
- 5330.38 Mobile sports wagering promotions
- 5330.39 License fee
- 5330.40 Server and other equipment
- 5330.41 Regulatory costs
- 5330.42 Fee for preparation of statutory report
- 5330.43 Anti-money laundering program

§ 5330.1. Applicability and definitions.

(a) *Applicability.* This Part applies to mobile sports wagering conducted by a mobile sports wagering licensee pursuant to Racing Pari-Mutuel Wagering and Breeding Law sections 1367 and 1367-a.

(b) *Definitions.* Unless the context indicates otherwise, the following definitions and the definitions set forth in Racing, Pari-Mutuel Wagering and Breeding Law sections 1367 and 1367-a are applicable throughout this Part:

- (1) *Authorized sports bettor's account* or *account* means an arrangement between an authorized sports bettor and a skin used to execute a mobile sports wager.

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(2) *Automated clearing house* means a network that coordinates electronic payments and automated money transfers.

(3) *Biometric data* means anything that relates to the measurement of a person's physical features and characteristics, including, without limitation, to fingerprint, facial recognition, voice recognition and other methods as approved by the commission.

(4) *Geolocation* means a method used to detect the physical location of an authorized sports bettor attempting to place a mobile sports wager.

(5) *KYC or know your customer* means a process of identifying and verifying the identity of a person who is opening an account.

(6) *Mobile sports wagering licensee* has the meaning set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(a) and refers to either a platform provider, a skin or both, as the context requires.

(7) *Mobile sports wagering promotion* means a method by which an authorized sports bettor receives a monetary or odds benefit to be applied to a mobile sports wager or wagers, which may include, without limitation, bonuses, odds boosts, risk-free bets and deposit matches.

(8) *Mobile sports wagering vendor* means a licensed vendor offering goods or services that directly relate to mobile sports wagering activity.

(9) *Multi-factor authentication* means a method approved by the commission that effectively provides greater account security for a user to gain access to a technological resource than a username-and-password combination alone.

(10) *Platform provider*, in addition to the meaning set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(1), means an entity operating a mobile sports wagering platform system that, among other functionality, performs the acceptance and registration of all sports wagers; generates all electronic sports wagering tickets; computes sports wagering in the pool and payoffs; maintains records of all sports wagering activities; and generates or submits all reports required by the commission.

(11) *Prohibited sports bettor* means any person or entity whose participation may undermine the integrity of mobile sports wagering on a sports event or the conduct of such sports event itself, or any person who, or entity that, is prohibited for other good cause, including, without limitation, the following, as prescribed by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(1) and this paragraph:

- (i) any individual placing a mobile sports wager as an agent or proxy;
- (ii) any athlete whose performance may be used to determine, in whole or in part, the outcome of such mobile sports wagering;

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(iii) any person who is an athlete, player, coach, referee or other game official, physician, trainer, team employee or governing body employee, in any sports event overseen by such person's sports governing body;

(iv) any person with access to material, non-public confidential information about a sports event that is the subject of such wagering;

(v) a person identified to the commission by a sports governing body that the commission agrees is a person who should be a prohibited sports bettor;

(vi) any person who holds a position of authority or influence sufficient to exert influence over the participants in a sports event that is the subject of a mobile sports wager, if such person is not otherwise described by this subdivision;

(vii) any officer or employee of the commission;

(viii) any principal or key employee of a casino or mobile sports wagering licensee and their respective affiliates, except as may be permitted by the commission;

(ix) any casino gaming or non-gaming employee at the casino that hosts the server or other equipment of a mobile sports wagering licensee;

(x) any employee of a mobile sports wagering licensee;

(xi) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of a mobile sports wagering licensee if such person is directly involved in the operation or observation of mobile sports wagering, or the processing of mobile sports wagering claims or payments;

(xii) any person subject to a contract with the commission if such contract contains a provision prohibiting such person from participating in sports wagering;

(xiii) any spouse, child, sibling or parent residing in the principal place of abode of any of the foregoing persons where the foregoing person is prohibited from participating in mobile sports wagering;

(xiv) any sports agent, owner or employee or independent contractor of a team, player and umpire union personnel, and employee referee, coach or official of a sports governing body, if the mobile sports wager is based on any sport or athletic event overseen by the individual's sports governing body; or

(xv) any minor.

(12) *Skin* means a mobile sports wagering operator, as defined in Racing Pari-Mutuel Wagering and Breeding Law section 1367(1), that is a public-facing operator that accepts sports wagers from authorized sports bettors through a platform provider.

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(13) *Wallet* means an instrument maintained by a platform provider that facilitates deposits and withdrawals from an authorized mobile sports wagering bettor across all skins on such platform.

§ 5330.2. Licensing of platform providers and skins.

(a) *Eligibility*. Only platform providers and associated skins selected by the commission as a result of a competitive request-for-application process conducted by the commission may submit a license application to operate as such.

(b) *Disqualification of applications*. The commission may disqualify any application to become a platform provider and associated skin that:

(1) is not timely;

(2) fails to meet the requirements set forth in the request for applications;

(3) is submitted by an entity that engaged in collusive bidding with another applicant, unless the commission determines that such activity was not made for the purpose of restricting competition or impairing the ability of the commission to make selections that maximize value to the State.

(c) *Selected applicants*. A selected platform provider applicant shall be eligible for licensure by the commission as such. Potential skins associated with selected platform provider applicants shall be eligible for licensure by the commission as skins.

(d) *Commission review of agreements*. Upon execution of an agreement between a skin and its platform provider, the platform provider applicant shall submit such agreement to the commission for review prior to licensure.

(e) *Standards for licensure*. A platform provider, a skin and a mobile sports wagering vendor shall satisfy the standards for licensure equivalent to those set forth for a casino vendor enterprise set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1326 and Parts 5303 and 5307 of this subchapter.

§ 5330.3. Term of mobile sports wagering license and renewal.

(a) *Term*. A license granted to a mobile sports wagering licensee shall remain in effect for up to 10 years. See Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(2)(b), establishing a maximum license period.

(b) *Renewal*. The commission shall establish the process and requirements for renewal at an appropriate time that coincides with the ending of such term of license established in subdivision (a) of this Part.

(c) *Reporting of changes*. A mobile sports wagering licensee shall report any changes to its application, as set forth in section 5329.5 of this subchapter, which changes are subject to the approval of the commission.

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§ 5330.4. Vendor licensing.

Entities offering goods and services that directly relate to gaming activity with a mobile sports wagering licensee, including, without limitation, manufacturers, suppliers, software providers and repair companies, shall submit a mobile sports wagering license application. Each mobile sports wagering vendor shall be licensed as such according to the standards equivalent to those set forth for casino vendor enterprises in Racing Pari-Mutuel Wagering and Breeding Law section 1326 and Parts 5303 and 5307 of this subchapter.

§ 5330.5. Reporting of changes.

Each mobile sports wagering licensee and mobile sports wagering vendor shall have a continuing duty to disclose any material change or changes or material debt transaction in such entity's business form or activity; information submitted in support of a review pursuant to section 5330.3 of this Part; information provided to authorized sports bettors; information provided to investors; or information provided in an annual report, or statutory duty to provide information, to the commission.

§ 5330.6. Licensing of individuals.

(a) *Mobile sports wagering key employees.* A person directly involved in the conduct and operation of mobile sports wagering who is determined to be a key employee, whether at a mobile sports wagering licensee or mobile sports wagering vendor, shall be licensed by the commission as a mobile sports wagering key employee according to standards equivalent to those of a casino key employee, as determined by the commission, as guided by the standards set forth in title 3 of article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and Parts 5303 and 5304 of this subchapter.

(b) *Mobile sports wagering employees.* Each mobile sports wagering licensee shall register with the commission employees involved in the operation of mobile sports wagering who are not deemed to be a mobile sports wagering key employee pursuant to subdivision (a) of this section. Registration shall consist of the submission to the commission, quarterly, a roster of such employees that shall identify each employee's name, job title, job location and such other identifying information as the commission may require. Any employee information that has changed or been deleted from the previous quarterly report shall be highlighted.

(c) *Persons requiring access to mobile sports wagering server and other equipment.* A person employed by a mobile sports wagering licensee who requires access to servers and other equipment located at a casino shall be licensed as a mobile sports wagering employee according to standards equivalent to those set forth in section 5304 of this subchapter. Such employees shall be granted access to the [gaming facility] casino only for duties as they relate to mobile sports wagering.

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§ 5330.7. Misconduct and improper associations.

The provisions of section 5329.7 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee and mobile sports wagering vendor licensee.

§ 5330.8. Internal controls for mobile sports wagering.

(a) *Submission.* Each mobile sports wagering licensee shall submit to the commission, for approval, internal controls for all aspects of mobile sports wagering operations prior to commencing operations. The submission of internal controls shall be organized to correspond to the subdivisions set forth in this section.

(b) *System requirements.* Internal controls for system requirements shall address:

- (1) user access controls;
- (2) a description of segregation of duties;
- (3) procedures for identifying and reporting fraud and suspicious conduct or activity;
- (4) procedures to prevent sports wagering by patrons prohibited from sports wagering;
- (5) a description of all integrated third-party systems;
- (6) procedures on how to maintain the integrity of sports wagering platforms, authorized sports bettor's data and sports wagering data storage in the case of a system failure;
- (7) description of the secure method to control remote access to the sports wagering platform using firewalls or other protections and maintaining secure logs;
- (8) all data sources used in sports wager determination. Official data from a sports governing body shall be used to determine all sports wagers, unless a skin demonstrates to the satisfaction of the commission that sports wagers for such sports wager type may be determined reliably, accurately and timely by an alternative data source. See Racing, Pari-Mutuel Wagering and Breeding Law section 1367(14);
- (9) the method in which the mobile sports wagering licensee shall implement the statewide voluntary self-exclusion database and other prohibited sports bettors into its system; and
- (10) where the mobile sports wagering licensee plans to list, on a website or mobile application, information concerning assistance for compulsive play in New York State, including a toll-free number directing callers to reputable resources, free of charge to the caller.

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(c) *Authorized sports bettor account requirements.* Internal controls for authorized sports bettor account requirements shall address:

(1) controls in place to limit each authorized sports bettor to one active account per skin, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(4)(a)(i);

(2) the multi-factor authentication method to be used;

(3) the mechanism for an authorized sports bettor to establish daily, weekly or monthly deposit limits, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(4)(a)(xii);

(4) controls in place to prohibit anyone under the age of 21 from participating in mobile sports wagering;

(5) the mechanism, if any, the platform provider or skin will use to create a wallet to be used by authorized sports bettors across multiple skins associated with such platform provider;

(6) the systems and procedures in place to maintain the security of authorized sports bettors' accounts, including the encryption of personally identifiable information and biometric data, Social Security number, account personal identification number and/or password and methods of account funding;

(7) how the mobile sports wagering licensee intends to meet all requirements set forth in section 5330.4 of this Part;

(8) procedures for issuing a form W-2G, if such thresholds are met;

(9) procedures for authorized sports bettors to obtain a year-end win-loss statement;

(10) the mechanism for allowing an authorized sports bettor to close an account;

(11) a procedure for when an authorized sports bettor's lifetime deposits reach \$2,500, and every year thereafter, for such bettors to acknowledge the bettor has met the deposit threshold and may elect to establish limits or close such account and that the bettor has received disclosures that include problem gaming resources, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(4)(a)(xiii); and

(12) how a dormant account is defined and what the process is for reconciliation of such accounts.

(d) *Prevention of circumvention of sports wagering amount acknowledgments.* A skin shall provide the acknowledgment set forth in paragraph (11) of subdivision (c) of this section whenever such skin knows or should know that an authorized sports bettor has

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taken or is attempting to take action designed to circumvent the monetary threshold set forth in such paragraph.

(e) *Operational requirements.* Internal controls for operational requirements shall address:

- (1) a description of how the skin intends to segregate sports bettors' funds from operating funds;
- (2) procedures to ensure no sports wagering shall be based on a prohibited sports event;
- (3) a description of anti-money laundering compliance standards;
- (4) a description of the monitoring system that identifies and reports suspected structured sports wagers and unusual or suspicious wagering activity;
- (5) procedures in place to ensure no sports wagering shall be based on a prohibited sports event;
- (6) procedures for the skin reconciling gross gaming revenue and remitting such amount to the platform provider for the payment of taxes and fees to the commission; and
- (7) in the event of changes and upgrades to the mobile sports wagering server or other hardware and software used to execute mobile sports wagering, procedures the mobile sports wagering licensee intends to follow in order to receive approval from the commission, including recertification of such sports wagering components.

(f) *Geolocation requirement.* Geolocation software used by mobile sports wagering licensees shall be approved by a licensed independent testing laboratory, including applicable field testing, before the software is deployed in this State. Internal controls for geolocation requirements shall address:

- (1) how the licensee shall ensure that authorized sports bettors shall be physically located within the State of New York when engaging in mobile sports wagering;
- (2) which geolocation system will be used to reasonably detect the physical location of an authorized sports bettor attempting to place a sports wager with the skin and block unauthorized attempts to access the licensee's platform throughout the duration of the wagering session;
- (3) how the geolocation system will detect any mechanisms a bettor may use to circumvent the requirement that the bettor be physically located within the State of New York;
- (4) how the geolocation system ensures the integrity of the bettor's account and the bettor's device by blocking sports wagers from devices that indicate tampering;

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(5) how the system will discover and update the internet protocol address of the bettor if such changes during a session and how physical location would then be detected;

(6) how the system shall block any attempt to make a sports wager the geolocation software determines is being attempted from a physical location outside of the State of New York; how, in such event, the system shall log any identifying information relating to such attempt; and how such information shall be made available to the commission upon request;

(7) how the geolocation system shall alert the mobile sports wagering licensee of potential risks and fraudulent activity and grant the licensee and the commission access to real-time data feeds of geofencing feeds and potential risks; and

(8) how the system shall ensure that a mobile sports wagering vendor license is obtained by any geolocation vendor.

(g) *Amendments to internal controls.* A mobile sports wagering licensee shall submit to the commission any proposed amendment to such licensee's approved internal controls at least 30 days in advance of the date the proposed amendment is intended to take effect.

§ 5330.9. [Reserved]

§ 5330.10. System requirements for mobile sports wagering.

(a) *Submission to laboratory.* Prior to conducting mobile sports wagering, all equipment and software used in conjunction with its operation shall be submitted to a licensed independent gaming test laboratory for review and approval.

(b) *Server location.* The platform, servers and other equipment to accept sports wagers shall be located within a casino, as the commission shall direct and facilitate. A casino at which such equipment is located shall ensure that access to such equipment is granted to licensed employees of the mobile sports wagering licensee whose equipment is located there.

(c) *Platform provider requirements.* The systems of a platform provider shall be able to provide the following, at a minimum:

- (1) acceptance and registration of all sports wagers;
- (2) generation of all electronic sports wagering tickets;
- (3) computation of sports wagering and payoffs;
- (4) maintenance of records of all sports wagering activities;
- (5) generation of all reports;

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(6) maintenance of the integrity of sports wagering platforms, authorized sports bettors' data and sports wagering data storage in the case of a system failure, using methods outlined in the approved internal controls of the platform provider;

(7) creation of a secure method to control remote access to the platform using firewalls or other protections and maintenance of secure logs outlined in the approved internal controls of the platform provider;

(8) maintenance of all transactional sports wagering data for a period of seven years, to which each authorized sports bettor shall have ready access with respect to each sports bettors own data and which shall be capable of being downloaded by such bettor, all at no cost to such bettor; and

(9) establishment of a wallet that authorized sports bettors may use across all skins in New York State associated with such platform provider, so long as the commission has approved such establishment.

(d) *Skin requirements.* The systems of a skin shall be responsible for the following, at a minimum:

(1) establishment of public-facing markets and odds for display to an authorized sports bettor holding an account with such skin;

(2) guarantee of the payment of winning sports wagers;

(3) creation of a mechanism for an authorized sports bettor to establish daily, weekly or monthly deposit limits;

(4) limitation of each authorized sports bettor to one active account per skin;

(5) prohibition of anyone under the age of 21 from participating in mobile sports wagering;

(6) employment of systems and procedures to maintain the security of authorized sports bettors' accounts and information from tampering or unauthorized access, using the minimum standard encryption of AES 256 or other NIST standards. Such information to be secured shall include:

(i) personally identifiable information, including Social Security number;

(ii) biometric data, including account personal identification number and/or password;

(iii) methods of account funding, including credit card numbers, bank account numbers or other personal financial information; and

(iv) sports wagering data, accounts, reports, significant events or other sensitive information obtained through the operation of mobile sports wagering;

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- (7) creation of logs that can be exported in regard to player activity and sports wagering information, as may be required by the commission;
- (8) ensuring that no sports wagering is based on a prohibited sports event;
- (9) implementation of a monitoring system that identifies and reports suspected structured sports wagers and unusual or suspicious wagering activity; and
- (10) establishing procedures for the temporary suspension of an account, at the request of an account holder or on the initiative of the skin.

(e) *Third-party communications.* If a mobile sports wagering licensee communicates with a third-party system, such licensee shall ensure the integrity of such communications through encryption or the use of secure communications protocols.

(f) *Information recording.* A mobile sports wagering system provided by a mobile sports wagering licensee shall be capable of recording the following information for each sports wager made in the system:

- (1) description of event;
- (2) sports wager selection;
- (3) type of sports wager;
- (4) amount of sports wager;
- (5) date and time of sports wager; and
- (6) unique sports wager identifier.

(g) *Past posting and known-event outcomes.* A skin shall prevent past posting of sports wagers and the voiding or cancellation of sports wagers after the outcome of an event is known.

(h) *Self-authentication.* A skin shall, at least once every 24 hours, perform a self-authentication process on all software used in the mobile sports wagering system to offer, record and process sports wagers to ensure there have been no unauthorized modifications. In the event that an unauthorized modification is identified as a result of this process, a skin shall notify the commission promptly. The mobile sports wagering system shall record the results of all self-authentication attempts and maintain such record for a period of not less than 90 days.

(i) *Controls.* A skin shall have controls in place to review the accuracy and timeliness of any data feeds used in its mobile sports wagering system to offer or settle sports wagers. In the event that an incident or error occurs that results in a loss of communication with data feeds, such error shall be recorded in a log capturing the date and time of the error and the nature of the error. Errors shall be submitted to the commission within 48 hours

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of occurrence. Such information shall be maintained by the reporting skin for a period of not less than six months.

(j) *Commission access to systems and data.* Consistent with existing commission authority and in a manner approved by the commission, a skin shall provide the commission with access to servers and other software used in creation of sports wagers, sports wagering transactions and related data the commission may deem necessary.

§ 5330.11. [Reserved]

§ 5330.12. House rules.

The provisions of section 5329.12 of this subchapter are incorporated herein and shall apply also to each skin.

§ 5330.13. Sports wager types.

The provisions of section 5329.13 of this subchapter are incorporated herein and shall apply also to each skin.

§ 5330.14. [Reserved]

§ 5330.15. Layoff wagers.

A skin may, in its discretion, accept a layoff wager from another New York State licensed skin or a casino sports wagering licensee, as casino sports wagering licensee is defined in section 5329.1 of this subchapter. Any such wager shall be placed in the name of the skin or casino sports wagering licensee itself that is placing the layoff wager. A layoff wager and, if applicable, a resultant payout shall not be included in the calculation of mobile sports wagering gross gaming revenue. Each layoff wager shall be reported to the commission, if possible, prior to the placement of such wager. If not possible, a skin or casino sports wagering licensee shall submit the details of the layoff wager to the commission's division of gaming within 24 hours of the placement of such wager. Layoff wagers shall not be executed with operators in other jurisdictions unless all Federal law requirements are met as well.

§ 5330.16. [Reserved]

§ 5330.17. Acceptance of sports wagers.

No mobile sports wager shall be valid until such sports wager is accepted at a server or other electronic equipment located at a casino.

§ 5330.18. [Reserved]

§ 5330.19. Sports wagering restrictions.

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The provisions of section 5329.19 of this subchapter are incorporated herein and shall apply also to each skin.

§ 5330.20. [Reserved]

§ 5330.21. Cancellation or rescission of sports wagers.

The provisions of section 5329.21 of this subchapter are incorporated herein and shall apply also to each skin.

§ 5330.22. [Reserved]

§ 5330.23. Authorized sports bettor complaints.

(a) *Incorporation.* The provisions of section 5329.23 of this subchapter are incorporated herein and shall apply also to each skin.

(b) *Additional requirements.* In addition, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(5):

- (1) a skin shall develop procedures, a link to which shall be prominently displayed on the main page of such skin's platform, for the filing of a complaint by an authorized sports bettor against a mobile sports wagering licensee;
- (2) a skin shall acknowledge receipt to the complainant within 48 hours of receipt;
- (3) a skin shall provide the complainant a complete response within 10 business days; and
- (4) a complainant who believes the complaint has not been resolved satisfactorily may file a complaint with the commission, which shall have the discretion to intervene in the resolution of the complaint and to take action against a licensee in the event the commission concludes that such licensee violated a law, including regulation.

§ 5330.24. Skin reserve requirements.

The provisions of section 5329.24 of this subchapter are incorporated herein and shall apply also to each skin.

§ 5330.25. Prohibited actions.

The provisions of section 5329.25 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee.

§ 5330.26. Duties to report.

The provisions of section 5329.26 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee and its employees and each mobile sports wagering vendor licensee and its employees.

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§ 5330.27. Mobile sports wagering integrity; confidential information.

The provisions of section 5329.27 of this subchapter, except subdivision (g) thereof (the substance of which is addressed elsewhere in this Part), are incorporated herein and shall apply also to each skin and, as the context requires, platform provider, and its respective employees and each mobile sports wagering vendor licensee and its employees.

§ 5330.28. Tax.

(a) *Tax rate.* For the privilege of conducting sports wagering in this State, each platform provider shall be taxed pursuant to the rate established pursuant to the process set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(7).

(b) *Payment.* Tax attributable to mobile sports wagering, including any applicable interest and penalties, shall be transmitted weekly by electronic funds transfer to the commission at such times and in such manner as the commission may direct. All gross gaming taxes are the responsibility of and shall be submitted by the platform provider.

(c) *Reports.* All weekly mobile sports wagering tax reports filed with the commission pursuant to this section shall reflect mobile sports wagering gross gaming revenue and tax revenue remitted to the State received by the skins associated with a platform provider for the period of the return. Each platform provider shall clearly delineate funds received from each skin.

(d) *Additional tax or refunds.* When the commission finds that a platform provider is required to pay additional taxes or finds that a platform provider is entitled to a refund of taxes, the commission shall report to such platform provider its findings, along with the basis on which such findings are made.

§ 5330.29. Gross gaming revenue reports and reconciliation.

(a) *Gross gaming revenue.* Gross gaming revenue generated pursuant to this Part shall equal the total of all sports wagers received less voided sports wagers, cancelled sports wagers and amounts paid out for winning sports wagers. The amounts of sports wagers placed by a skin and amounts received by a skin as payments on layoff wagers made pursuant to section 5329.15 of this subchapter or section 5330.15 of this Part shall not affect the computation of gross gaming revenue as reported to the platform provider.

(b) *Daily gross gaming revenue.* A platform provider's accounting department member shall determine the daily gross gaming revenue amount as set forth in such platform provider's internal controls. Each skin shall also detail the reporting mechanism to the associated platform provider in such skin's internal controls.

(c) [Reserved]

(d) *Forfeiture of winnings.* Forfeiture of winnings as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1345 and gross gaming tax as prescribed in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(7), including any applicable

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interest and penalties, shall be transmitted weekly by electronic funds transfer to the commission. Such transmissions are the responsibility of, and shall be made by, the platform provider.

(e) *Calendar year recap.* Each platform provider shall submit a report to the commission on or before February 28th of each year, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367(6)(a), detailing for its platform:

- (1) the total amount of sports wagers received in currency and number of bets placed;
- (2) the total amount of sports wagers received by authorized sports bettors in currency and number of bets;
- (3) the total amount of gross gaming revenue won by skins associated with such platform provider;
- (4) the total amount wagered on each sports governing body's events;
- (5) the number of accounts held by authorized sports bettors;
- (6) average account balance;
- (7) the total number of new accounts established in the previous year, as well as the total number of accounts permanently closed in the previous year; and
- (8) the total number of voluntary self-exclusions in the previous year.

(f) *Examination by commission.* Each platform provider shall permit duly authorized representatives of the commission to examine such licensee's accounts and records for the purpose of certifying gross revenue.

(g) *Promotions.* Promotional spend shall not be deducted from revenue or added to loss when calculating gross gaming revenue.

§ 5330.30. Accounting and financial records.

The provisions of section 5329.30 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee.

§ 5330.31. Duties to give evidence.

The provisions of section 5329.31 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee.

§ 5330.32. Reporting of compliance.

The provisions of section 5329.32 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee.

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§ 5330.33. Review, examination of records

The provisions of section 5329.33 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee.

§ 5330.34. Responsible gaming.

(a) *Publicly accessible internet page.* A skin shall maintain a publicly accessible internet page dedicated to responsible play, a link to which must appear on the skin's website and in any mobile application or electronic platform on which an authorized sports bettor may place sports wagers through such skin, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(4)(a)(xiv). The responsible play page shall include:

- (1) a statement of the skin's policy and commitment to responsible gaming;
- (2) information in regard to, or links to information in regard to, the risks associated with gambling and the potential signs of problem gaming;
- (3) the availability of self-imposed responsible gaming limits within each skin's website or mobile application;
- (4) a link to an appropriate problem-gaming webpage maintained by the office of addiction services and supports; and
- (5) such other information as the commission may direct.

(b) *Problem-gaming plan.* A skin shall submit annually on or before September 1st to the commission for approval, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(4)(a)(xv), a problem-gaming plan that includes, at a minimum:

- (1) the objectives of and timetables for implementing the plan;
- (2) identification of the persons responsible for implementing and maintaining the plan;
- (3) procedures for identifying users with suspected or known problem-gaming behavior;
- (4) procedures for providing information to users concerning problem-gaming identification and resources;
- (5) procedures to prevent gaming by minors and self-excluded persons; and
- (6) such other information as the commission may direct.

(c) *Other regulatory requirements.* Each skin shall comply with the problem gaming, self-exclusion and excluded person requirements, including trainings, set forth in Parts 5325 and 5327 of this subchapter as if such licensee were a gaming facility licensee and with Part 5402 of this subtitle.

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§ 5330.35. [Reserved]

§ 5330.36. Suspension, fines, revocation and other discipline.

The provisions of section 5329.36 of this subchapter are incorporated herein and shall apply also to each mobile sports wagering licensee, mobile sports wagering key employee, mobile sports wagering employee and person having access to a mobile sports wagering server.

§ 5330.37. Authorized sports bettor account requirements.

(a) *Opening an account.* Prior to an authorized sports bettor placing a sports wager, the following information, at a minimum, shall be provided by a potential authorized sports bettor and verified through the mobile sports wagering KYC identity-verification software or other remote multi-factor authentication, before status as an authorized sports bettor may be confirmed:

- (1) full name;
- (2) physical residential address;
- (3) date of birth;
- (4) last four digits of Social Security number, unless such authorized sports bettor willingly provides all nine digits; and
- (5) email address and telephone number.

(b) *Confirmation required.* Upon verification of required information, the authorized sports bettor shall confirm, at a minimum, the following:

- (1) the authorized sports bettor is at least 21 years of age;
- (2) the account holder is not a prohibited sports bettor;
- (3) the information provided upon registering for an account is accurate and that only the account holder shall have access to such account;
- (4) the account is the only mobile sports wagering account the authorized sports bettor owns with the particular skin and that the account is not transferable;
- (5) all mobile sports wagers made on the account shall not be made by computerized software or other automated mechanism; and
- (6) the authorized sports bettor accepts the terms and conditions of opening an account.

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(c) *Multi-Factor authentication.* Each authorized sports bettor shall be required to use a username and one or more of the following methods of authentication to verify the such person's identity:

- (1) password or other commonly used mobile phone login mechanism;
- (2) answer previously provided security questions;
- (3) biometric data, including fingerprint, facial or voice recognition;
- (4) an authorization code sent by phone call, text message or email to the appropriate contact information provided at the opening of the account; or
- (5) any other authorization types as approved by the commission.

(d) *Funding.* An authorized sports bettor shall have the ability to deposit funds, which shall not be transferable between platforms, into such bettor's account with a skin using the following mechanisms, as permitted and restricted in Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(5)(b):

- (1) debit card;
- (2) credit card, up to \$2,500 per year in any single account;
- (3) pre-paid card, after the skin verifies that such card belongs to such authorized sports bettor;
- (4) automated clearing house or electronic funds transfer from such authorized sports bettor's personal bank account;
- (5) wire transfer from such authorized sports bettor's personal bank account;
- (6) free bet, promotional credit, bonus credit or complimentary issued by the skin;
- (7) personal check delivered to the skin;
- (8) in-person cash deposit at a casino or other locations, if the skin, with the approval of the commission, chooses to provide such functionality;
- (9) transfer from an account with another skin that uses the same platform provider;
- (10) other forms of funding, as may be approved by the commission.

(e) *Withdrawals.*

(1) Unless paragraph (2) of this subdivision applies, an authorized sports bettor requesting a withdrawal shall receive the requested funds within seven days of such request by one of the following mechanisms, as permitted Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a(5)(b):

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- (i) crediting the authorized sports bettor's debit card;
- (ii) crediting a pre-paid card, after the skin verifies that such card belongs to the authorized sports bettor;
- (iii) an automated clearing house or electronic funds transfer to the authorized sports bettor's personal bank account;
- (iv) a wire transfer to the authorized sports bettor's personal bank account;
- (v) a check made payable to the authorized sports bettor;
- (vi) in cash at a casino or other locations, if the skin, with the approval of the commission, chooses to provide such functionality; or
- (vii) other forms of withdrawals as may be approved by the commission.

(2) An authorized sports bettor's request for withdrawal of funds may be delayed if any of the following factors occur:

- (i) if a skin believes an authorized sports bettor has engaged in unusual or suspicious wagering activity, or if a skin has informed the authorized sports bettor that an investigation has begun into the unusual or suspicious wagering activity, in which case there may be a delay of up to 14 days, which period may be extended if the skin requests in writing and is granted by the commission additional delay;
- (ii) an ongoing dispute between the authorized sports bettor and the skin, in which case, the skin shall notify the commission;
- (iii) funds are requested to be withdrawn before the chargeback period of the transaction ends; or
- (iv) the authorized sports bettor requests a check by mail.

(f) *Account closure.* A skin shall place the method for an authorized sports bettor to close an account prominently on a webpage or mobile application page labelled "player's account," or a similar label. If funds exist in the account upon account closure, the authorized sports bettor shall be prompted to provide the bettor's preference for how the funds shall be withdrawn.

§ 5330.38. Mobile sports wagering promotions.

(a) *Requirements for promotions.* A skin shall submit to the commission all mobile sports wagering promotions for approval a minimum of 15 days prior to the intended commencement of such promotion. Any such proposed promotion shall:

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- (1) detail the type of promotion, dates the promotion will occur, minimum and maximum awards, the anticipated liability and any other information pertinent to the promotion;
- (2) include terms and conditions that are full, accurate, clear, concise and do not contain misleading information;
- (3) disclose applicable terms if the authorized sports bettor must risk or lose the bettor's own funds as part of the promotion, or if such promotion has conditions that a bettor's own funds must be used to qualify for such promotion;
- (4) not be described as risk-free if the authorized sports bettor needs to incur any loss or risk the bettor's own money to use or withdraw winnings from the risk-free bet;
- (5) not restrict the authorized sports bettor from withdrawing the bettor's own funds or withdraw winnings from bets placed using the bettor's own funds; and
- (6) ensure advertisements of such promotions shall conform to the rules set forth in 5325.6 of this subchapter, as if a skin were a gaming facility licensee.

(b) *Relationship of promotions to gross gaming revenue.* See subdivision (g) of section 5330.29 of this Part.

§ 5330.39. License fee.

As a condition of licensure, a platform provider shall pay to the commission the one-time fee set forth in Racing, Pari-Mutuel Wagering and Breeding Law 1367-a(3). Such fee shall be paid no later than 30 days after the commission selects such platform provider for potential licensure, as set forth in Racing, Pari-Mutuel Wagering and Breeding Law 1367-a(3).

§ 5330.40. Server and other equipment.

(a) *Installation of server.* The commission shall determine where, including at which casino, a mobile sports wagering licensee's servers and other equipment used in accepting a mobile sports wager shall be located. Such servers and equipment shall be:

- (1) in an area limited to sports-wagering-related activities with appropriate access and security measures, as approved by the commission. Access to such area shall be logged electronically and kept for a period of not less than five years; and
- (2) accessible to licensed mobile sports wagering licensee employees authorized to access such servers and equipment, the mechanism of such access to be agreed upon by the casino and the mobile sports wagering licensee and set forth in the casino's standard operating procedures, as approved by the commission.

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(b) Payment for housing of server and other equipment.

(1) Each casino shall receive an annual hosting fee in the amount set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1311(3). The aggregate annual hosting fees shall be divided equally among the platform providers, each of which shall then pay its share either to the commission or to casinos, at such times and in such amounts as the commission may direct. If the commission directs that such fees from platform providers are first payable to the commission, the commission shall then distribute to each casino the annual hosting fee to which such casino is entitled by statute.

(2) A casino shall bill, each calendar quarter, the platform provider for the reasonable and actual costs for the prior calendar quarter of housing and securing the server and other equipment as set forth in subdivision (b) of this section, including, without limitation:

(i) modifications, upgrades or improvements to the casino required to physically locate and secure the platform provider's servers and other equipment;

(ii) any ongoing utility and infrastructure costs incurred by the casino that are reasonably attributable to the operations of the platform provider and associated skins at such casino; and

(iii) regulatory costs the casino was assessed pursuant to section 5330.41 of this Part.

(c) Exclusive use for mobile sports wagering. A server or other equipment that a platform provider locates at a casino shall be used exclusively in support of mobile sports wagering.

§ 5330.41. Regulatory costs.

Any costs of the commission necessary to maintain regulatory control over mobile sports wagering shall be assessed annually on each casino in proportion to the aggregate mobile sports wagering gross revenue in this State of the skins associated with the platform provider whose server is located at such casino compared to the aggregate mobile sports wagering gross revenue in this State for the period billed. Each casino shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the commission. Nothing in this section shall prevent a casino from recouping the cost of such assessments pursuant to paragraph (2) of subdivision (b) of section 5330.40 of this Part.

§ 5330.42. Fee for preparation of statutory report.

The commission, on or before September 1st of each year, shall assess platform providers aggregate fees in the amount of the commission's costs to produce the annual report required by Racing, Pari-Mutuel Wagering and Breeding Law 1367-a(6). The fee assessed against each platform provider shall be the commission's cost multiplied by the

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aggregate gross gaming revenue of such platform provider's associated skins for the period and divided by the aggregate gross gaming revenue of all skins in this State for the same period.

§ 5330.43. Anti-money laundering program.

A skin shall comply with the anti-money laundering requirements set forth in section 5315.17 of this subchapter as if such skin were a gaming facility licensee.

Appendix B Pricing Matrix

Appendix C Previous Questions and Answers
(revised 1 July 2021)



PLEASE NOTE THAT THE ANSWERS TO PREVIOUSLY ASKED QUESTIONS HAVE BEEN CONFORMED TO RFA LANGUAGE AND THE PRE-PROPOSAL DRAFT REGULATIONS THAT ARE ATTACHED TO THE RFA AS APPENDIX B

The Mobile Sports Wagering Platform Provider and Commercial Casino Relationship	
1.	<p>What connection between Mobile Sports Wagering and commercial casinos may be expected?</p> <p>A commercial casino must serve as a host for Mobile Sports Wagering servers and equipment.</p>
2.	<p>For example, can deposits or withdrawals be made in person at a commercial casino?</p> <p>Any further interaction between a Mobile Sports Wagering Licensee and the Commercial Casino is at the discretion of those parties, subject to Commission approval.</p>
3.	<p>Where will a platform provider server be located?</p> <p>Each server is to be physically located upon the premises of a commercial casino. The commercial casino(s) that host servers will be at the discretion of the Commission.</p>
4.	<p>How can a platform provider be assured of security for the servers they locate at a commercial casino?</p> <p>A Platform Provider must collaborate with the commercial casino housing their server to establish procedures to ensure the security of their systems.</p>
5.	<p>How will employees or contractors of a platform provider be able to gain access to their server at a commercial casino?</p> <p>The Commission will ensure procedures are emplaced to allow access by employees and contractors who have been lawfully registered with the Commission.</p>
6.	<p>Does a platform provider get to pick at which commercial casino their server will be located?</p> <p>No.</p>
7.	<p>If additional commercial casino licenses are awarded downstate, will platform providers be able to relocate their servers?</p> <p>The Commission will determine server location. Movement is not contemplated.</p>
8.	<p>How long must a server be in service at a location before relocation will be allowed?</p> <p>The Commission will determine server location. Movement is not contemplated.</p>
9.	<p>How can a platform provider be assured that commercial casinos are making or will make the necessary preparations to accommodate the additional network traffic that will be required when a platform provider’s servers are located at casinos’ properties?</p> <p>The Commission will facilitate to ensure functionality.</p>

The Request For Applications Process	
1.	As the mobile sports wagering market matures, will future operators be authorized? No, not under the Commission’s interpretation of present law.
2.	May platform providers apply together? Yes. If Platform Provider A and Platform Provider B submit as a single bid, \$50 million must be submitted. If Platform Provider C is added to the single bid, then \$75 million must be submitted.
3.	What protections will be put in place so that a platform provider which also owns an "operator" will not seek to exclude other operators from its platform? A Platform Provider owns its own bid and can include or exclude Operators at its discretion.
4.	Can operator A and operator B submit under a single bid to make a more attractive offer to the State? Operators A and B each have their own independent player account management system and sports trading system. The systems operated two operators would not be integrated and would be separate and distinct consumer facing brands, offering unique marketing and pricing to bring variety. Would the joint bid have to have the same tax rate? The Platform Provider(s), not the Operator(s), make the bid. It appears the question is asking if there could be two separate Platform Provider with different Operators attached to these platforms; the answer is yes. There is a \$25 million license fee per Platform Provider. A single joint bid cannot have different tax rates for different Platform Providers.
5.	Will the Commission post scores of all bidders once a determination has been made? While this process is for licensing and not a procurement, the Commission will abide by the intent of the N.Y. State Finance Law.
6.	Will the Commission use the full 150 days to award a license? The Commission will make all reasonable efforts to expedite the award process but is unable to determine the time required in advance.
7.	Is it expected that a platform provider will be required to disclose their financial arrangement with skins? Submission of financial arrangements for verification following selection of the Platform Provider will be a license requirement.
8.	Since four operators are already partnered with commercial casinos (DraftKings, FanDuel, Bet365, and BetRivers) is there really opportunity for additional players? Contracts between commercial casinos and Operators of their in-house Sports Wagering has no relevance to the RFA. The RFA is open to all qualified Platform Providers and Operators, and awards will be made to the highest scoring Applicants.
9.	Is the Commission intending on releasing the RFA on July 1, 2021 or might it be released earlier? Given the release of the RFA, this question is no longer relevant.
10.	Will information regarding RFA content be made available prior to its issuance to assist interested parties in crafting their responses?

	Given the release of the RFA, this question is no longer relevant.
11.	Is it the intention of the Commission to issue approval to winning “platform providers” and see how the market goes then add more, or if the State were to receive compelling bids from more than two “platform providers” that make sense for the State, would they all receive approval at the same time? After reviewing all proposals, the Commission will determine the optimum number of licenses to award that will maximize revenue to the State based on the process outlined in the RFP.
12.	Can the winning bids be awarded prior to the conclusion of the 150 days? The Commission will make all efforts to expedite the process but is unable to provide a timeline at this point.
13.	When will the scoring criteria for the RFA be released? Scoring criteria is contained within the RFA.
14.	Once platform providers are selected, will results of the final scoring be made public? While this process is for licensing and not a procurement, the Commission will abide by the intent of the N.Y. State Finance Law.
15.	Is there a timeframe that is known or contemplated for the release of regulations and would that happen prior to the RFP being released and what opportunity will there be for stakeholders to comment on draft regulations? A pre-proposal draft of Mobile Sports Wagering regulations has been incorporated into the RFA.
16.	Will the Commission select two platform providers and four mobile sports wagering operators? The Commission must select a minimum of two Platform Providers and four Mobile Sports Wagering Operators.
17.	Can a platform provider or operator utilize existing applications available in other States? Yes, if the Applications otherwise meet requirements of New York statute and regulations.
18.	For the market analysis under N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(7)(c)(i), is there a preferred vendor(s)? No.
19.	Will this analysis be done by the Commission or by an applicant? The Commission will be reviewing the market analysis conducted by an Applicant.
20.	Is it possible for any one component of the tech stack that makes up a Mobile Sports Wagering Platform, e.g. a player account management (PAM) or an event wagering/risk management system provider to be featured in multiple bids? Vendors that provide services to multiple Platform Providers and Operators can be included in multiple Applications.
21.	Can an entity apply for the platform provider license and apply to be a “skin” in another entity’s platform provider bid? Yes.
22.	Can a platform provider or operator be included in more than one bid?

	Yes. However, if an Operator is in more than one bid, the selection Committee would have to rescore the bids if an Operator(s) was included in the highest rate bid and therefore would now have to be considered excluded in any bids thereafter.
23.	Are bids subject to the Freedom of Information Law? Yes, all bids are subject to the Freedom of Information Law.
24.	Will the public or competitors be able to see our RFA-required financial forecasts and business plans? Material will be subject to disclosure unless an exception permits the Commission to deny access. Trade secrets submitted to the Commission and information and records that if disclosed would cause substantial injury to the competitive position of the submitting entity are generally protected from disclosure.
25.	Will the Commission require each company to have a diversity and inclusion policy for its workforce, suppliers and contractors? Yes.
26.	Will this be scored as part of the RFP response? Diversity and inclusion have been included as a scored element in the RFA.
27.	Will the Commission require Minority and Women-Owned Business Enterprise (MWBE) goals and standards as part of the mobile sports wagering license? No, however utilization will be considered as part of the diversity and inclusion score.
28.	Will this be scored as part of the RFA response? Yes, as part of the diversity and inclusion score.
29.	Must an operator be included as part of a platform provider's initial bid or can an operator be included later (i.e., upon selection of such platform provider)? An Operator or Operators must be included in the initial bid. Otherwise, please see FAQ "The Request for Application Process" Response 1.
30.	Per the Commission's FAQ Responses, an operator may be included in multiple platform provider bids. Will inclusion in multiple bids have a negative impact on the likelihood of selection for such operator or platform providers? See answer to Question 22, and please review the selection criteria detail in the RFA.
31.	Will the Commission take into consideration and/or give preferential treatment to platform providers that include New York-based operators in their bid and employ significant numbers of persons in New York? Please review the selection criteria detail in the RFA.
32.	For parties who jointly bid, what will be the format of the bid submission? e.g., will the parties be required to submit one, cohesive document or will the parties be able to submit separate documents with one cover note? Please review the Application process detail in the RFA.
33.	For parties who jointly bid, what will happen after they are selected? Will they be required to share any parts of the operations? The Platform Provider(s) and Operator(s) will be required to operate as described in their bid.
34.	For parties who jointly bid, are there any restrictions during the consortium formation and joint-bid submission process regarding when and how the consortium members

	should engage in discussions regarding the proposed tax rate they will include in their joint bid? Parties involved should communicate amongst each other as part of a joint submission.
35.	Noting that future operators will not be authorized under the Commission’s interpretation of the present law, what will happen if an operator part of the initial setup with a winning platform provider is no longer able to function as an operator during the 10-year license term for reasons out of that operator’s or the platform provider’s control, such as a merger or acquisition scenario? o Would the platform provider be able to partner with a new operator? o Would the new operator need to be approved by the Commission? o Would the loss of an operator affect the security of the platform provider’s license? While the Commission does not entertain hypothetical scenarios, the answer to Question 11 under Licensing Matters, below may provide guidance.
36.	Is there a minimum number of operators that each platform provider has to bid with? e.g.: is it possible for platform provider A to secure a license with a bid consisting of five operators (Operators 1, 2, 3, 4, 5), while platform provider B secures a license with a bid consisting of two operators (Operators 6, 7)? There is no minimum number of Operators to be contained in a Platform Provider’s bid.
37.	Does the Commission have a preference for each platform provider to include exactly two operators in their bids, or any other number? No.
38.	How will the number of operators/skins affect the scoring process? Please review the selection criteria detail in the RFA.
39.	Can a platform provider make more than one bid, i.e. Bid 1 with Operators 1 + 2 + 3; and Bid 2 with Operators 4 + 5? The response to Q&A 22 only makes clear that Operators can be included in more than one bid. Yes.
40.	If so, and if a platform provider makes more than one bid, please confirm that the platform provider will only be required to pay the \$25 million license fee once selected as a winning bid, and that it will not be necessary to make \$25 million available for each bid made. Each Platform Provider in a chosen bid shall pay the license fee.
41.	If so, can one platform win two bids/licenses? What would the cost to that platform provider be in this scenario - \$25 million or \$50 million? See answer to immediate previous question.

Tribal Gaming Considerations	
1.	Must an operator partner with a Native American Nation or their operator simply reach a revenue share agreement with a Nation to receive additional points? An Platform Provider that has a revenue share agreement with compacted Nation(s) or Tribe(s) will receive additional point consideration when its bid is scored.

2.	<p>How will the State reconcile that under Indian Gaming patrons are allowed at 18 years of age, when there is a 21 years of age limitation in the Mobile Sports Wagering statute?</p> <p>The State will not be reconciling the age disparity.</p>
3.	<p>Can mobile sports wagers be taken from inside a tribal exclusivity zone?</p> <p>State law specifies that the wager occurs where the server is located. No servers will be located on Indian lands therefore by operation of law no wagering activity will take place on Indian land or within their exclusivity zones.</p>
4.	<p>Does the Commission plan to award more, fewer or equal points to applicants who give the tribal entities a revenue share versus applicants who actually run a sportsbook for a tribal entity?</p> <p>The question confuses the tribal aspect of the statute. RFA scoring points will only be awarded to a Platform Provider that has a revenue sharing agreement in relation to Mobile Sports Wagering. An agreement with a compacted nation or tribe to operate a brick-and-mortar sportsbook is independent from the Mobile Sports Wagering RFA. Please review the scoring criteria detail in the RFA.</p>
5.	<p>What impact, if any, does tribal lands or exclusivity zones have on products offered through platform providers?</p> <p>Please see answer to Question 3.</p>
6.	<p>What are the implications, if any, that tribal lands or exclusivity zones have on the revenue share that tribes can receive from “platform providers?”</p> <p>The terms of a revenue sharing agreement between a Nation/Tribe and a Platform Provider are determined between the parties to the agreement.</p>
7.	<p>How will a revenue sharing agreement with a tribe be considered in the scoring and would a platform provider earn additional points for revenue sharing with more than one tribe?</p> <p>Please review the evaluation criteria detail in the RFA.</p>
8.	<p>May an operator have revenue share relationships with multiple tribes?</p> <p>Yes.</p>
9.	<p>Aside from revenue share relationships with tribes, will any other type of strategic relationship/partnership with a tribe be afforded additional point consideration?</p> <p>No.</p>
10.	<p>Would participation by a tribe from outside the State of New York be perceived favorably as part of a bid?</p> <p>No.</p>
11.	<p>Is it legally permissible for a compacted Nation or Tribe to fulfil the role as an operator and operate under its own brand?</p> <p>Yes.</p>
12.	<p>Is it legally permissible for a compacted Nation or Tribe to be registered with the Commission as a Casino Vendor Enterprise?</p> <p>Yes.</p>
13.	<p>Would it be possible for a compacted Nation or Tribe that does not own any wagering technology to apply as a platform provider by forming a joint venture with a platform provider?</p>

	Yes.
14.	If a revenue share agreement with one or more compacted Tribes is sufficient to receive additional points, what are, if any, the minimum functions to be performed by such Tribe(s).
	Scoring methodology shall award additional points to an Applicant that has entered into an agreement that includes revenue sharing related to such Mobile Sports Wagering with compacted Native American tribe(s) or nation(s).

Tax Rate and Fee Considerations	
1.	If more than two platform providers are selected, how will the tax rate be determined?
	Please review the determination methodology detail in the RFA
2.	What graduated tax rate is expected under N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367(7)?
	Please review the determination methodology detail in the RFA.
3.	If a platform provider who included more than one mobile sports wagering operator was given the opportunity to modify their bid to increase the gross gaming revenue share percentage, but not all of the mobile sports wagering operator(s) associated with that bid agreed to increase their gross gaming revenue share percentage, could the platform provider still be considered for approval if the modified bid contained less mobile sports wagering operator(s) compared to what was initially submitted? Language in N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(7)(d) states that operators cannot be added to a “platform provider’s” bid in this scenario, but nothing is mentioned for a situation where operator(s) are removed.
	Distribution of internal revenue is subject to agreement between a Platform Provider and an Operator. All Operators included in an Application must remain part of the Application.
4.	Who is responsible for paying the tax?
	The Platform Provider.
5.	With respect to the cost of the annual report on mobile sports wagering and problem gamblers pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(6), how will that cost be distributed among the mobile sports wagering licensees?
	Detail regarding the cost assessment for the annual report is detailed in pre-proposal draft regulations within the RFA.
6.	Will these costs be assessed evenly or on a pro-rata basis related to mobile sports wagering handle or mobile sports wagering gross gaming revenue?
	Detail regarding the cost assessment for the annual report is detailed in pre-proposal draft regulations within the RFA.
7.	Is there a cost for locating a server?
	Platform Providers are jointly required to make a cumulative annual payment of \$20 million, to the four commercial casinos (or \$5 million per commercial casino), as a server and equipment hosting fee. This hosting fee is required regardless of the actual

	number of servers or sites used. Additionally, each Platform Provider will be singularly responsible for its own reasonable and actual costs.
8.	How will the hosting fee be paid to the commercial casinos? Platform Providers shall jointly pay the annual aggregate \$20 million hosting fee. The Commission will facilitate with the administration of the payments.
9.	What if there are only two platform providers? The \$20 million fee will be equitably apportioned between the number of Platform Providers selected. For instance, if there are two providers, then each will be obligated to make \$10 million in cumulative annual payments, which equates to \$5 million each for the four commercial casinos.
10.	Will casinos have to bid to host server? If so, how will these be determined? Will some casinos be left out? No. Pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1311(3) each commercial casino is required to house Mobile Sports Wagering Platform Provider servers in exchange for an annual fee of \$5 million, plus reasonable and actual costs as determined by the Commission. Selection of the commercial casino where a Platform Provider houses their server is to be made by the Commission.
11.	What are “reasonable and actual costs” that a licensee would be entitled to for hosting a server? Is it in addition to the \$5 million? Reasonable and actual costs are those associated with modifications, upgrades, or improvements to the commercial casino required to physically locate and secure the Platform Provider’s servers and equipment, along with any ongoing utility and infrastructure costs directly resulting from the commercial casino’s operations. They will also include the Commission’s Mobile Sports Wagering regulatory costs. These costs are in addition to the hosting fee.
12.	Will operators be expected to include revenue/tax projections specific to such operator as part of a platform provider bid? Yes.
13.	Will platform providers be allowed to deduct any costs resulting from the Commission’s preference/policy for official league data from gross gaming revenue? No.

Licensing Matters	
1.	Will an operator be required to pay a licensing fee? No.
2.	Will a platform provider be required to pay a licensing fee? Pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(3), each Platform Provider is required to pay a one-time fee of \$25 million.
3.	Will platform providers or operators need to secure a commercial gaming license as result of the servers being located at commercial properties? If so, what are these expenses?

	Both Platform Provider and Operators will be required to be licensed as a Casino Vendor Enterprise by the Commission. Expenses will be determined in accordance with Commission Rule 5303.13 (a).
4.	Which, if any, employees of a platform provider or sports wagering operator will be required to obtain a Commission gaming license? Please refer to Commission Rules Parts 5303 through 5307 and the pre-proposal draft regulations within the RFA.
5.	Apart from platform providers and operators, will the Commission seek to license other types of companies that support or provide ancillary services platform providers and operators? Please see answer to Question 4.
6.	Will the Commission provide guidance on what service providers will require licensing and/or registration? Please see answer to Question 3.
7.	Will the Commission provide guidance on the various levels of licensure and/or registration? Please see answer to Question 4.
8.	Will all platform providers, skins and financial processing companies be required to be registered and certified in the State of New York and the United States? Platform Providers, Mobile Sports Wagering Operators and all other entities offering goods and services directly related to gaming activity will be required to be licensed according to the standards of a casino vendor enterprise. All businesses must have legal authority to operate within New York.
9.	If more than one consortium applies, would they potentially select only one, assuming it includes at least two total platforms and four total skins? The Commission must select a minimum of two Platform Provider and four Operators.
10.	The mobile sports wagering law provides for a five-year license and five-year renewals. If one company in a coalition decides not to renew, will all coalition members be at risk? The license is effective for up to 10 years.
11.	If several companies bid together and are awarded one of the licenses, are these companies tied together for the length of the term, e.g. 10-years? The expectation is that the winning bidder(s) will generate the revenue to the State as contained in its Application.
12.	What if one of the companies is later found unsuitable, would the whole consortium be at risk or could they add another company? See answer to question 11, above, for a more general example.
13.	Given that Frequently Asked Questions, Mobile Sports Operation Question and Answer 16 provides: <i>Question: Will an operator be subject to losing their license if the volume of their business is lower than projected?</i>

	<p><i>Answer: Possibly, if an applicant is found to have provided intentionally misleading information regarding their revenue projections.</i></p> <p>If an operator loses its license, is the whole consortium at risk?</p> <p>This scenario cannot be answered as it is fact specific. See answer to question 11, above, for a more general example.</p>
14.	<p>During the 10-year license term, are operators able to voluntarily swap platform providers, if agreed by the relevant parties, or are operators and platform providers required to maintain the exact platform-operator partnerships included in the initial application?</p> <p>No.</p>
15.	<p>Will a failure to maintain compliance with local gaming regulations and statutory requirements caused exclusively by an operator and/or its vendors be attributable exclusively to such operator/vendors, or will such failure be attributable jointly or exclusively to the (applicant) platform provider on the basis that the latter is considered ultimately responsible as the license holder, thereby affecting the security of the platform provider’s license?</p> <p>The Commission will not entertain hypothetical scenarios.</p>
16.	<p>Where Platform Provider A and Platform Provider B are successful in making a joint bid, as per Q&A 4 of the Section “The Request for Applications Process”, will a failure to maintain compliance with local gaming regulations and statutory requirements by Platform Provider A, or one of Platform Provider A’s Operators, be attributable jointly to Platform Provider B and thereby affect the security of Platform Provider B’s license?</p> <p>The Commission will not entertain hypothetical scenarios.</p>

Mobile Sports Operation	
1.	<p>What is the role of a platform provider?</p> <p>A Platform Provider must provide a system that, among other functionality, performs the acceptance and registration of all wagers; generation of all electronic wagering tickets; computation of wagering in the pool and payoffs; maintains records of all wagering activities; and generation of all reports required by the Commission.</p>
2.	<p>Can a company be both a platform provider and an operator?</p> <p>Yes.</p>
3.	<p>What is global risk management?</p> <p>Global risk management is generally the consultation, management, direction, or instruction for purposes of managing risks associated with Sports Wagering. It may include the setting and adjustment of a sports proposition, including lines, odds, point spreads, or other activity of Sports Wagering initially set, and the determination of whether to change such. Additionally, global risk management may provide guidance on whether to accept or reject wagers, to accept wagers, or to lay off wagers.</p>
4.	<p>What is the approval process for wagers?</p>

	Proposed wagers must be submitted to the Division of Gaming, which will assess the proposal based on factors including expected interest, susceptibility to corruption, league particulars, how presented in other jurisdictions, and the manner of outcome determination.
5.	Can an individual have multiple accounts, so long as the accounts are with different operators? Yes.
6.	Can a platform provider offer multiple types of wagering options (e.g. fixed-odds, parimutuel sport, exchange)? Please see draft proposed rules 5329.13 and 5330.13.
7.	Are platforms supposed to be consumer facing? No. The Operators (skins) will be consumer facing. A platform is the back-of-house system accepting and recording transactions initiated through the skin Applications.
8.	Can a customer maintain a single wallet that can be used to fund wagers on the various operators maintained on a platform? Yes, provided all statutory and regulatory requirements can be satisfied
9.	What protections will be built into the mobile sports wagering system to guard against predatory behavior of the operators such as a failure to honor bets, opaque line setting, price gouging and unfair bet size limitations? Operators will be required to follow the statutory and regulatory requirements for offering Mobile Sports Wagering. A failure to maintain compliance may result in Notice of Violations, monetary fines or revocation of license. Additionally, N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(4) requires a framework for patron complaint and resolution.
10.	Do operators need to use all aspects of the platform provider, or just some of their technology? Operators must utilize the platform for the acceptance and processing of wagers. Utilization of technology beyond the required wagering transaction processing will be at the discretion of a Platform Provider.
11.	Will operators be allowed to deduct free play and promotions from gross gaming revenue? No.
12.	Will operator advertisements and promotions be subject to an approval process? Advertising and promotions will be subject to the same approval process as required for commercial casinos.
13.	Can a Mobile Sports Wagering patron deposit \$2,499.00 in multiple operator accounts to avoid the \$2,500.00 acknowledgement threshold? Yes, however an Operator should implement acknowledgement procedures if they know or should have known that the patron has taken action specifically designed to circumvent the threshold.
14.	We have read about Mobile Sports Wagering being operated by the Division of Lottery but cannot locate this language in the statute. Is the Lottery involved?

	The Division of the Lottery was used publicly as an example. The State uses vendors to offer lottery games. Similarly, the State will license at least two Platform Provider to offer Mobile Sports Wagering following a competitive bidding process.
15.	How many individual e-wallets can a Mobile Sports Wagering patron have?
	A patron may deposit and withdraw funds to and from their account with an Operator through electronically recognized payment methods, including but not limited to credit cards and debit cards, or via any other means approved by the Commission. N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(4)(a)(i) limits the number of accounts per patron to one account with any Operator.
16.	Will an operator be subject to losing their license if the volume of their business is lower than projected?
	Possibly, if an Applicant is found to have provided intentionally misleading information regarding their revenue projections.
17.	What company will be responsible for geofencing?
	Platform Providers and Operators will need to ensure compliance with all applicable federal laws.
18.	If an operator chooses to make a lay off wager, will such be required to be made within New York State?
	No, provided the wager is made in compliance with all applicable federal laws.
19.	Will wagers on horse racing be permitted?
	No.
20.	Can a “platform provider” as defined in N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367(1)(a), include more than one “mobile sports wagering operator[s]” pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367(1)(l), in its bid, that do not share a player account management system or any other technology whatsoever, provided all other statutory requirements are satisfied?
	Yes, required utilization of a platform is limited to those functions necessary to accept and process a wager. Further utilization is subject to agreement between a Platform Provider and an Operator.
21.	Does the Commission have a target timeframe in mind for when they would like Mobile Sports Wagering to launch?
	The Commission has no preference but will seek to have the system operational as soon as practicable.
22.	Can patrons have separate accounts with every “mobile sports wagering operator,” pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367(1)(l), contained within a “platform provider’s” winning bid, regardless of whether or not player account management or sports trading system software is shared by the “mobile sports wagering operator(s)?”
	Yes, provided that a shared player account management system maintains segregated account information for each Operator.
23.	Do the “mobile sports wagering operator(s)” that are part of the same “platform provider” need to launch at the same time or is there flexibility on launch times?

	No, each Operator on a Platform Provider may launch independently of other Operators on the platform. Please note that the RFA requires a timeline for the launch of each must be provided by the Platform Provider.
24.	What kind of monitoring will the Commission conduct on back-of-house operations? The scope of the Commission's monitoring will be reflected in forthcoming regulation.
25.	There appears to be no allowance of horse racing with mobile sports wagering and no integration of existing online horse racing advance deposit wagering systems. Are applicants authorized to propose online horse racing as part of their bid or integration with existing advance deposit wagering applications or providers? See answer to Question 19.
26.	How is the Commission defining a preference for official league data? Please review the draft pre-proposal regulation language.
27.	Will operators be required in certain circumstances to use official league data? Please review the draft pre-proposal regulation language.
28.	Will the Commission's list of self-excluded patrons be incorporated by mobile sports wagering operators, or will the Commission create a new list strictly for mobile wagering purposes? Mobile Sports Wagering self-excluded persons will be integrated into the Commission list.
29.	What information must an operator include in its initial response to a patron complaint, which is required within 48 hours of receipt of the complaint? Please review the draft pre-proposal regulation language.
30.	May operators allow patrons to sign up for and/or fund accounts in advance of the Commission's approval to commence wagering operations? Commencement of Mobile Sports Wagering related activity will likely be addressed in condition of license.
31.	May operators allow patrons to deposit into their accounts with cash at locations approved by the Commission? Please review the draft pre-proposal regulation language.
32.	How will the statutory official league data preference impact existing data providers who taken steps to become a licensed Casino Vendor Enterprise and already provide data feeds, including official league data, to live sports wagering operations in commercial casinos? The relationship between the current casino vendor licensees and commercial casinos will likely not be diminished but could be expanded.
33.	Which stakeholders in the supply chain will have the burden to prove that data other than from official leagues, is justified to the satisfaction of the Commission? An Operator must illustrate the manner in which a wager is to be settled. It is within that context that use of official league data will be considered.
34.	Will the "preference" for official league data apply to all wagers or only in-play wagers? Please review the draft pre-proposal regulation language.
35.	The mobile sports wagering authorization allows for acceptance of debit and credit cards to fund wagering accounts. To create payment parity between mobile sports

	wagering and retail sports wagering, is it anticipated that those same provisions will be extended to retail sportsbooks? No. Consideration of parity has not yet been contemplated.
36.	N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1367-a(5)(b) provides that sports bettors may fund and withdraw from the mobile sports wager account through “electronically recognized payment methods, including but not limited to credit cards and debit cards, or via any other means approved by the commission.” Other U.S. regulated jurisdictions have specifically included financial instruments such as open loop prepaid cards as defined by FinCEN as approved payment methods. Does the Commission intend to provide a list of defined “electronically recognized payment methods” through the RFP or rule making process? Please review the draft pre-proposal regulation language.
37.	Pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law §1367(12)(i)(iv), how does the Commission intend to collect information regarding prohibited sports bettors and ensure that a person on such list is prohibited from wagering? Please review the draft pre-proposal regulation language.
38.	Will the Commission issue any enforcement guidance, strategies or coordination related to reducing illegal and offshore market access within New York State? The Commission is a regulatory agency with no criminal law enforcement powers thus no guidance is anticipated.
39.	Will platforms, skins and affiliates be required to monitor and enforce Anti-Money Laundering and Know-Your-Customer practices? Yes.
40.	If so, who is the entity to enforce and report such activity? Please review the draft pre-proposal regulation language.
41.	Will the Commission require each platform, skin and affiliates to establish and maintain records for prohibited sports wagering participants, including an owner, the sport’s governing body, or member of its employees and teams, athlete, coach, referee, manager, handler, or athletic or horse trainer, or any other person identified under the Act? Mobile Sports Wagering Operators will likely be required to have each patron acknowledge they are not a prohibited sports bettor. Additionally, internal controls will be required to detail the way an Operator plans to ensure prohibited bettors are not placing wagers.
42.	How will financial and statistical information be required and reported by platform providers, skins, and affiliates? Platform Providers will be responsible for submitting all required reports. Platform Providers shall work with Mobile Sports Wagering Operators to provide certain required reports, as necessary.
43.	Are there additional reporting requirements as per Office of the State Comptroller or other New York State entities? The Commission cannot comment on requirements of other agencies.
44.	Can we be considered a platform provider if we use a third-party player account management system?

	Player account management systems are a functional tool of a Mobile Sports Wagering Operator. A Platform Provider performs the acceptance and registration of all wagers; generation of all electronic wagering tickets; computation of wagering in the pool and payoffs; maintains records of all wagering activities; and submission of all required reports.
45.	Can an operator change platforms in the future? e.g., they start on a platform that is being used by two operators but in three years want to swap it out for their own technology. At this time, such a scenario as described would not be considered.
46.	Would they just pay \$25,000,000 at that point? See answer to Question 45, above.
47.	What standard or process will guide responsible gaming programs and how will it be implemented among varying platform providers and skins? Problem gambling is discussed in N.Y. Racing, Pari-Mutuel Wagering and Breeding Law §§ 1367-a (4)(xiii), (4)(xiv) and (4)(xv) and Commission Rule 5325. Mobile Sports Wagering Operators will be required to submit their own problem gambling plans.
48.	Will they be required to adopt a uniform standard? Mobile Sports Wagering Operators will be required to adhere to requirements of statute and regulation.
49.	Will there be requirements for marketing and advertising code of conduct standards? Advertising and promotions will be subject to the same approval process as required for commercial casinos. All advertisements are subject to Commission Rule 5325.6.
50.	If so, will they apply to every media or channel for marketing and/or advertising, including, but not limited to, direct mail, email, or SMS messaging, outdoor, on property, radio, television, film, mobile devices, print, social media, and the Internet? See answers, to Questions 12 and 49, above.
51.	Will platform providers, skins and affiliates need to disclose underage customers that may be current customers on fantasy sports platforms? No.
52.	Will they need to bifurcate customer data bases regarding age verification? The Commission underscores the statutory requirement that an Authorized Sports Bettor must be at least 21 years of age. Marketing sports wagering to underaged individuals such as underaged fantasy sports participants will likely be considered a significant violation.
53.	Must an operator utilize all vendors of its platform provider which perform functions related to the sportsbook operation (e.g., Know Your Customer payment processing, age verification, etc.)? The nature of the relationship between a Platform Provider and a Mobile Sports Wagering Operator is a business decision that is required to be detailed as part of the bid process.
54.	Must all operators included as part of the submission of a single platform provider bid utilize the same risk management/trading service provider? No.

55.	<p>Does a platform provider need to be able to itself perform each and every one of the functions set out in FAQ “Mobile Sports Operation” Response 1 – i.e. “the acceptance and registration of all wagers; generation of all electronic wagering tickets; computation of wagering in the pool and payoffs ; maintains records of all wagering activities; and generation of all reports required by the Commission”?</p> <p>A Platform Provider is responsible for performing the functions outlined. It is a business decision on how a Platform Provider accomplishes such.</p>
56.	<p>Does a platform provider only need to be able to perform “the acceptance and processing of wagers”, while being able to organize all other functions set out in FAQ “Mobile Sports Operation” Response 1 through third party vendors?</p> <p>A Platform Provider is responsible for performing the functions outlined. It is a business decision on how a Platform Provider accomplishes such.</p>
57.	<p>If so, can you specify what exactly is meant by the term “the acceptance and processing of wagers”?</p> <p>All wagers shall be processed through the Platform Provider’s servers and other equipment.</p>
58.	<p>Is Global Risk Management a core function of a platform provider that it must perform itself, or can this be contracted through third party vendors?</p> <p>The use of global risk management is permissive and can be contracted.</p>
59.	<p>If Operator 1 on a platform was found to have lower volume than projected, and if Operator 1 was found to have provided intentionally misleading information regarding their revenue projections, would the platform provider risk losing its license, thereby affecting Operator 2 on that platform, or would only Operator 1’s ability to operate in New York State potentially be at risk?</p> <p>The Commission will not entertain hypothetical scenarios.</p>

###

Appendix D Non-Collusive Application Certification Form

**REQUEST FOR APPLICATIONS
FOR
Mobile Sports Wagering
Platform Providers**

NON-COLLUSIVE APPLICATION CERTIFICATION

By submission of this Application, Applicant and each person signing on behalf of Applicant certifies, under penalty of perjury, that to the best of his/her knowledge and belief:

[1] The proposed tax rates contained in this Application have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such proposed tax rates with any other Applicant or with any competitor;

[2] Unless otherwise required by law, the proposed tax rates which have been quoted in this Application have not been knowingly disclosed by the Applicant and will not knowingly be disclosed by the Applicant prior to opening, directly or indirectly, to any other Applicant or to any competitor; and

[3] No attempt has been made or will be made by the Applicant to induce any other person, partnership or corporation to submit or not to submit an Application for the purpose of restricting competition.

AN APPLICATION SHALL NOT BE CONSIDERED FOR SELCTION FOR LICENSURE NOR SHALL ANY AWARD BE MADE WHERE [1], [2], [3] ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE APPLICANT CANNOT MAKE THE FORGOING CERTIFICATION, THE APPLICANT SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

Subscribed to under penalty of perjury under the laws of the State of New York, this _____ day _____, 2021 as the act and deed of said corporation.

FIRM NAME:	
REPRESENTATIVE PRINTED NAME:	
REPRESENTATIVE SIGNATURE:	
TITLE:	

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT]

Appendix E Licensing Documentation



MOBILE SPORTS WAGERING LICENSE

SUPPLEMENTAL ATTACHMENT TO THE MULTI-JURISDICTIONAL BUSINESS FORM

This Supplemental Attachment has been designed to satisfy unique information and documentation that is not requested in the Multi-Jurisdictional Business Form (MJB Form). A fillable version of the MJB Form may be accessed through the International Association of Gaming Regulators at <http://www.iagr.org/>. This Mobile Sports Wagering License Supplemental Attachment should be submitted to the New York State Gaming Commission along with the completed MJB Form.

ENTITIES REQUIRED TO BE LICENSED AS A MOBILE SPORTS WAGERING LICENSEE:

- a. Any Mobile Sports Wagering Platform Provider that has been chosen through the process outlined in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(1)(7) and a mobile sports wagering operator, or skin, included in such platform providers proposal.
- b. Any Mobile Sports Wagering Operator, or skin, that has been chosen through the process outlined in Racing, Pari-Mutuel Wagering and Breeding Law section 1367(1)(7).
- c. Any vendor conducting business with a mobile sports wagering licensee offering goods or services that directly relate to mobile sports wagering, including but not limited to odds, geolocation services, software, patron account management or receives compensation based on revenue from a Licensee's operation.

Note: Applicants for a Mobile Sports Wagering License, including, but not limited to, affiliates, owners, management and supervisory personnel, must fill out a Multi-Jurisdictional Personal History Disclosure Form and Casino Key Employee Supplemental Attachment.

Mobile Sports Wagering vendor enterprise employees responsible for services to a server or creating odds must fill out a Vendor Employee License Application.

THIS APPLICATION SHALL BE COMPLETED BY AN AUTHORIZED REPRESENTATIVE OF THE APPLICANT AND ALL QUESTIONS SHALL BE ANSWERED AS THEY PERTAIN TO THE APPLICANT. WHEN COMPLETING THIS FORM:

- a. All statements must be accurate and include all material facts. **Any misrepresentation, or the failure to provide requested information, may result in the denial of the application.**
- b. Read each question carefully prior to answering. Answer every question completely. Do not leave blank spaces. If a question does not apply or there is nothing to disclose, state "**Does Not Apply**" in response to that question. Failure to provide a response to every question could result in the denial of the application.
- c. If the space available is insufficient to respond to a question, supply the required information on an attachment page and clearly identify which question is being answered.
- d. If any modification is made to the pre-printed questions or information contained on this form, the application may be denied. Once the application is submitted, it becomes the property of the New York State Gaming Commission and will not be returned.

BE SURE:

- a. The representative filing this form has signed the **Statement and Authorization** at the end of this application in the presence of a notary public.
- b. A copy is retained by the Applicant for the Applicant's records.

APPLICANT INFORMATION

1. Applicant Name				d/b/a			
2. Business Street Address							
City				State			ZIP
Mailing Address (if different than business address)							
City				State			ZIP
3. Business Phone				Fax Number			
4. Contact Name				Contact Title			
5. Contact Email				Contact Mobile Phone			
6. Business Website							
7. Applying for qualification in connection with							
8. Description of services, supplies and/or equipment to be provided to or utilized:							

CIVIL, CRIMINAL AND INVESTIGATORY PROCEEDINGS

<p>9.(a) Has the Applicant ever been convicted of ANY crime or offense? (Please do not include convictions that were in favor of the Applicant (CPL §160.50), adjourned in contemplation of dismissal, a youthful offender adjudication, or sealed by a court?)</p> <ul style="list-style-type: none"> • Include ALL charges and convictions regardless of the class of crime (felonies, misdemeanors, petty offenses and/or violations). 	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<p>9.(b) Does the Applicant have any pending arrest charges and criminal accusations against the Applicant?</p> <ul style="list-style-type: none"> • Include all pending arrest charges and criminal accusations. 	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<p>DO NOT rely on your understanding that an arrest or charge is “not supposed to be on your record.” A criminal record was not cleared, erased, sealed or expunged unless the Applicant was given, and has in its possession, a written order from a judge directing that action.</p> <p>If you answered YES to Questions 9.(a) and/or 9.(b) above, explain in detail in an attachment to the back of this form. For each conviction, YOU MUST OBTAIN OFFICIAL DOCUMENTATION FROM THE COURT WHERE THE APPLICANT APPEARED, SHOWING THE FINAL DISPOSITION (OUTCOME) OF THE CASE. This information will include whether the Applicant was found or pled guilty and the penalty. If the Applicant received a deferred judgment, a deferred sentence, or probation, the documentation must include the date that the Applicant was discharged or released from probation or other supervision.</p>		

MISCELLANEOUS

Please answer either YES or NO to the following questions. If you answer YES, provide details in an attachment to the back of this form.

<p>10. Has the Applicant ever committed acts, even those they were not charged for, that would constitute a crime, offense or violation of criminal or civil law?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>11. Has the Applicant ever refused to cooperate with any legislative body or other official investigatory body involved in the investigation of crimes?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>12. Has the Applicant ever been barred or otherwise excluded from any type of casino or gaming/gambling related operation in any jurisdiction? (Check "YES" even if the disbarment or exclusion is no longer in effect or has been lifted.)</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>13. Is the Applicant a member of, or associated with any member of, a career offender cartel, as those terms are defined by New York law?</p> <p><i>Career offender</i> is defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of the State of New York.</p> <p><i>Career offender cartel</i> is defined as any group of persons who operate together as career offenders.</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>14. Is the Applicant delinquent in the filing of any tax return with any taxing agency anywhere?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>15. Is the Applicant delinquent in the payment of any taxes, interest or penalties due to any taxing agency anywhere?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>16. Is the Applicant delinquent in the payment of any judgments due to any governmental agency anywhere?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>
<p>17. Does the Applicant have affiliates or close associates whose relationship with the Applicant may pose any injurious threat to the interest of the State of New York?</p>	<p>YES <input type="checkbox"/></p>	<p>NO <input type="checkbox"/></p>

Statement and Authorization

Statement

I, as the duly authorized representative of the Applicant, have supplied the information contained in this application. I understand and read the English language or I have had an interpreter read, explain and record the answer to each and every question on this form. I have read and understand Racing, Pari-Mutuel Wagering and Breeding Law section 1318. Any document accompanying this application that is not an original document is a true copy of the original document. I swear that the foregoing statements are true, as they pertain to the Applicant.

Notification and Release Authorization

The New York State Gaming Commission is hereby authorized to provide information relative to the identity of the Applicant seeking to be licensed; including the name, identification number, and any other necessary information, to any agency of any state or other jurisdiction for the purposes of obtaining a license.

To any person and all courts, probation departments, selective service boards, employers, educational institutions, banks, financial and other such institutions, and all governmental agencies—federal, state and local, including unemployment insurance agencies, without exception, both foreign and domestic: I have authorized the New York State Gaming Commission, the New York State Police, the New York State Division of Criminal Justice Services and any other organization chosen or retained by the New York State Gaming Commission to conduct a full investigation into the background and activities of the Applicant seeking to be licensed.

I hereby authorize the New York State Gaming Commission and the New York State Police to obtain a credit report on the Applicant that I am authorized to represent, through a credit agency of its choice and I further authorize the New York State Gaming Commission to check the credit record of the Applicant, as needed, on a continuing basis as it relates to licensing, or the suitability for the Applicant to become licensed. If an adverse licensing decision is made totally or partially due to the information on the Credit Report, the New York State Gaming Commission will provide me a copy of the credit report, a summary of my rights under the Fair Credit Reporting Act, and the source of the credit reports so that I may contact the credit agency, if I wish.

Therefore, you are hereby authorized to release any and all information pertaining to documentary or otherwise, as requested by any employee or agent of the New York State Gaming Commission, provided that he or she certifies to you that the applicant or licensee has an application pending before the New York State Gaming Commission or that the applicant or licensee is presently a licensed vendor, under Racing, Pari-Mutuel Wagering and Breeding Law sections 1322 through 1330, as each may be amended from time to time.

This authorization shall supersede any prior request or authorization to the contrary.

A copy of this Statement and Authorization shall be considered as effective and valid as the original.

(Applicant Name) _____
(Duly Authorized Representative - Printed)

(Street Address) _____
(City, State, Zip)

DATED: _____

(Signature of Duly Authorized Representative)

Subscribed and sworn to
before me this _____ day
of _____, _____

NOTARY PUBLIC

Attachment 1 Applicant Acknowledgement of Addendum

**REQUEST FOR APPLICATIONS
FOR
Mobile Sports Wagering
Platform Providers**

APPLICANT ACKNOWLEDGEMENT OF ADDENDUM	
Amendment Number	
Date Issued	
Summary	

By signing below, the Applicant attests to receiving and responding to the Amendment Number indicated above.	
FIRM NAME:	
REPRESENTATIVE PRINTED NAME:	
REPRESENTATIVE SIGNATURE:	

Attachment 2 Waiver, Release, Indemnification Agreement and
Covenant Not to Sue

**WAIVER, RELEASE, INDEMNIFICATION AGREEMENT
AND COVENANT NOT TO SUE**

This Waiver, Release, Indemnification Agreement and Covenant Not to Sue (“**Agreement**”) is entered into by and between the New York State Gaming Commission (“**Commission**”) and _____, designated to be one of the following individuals or entities (check the box next to the correct designation):

- Applicant
- Direct or indirect owner of Applicant

(Name of Applicant)
- Direct or indirect manager of Applicant

(Name of Applicant)
- Proposed Operator associated with an Application
- Proposed direct or indirect owner of an Operator associated with an Application

(Name of proposed Operator)
- Other (explain): _____

Each and every designated individual and entity chosen above is hereinafter referred to as “**Proposer**” within this Agreement. References to “any Proposer” herein refer to any individual/entity who/that executes an Agreement as “Proposer”, required by the Commission’s Request for Applications dated July 1, 2021.

WHEREAS, an Applicant is filing or has filed an application (“**Application**”) with the Commission to apply for a Mobile Sports Wagering License (“**License**”) pursuant to New York Racing, Pari-Mutuel Wagering and Breeding Law section 1367-a (the “**Act**”) or an Operator (also commonly referred to as a “Skin”) associated with an Application for a License;

WHEREAS, Proposer is organizationally and/or fiscally related to either an Application and/or an Operator, as designated above;

WHEREAS, in consideration of the Commission’s acceptance of the Application for review, the Commission has required Proposer to agree to release, defend, indemnify and hold harmless the Commission and the State of New York and their

respective representatives, agents, employees, officers, directors, elected or appointed officials commissioners, consultants and board members (collectively the “**New York Agencies**”), as more fully set forth below, and to waive any current or future, known and unknown, claim, appeal, review or reconsideration concerning, related to, or in any way involving: (i) the Act, the Application process, the review, consideration, selection and evaluation of any Application, and the administration of the Act; (ii) the investigation of any Applicant, manager or related party with respect to any Application; (iii) the release or disclosure of any information provided by any Proposer, or otherwise obtained during the Application process; (iv) the issuance of any License; or (v) the use, investigation or processing of any information found or provided during the Application process.

WHEREAS, Proposer is a sophisticated business/person, has been represented by counsel and other advisors and/or consultants and has not relied upon anything the New York Agencies have communicated but instead on Proposer’s own investigation, review and inquiry and has determined to submit Proposer’s Application and to release, waive and surrender any claim, past, present or future, and to release, defend, indemnify and hold harmless the New York Agencies from any claim involving the Application or the Application process.

WHEREAS, Proposer acknowledges and agrees that the Commission’s receipt and acceptance of Proposer’s Application for review is full and adequate consideration for the promises, covenants and undertakings in this Agreement.

NOW, THEREFORE, it is hereby agreed:

1. The recitals are incorporated herein and made a part of the Agreement;
2. Proposer executing this Agreement, on behalf of Proposer and Proposer’s agents, servants, representatives, affiliates, parents, subsidiaries, directors, officers, employees, assigns, predecessors and successors (and their heirs, estates, executors, spouses), covenants and agrees to release, waive, defend, indemnify, as well as to not sue or make any current or future, known and unknown, claim for damages, costs, fees, expenses or request any relief whatsoever, including but not limited to equitable relief arising from, related to or otherwise involving: (i) the Act, the Application process, the review, consideration, selection and evaluation of any Application and the administration of the Act; (ii) the investigation of any Proposer with respect to any Application; (iii) the release or disclosure of any information provided by any Proposer or otherwise obtained during the Application process; (iv) the issuance of any License; or (v) the use, investigation or processing of any information found or provided during the Application and process.

Attachment 2: Waiver, Release, Indemnification Agreement and Covenant Not to Sue

3. Proposer, on behalf of Proposer and Proposer’s agents, servants, representatives, affiliates, parents, subsidiaries, directors, officers, employees, assigns, predecessors and successors (and their heirs, estates, executors, spouses), covenants and agrees not to seek appeal, review or reconsideration of any decision or action of the New York Agencies.

4. Proposer, on behalf of Proposer and Proposer’s agents, servants, representatives, affiliates, parents, subsidiaries, directors, officers, employees, assigns, predecessors and successors (and their heirs, estates, executors, spouses) covenants and agrees to defend, indemnify, and hold the New York Agencies harmless from and against any current or future, known and unknown, claim, cause, suit, cause of action, damages, costs, damages and expense, including attorney’s fees, (whether known or unknown, suspected or unsuspected, contingent or liquidated) arising from or related to or otherwise involving: (i) the Act, the Application process, the review, consideration, selection and evaluation of any Application and the administration of the Act; (ii) the investigation of any Proposer with respect to any Application; (iii) the release or disclosure of any information provided by any Proposer or otherwise obtained during the Application and investigation process; (iv) the issuance of any License; or (v) the use, investigation or processing of any information found or provided during the Application process.

5. Each of the promises, covenants and agreements set forth in Paragraphs 1-4 above run in favor of the New York Agencies.

6. Capitalized terms used but not defined in this Agreement shall have the meanings defined in the Commission’s Request for Applications dated July 1, 2021, as the same may be amended from time to time.

NEW YORK STATE GAMING COMMISSION	
By:	Proposer*:
Its:	By:
Dated:	Its:

* The legal guardian of any minor owner must execute on the minor’s behalf.