

ON-LINE GAMING AGREEMENT

Section 2 (h) – Liquidated Damages

1. At start up, in the event that the complete system is operational but the required number of terminals is not fully installed and operational, the contractor shall pay to the Lottery for each terminal not operational, as fixed and agreed liquidated damages, the sum of \$250 per terminal for each calendar day delay, but for not more than 180 days. In all cases, the determination as to whether a terminal is in operational condition shall be made by the Lottery. If some, but not all of the terminals are installed and ready for use, during a period of time when liquidated damages are applicable, liquidated damages shall not accrue against the terminals installed and ready for use for any calendar day during which the terminals are operational.
2. In the event the System fails to process wagers for all on-line games from each operational terminal during a calendar day, and such failure exceeds fifteen (15) minutes (“Grace Period”) in any calendar day, the Lottery may assess against GTECH fixed and agreed liquidated damages for each minute of downtime at a rate equal to one hundred (100) percent of lost sales as determined by the sales from the system on the same day in the preceding week multiplied by the percentage of daily sales, system-wide, on the first Monday of the month for the equivalent time period of each occurrence, less said fifteen (15) minute Grace Period.

Said liquidated damages shall be calculated using each hour’s transaction distribution percentage from the first Monday of the month for the period(s) the system was down, less the Grace Period, and the system’s sales for the same day of the previous week, as follows:

System Down: 14:15 – 14:35
 15:05 – 15:10

14:15 – 14:30	Grace Period
14:30 – 14:35	5 minutes @ .082%
15:05 – 15:10	5 minutes @ .086%

System Sales Same Day Previous Week: \$328,150

$\$328,150 @ .082 = \$26,908/\text{Hour}$
 $\$26,908 \div 60 \text{ Minutes} = \$448/\text{Minute}$
 $\$448 \times 5 \text{ Minutes} = \$2,240 \text{ Charge}$

$\$328,150 @ .086 = \$28,220/\text{Hour}$
 $\$28,220 \div 60 \text{ Minutes} = \$470/\text{Minute}$
 $\$470 \times 5 \text{ Minutes} = \$2,350 \text{ Charge}$

$\$2,240 + \$2,350 = \$4,590 \text{ Charge}$

3. In the event a terminal is “down”, that is if the terminal is unable to process wagers and is in need of repair and such malfunction cannot be accomplished by telephone, and such terminal is down for more than one hour after its status has been reported to GTECH, the Lottery may assess against GTECH, as fixed and liquidated damages, an amount equal to (i) the total amount of sales from said terminal on the same day in the preceding week, multiplied by (ii) the percentage of daily sales, system-wide, on the first Monday of the month, for the time period beginning one hour after the notification that said terminal is down and continuing until the terminal is no longer down. In the event such down status is caused by a communications failure, the above calculation shall be the same, except that “three hours” shall be substituted for “one hour”, provided that no liquidated damages shall be assessed in the event the communications failure is beyond GTECH’s control and affects a substantial group of terminals for a substantial period of time.
4. Only one of the above liquidated damages may be assessed at any one time.
5. Liquidated damages for each month shall be deducted from the next payment made to GTECH. Prior to assessment all liquidated damages as assessed for each month shall be reviewed by the parties immediately after the end of the month and said liquidated damages, as assessed for each month, shall be deducted from the next payment made to GTECH.