

(1) **COMMONWEALTH OF PENNSYLVANIA**

- and -

(2) **SCIENTIFIC GAMES INTERNATIONAL, INC.**

**LOTTERY GAMES AND SERVICES CONTRACT
RELATED TO THE
LOTTERY AND THE PROVISION OF INTERNET INSTANT GAMES**

THIS CONTRACT (the "Contract") is made and entered into this ^{10th MAY} day of March 2018, by and between the Commonwealth of Pennsylvania (the "Commonwealth"), Department of Revenue for the Pennsylvania Lottery (the "Department" and the "Lottery," respectively), an executive agency of the Commonwealth and Scientific Games International, Inc., ("SGI" or "Contractor"), a duly organized and existing Delaware Corporation, with offices at 1500 Bluegrass Parkway, Alpharetta, Georgia, 30201 and having Federal Employer Identification Number [REDACTED]

WHEREAS, the Department has as one of its responsibilities the operation and management of the Lottery in accordance with the provisions of Act No. 91 of 1971, P.L. 351, approved August 26, 1971, as amended, sometimes known as the "State Lottery Law,"; and

WHEREAS, the Department is authorized to implement and operate iLottery and iLottery games pursuant to Act 42 of 2017 (P.L. 419, No. 42) ("iLottery Law"), codified at 4 Pa.C.S. § 501 et seq.; and

WHEREAS, pursuant to 4 Pa.C.S. § 503(c), to facilitate the prompt implementation of iLottery, initial contracts, not to exceed two years, entered into by the Department for iLottery and related gaming services are not subject to the provisions of 62 Pa.C.S. (relating to procurement); and

WHEREAS, pursuant to the authority granted under 4 Pa.C.S. § 503(c), the Commonwealth selected SGI to provide the hardware, software and related services for the implementation and operation of iLottery pursuant to the terms set forth in this Contract; and

WHEREAS, under the provisions of the State Lottery Law, the Department has the authority and duty to pay costs incurred in the operation and administration of the Lottery, including costs resulting from any contracts entered into for services related to the implementation and operation of iLottery; and

WHEREAS, the Department further has the authority to expend monies from the State Lottery Fund to pay the expenses of the operation of the Lottery; and

WHEREAS, SGI has agreed to deliver iLottery and related gaming systems to the Department under the terms as set out in this contract.

The Parties agree as follows:

1. DEFINITIONS & INTERPRETATION

- a. Throughout this Contract, all capitalized terms shall have meaning ascribed to them in Appendix 1 (Definitions) of this Contract or as expressly defined in this Contract.
- b. In this Contract, unless otherwise specified: (i) any reference to a statute or statutory provision includes a reference to the statute or statutory provision as modified or re enacted, or both, from time to time, and to any subordinate legislation made under it; (ii) references to Sections, Appendices and/or parties are to Sections of and Appendices and/or parties to this Contract, respectively; (iii) any reference to a document is a reference to the document as from time-to-time supplemented, modified or amended, (iv) the singular includes the plural and vice versa, and the masculine includes the feminine and the neuter genders and vice versa, (v) a person includes natural persons, firms, partnerships, companies, corporations, associations, organizations, governments, states, governmental or state agencies, foundations and trusts (in each case whether or not having separate legal personality); and (vi) writing includes fax transmission, but excludes email, SMS, and similar means of communication
- c. Any phrase introduced by the words "include", "including", "includes" and "such as" are to be construed as illustrative, and shall not limit the sense of the words preceding those words. The Appendices form an integral part of this Contract. The headings used in this Contract are for convenience only and shall not be interpreted as having any legal or other meaning.
- d. The provisions of this Contract shall be construed in accordance with the provisions of all applicable laws and regulations of the Commonwealth. However, by executing this Contract, the Contractor agrees that it has and will continue to abide by the intellectual property laws and regulations of the United States of America

2. ORDER OF PRECEDENCE

If any conflicts or discrepancies should arise in the terms and conditions of this Contract, or the interpretation thereof, the order of precedence shall be.

- a. The documents containing the parties' signatures,
- b. *The presentations and documentation provided by SGI, attached hereto as Appendices 9 through 13*

3. WORK STATEMENT

Subject at all times to Applicable Law, SGI shall provide during the Term, the Licensed Software and related Services, described in Appendix 2 (Work Statement)

4. SGI LICENSES GRANTED

- a. *Licensed Software and Services.* SGI hereby grants the Lottery and the Lottery's Retailers a Territory-wide limited, non-exclusive, non-transferable, revocable licence to use the Licensed Software and Documentation during the Term in the Territory in order to offer iLottery Games to End-Users and for internal business purposes (the "Licence"). No licence is granted in relation to the Source Code of the Licensed Software or Games Pursuant to the Licence, Lottery may use the Licensed Software and any and all Updates thereto, in Object Code form only and in connection with the operation of a Website
- b. *Games and Additional Games, Product or Services.* Lottery may request additional Games, products or Services via an Order Form, which shall be mutually agreed by the parties and which shall not be effective and binding unless and until such agreement is executed by both parties hereto.
 - i. The terms and conditions of each Order Form are hereby incorporated into this Contract
 - ii. Each Order Form is separate and independent of any other Order Form. A default with respect to any one Order Form shall not cause a default of any other Order Form.
- c. *Third-Party Games and Third-Party Branded Games.* For each Third-Party Game or Third-Party Branded Games to be delivered to the Lottery under this Contract, Lottery hereby acknowledges and agrees that:
 - i. Such Third-Party Games or Third-Party Branded Games are subject to Third-Party Game Terms,
 - ii. Contractor shall provide the Third-Party Game Terms for the Initial Third Party Games and Third Party Branded Games as those Terms are executed between Contractor and the relevant third parties. In the event there are any further Third Party Game Terms for any additional Third Party Games or Third Party Branded Games to be delivered to the Lottery under this Contract, they will be included in the relevant Order Form
 - iii. SGI's acceptance of and any of its obligations in relation to the Third Party Games shall, at all times, be conditioned on Lottery's strict adherence to the applicable Third-Party Game Terms, and
 - iv. Third-Party Game Terms are subject to change at SGI's sole discretion based on the third party licensor's requirements and the addition or removal of such Games from SGI's inventory.
- d. *Proprietary Rights*
 - i. The Commonwealth acknowledges SGI and any subcontractor's or third-party's Intellectual Property Rights may have in and to the Licensed Software and Games and materials heretofore or hereafter created by SGI for the operation of the Licensed Software.
 - ii. All original written material, including reports, tickets, algorithms, game designs, game names, studies, blueprints, programs, tapes, listings, artwork and other documentation originated and prepared by Contractor or any subcontractor exclusively and specifically for the Lottery pursuant to this Contract shall belong exclusively to the Lottery
 - iii. Contractor further agrees that it shall not provide or use any matter trademarked or copyrighted by a third party without the written approval of the Secretary, unless the Contractor provides the Department with the written permission of the trademark or

copyright owner for the Department to use such trademarked or copyrighted matter under this Contract

- e. **New Intellectual Property** Each new invention, discovery or important improvement, which includes ideas, concepts, know-how or techniques, developed exclusively and specifically for the Lottery in the normal course of performing obligations pursuant to this Contract and is not SGI Intellectual Property or otherwise owned by SGI shall be treated as follows.

- i. If made exclusively by Lottery personnel, it shall be the property of the Lottery,
- ii. If made exclusively by Contractor personnel, it shall be the property of the Contractor, and Contractor grants the Lottery a non-exclusive, irrevocable, nontransferable and royalty-free license to such invention, discovery or improvement;
- iii. If made jointly by personnel of Lottery and Contractor, it shall be jointly owned equally.

To continually provide the Lottery the ability to generate revenue and serve their customers and stakeholders, SGI may offer new products services, technology or solutions to the Lottery. During the term of the contract should any new products, services, technology or solutions not previously recognized or outlined in this Contract, which are not developed exclusively and specifically for the Lottery, may be offered to the Lottery by SGI. In such circumstance, and if the Lottery believes it is in the best interest of the Commonwealth, the Lottery and SGI mutually agree that such new product, service, technology or solution, including financial terms, shall be the subject of a separate letter of agreement between the parties, which letter of agreement shall detail all rights, duties, and obligations of either party

5. USE OF COMMONWEALTH PROPERTY

- a. **Confidentiality of Commonwealth Property.** All Commonwealth Property provided to the Contractor pursuant to this Contract or collected or generated by the Contractor on behalf of the Commonwealth pursuant to this Contract shall be considered confidential information under Section 26, (Confidential Information).
- b. **License grant and restrictions.** During the term of this Contract, Commonwealth grants to Contractor and its subcontractors for the limited purpose of providing the Services covered under this Contract, a limited, nonexclusive, nontransferable, royalty-free right (subject to the terms of any third party agreement to which the Commonwealth is a party) to access, use, reproduce, and modify Commonwealth Property in accordance with the terms of the Contract. The Commonwealth's license to Contractor is limited by the terms of this Contract
 - i. The Contractor hereby assigns to the Commonwealth its rights, if any, in any derivative works resulting from Contractor's modification of the Commonwealth Intellectual Property. Contractor agrees to execute any documents required to evidence this assignment and to waive any moral rights and rights of attribution provided for in Section 106A of Title 17 of the United States Code, the *Copyright Act of 1976, as amended*
 - ii. Neither Contractor nor any of its subcontractors may decompile or reverse engineer, or attempt to decompile or reverse engineer, any of the Commonwealth Intellectual Property. Commonwealth hereby represents that it has the authority to provide the license grant and rights set forth in this section
- c. **Reservation of rights.** All rights, not expressly granted here to Contractor are reserved by the Commonwealth
- d. **Termination of Commonwealth license grant.**
 - i. **Rights Cease:** Upon the expiration or termination for any reason of Contractor's obligation to provide the Services under this Contract, all rights granted to Contractor under this section shall immediately cease

- ii. Return Commonwealth Property Contractor shall, at no cost to Commonwealth, deliver to Commonwealth all of the Commonwealth Intellectual Property (including the source code of such Intellectual Property then in Contractor's possession or under its control) in the form in use as of the Effective Date of such expiration or termination (except that Commonwealth Data shall be turned over in a reasonably practical form, mutually acceptable to the Commonwealth and Contractor).
- iii. List of utilized Commonwealth Property/Destruction Within 30 days after termination, Contractor shall provide the Commonwealth with a current copy of the list of Commonwealth Intellectual Property in use as of the date of such expiration or termination. Concurrently therewith, Contractor shall destroy or erase all other copies of any Commonwealth Software then in Contractor's possession or under its control unless otherwise instructed by Commonwealth, in writing; provided, however, that Contractor may retain one archival copy of such Commonwealth Software, until final resolution of any actively asserted pending disputes between the Parties, such retention being for the sole purpose of resolving such disputes.
- e. Effect of license grant termination. Consistent with the provisions of this section, Contractor shall refrain from manufacturing, copying, marketing, distributing or using any Commonwealth Software or any other work which incorporates the Commonwealth Software.
- f. Commonwealth Property Protection
 - i. Contractor acknowledges Commonwealth's exclusive right, title and interest, including without limitation copyright and trademark rights, in and to Commonwealth Data, Commonwealth Software, and the Developed Works developed under the provisions of subsection 4.e i this Contract, and Contractor shall not knowingly do or cause to be done any act or thing contesting or in any way impairing or tending to impair any part of said right, title, and interest, and shall not use or disclose the Commonwealth Data, Commonwealth Software, or the Developed Works without Commonwealth's written consent, which consent may be withheld by the Commonwealth for any reason.
 - ii. Contractor shall not, in any manner, represent that Contractor has any ownership interest in the Commonwealth Data, Commonwealth Software, or the Developed Works.

6. **PROPERTY TO BE TRANSFERRED**

Prior to the conclusion of the Term, or upon notice of termination of the Contract pursuant to section 39 (Termination), SGI shall cause to have the domain name PAILOttery.com, in addition to any other domain names secured for the Lottery under the Contract, and any and all rights, title and interest associated with those domain names, transferred to the Commonwealth at no additional cost to the Department.

7. **DELIVERY AND ACCEPTANCE**

- a. Contractor shall deliver the Licensed Software to the Lottery in accordance with this Contract.
- b. Following delivery, the Licensed Software will be subject to an Acceptance Test.
- c. The parties shall develop and implement a mutually agreed upon acceptance and implementation plan ("Implementation and Acceptance Plan") on or before March 15, 2018, which shall set forth, among other things, the set of tests to be conducted and the time periods for conducting those tests. The Implementation and Acceptance Plan shall include a test plan which includes, but is not limited to, the following types of tests: device testing, browser version testing; and claims processing testing.
- d. In the event that an Acceptance Test is delayed due to the acts or omissions of the Lottery, then SGI shall give fourteen (14) days' notice of its requirement that the Acceptance Test shall be carried out. If the Acceptance Testing is not carried out within a further period of fourteen (14) days due to the acts or omissions of the Lottery, the Licensed Software shall have been deemed accepted on the expiry of such further period.

- e. Notwithstanding section 7 b where the Lottery uses the Licensed Software, before concluding (or commencing) the Acceptance Tests, in a live environment for commercial purposes other than for agreed testing purposes, then the Licensed Software shall be deemed to be accepted on the date of such first live use
 - f. Nothing in this section shall prevent the Lottery from identifying and communicating issues with the Licensed Software to SGI after launch, and nothing in this section shall eliminate SGI's duty to ensure full functionality of the Licensed Software and Services, as described in Appendix 2 (Work Statement) in conformance with its specifications
 - g. Subject to subsection 7.h below, SGI shall use all commercially reasonable efforts to meet delivery dates. *The non-delivery of a particular Deliverable shall have no effect on any other Deliverable or previous Deliverables that have been subject to Acceptance*
 - h. The Commonwealth and Lottery acknowledge and agree that the dates for Deliverables, Soft Launch Date, and Commercial Launch Date are Lottery driven deadlines to which SG has agreed to accommodate. Further each of the Commonwealth and Lottery agree, that the timely provision of the Licensed Software is dependent on: (i) third-parties, including the Lottery's advertising agency, and (ii) a limited scope; and any delay on the part of a third-party outside SG's control or the deviation from the agreed upon scope shall entitle SG to equitable tolling or relief from enforcement of any provision of this Contract. To accommodate the defined launch dates, the parties have agreed to limit change to the system and operations for each launch, and some requirements may be deferred to post-launch for implementation. Notwithstanding the above, Contractor acknowledges and agrees that any requirements deferred to post-launch and not already set-forth as part of post-launch pursuant to Appendix 2 shall not impair the functionality of the system; shall not impair the integrity of the system; and shall not result in the system being in violation of federal or state laws or regulations. Any changes resulting in the above shall be provided through the Parties' respective project managers
- 8. TERM**
- a. This Contract shall commence on the Effective Date and terminate no later than the second anniversary of the Effective Date.
 - b. In the event the Lottery is empowered to grant an extension or renewal of these terms in furtherance of the Lottery Law, including any amendments, and if the Lottery believes it is in the best interest of the Commonwealth, the parties agree to diligently negotiate such extension or renewal, including financial terms, in good-faith to facilitate the continuity of the Licensed Software and Services provided under this Contract
- 9. TERMS OF PAYMENT**
- The Department agrees to pay, and the Contractor agrees to accept as full compensation for the services rendered hereunder, the Lottery Costs set forth in Appendix 4, (Charges) attached hereto and made a part hereof as if fully set forth
- 10. LIQUIDATED DAMAGES**
- a. The Commonwealth and Contractor agree that, in the circumstances described in this Section 10, it will be extremely impractical and difficult to determine actual damages which the Commonwealth may incur if the Lottery is not available in a live environment for commercial purposes on or before May 1, 2018
 - b. Subject to sections 10 c through and including 10.i below, if the Lottery is not available in a live environment for commercial purposes on or before May 1, 2018 (the "Commercial Launch"), and: (i) the Lottery has not consented to an extension of such Commercial Launch; and (ii) the Contractor is solely responsible for the delay, then the Lottery may assess, as liquidated damages, an amount up to \$10,000 per day for each day after April 30, 2018
 - c. The determination to assess liquidated damages shall be made by the Department. Upon determination that liquidated damages are to or may be assessed, the Department shall notify Contractor of the potential assessment in writing. The availability of an additional cure or greater cure period other than as set forth in this Contract shall be in the equitable discretion of the Department.

- d. If any portion of the liquidated damages provisions is determined to be unenforceable in one or more applications, that portion remains in effect in all applications not determined to be unenforceable and is severable from the invalid applications. If any portion of the liquidated damages provisions is determined to be unenforceable in any application, the other provision or provisions shall remain in full force and effect.
- e. It is expressly agreed that the waiver of any liquidated damages due the Commonwealth shall constitute a waiver only as to such liquidated damages and not a waiver of any future liquidated damages. Failure to demand payment of liquidated damages within any period of time shall not constitute a waiver of such claim by the Department.
- f. If the Lottery assesses liquidated damages, in no event shall the total liquidated damages be in excess of the difference between the actual amount of profit received or accrued to the Lottery and the Anticipated Profit for each fiscal year, or any part thereof, covered by the Contract.
- g. All assessed liquidated damages will be deducted from any monies owed SGI by the Lottery, and in the event the amount due SGI is not sufficient to satisfy the amount of the liquidated damages, SGI shall pay the balance to the Lottery within thirty (30) calendar days of written notification. If the amount due is not paid in full, the balance will be deducted from subsequent payments to SGI. At the Lottery's sole option, the Lottery may obtain payment of assessed liquidated damages through one (1) or more claims upon the Performance Bond.
- h. Any liquidated damages imposed in accordance with this section shall be pro-rated for partial periods.
- i. SGI shall not be required to pay liquidated damages for delays solely due to matters as enumerated in section 42 (*Force Majeure*), or to the extent any delay was caused solely by the Lottery or any third party acting on behalf or at the direction of the Lottery, or for actions specifically approved in writing by the Lottery ("Lottery Delay"). Where the Commercial Launch is delayed by acts or omissions as detailed in this section, the Commercial Launch shall be equitably extended by a period that is reasonable and commensurate to reflect the extent of the delay caused by the event of force majeure or the applicable Lottery Delay. This provision in no way limits Contractor's liability for its subcontractors.

11. RIGHT OF INSPECTION

Subject to the provisions of section 26 (Confidential Information), the Department shall have the right to inspect all phases of the production and support of the Licensed Software and Services provided hereunder upon reasonable prior notice to SGI and subject to SGI's safety and security procedures.

12. EXCLUSIVITY

- a. *Exclusive iLottery Provider.* In consideration of the payment terms accepted by SGI, during the Term, the Department and Lottery each agree that each entity shall refrain from developing, introducing, or directing implementation and operation of a lottery or other games or programs authorized pursuant to 4 Pa.C.S. § 503. Notwithstanding the foregoing, SGI acknowledges and agrees that this exclusivity provision shall in no way prohibit the Commonwealth from developing, introducing, contracting for, implementing or operating iLottery or similar services (1) pursuant to the provisions of 62 Pa.C.S. (relating to procurements) which will necessarily occur during the Term of this Contract, (2) upon notification by the Commonwealth to the Contractor that this Contract is terminated pursuant to its terms; or (3) upon written request by the Commonwealth for a specific game, program or service authorized under 4 Pa.C.S. § 503, which SGI is either unable or unwilling to provide within a commercially reasonable period of time.
- b. *Exclusive iLottery Content.* During the Term of this Contract, SGI agrees that it shall not offer any proprietary SGI digital Games to any licensed casino within the Territory.

13. BONDS & INSURANCE

a. Insurance

For the entire period of this Contract, SGI agrees to maintain the following insurance, with the Commonwealth, the Department and the Lottery named as additional insureds, which insurance shall provide funds, fees, and legal costs for any damage, loss of revenue or claims incurred or arising as a

result of the operation of the Licensed Software and Services. However, the Commonwealth, the Department and the Lottery shall not be named as additional insureds on the errors and omissions policy described below. No insurance shall be cancelled or changed without at least thirty (30) days prior, written notice to the Lottery. By requiring such coverage, the Lottery does not waive any immunity from liability which it may otherwise have.

SGI agrees to furnish the Lottery with certificates of insurance for all insurance required under this Contract within fourteen (14) days of final execution and delivery of this Contract to SGI, with the exception of the certificates for Errors and Omissions insurance, which Errors and Omissions certificate of insurance shall be furnished to the Lottery prior to Soft Launch.

All certificates of insurance furnished by SGI shall aver that coverages afforded shall not be cancelled or changed without at least thirty (30) days prior written notice to the Lottery.

SGI shall acquire insurance written for not less than any limits of liability herein specified or required by law, whichever is greater, and shall include contractual liability insurance as applicable to SGI's obligations under section 15 (Commonwealth Held Harmless), of this Contract.

- i. *Property.* SGI shall maintain insurance on all materials and equipment used in operating the Licensed Software in SGI's business in the amount of actual replacement cost thereof. Such policy shall include an All Risk Property Floater to insure personal property including contents, materials, and mobile items against fire, collision, flood, etc. Neither the Commonwealth, the Department, the Lottery, nor Lottery Retailers are responsible for any such insurance.
- ii. *Public Liability.* SGI shall maintain comprehensive General Liability and Property Damage insurance with limits of not less than one million dollars (\$1,000,000) for any one person and three million dollars (\$3,000,000) for any one occurrence for personal injury, and three million dollars (\$3,000,000) for any one occurrence for property damage.
- iii. *Errors and Omissions.* SGI shall maintain errors and omissions insurance with limits of not less than five million dollars (\$5,000,000) shall be in force and effective from the date of the System start-up and shall continue without interruption for one (1) year after the expiration of the Contract. *Errors and Omissions insurance shall indemnify SGI, the Commonwealth and the Lottery for any loss which may be incurred. SGI shall require that subcontractors and service providers maintain Errors and Omissions Insurances, with policy limits acceptable to the Lottery, for the terms of any contracts for performance of work required of SGI, as prime contractor, under this Contract.*
- iv. *Network/Cyber Liability Insurance* (including coverage for Professional and Technology-Based Services Liability if not covered under Company's Professional Liability/Errors and Omissions Insurance referenced above) in the amount of \$3,000,000, per accident/occurrence, covering the Contractor, its employees, agents, contractors, and subcontractors in the performance of all services. SG represents that Network/Cyber Liability Insurance is covered under its Errors and Omissions Insurance.
- v. *Professional and Technology-Based Services Liability Insurance* (insuring against damages and claim expenses as a result of claims arising from any actual or alleged wrongful acts in performing cyber and technology activities) in the amount of \$2,000,000, per accident/occurrence. SG represents that the Professional and Technology-Based Services Liability Insurance is covered under the Company's Error and Omissions Insurance.
- vi. *Automotive Insurance.* SGI shall insure automotive equipment used in the operation of the System. SGI shall maintain Automobile Bodily Injury Liability insurance with a limit of one million dollars (\$1,000,000) for each person and five million dollars (\$5,000,000) for each accident, and Property Damage Liability insurance with a limit of not less than one million dollars (\$1,000,000) for each accident.

- vii *Employees.* SGI shall insure its employees according to Commonwealth of Pennsylvania statutes and regulations, including coverage as required under the Workmen's Compensation Law

b Bonds

All bonding must be issued by a firm authorized by the Office of the Insurance Commissioner to write business in the Commonwealth of Pennsylvania

- i. *Fidelity Bond.* Within fourteen (14) days of final execution and delivery of this Contract to SGI, SGI shall deliver to the Lottery a Fidelity Bond in the amount of one million dollars (\$1,000,000) covering any loss to the Commonwealth due to any fraudulent or dishonest act on the part of SGI's officers, employees or agents.
- ii. *Performance Bond.* Within fourteen (14) days of final execution and delivery of this Contract to SG, SG must deliver to the Lottery a Performance Bond which will be effective as of the Commencement Date of this Contract. A Performance Bond in the amount of one million dollars (\$1,000,000) will be required for each year of the Contract

A Performance Bond may be in the form of a policy or certificate issued by a reputable surety company. A certified check or cashier's check made payable to the Commonwealth of Pennsylvania, Department of Revenue, Pennsylvania Lottery, may be accepted in lieu of the surety company issued policy/certificate.

14. INTELLECTUAL PROPERTY RIGHT INDEMNITY

In the event that a claim arises that the Licensed Software, other than any Intellectual Property of the Lottery, infringes the rights of a third party, SGI shall immediately notify the Department and the Lottery in writing and, without diminishing SGI's obligation to defend and hold harmless the Commonwealth, the Department, and the Lottery, its agents and employees, SGI may elect to exercise one of the following options below:

1. procure for the Department the right to continue using the at-issue software (or any part thereof) in accordance with the terms of this Contract,
2. modify the at-issue software so that it ceases to be infringing,
3. replace the at-issue software with equivalent or better non-infringing software deemed satisfactory to the Department; or
4. agree to an alternative acceptable to both SGI and the Department.

15. COMMONWEALTH HELD HARMLESS

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P.S. 732-101—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

16. LIMITATION OF LIABILITY

- a. The Contractor's liability to the Commonwealth under this agreement shall be limited to the total dollar amount of this Contract (including any amendments). This limitation will apply, except as otherwise

states in this section, regardless of the form of action, whether in contract or in tort, including negligence. This limitation does not, however, apply to any damages .

- i. For bodily injury;
- ii. For death,
- iii. For intentional injury,
- iv. For damage to real property or tangible personal property for which the Contractor is legally liable;
- v. Under section 14 (Intellectual Property Right Indemnity);
- vi. Under section 23 (Data Breach or Loss); or
- vii. Under section 24 (Virus, Malicious, Mischievous or Destructive Programming).

- b. No party shall be liable to the other for any of the following types of loss or damage, even if the party has been advised of the possibility of such loss or damage, (i) indirect or consequential losses; (ii) loss of profits, contracts or anticipated savings, or (iii) loss or damage arising from loss, damage or corruption of data, except as set forth in section 23 (Data Breach or Loss).

17. PRIME CONTRACTOR RESPONSIBILITIES

Subject to Third-Party Game terms and conditions and the Lottery's adherence thereto, the Contractor is the prime contractor and, as such, is responsible for all contractual activities performed under this Contract, whether or not the Contractor performs them. The Contractor shall be the sole point of contact with regard to contractual matters, including payment of any or all charges hereunder.

18. OTHER CONTRACTORS

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor, other contractors and Commonwealth employees shall fully cooperate with one another, and the Contractor shall coordinate its Services and/or provision of Supplies with such additional work as may be reasonably required. The Contractor and any other contractor shall not commit or permit any act that will interfere with the performance of the work by the Contractor or any other contractor or by Commonwealth employees. This section shall be included in the Contracts of all contractors with which this Contractor shall be required to cooperate. The Commonwealth shall equitably enforce this section as to all contractors to prevent the imposition of unreasonable burdens on any contractor. The Contractor shall not be liable to the Commonwealth or the Lottery for any non-performance of such other contractors; this provision in no way limits the liability of the Contractor for its subcontractors.

19. ASSIGNMENT & SUBCONTRACTING

The Contractor is prohibited from assigning, transferring, or otherwise disposing of this Contract or any section or portion thereof, its rights, title or interests therein, or its power to execute such Contract to any other person, company, corporation, or entity without the prior written consent of the Department. The Department shall not unreasonably withhold its consent under this paragraph in the case of any assignment, transfer or other disposition that would not materially prejudice the Commonwealth's interests hereunder.

No subcontracting is permitted without the express, written approval of the Department. The Department reserves the right to require the Contractor to replace such subcontractors reasonably found to be unacceptable to the Department. The Contractor shall be responsible for enforcing against subcontractors those provisions of the Contract applicable to subcontractors. Any change in subcontractors or in the location of the Contractor's facilities at which work for the Lottery is to be performed must be approved by the Department in writing prior to such change.

20. CHANGE OF OWNERSHIP OR INSOLVENCY

- a. In the event that the Contractor should experience a change of control (defined below), the Commonwealth shall have the exclusive option of continuing under the terms and conditions of this Contract with the Contractor or its successors or assigns for the full remaining term of this Contract, or *continuing under the terms and conditions of this Contract with the Contractor or its successors or assigns* for such period of time as is necessary to replace the products, materials, reports, studies, or computer programs, or immediately terminating this Contract. Nothing in this section limits the Commonwealth's exercise of any rights that the Commonwealth may have to terminate the contract pursuant to section 39 (Termination).
- b. For purposes of this Contract a "change of control" shall mean the acquisition or disposition, by a single person or entity, of more than 50.01% of the voting securities of the Contractor's ultimate parent company-Scientific Games Corporation-after the Effective Date of this Contract; and it shall not include any current or future acquisitions, divestitures, or re-organizations of the Contractor's corporate group

21. STAFF AND PROGRESS MEETINGS

- a. SGI confirms and agrees that it shall provide, suitably qualified staff, in and outside of the Territory, as more fully set forth in Appendix 2 (Work Statement), to perform the Services in a timely and diligent manner. In the event that SGI replaces any member of its staff engaged on the Services, SGI shall use reasonable efforts to ensure that such replacements are of a suitable level of experience and qualification to perform the remaining Services.
- b. The parties shall nominate a representative who shall be responsible for organizing meetings once each month and at other times as reasonably required for the purpose of reviewing the overall progress of the Services, resolving any difficulties and discussing other important matters in connection with the Services and this Contract.
- c. Each party shall provide all information and documentation reasonably required by the other for the performance of its duties under this Contract or as otherwise reasonably required in connection with this Contract.
- d. **Change Control** If the Lottery requests a change or modification to a Deliverable, (each a "Change Request"), such Change Request will be subject to the following:
 - i. the Lottery will prepare and submit a written work request to SGI containing a detailed description of the change or modification sought and any proposed timetable for the Change Request;
 - ii. within ten Business Days after receipt of the Lottery's written request as above, SGI will notify the Lottery if SGI is capable of carrying out the requested Change Request and, if so, SGI will prepare a revised Specification, to include any Lottery Costs, for the Lottery's approval. If SGI is not capable of carrying out the requested Change Request, SGI will provide Lottery with an explanation as to why the Change Request cannot be carried out and will provide Lottery with alternatives to the Change Request that are consistent with the Lottery's goals and the SOW, attached hereto as Appendix 2,
 - iii. unless and until any Specification is agreed and signed by the parties, all drafts, discussions, proposals and negotiations between the parties for the provision of the Licensed Software or Services by SGI under a Change Request will be subject to contract and will not create binding obligations on the parties,
 - iv. neither party shall unnecessarily withhold or delay execution of any agreements or documents provided for in this section, and any agreement or document provided for in this section shall be considered denied if not executed within 15 days
 - v. once agreed in accordance with the above, no change to a Change Request will be valid unless such change together with any corresponding change to the relevant cost estimate, specifications, requirements, dependencies, implementation plans, agreed milestones and/ or Acceptance procedures for the relevant Deliverable has been agreed in writing between the parties

- e *Ad Hoc Work.* The parties may from time to time mutually agree for SGI to provide small ad hoc amounts of Services without agreeing to a Change Request ("Ad Hoc Work"). If it is mutually agreed between the parties that any such Ad Hoc Work should be carried out, the parties will agree any relevant specifications therefor, and SGI will complete such Ad Hoc Work within a mutually agreed time period. If it is agreed by the parties after discussion but before the work begins that proposed Ad Hoc Work should in fact be a Change Request, the procedure in subsection 21.d will be completed by the parties in relation to that Specification.
- 22. PCI SECURITY COMPLIANCE**
- a *General.* By providing the Services under this Contract, the Contractor may create, receive, or have access to credit card records or record systems containing cardholder data including credit card numbers (collectively the "Cardholder Data"). Contractor shall comply with the Payment Card Industry Data Security Standard ("PCI DSS") requirements for Cardholder Data that are prescribed by the payment brands (including, but not limited to, Visa, MasterCard, American Express, and Discover), as they may be amended from time to time. Contractor acknowledges and agrees that Cardholder Data may only be used for assisting in completing a card transaction, for fraud control services, for loyalty programs, or as specifically agreed to by the payment brands, for purposes of this Contract or as required by applicable law or regulations.
 - b *Compliance with Standards.* Contractor shall perform to and comply with the PCI DSS standards as defined by the PCI Security Standards Council at www.pcisecuritystandards.org/security_standards/index.php. Contractor shall monitor these PCI DSS standards and will promptly notify the Commonwealth if its practices should not conform to such standards. Contractor shall provide a letter of certification to attest to meeting this requirement within seven (7) days of Contractor's receipt of the annual PCI DSS compliance report.
- 23. DATA BREACH OR LOSS**
- a. Contractor shall comply with all applicable data protection, data security, data privacy and data breach notification laws, including but not limited to: (1) the Breach of Personal Information Notification Act, Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301—2329.
 - b. *For Data and Confidential Information in the possession, custody, and control of the Contractor or its employees, agents, and/or subcontractors.*
 - i. The Contractor shall report unauthorized access, use, release, loss, destruction or disclosure of Data or Confidential Information ("Incident") to the Commonwealth within two (2) hours of when the Contractor knows of or reasonably suspects such Incident, and the Contractor must immediately take all reasonable steps to mitigate any potential harm or further access, use, release, loss, destruction or disclosure of such Data or Confidential Information.
 - ii. Contractor shall provide timely notice to all individuals that may require notice under any applicable law or regulation as a result of an Incident. The notice must be pre-approved by the Commonwealth. At the Commonwealth's request, Contractor shall, at its sole expense, provide credit monitoring services to all individuals that may be impacted by any Incident requiring notice.
 - iii. Contractor shall be solely responsible for any costs, losses, fines, or damages incurred by the Commonwealth due to Incidents.
 - c. As to Data and Confidential Information fully or partially in the possession, custody, or control of the Contractor and the Commonwealth, the Contractor shall diligently perform all of the duties required in this section 23 in cooperation with the Commonwealth, until the time at which a determination of responsibility for the Incident, and for subsequent action regarding the Incident, is made final.
- 24. VIRUS, MALICIOUS, MISCHIEVOUS OR DESTRUCTIVE PROGRAMMING**
- a. The Contractor shall be liable for any damages incurred by the Commonwealth if the Contractor or any of its employees, subcontractors or consultants introduces a virus or malicious, mischievous or destructive programming into the Commonwealth's software or computer networks and has failed to

comply with the Commonwealth software security standards. The Commonwealth must demonstrate that the Contractor or any of its employees, subcontractors or consultants introduced the virus or malicious, mischievous or destructive programming. The Contractor's liability shall cease if the Commonwealth has not fully complied with its own software security standards.

- b. The Contractor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that results from the Contractor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Contractor or any of its employees, subcontractors or consultants through appropriate firewalls and maintenance of anti-virus software and software security updates (such as operating systems security patches, etc.).
- c. In the event of destruction or modification of Software, the Contractor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth's software, and be liable to the Commonwealth for any resulting damages.
- d. The Contractor shall be responsible for reviewing Commonwealth software security standards and complying with those standards.
- e. The Commonwealth may, at any time, audit, by a means deemed appropriate by the Commonwealth, any computing devices being used by representatives of the Contractor to provide Services to the Commonwealth for the sole purpose of determining whether those devices have anti-virus software with current virus signature files and the current minimum operating system patches or workarounds have been installed. Devices found to be out of compliance will immediately be disconnected and will not be permitted to connect or reconnect to the Commonwealth network until the proper installations have been made.
- f. The Contractor may use the anti virus software used by the Commonwealth to protect Contractor's computing devices used in the course of providing services to the Commonwealth. It is understood that the Contractor may not install the software on any computing device not being used to provide services to the Commonwealth, and that all copies of the software will be removed from all devices upon termination of this Contract.
- g. The Commonwealth will not be responsible for any damages to the Contractor's computers, data, software, etc. caused as a result of the installation of the Commonwealth's anti-virus software or monitoring software on the Contractor's computers.

25. LOCATION, STATUS AND DISPOSITION OF DATA

- a. All Data must be stored within the United States.
- b. The Contractor shall be responsible for maintaining the privacy, security and integrity of Data in the Contractor's or its subcontractors' possession.
- c. All Data shall be provided to the Commonwealth upon request, in a form acceptable to the Commonwealth and at no cost.
- d. Any Data shall be destroyed by the Contractor at the Commonwealth's request.
- e. Any Data shall be held for litigation or public records purposes by the Contractor at the Commonwealth's request, and in accordance with the security, privacy and accessibility requirements of this Contract.

26. CONFIDENTIAL INFORMATION

- a. Each party shall hold in confidence all Confidential Information obtained from the other, including but not limited to the Licensed Software and the Documentation, and only disclose such Confidential Information to its professional advisers and to those of its employees or contractors as may be necessary for the purposes of this Contract and who shall be informed of the confidential nature of such Confidential Information.
- b. Neither party shall disclose to any third party without the express permission of the other party any Confidential Information obtained from the other party.

- c. The provisions of sections 26.a and 26.b shall not apply to any information which
 - i. was in the recipient's lawful possession prior to the date of this Contract and was not designated as being confidential;
 - ii. the recipient can show was in its own knowledge or developed independently by the recipient prior to the date of disclosure;
 - iii. is disclosed to the recipient by a third party free of any obligations of confidentiality;
 - iv. is lawfully in the public domain, other than by breach of this Contract, or
 - v. the recipient is required to disclose by a Competent Authority or by operation of law or in order to comply with the rules of a recognized stock exchange.
- d. Nothing in this section 26 shall be deemed or construed to prevent the receiving party from disclosing any Confidential Information provided by the disclosing party to any to a consultant, contractor or other person engaged by the receiving party in connection herewith provided that the receiving party shall ensure that such information is held in confidence by such third parties
- e. The receiving party acknowledges that any Confidential Information obtained from, or relating to, the disclosing party or its respective servants or agents by the receiving party in the course of negotiating for, or in the performance of, this Contract (or by any person employed or engaged by the receiving party in connection with this Contract in the course of such employment or engagement) is and shall remain the property of the disclosing party.

27. TICKET PURCHASE AND PRIZE PAYMENT RESTRICTIONS

The Contractor acknowledges that, under the Applicable Law, regulations, and Department policy, no officer or employee and no spouse, child, brother, sister, or parent residing in the household of any officer or employee of the Contractor or of any subcontractor with direct access to the Licensed Software shall purchase a Pennsylvania Lottery ticket or be paid a prize in any Pennsylvania Lottery Game. As to Powerball® and such other multi-state or international lottery games in which the Lottery is now or may become a participant during the term of this Contract, the same restrictions apply to the purchase of such game tickets within Pennsylvania only. SGI warrants that it has communicated this requirement to each officer and employee of the Contractor assigned to work on this Contract and any subcontractors and service providers.

28. ABSCENCE OF CERTAIN CHANGES OR EVENTS

The Contractor warrants that:

- a. As of the Effective Date of this Contract, the Contractor has not, except as disclosed to the Lottery.
 - i. sold, assigned, voluntarily encumbered, granted a license or sublicense with respect to or disposed of all or substantially all of its assets, other than in the ordinary course of its business as conducted as of the Effective Date, and
 - ii. entered into any contract or commitment including but not limited to acquisitions or sales within its business area except in the ordinary course of business as conducted on the Effective Date

Neither the Department nor the Contractor is aware of any plans of any member of the Contractor's management, supervisory, or key employees actively involved in the Contractor's performance of this Contract to retire or otherwise cease being an employee of the Contractor prior to or within one (1) year following the commencement of the term of this Contract except as otherwise communicated to the Lottery by Contractor

- b. As of the Effective Date of this Contract, there has been no material adverse change in the financial condition, business, properties, or prospects of the Contractor.

If the Contractor experiences any changes as outlined in section 28 a or 28 b, above, during the period of this Contract, the Contractor shall promptly notify the Department and the Lottery subject to applicable requirements of the Securities and Exchange Commission, in the manner set forth in section 49 d (Notice) of this Contract, notice, of such change promptly following the time the change occurs or is identified, whichever is earlier. Failure to give notice to the Department and the Lottery will be sufficient grounds for terminating this Contract.

29. CONTRACTOR INTEGRITY

It is essential that those who seek to contract with the Commonwealth of Pennsylvania observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process. In furtherance of this policy, Contractor agrees to the following:

- a Contractor shall maintain the highest standards of honesty and integrity during the performance of this Contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.
- b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
- c Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the Public Official and Employees Ethics Act, 65 Pa. C. S. §§ 1101, et seq., the State Adverse Interest Act, 71 P.S. § 776.1, et seq., and the Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code § 7.151, et seq., or to breach any other state or federal law or regulation.
- d. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
- e Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code § 7.151, et seq. or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
- f Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
- g Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the Contract, except as provided in the Contract.
- h. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the Contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the Contract signed by Contractor.
- i Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor for the Lottery under this Contract without the prior written approval of the Commonwealth, except as required by the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth

or a third party in connection with the performance of this Contract shall be kept confidential unless disclosure of such information is

- i. Approved in writing by the Commonwealth prior to its disclosure; or
- ii. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
- iii. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
- iv. Necessary for purposes of Contractor's internal assessment and review; or
- v. Deemed necessary by Contractor in any action to enforce the provisions of this Contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
- vi. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
- vii. Otherwise required by law

j. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following

- i. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- ii. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
 - 1. obtaining;
 - 2. attempting to obtain; or
 - 3. performing a public contract or subcontract

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence

- iii. Violation of federal or state antitrust statutes.
- iv. Violation of any federal or state law regulating campaign contributions.
- v. Violation of any federal or state environmental law.
- vi. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards, discrimination in wages, or child labor violations.
- vii. Violation of the Act of June 2, 1915 (P.L. 736, No. 338), known as the Workers' Compensation Act, 77 P.S. § 1 et seq
- viii. Violation of any federal or state law prohibiting discrimination in employment.

- ix. Debarment by any agency or department of the federal government or by any other state
- x Any other crime involving moral turpitude or business honesty or integrity

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the Contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted

- k. If this Contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the Pennsylvania Election Code) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:
 - i Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
 - ii Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

- l. Contractor shall comply with requirements of the Lobbying Disclosure Act, 65 Pa. C. S. § 13A01, et seq., and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported
- m. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing
- n. Contractor, by submission of its bid or proposal and/or execution of this Contract and by the submission of any bills, invoices or requests for payment pursuant to the Contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the Contract
- o. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this Contract.
- p. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These

rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

q For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this section 29 q

- i. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth
- ii. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Contract
- iii. "Contractor" means the individual or entity that has entered into this Contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor
- iv. "Financial Interest" means
 - 1 Ownership of more than a five percent interest in any business; or
 - 2 Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- v. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa Code § 7.153(b), shall apply.
- vi. "Immediate family" means a spouse and any unemancipated child.
- vii. "Non-bid basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- viii. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election

30. ENHANCED MINIMUM WAGE

- a. *Enhanced Minimum Wage* Contractor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract, and for an employee's hours performing ancillary services necessary for the performance of the contracted Services when such employee spends at least twenty per cent (20%) of their time performing ancillary Services in a given work week.
- b. *Adjustment* Beginning January 1, 2017, and annually thereafter, Contractor shall pay its employees described in subsection 30 a above an amount that is no less than the amount previously in effect, increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics, and rounded to

the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

- c. *Exceptions.* These Enhanced Minimum Wage Provisions shall not apply to employees:
 - i. exempt from the minimum wage under the *Minimum Wage Act of 1968*,
 - ii. covered by a collective bargaining agreement,
 - iii. required to be paid a higher wage under another state or federal law governing the services, including the *Prevailing Wage Act* and *Davis-Bacon Act*, or
 - iv. required to be paid a higher wage under any state or local policy or ordinance.
- d. *Notice.* Contractor shall post these Enhanced Minimum Wage Provisions for the entire period of the Contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted Services are performed.
- e. *Records.* Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
- f. *Sanctions.* Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the Contract, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
- g. *Subcontractors.* Contractor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

31. RIGHT-TO-KNOW LAW

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, *as amended*, ("RTKL") applies to this Contract. For the purpose of this section 31, the term "the Commonwealth" shall refer to the contracting Commonwealth organization.
- b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL that is related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
 - d. Provide the Commonwealth, within 10 days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - e. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- f. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- g. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information

is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

- h. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth
- i. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- j. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- k. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

32. THE AMERICANS WITH DISABILITIES ACT

During the term of this Contract, the Contractor agrees as follows

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101, et seq., the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Contractor agrees to comply with the General Prohibitions Against Discrimination, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through Contracts with outside Contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from losses, damages, expenses claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subsection 32(a) above.

33. NONDISCRIMINATION CLAUSE/SEXUAL HARASSMENT CLAUSE

- a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. *Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Contract*
- c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be

disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.

- d. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to Title VII of the Civil Rights Act of 1964, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- g. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- h. The Commonwealth may cancel or terminate the Contract and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

34. CONTRACTOR RESPONSIBILITY PROGRAM

- a. The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit a written explanation of why such certification cannot be made.
- b. The Contractor must also certify, in writing, that as of the date of its execution of this Contract, it has no tax liabilities or other Commonwealth obligations.
- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the Effective Date of this Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within fifteen (15) days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with

the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime, travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us> or contacting the:

Department of General Services

Office of Chief Counsel

603 North Office Building

Harrisburg, PA 17125

Telephone No.: (717) 783-6472

FAX No.: (717) 787-9138

35. DEFAULT

- a. After providing no less than thirty (30) days to cure any alleged default, the Commonwealth may, subject to the provisions of section 42 (Force Majeure), and in addition to its other rights under this Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate, as provided in section 39 (Termination), the whole or any part of this Contract, including a purchase order, for any of the following reasons:
- i. Failure to begin work within the time specified in the Contract,
 - ii. Failure to perform the work with sufficient labor, equipment, or material to ensure the performance of the specified services in accordance with the Contract or Contract purchase order terms;
 - iii. Failure to perform the services in accordance with the terms of the Contract;
 - iv. Failure or refusal to remove material, or remove and replace any work or services rejected as defective or unsatisfactory;
 - v. Discontinuance of work without approval;
 - vi. Failure to resume work or services, which have been discontinued, within a reasonable time after notice to do so;
 - vii. Insolvency or bankruptcy;
 - viii. Assignment made for the benefit of creditors,
 - ix. Failure or refusal within ten (10) days after written notice by the Department, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for services rendered;
 - x. Failure to protect, to repair, or to make good any damage or injury to property; or,
 - xi. Breach of any material provisions of this Contract
- b. In the event that the Commonwealth terminates this Contract in whole or in part as provided in section 35.a, above, the Commonwealth may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical services included within the terminated part of the Contract.

- c. If the Contract is terminated in whole or in part as provided by section 35.a, above, the Commonwealth, in addition to any other rights provided in this section and to the extent allowed by law, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Department of General Services, such partially completed work, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and the Department. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Department determines to be necessary to protect the Commonwealth against loss.
- d. The rights and remedies of the Commonwealth provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this section shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
- f. Following exhaustion of the Contractor's administrative remedies as set forth in section 39 (Termination), the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

36. TAXES- FEDERAL, STATE, AND LOCAL

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under registration No. 23-7400001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas-guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this section 36 is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

37. OFFSET PROVISION FOR COMMONWEALTH CONTRACTS

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

38. ACCOUNTING RECORDS & AUDIT

a. Accounting Records

The Contractor shall maintain, in accordance with generally accepted accounting principles, all pertinent books, documents, financial and accounting records and evidence pertaining to the Contract to the extent and in such detail as necessary to document all net costs, direct and indirect for which payment is claimed under this Contract.

Subject to execution by the Department, or its designee, of the Contractor's nondisclosure agreement, consistent with the provisions of section 26 (Confidential Information), *supra*, such financial and accounting records shall be made available for inspection and copying, upon request, to the Department, its designees, the State Inspector General or any authorized agency of the Commonwealth of Pennsylvania at any time during the Contract period and any extension thereof, and for three (3) years from expiration date or final payment under this Contract, whichever is later in time.

b. Right to Audit

Subject to execution by the Department, or its designee, of the Contractor's nondisclosure agreement, the Contractor agrees to permit the audit of its records by the Department, its designees, and the State Inspector General. All billings, costs, and financial accounting records, source documentation, data systems, programs, applications, project planning summaries, and field summaries, will be available for audit, examination, inspection, and copying. The Commonwealth and the Department reserve the right to perform at their sole discretion, additional audits, including but not limited to, audits of a financial/compliance nature, economy/efficiency, security program results nature, or limited scope audits. Additionally, the Commonwealth and the Department also reserve the right to inspect and copy any of the Contractor's third-party auditor's reports and management letters.

- c. The requirements of this section 38 (Accounting Records and Audit) shall also apply to third party contractors.

39. TERMINATION

The Department may terminate this Contract:

- a. If, because of legislative or other governmental changes or lack of funding, continuation of iLottery Games shall be determined by the Department not to be in the best interests of the Commonwealth. Such termination shall be effected by the Department sending notice to the Contractor in writing of its intention to terminate this Contract at least thirty (30) days prior to the termination date. Any written notice provided herein shall specify the section of this Contract on account of which termination is being made and the date on which such termination becomes effective.
- b. For default under section 35 (Default), supra, by the Department sending written notice at least thirty (30) days prior to the termination date. Any written notice provided herein shall specify the section of this Contract on account of which termination is being made and the date on which such termination becomes effective.
- c. By sending to the Contractor at least thirty (30) days' prior written notice that it will terminate the Contract due to the Contractor's nonperformance or inadequate performance unless the Contractor adequately remedies its nonperformance or inadequate performance during such reasonable period as the Department shall have specified.
- d. For the convenience of the Commonwealth by sending written notice to the Contractor at least six (6) months prior to the termination date.
- e. In the event of termination under section 39 d above, the Contractor shall receive reimbursement for the cost of any materials, services, or other expenses reasonably and actually incurred at the time of receipt of notification of cancellation and not otherwise usable or recoverable by the Contractor and costs of closing down the Licensed Software and Services. Subject to Contractor's provision of the transition services and all related costs, the Contractor, upon receipt of notice of termination, shall take all steps necessary to mitigate costs and expenses payable under this section.

40. TRANSITION SERVICES

- a. It is contemplated that the Lottery will award a new contract for iLottery and iLottery-related services approximately one (1) year prior to the expiration of this Contract. The Parties understand and agree that the Lottery may utilize the last 180 days of this contract for conversion to the subsequent iLottery system provider. Contractor shall take all necessary and appropriate actions to accomplish a complete, timely and seamless transition of any Services from Contractor to the Commonwealth, or to any vendor designated by the Commonwealth, without material interruption of or material adverse impact on the Services. Contractor shall cooperate with the Commonwealth and any new contractor and otherwise promptly take all steps required or reasonably requested to assist the Commonwealth in effecting a complete and timely transition of services.
- b. Within 180 days of the Effective Date of this Contract the Parties shall develop a mutually agreed upon contract conversion plan ("Contract Conversion Plan"), which the Parties may be required to update subsequently.
- c. In addition to any Lottery Costs and SGI Costs, any provision of the Licensed Software and Services rendered after the last 180 days of this Contract shall be borne in full by the Lottery.

41. SERVICE LEVEL AGREEMENTS

- a. The Contractor shall comply with the procedures and requirements of the Service Level Agreements, if any, which are made part of this Contract, and which are attached as Appendix 7
- b. Where there are expressly defined Service Levels, Contractor shall measure and report its performance against these standards on at least a monthly basis, except as may otherwise be agreed between the parties. Regardless of the presence or absence of expressly defined Service Levels but subject to the other provisions of this Contract, including Force Majeure; any failure to adequately or timely perform a Service may result in consequences under this Contract, up to and including Contract termination.
- c. The Lottery's acceptance of Service Level Credit shall not bar or impair Lottery's rights and remedies in respect of the failure or root cause as set forth elsewhere in this Contract, including without limitation other claims for liquidated damages, injunctive relief and termination rights; provided however, Service Level Credits paid would be credited against any such claims for damages.

42. FORCE MAJEURE

- a. In this Contract, "force majeure" shall mean any cause preventing either party from performing any or all of its obligations which arises from or is attributable to strikes, lock-outs or other industrial disputes, nuclear accident or acts of God, war or terrorist activity, riot, civil commotion, malicious damage, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors and, where they are beyond the reasonable control of the party so prevented, any other acts, events, omissions or accidents.
- b. Neither the Contractor nor the Department shall be liable to the other for any delay in or failure of performance under this Contract due to a force majeure. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of delay or failure shall extend the period for performance to such extent as reasonably determined by the Secretary to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised by Contractor after the causes of delay or failure have been removed.

43. SOVEREIGN IMMUNITY

No provision of this Contract may be construed to waive or limit the sovereign immunity of the Commonwealth of Pennsylvania or its governmental sub-units.

44. GOVERNING LAW

This contract shall be interpreted in accordance with and governed by the laws of the Commonwealth of Pennsylvania, without giving effect to its conflict of law provisions. Except as set forth in section 49 (Miscellaneous), Commonwealth and Contractor agree that the courts of the Commonwealth of Pennsylvania and the federal courts of the Middle District of Pennsylvania shall have exclusive jurisdiction over disputes under this Contract and the resolution thereof. Any legal action relating to this Contract must be brought in Dauphin County, Pennsylvania, and the parties agree that jurisdiction and venue in such courts is appropriate.

45. OFFICIALS NOT TO BENEFIT

No official or employee of the Commonwealth and no member of its General Assembly who exercises any functions or responsibilities under this Contract shall participate in any decision relating to this Contract which affects their personal interest or the interest of any corporation, partnership, or association in which they are, directly or indirectly, interested, nor shall any such official or employee of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Contract or the proceeds thereof.

46. PUBLICITY/ADVERTISEMENT

The Contractor shall not issue news releases, internet postings, advertisements, endorsements, or any other public communication without prior written approval of the Commonwealth, and then only in coordination with the Commonwealth. This includes the use of any trademark or logo.

47. IRS 1075 PUBLICATION

Contractor shall comply with the requirements of Internal Revenue Service Publication 1075 – Tax Information Security Guidelines for Federal, State, and Local Agencies, including any amendments or revisions thereto, where applicable. A copy of the current IRS 1075 Publication is attached hereto as Appendix 8.

48. END USER LICENSE AGREEMENT

The Parties acknowledge and agree that use of the Licensed Software and certain third-parties services in performance of this Contract require End Users to acknowledge and agree to certain requirements for the use of that software and those services, as determined by the Lottery and the Contractor (hereinafter referred to as the "End User License Agreement" or "EULA").

The Lottery and Contractor agree to develop the End User License Agreement prior to March 30, 2018. The End User License Agreement may be modified on an ongoing basis to include changes in the law, regulations, Lottery policy, general errors and/or capabilities of the Licensed Software and related services.

Among other standard and customary terms, the End User License Agreement. (1) shall state that all disputes related to iLottery will be governed by Pennsylvania law, (2) will not require End Users to submit to arbitration for any dispute related to iLottery, or any other provisions that otherwise limits the End User's dispute resolution options; (3) shall reflect that all decisions related to an End User's iLottery account, including, but not limited to, whether to open, suspend, or close an account will be determined by the Lottery; (4) will require the End User to abide by and adhere to the laws of the United States and the Commonwealth of Pennsylvania while utilizing the Licensed Software and otherwise participating in iLottery; and (5) will include any other provisions required under the iLottery regulations

49 MISCELLANEOUS

- a. *Assignment* Except as otherwise provided in the Contract, the parties' rights and obligations under this Contract will not be assigned or transferred without the consent of the other party. Any purported transfer or assignment in violation of this Section will be void and will have no effect. The provisions of this Contract are binding upon and for the benefit of the parties and their respective successors-in-interest and permitted assigns and transferees and not for any other person except as otherwise specifically provided herein.
- b. *Entire Contract* This Contract constitutes the entire agreement and understanding of the parties relating to the subject matter of this Contract and supersedes any previous agreement or understanding between the parties in relation to such subject matter.
- c. *Severability.* If any provision of this Contract is held invalid, illegal or unenforceable for any reason by a court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Contract had been executed with the invalid, illegal or unenforceable provisions eliminated. In the event of a holding of invalidity so fundamental so as to prevent the accomplishment of the purposes of this Contract, SGI and the Lottery shall immediately commence good faith negotiations to remedy such invalidity.
- d. *Notice* Notices and other communications required or permitted to be given under this Contract shall be in writing and shall be deemed effective upon delivery to the Party to whom addressed by (i) express courier with verification of actual receipt, or (ii) facsimile with confirmation of receipt generated by the sending device, or (iii) by certified mail, return receipt requested. All notices shall be sent to the following address:

For SGI:	For the Department or Lottery:
Scientific Games International, Inc.	Secretary of Revenue
1500 Bluegrass Lakes Parkway	Department of Revenue
Alpharetta Georgia 30004	Department 281100
Attn: Jim Kennedy	Strawberry Square
	Harrisburg, Pennsylvania 17128-1100
Facsimile No.: 678-297 5118	Facsimile No. 717-787-3990

With a copy to

AND

Scientific Games International, Inc.
6601 Bermuda Road
Las Vegas, Nevada 89119
Attention: Legal Department

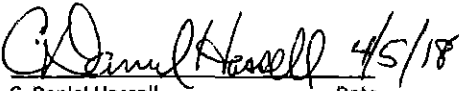
Executive Director
Pennsylvania State Lottery
1200 Fulling Mill Road
Middletown, Pennsylvania 17057
Facsimile No. 717-702-8024

- e. *Independent Contractors* It is agreed that the relationship between parties is that of independent contractors, and nothing contained in this Contract shall be construed or implied to create a relationship of joint ventures, agent and principal, employer and employee, or any relationship other than that of independent contractors. At no time shall either party make any commitments or incur any charges or expenses for or in the name of the other party, save and except as set out herein
- f. *Waiver.* In no event will any delay, failure or omission (in whole or in part) in enforcing, exercising or pursuing any right, power, privilege, claim or remedy conferred by or arising under this Contract or by law, be deemed to be or construed as a waiver of that or any other right, power, privilege, claim or remedy in respect of the circumstances in question, or operate so as to bar the enforcement of that, or any other right, power, privilege, claim or remedy, in any other instance at any time or times subsequently.
- g. *Disputes* In the event that any dispute arises between the Parties with respect to the performance that is required of the Contractor under this Contract, the Department shall make a determination in writing of its interpretation and shall send the same to the Contractor. That interpretation shall reference this paragraph of the Contract and shall be final, conclusive and unreviewable in all aspects, unless the Contractor within thirty (30) days of the receipt of said writing delivers to the Secretary of Revenue or his duly authorized designee a written appeal. Subject to applicable law, the decision of the Secretary (or said designee) on any such appeal shall be final and conclusive and the Contractor shall thereafter with good faith and diligence render such performance as the Department or Secretary has determined is required of it. The Contractor's sole options with respect to any such decision shall be either
- i. to accept said decision as a correct and binding interpretation of the Contract; or,
- ii. to make such a claim as it may desire to the Commonwealth's Board of Claims, pursuant to the Act of May 20, 1937, P.L. 728, No. 193, as amended, (72 P.S. § 4651-1 et seq.).
- Pending a final judicial resolution of any such claim provided to said Board, the Contractor shall proceed diligently and in good faith with the performance of this Contract as interpreted by the Department and the Department shall compensate the Contractor pursuant to the terms of this Contract.
- h. *Contractor acknowledges that this Contract was entered into on a no-bid basis pursuant to the provisions of the Act.* As such, the Contractor acknowledges and agrees to at all times exercise due diligence with respect to the subcontractors it chooses and agrees to at all times negotiate the best price possible for the Supplies and Services which constitute Lottery Costs as those costs are passed through to the Commonwealth

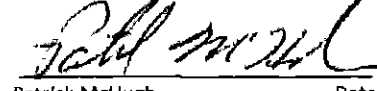
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IN WITNESS WHEREOF, the Parties have executed this Contract on the Effective Date

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

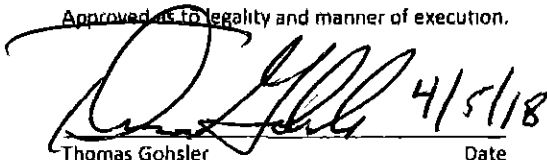

C. Daniel Hassell Date
Secretary
Department of Revenue

SCIENTIFIC GAMES INTERNATIONAL,
INC.


Patrick McHugh Date
3/21/18

Senior Vice President,
Global Lottery Systems


Approved as to legality and manner of execution.


Thomas Gohsler Date
Chief Counsel
Department of Revenue


Pamela J. Cross Date
Office of General Counsel 4/10/18


Amy McHugh Date
Office of Attorney General 4/23/18

Certified as to Availability of Funds:


Patricia D. Anthony Date
Comptroller Operations 5/10/18

APPENDIX 1

APPENDIX 1

DEFINITIONS

- a. **"API"** means proprietary application program interface(s) developed and defined by SGI that outline routines, data structure, object classes, and protocols that allows the Lottery using the Licensed Software to interface other Lottery's systems with SGI's external systems;
- b. **"Acceptance Date"** means the date that the Lottery is deemed to have accepted the Licensed Software, in accordance with the Implementation and Acceptance Plan;
- c. **"Acceptance Testing"** is the carrying out by the Lottery of reasonable tests agreed between SGI and the Lottery to which the Licensed Software are to be subjected;
- d. **"Applicable Law"** means all laws of any jurisdiction that are applicable to this Contract, to any of the parties hereto, or to any activity of any of the parties hereto, as amended and in force from time to time, and the rules, regulations, orders, licenses, or permits issued thereunder, including, without limitation, any rules, regulations, orders, licenses, and permits of the Commonwealth;
- e. **"Bet"** means one play for a specified Lottery drawing of an iLottery game;
- f. **"Bonuses"** means bonus costs incurred by the Lottery (including but not limited to free play, bonus money on deposit, bonus money on registration, and bonus-based loyalty programs);
- g. **"Business Day"** means any day that is not a Saturday, Sunday, or a public or bank holiday in the United States;
- h. **"Central System"** Contactor's hardware and software systems located at its production data center to operate the iLottery system;
- i. **"Chargeback"** means all amounts paid or returned to financial institutions as a result of disputed or fraudulent financial transactions associated with Bets.
- j. **"Commercial Launch"** means the date that the Licensed Software goes Live, which the parties have agreed to be 01 May 2018 or such later date as mutually agreed by upon by the parties;
- k. **"Commonwealth"** as defined in the introductory paragraph of this Contract, except as the context may clearly indicate, Commonwealth includes the Department and the Lottery, and Department and Lottery includes Commonwealth;
- l. **"Confidential Information"** other than section 29(Contractor Integrity), where confidential information is specifically defined solely for that section's purpose; includes all information, in whatever medium, relating to the trade secrets, operations, processes, plans, intentions, technical data, product information, know-how, designs, market opportunities, transactions, affairs or business of a party or its customers, clients, suppliers, holding companies or subsidiaries; all information relating to the Licensed Software, including its related Documentation, the terms or subject matter of this Contract; and the negotiations relating to this Contract. Confidential Information specifically includes player identifiable Information as defined under 4 Pa.C.S. § 503(d) and lottery confidential proprietary information as defined under 4 Pa.C.S § 503(e);
- m. **"Data"** means any recorded information, regardless of the form, the media on which it is recorded, or the method of the recording;
- n. **"Deployment"** means making a Game available on OPS to the public for play by End Users in return for payment of money or money's worth;
- o. **"Developed Works"** means all of the fully or partially complete property, whether tangible or intangible prepared by the Contractor for ownership by the Commonwealth in fulfillment of the requirements of this Contract under Section 4.e.i;
- p. **"Development Services"** means software development services provided by SGI on a Project basis to develop bespoke software for the Lottery;

- q. **"Documentation"** means the documentation, specification, information, directions, explanations, and similar material relating to the Licensed Software supplied by SGI to Lottery from time to time under the terms of this Contract;
- r. **"End User"** means a person who accesses the Licensed Software via the Website or otherwise and who, where the context permits, is the subject of End-User Data;
- s. **"End-User Data"** means the names, addresses, e-mail addresses, player identification, telephone numbers, gaming history, credit and debit card numbers, bank account numbers, social security numbers or national ID number, PIN (Personal Identification Number) numbers, passwords, credit limits, account balances, deposit and withdrawal amounts, and account history of the End Users, and any other Personal Data provided by End Users in connection with their use of the Licensed Software and other information that Applicable Law requires to be held or stored with respect to an End User;
- t. **"EULA" or "End-User License Agreement"** means the license agreement to be developed by SGI and the Lottery and as described in section 48 of the Contract between the Lottery or any Lottery Retailer and End-Users that establishes and comprises the End-User's rights to access and use the Licensed Software;
- u. **"Effective Date"** means the date the Contract has been fully executed by the Contractor and all approvals required by Commonwealth contracting procedures have been obtained;
- v. **"Front-End User Interface"** means the software visible to the End User on which End Users can access and use the Licensed Software;
- w. **"Game(s)"** means a computer-based lottery wagering game comprising the Game Package owned by, or licensed to, SGI and delivered to Lottery pursuant to this an Order Form (including, iLottery Games SGI's games, Internet Instant Games, build your own scratch games, Third Party Games and Third-Party Branded Games as per context);
- x. **"Game Name"** means the headline name or main title of a Game;
- y. **"Governmental Authority"** means any governmental, judicial, or regulatory authority having jurisdiction over this Contract, any of the parties hereto, or any activity of any of the parties hereto,
- z. **"Gross Gaming Revenues"** means all monies received from end-users in respect of Bets.
- aa. **"Hosting Services"** means, where applicable, those Services described at Appendix 6 (Hosting Services);
- bb. **"iLottery"** means system authorized under the iLottery Law for distributing lottery products via numerous channels that include, but are not limited to, web applications, mobile applications, mobile web, tables and social media platforms, including the OPS;
- cc. **"iLottery Game"** means internet and mobile instant lottery games and other lottery products that the Department is authorized to operate under the Act but does not include games that represent physical, Internet-based or monitor-based interactive lottery games which simulate casino-style lottery games, specifically including poker, roulette, slot machines or blackjack;
- dd. **"Internet Instant Game" or "eInstant"** means a lottery game of chance in which, by the use of a computer, tablet computer or other mobile device, a player purchases a lottery play, with the result of play being a reveal on the device of numbers, letter or symbols indicating whether a lottery prize has been won according to an established methodology as provided by the lottery;
- ee. **"Intellectual Property" or "Intellectual Property Rights"** means any and all intellectual property rights, of all types or nature whatsoever, including, without limitation, patent, copyright, design rights, trademarks, data base rights, applications for any of the above, moral rights, know-how, trade secrets, domain names, URLs, trade names, Twitter handles, or any other intellectual or industrial property rights (and any licenses in connection with any of the same), whether or not registered or capable of registration, and whether subsisting in any specific country or countries or any other part of the world;
- ff. **"KYC"** means know your customer;

- gg. **"Licensed Software"** means the software described in Appendix 2 and the Games, including any Updates thereto, supplied by SGI (whether owned by SGI or licensed from a third party) to the Lottery from time to time;
- hh. **"Live"** use of a part of the Licensed Software or a Game by End Users in a live environment for the purposes of processing Bets other than for test purposes;
- ii. **"Lottery Costs"** means the amounts payable to SGI by the Lottery in consideration of the third-party goods, licenses, or services to be provided by SGI to the Lottery as set out in Appendix 4 and in any Order Form for the provision of software or services;
- jj. **"Lottery Retailer" or "Retailer"** means an established business in privity with the Lottery to sell iLottery products;
- kk. **"Net Gaming Revenue" or "NGR"** means, in respect of a month, Gross Gaming Revenues less (i) Payouts (ii) Bonuses; and (iii) Chargebacks;
- ll. **"Object Code"** means any compiled, assembled, or machine executable version of the Licensed Software, or any part thereof;
- mm. **"OGS"** means Open Gaming System, SGI's proprietary platform aggregator of digital game content serving the U.S. Lottery market. The platform serves digital games to individual OPS platforms for each jurisdiction. The OGS contains a suite of software files comprising the Source Code and Object Code of *an interactive wagering game, including its game logic and game engine, necessary to operate or maintain a Game; transactions systems; reporting functionality; and other related applications that facilitate the interoperability of Games with one the OPS;*
- nn. **"OPS"** means Open Platform System, SGI's internet-based gaming platform that includes an End User account database, bonus management, payment processing facility and an API layer for third party integrations,
- oo. **"Order Form"** means a Lottery order for additional products or services, that lists any applicable Lottery Costs or Third-Party terms and conditions;
- pp. **"Payouts"** means any amounts payable as winnings to end-users in relation to the iLottery;
- qq. **"Problem Escalation Procedure"** means Contractor's operational procedure defining process management of the iLottery system production incidents, including severity levels of production incidents, escalation and communications process based on Incident severity,
- rr. **"Project"** a project to perform certain Development Services agreed to be provided by SGI to the Lottery in accordance with the terms of this Contract and the applicable PID;
- ss. **"PID"** a project information document prepared by SGI in its standard form including a description of the relevant Project and deliverables and charges together with any particular technical or functional specifications, requirements, dependencies, implementation plans, and/or agreed milestones for the Project;
- tt. **"SGI Cost"** means a cost incurred for the provision of iLottery pursuant to this Contract which may only be passed through to the Commonwealth pursuant to the terms of Appendix 4 (charges);
- uu. **"Secretary"** the Secretary of the Department of Revenue, Commonwealth of Pennsylvania,
- vv. **"Service Level Credit"** means a credit granted to the Lottery which may be applied toward future purchase of product or services from the Contractor;
- ww. **"Services"** means any services to be provided by SGI, directly or through subcontractors, as set out in Appendix 2 (Work Statement) to this Contract, as same may be amended, modified, updated and revised from time to time by mutual written agreement of the parties;
- xx. **"Software"** means a collection of one or more programs, databases or microprograms fixes in any tangible medium of expression that comprises a sequence of instructions (source code) to carry out a process in, or convertible into, a form executable by an electronic computer (object code);

- yy. **"Soft Launch"** means a beta-test launch of the Licensed Software on 13 April 2018, or prior to Commercial Launch if such date is extended by mutual agreement of the parties;
- zz. **"Source Code"** means the human readable form of the Licensed Software;
- aaa. **"Specification"** means a detailed specification of the functionality and other features of a Game or all or part of the Licensed Software,
- bbb. **"Support Services"** means, where applicable, those Services described at Appendix 2 (Work Statement);
- ccc. **"Territory"** means the Commonwealth of Pennsylvania;
- ddd. **"Third-Party Game"** means any Game designed and devised in which all Intellectual Property is owned by that third party, and which is licensed to SGI and integrated with the OGS;
- eee. **"Third-Party Branded Game"** means a Third-Party Game that incorporates Intellectually Property owned by another third party other than that supplying the Third Party Game,
- fff. **"Third-Party Game Terms"** means in each case, the additional terms and conditions governing Lottery's use of any Third-Party Game or Third-Party Branded Game, as may be in effect from time-to-time;
- ggg. **"Updates"** means any enhancements, modifications, additions, translations, compilations, or updates to the Licensed Software, including additional games software or applications relating to the Licensed Software, supplied by SGI to Lottery;
- hhh. **"Website"** means the websites of Lottery and its Lottery Retailers and any replacement or successor of such websites or additional websites on which End Users can access the Licensed Software, including but not limited to, downloadable software applications and web-based applications that communicate with or through the website and any replacement or successor of such websites or additional websites on which End Users can access the Licensed Software. Such websites shall include the EULA as described in section 48; and
- iii. **"White Label Site"** means any online gaming site operated by the Lottery and which has its own URL and a third party's name and branding but which is operated in all material aspects by the Lottery or Lottery Retailers as an "approved brand" endorsed upon the Lottery's on behalf of that third party Lottery ("**White Label Party**").

APPENDIX 2

APPENDIX 2
WORK STATEMENT

SGI undertakes to furnish the Licensed Software and Services as set out in this Appendix 2. Any and all software licensed under this Contract shall be the then current versions as of 31 December 2017. The software will replicate an instance of existing standard products configured for the player user interfaces to be branded for the Pennsylvania Lottery through the existing content management system. To accommodate the defined launch dates, parties have agreed to limit change to the system and operations for launch, and some requirements may be deferred to post-launch for implementation subject to section 7.h of the Contract

1. SOFT LAUNCH DELIVERABLES

- a. On or before the Soft Launch SGI shall provide the following software.
 - i. OPS – Open Platform System: Implementation of the core Player Account Management (PAM) platform for managing internet Bets, player account information and wallet. SGI will provide the standard OPS platform configured for Pennsylvania Lottery parameters;
 - ii. OGS – Open Gaming System: Implementation of the digital scratch game integration platform. OGS houses Scientific Games game content, and integrates third party game content.
 - iii. OPS’s standard Front end User Interface (Portal); and
 - iv. Business Analytics Suite or BI – replicated live production for “real-time” web viewing of Lottery’s performance. Features include dashboards, reporting, ad hoc querying and integration with third-party marketing tools for both acquisition and retention. SGI will provide the existing product interfaces to third party tools.
- b. On or before the Soft Launch, SGI shall provide the following Services
 - i. build-out of the Front-End User Interface;
 - ii. integrate the Front-End User Interface with OPS;
 - iii. install and configure the OGS and provide the OPS existing Lottery customer relations management (“CRM”) functionality;
 - iv. hosting services for OPS and OGS as more fully described in Appendix 6;
 - v. provide the Games set out in the Order Form which conform to the Lottery’s requirements and which have been certified by a third party to ensure that the Lottery’s specifications for the game have been met;
 - vi. Mobile App and Single Sign-On Integration (integration of associated iLottery responsive web page/functionality and registration for purchase and gameplay within app and VIP Players Club); SG will integrate the appropriate player registration process, web pages, and digital scratch game content within the VIP Players Club, and the existing mobile application to support iLottery functionality for game purchase and play. Since the mobile application displays the responsive web pages for the VIP Players Club, integration of single sign-on, upgraded registration with KYC verification, digital scratch game purchase and play, will occur from both the desktop and the mobile application as part of this integration,
 - vii. with the cooperation of Lottery, create and implement a launch plan for the Licensed Software and a road map for future development consistent with any project development plans agreed between the parties;
 - viii. configuration of the Licensed Software;

- ix. contract and integrate with all necessary or reasonably required subcontractors or third-party vendors (e.g. payment processors, KYC, geo-location, third-party game suppliers). For launch, integration will be with existing third party suppliers as listed in Appendix 5 (Third Party Software Vendors and Suppliers);
- x. SG shall populate a team of SGI employees dedicated to manage the turnkey iLottery Services, as described herein, leveraging existing SG support teams, and coordination with the Lottery and Lottery's advertising contractor to perform their functions,
- xi. SG will provide the tools and guidance to offer retailer incentives and cross promotion potential between retail and online (i.e. Affiliate Program as provided by Income Access; ability to provide the Lottery methods to incent their Retailers to promote the iLottery and vice versa),
- xii. SG shall provide the tools and assistance, as agreed to and approved by the Lottery, to meet the requirements for claims, tax withholding and debt offsets; and
- xiii. SG shall provide the Lottery with access to reports related to Lottery's system including reports generally provided by SG and ad hoc reports generated by and at the request of the Lottery;
- xiv. Turnkey iLottery Managed Product Services: SG will establish a local turnkey managed services account team in Harrisburg. The team will coordinate with the Lottery and its ad agency on overall account planning and program management, leveraging SG's iLottery existing support teams as defined below.
 - 1. Product Management - Manages the product roadmap of new features, functionality, payment providers and maintenance updates, Manages games roadmap, launch plan and layout on the site.
 - 2. Customer Service -24/7/365 End User phone, email, and chat support.
 - 3. KYC & Fraud Management - Personnel, process, and procedures to detect, mitigate, or prevent underage use of the Licensed Software and fraud or other illegal behavior including AML. Proactive monitoring of behavior and velocity of deposits/withdrawals.
 - 4. Payments - Full turnkey service payments solution, for all deposits and withdrawals, establish commercial agreements with both the bank(s) and required payment gateways and providers. Offer integration with all relevant payment providers including: ACH; Credit Card; Sightline; Mazooma; Netteller; Paypal; and PayNear Me subject to third party contract and compliance execution. Payment fees are the responsibility of the Lottery.
 - 5. Responsible Gaming Tools – Full turnkey responsible gaming solutions for End Users which include self-exclusion capabilities for End Users which comply with the iLottery Law, regulations, and Lottery processes and procedures related to the iLottery self-exclusion program. Responsible gaming tools shall also include individual End User time, deposit and spend limits
- xv. Turnkey iLottery Managed Services.
 - 1. Account Management - Key account liaison working across all functional areas of product, technology and managed services
 - 2. Acquisition Management - Provide the guidance, resources and tools (internal and integration to third parties to acquire new customers (End-Users) through marketing activity coordinated with the Lottery and where applicable their ad agency
 - 3. Retention Management - Provide the guidance, resources and tools (internal and integration to third parties) to monetize and engage existing customers

through marketing activity coordinated with the Lottery and where applicable Lottery's advertising contractor;

4. Content Management- provide the guidance, resources and tools (internal and integration to third parties) to manage content through multiple channels including website, mobile applications and social media in coordination with the Lottery and where applicable Lottery's advertising contractor;
5. Campaign management – guidance, resources and tools (internal and integration to third parties) to manage End User campaigns, promotions and bonuses across all channels and configure such campaigns in the OPS and where required across third party providers.
6. Creative – The coordination and development of creative content, either separately or in conjunction with the Lottery's advertising contractor, for *multiple channels on both external and internal channels, such as TV, Online publishing, social media, website and mobile apps.*

2. POST COMMERCIAL LAUNCH ROADMAP

- a. After Commercial Launch, SGI shall provide the following Software and Services to be mutually agreed by the parties:
 - i. Monthly Internet Instant Game releases;
 - ii. Develop and implement the iLottery Retail Voucher (also referred to as "web cash") which can be generated from the Lottery's then existing vending equipment, except ITVMs, which meets the requirements of 4 Pa C.S. §503 (g) (relating to iLottery game cards) and any corresponding regulations and requirements as set forth by the Lottery by a date to be determined by Lottery;
 - iii. Develop and implement an OPS-integrated solution for legally required tax withholding and debt offsets, as agreed to and approved by the Lottery, and for which Lottery shall bear no cost, fee or other remuneration, and which shall be designed, developed and implemented no later than October 29, 2018.
 - iv. Draw and monitor games integration as specified by the Lottery, and
 - v. At the Lottery's option and as agreed by the SGI, custom development work on a time and materials basis, or add-on product, module, or system, (i.e. enterprise business intelligence solutions or functionality). Such time and materials work will be done at SGI's then prevailing rate or at the rate negotiated by the parties at that time and certain products, modules, or systems may be subject to an additional fee.
- b. After the Commercial Launch, SGI shall provide the following Services in addition to those listed above:
 - i. *Penetration Testing* Standard penetration tests conducted by Lottery not more than once in any twelve month period during the Term. Any agreed upon remedial actions to be taken by SGI shall be completed within the mutually agreed time period.
 - ii. *Maintenance Controls.* Meet with Lottery as reasonably requested to review the performance of the Licensed Software and the Services provided in order to meet current and future Lottery demand. If mutually agreed, the parties shall adjust the Services and performance of the Services. Such reviews may include:
 1. business and technical forecasting to understand Lottery demand;
 2. performance review of monthly reports and capacity management planning;
 3. load testing;
 4. scaling plans to support peak times;

5. backup restore testing, and
- 6 disaster recovery failover testing.

APPENDIX 3

APPENDIX 3
PA Implementation Timeline

Task	Duration	Start	End
Game Development, Integration, and Jurisdictional Certification	105 days	Jan. 1	Apr. 16
Third Party Contract and Execution (Payments, KYC, Geo-Location)	105 days	Jan. 1	Apr. 16
Software – Configure	66 days	Jan. 1	Mar. 7
QA – Internal (to continue through UAT)	32 days	Feb 4	Mar. 7
UAT/Regulator Testing (to continue through regression testing)	36 days	Mar. 8	Apr. 12
Regression Testing	23 days	Mar. 19	Apr. 10
Soft Launch	18 days	Apr. 13	Apr. 30
Commercial Launch		May 1	

APPENDIX 4

APPENDIX 4

Charges

1. SGI FEES

In consideration of the provision of its proprietary Licensed Software and Services, excluding the Lottery Costs due from time to time, the applicable fees due and payable to SGI shall be **ZERO DOLLARS**.

2. LOTTERY COSTS

a. The Lottery shall be responsible for payment of any and all Lottery Costs. SGI shall pass through such amounts at cost and without mark-up. The parties acknowledge that the Lottery may pay certain costs *directly as noted below*.

b. As of the Effective Date, the Lottery Costs, estimated for planning purposes only and are impacted by requirements and volume, are set out as follows: :

- i. Third-Party Game fees or royalties - 7%-10% of NGR/monthly;
- ii. Third-Party Branded Game fees or royalties - to be determined based on individual games;
- iii. Prizes - paid directly by Lottery;
- iv. Payment processing services - 6% of NGR;
- v. Banking services and fees - 0.35% - .1% NGR;
- vi. KYC & Geolocation costs - 1.4% of NGR;
- vii. Advertising - paid directly by Lottery;
- viii. Bonusing - paid directly by Lottery;
- ix. Marketing services (other than the SGI employee costs) - 1.6% NGR; and
- x. Promotions, including 3rd party services performing affiliate management, digital advertising, player acquisition and engagement - 0.9% of NGR. .
- xi. Chargebacks 3%-4% of Gross Gaming Revenues;

c. Prior to any product or Service that includes a Lottery Cost going Live, such additional SGI Cost shall be submitted to the Lottery for approval, and if so approved shall be add to the Lottery Costs. If disapproved SGI shall have no obligation to provide such product or Service and it shall not go Live.

3. BILLING REQUIREMENTS

a. Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

- i. Vendor name and "Remit to" address, including SAP Vendor number;
- ii. Bank routing information, if ACH;
- iii. SAP Purchase Order number,
- iv. Delivery Address, including name of Commonwealth agency;
- v. Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);

- vi. Quantity provided;
- vii. Unit price,
- viii. Price extension;
- ix. Total price; and
- x. Delivery date of products or Services.

- b. *If an invoice does not contain the minimum information set forth in this section, and comply with the provisions located at <http://www.budget.pa.gov/Programs/Pages/E-Invoicing.aspx>, relating to the Commonwealth E-Invoicing Program, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.*

4. PAYMENT

- a. *Payment Date.* The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is:
 - i. the date on which payment is due under the terms of the Contract;
 - ii. thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or
 - iii. the payment date specified on the invoice if later than the dates established by subsections (a)(i) and (ii), above.
- b. *Delay; Interest.* Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act of December 13, 1982, P.L. 1155, No. 266, 72 P. S. § 1507, (relating to interest penalties on Commonwealth accounts) and accompanying regulations 4 Pa. Code §§ 2.31—2.40 (relating to interest penalties for late payments to qualified small business concerns).
- c. Payment should not be construed by the Contractor as acceptance of the Service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications.
- d. *Electronic Payments:*
 - i. The Commonwealth will make contract payments through the Automated Clearing House (ACH). Within ten (10) days of award of the Contract, the Contractor must submit or must have already submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).
 - ii. The Contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth's ACH remittance advice to enable the Contractor to properly apply the state agency's payment to the invoice submitted.
 - iii. It is the responsibility of the Contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

APPENDIX 5

Redacted

APPENDIX 5

THIRD-PARTY SOFTWARE VENDORS & SUPPLIERS

As of the Effective Date of this Contract, SGI proposes to use the following Suppliers for the iLottery Services in performance of this Contract. Any changes to the Suppliers listed below must be in conformance with the terms of the Contract.

Supplier	EIN
IDology	
GeoComply	
Optimove	
Global Pay	
PaySafe/Neteller/Income Access	
PayNearMe MT, Inc	
PayPal	
Vantiv	
Mazooma	
Sightline	
LexisNexis	
Otherlevels	

APPENDIX 6

APPENDIX 6
HOSTING SERVICES

During the Term of this Contract SGI shall provide the hosting services set forth below to the Lottery.

OPS will be hosted on hardware owned and delivered by SGI on servers based in the State of Georgia, United States of America.

<ul style="list-style-type: none">• Purchase and procurement, of all hardware including adequate spares, multi-year manufacturer's warranty and vendor installation
<ul style="list-style-type: none">• Hardware Support & Monitoring.
<ul style="list-style-type: none">• Purchase and installation of Third-Party Software necessary to operate the Licensed Software, including maintaining up to date licensing and support contracts.
<ul style="list-style-type: none">• Provide or arrange at its expense mutually acceptable back up hardware and software, with backups that can be relocated offsite.
<ul style="list-style-type: none">• Operation of routine backups of the Licensed Software data and delivery to the Lottery's third-party offsite storage vendor
<ul style="list-style-type: none">• Data center physical space, electricity, internet connectivity, adequate bandwidth, server room temperature control, and fire suppression.
<ul style="list-style-type: none">• Data center physical security monitoring and management.
<ul style="list-style-type: none">• Development of security plan and routine internal testing of the Licensed Software. SGI agrees to facilitate and cooperate with the Lottery in connection with all Lottery security plan requests.
<ul style="list-style-type: none">• Creation of a technical incidents manual and training of Lottery's data center IT staff who will be responsible for monitoring the data center.
<ul style="list-style-type: none">• Initial attempts to diagnose, categorize, and resolve technical incident alerts using the common technical incidents manual prior to escalating incidents to SGI.
<ul style="list-style-type: none">• Periodic Licensed Software and database optimization, tuning, and hardware scalability assessments.
<ul style="list-style-type: none">• User identity access management of employee application administration.
<ul style="list-style-type: none">• User identity access management of administrative users.

APPENDIX 7

APPENDIX 7

iLOTTERY SERVICE LEVEL AGREEMENTS (SLA)

The following sets forth the Lottery's service level requirements of the Licensed Software and Services to be provided under the Contract generally, and specifically in conformance with Appendix 2 (Work Statement). The Lottery may in its discretion assess service credits as set forth in this SLA. In the event the Lottery determines that service credits are to be assessed, the Lottery will notify the Contractor of the potential assessment in writing. The availability of any period for cure, other than set forth in this SLA or the underlying Contract, will depend upon the situation as determined by the Lottery. Where possible, both parties will act in good faith to cure any failure to meet an applicable service level in lieu of assessment.

SLA	Description	Performance Range	Downtime	Credit Calculation	Frequency of Review	Service Credit
iLottery Availability	iLottery must be accessible for placement of Bets 99.85% of the time without any concurrent outages	99.85%	<p>iLottery's availability, excluding force majeure situations, and third party systems such as banking, KYC, geolocation, and planned systems maintenance periods</p> <p>Contractor shall not be responsible for any unavailability of the iLottery due to (i) players' or third party devices or networks, or (ii) third party systems or networks. Performance shall be measured by the response at the Contractor's Central System</p> <p>Central System is defined to mean Contractor's hardware and software systems located at its production data center to operate the iLottery system</p>	<p>The Lottery may receive credit for system downtime above the described SLA. This credit will be calculated using the total 13 week average of Lottery net revenue per minute derived from iLottery sales during the 13 week period prior to the date failure occurred. This excludes any unavailability due to planned maintenance, the first 7 days after Commercial Launch or major planned system upgrades</p> <p>13 week average/13=week avg Week average/10,080=per minute avg Multiplied by the average % net revenue to the Lottery</p>	Quarterly	Dollar amount shall be determined as described in the Credit Calculation. Total service credit shall not exceed \$50,000 per quarter.

APPENDIX 7

iLOTTERY SERVICE LEVEL AGREEMENTS (SLA)

SLA	Description	Performance	Definition	Specific Remedies	Escalation Process	Sanction Credit
Response Time	It is the sole responsibility of the Contractor to effectively manage iLottery to achieve the desired response time	99.85%	<p>iLottery must have a response time that appears to be without unreasonable delay. At no time should the player have the appearance of an unreasonable wait time caused by the system when a valid key is pressed.</p> <p>Contractor shall not be responsible for any delays in response time due to (i) players' or third party devices or networks, or (ii) third party systems or networks. Performance shall be measured by the response at the Contractor's Central System.</p>	Contractor has 24 hours to rectify the underlying cause of the delay in response time from receipt of notification from the Lottery of a recurring issue.	Lottery may seek credit whenever the user community complains about recurring response time issues and Lottery can verify the complaint is accurate.	\$5,000 per day from the recurring response time issue until rectified.
System Sizing	During the term of the Contract, Contractor will be solely responsible for the adequate sizing of the iLottery to meet the System Availability and Response Time SLAs.	100%	iLottery must be able to handle the entire user community. Due to the expertise of the Contractor on this platform, it will be Contractor's sole responsibility to project, plan, and maintain a system that can accommodate the iLottery traffic.	<p>Contractor has 24 hours to identify the plan to rectify from notification of a recurring issue.</p> <p>The parties agree that the Contractor is relying solely on information provided by the Lottery to determine the appropriate size of iLottery for Commercial Launch. Therefore, this service level shall not be applied to the Contractor's performance during the first twelve (12) months following Commercial Launch.</p>	Per Occurrence	\$5,000 per day for each day that a new user cannot be added to the system due to a technical error of iLottery or the overall player experience is materially diminished due to system limitations.

APPENDIX 7

iLOTTERY SERVICE LEVEL AGREEMENTS (SLA)

SLA	Description	Performance Target	Definition	Owner & Responsibility	Frequency of Review	Score/Credit
Escalation Process	<p>The Contractor must follow its approved Problem Escalation Procedure</p> <p>The "Problem Escalation Procedure" is Contractor's operational procedure that defines process management of any iLottery production incidents, including severity levels of such production incidents, escalation procedures and communications process based on incident severity</p>	100%	For "material production issues" as defined in the Problem Escalation Procedure, the Contractor must ensure that it follows the defined process in its Problem Escalation Procedure,	N/A	Quarterly	N/A
Help Desk	The Contractor will be solely responsible for appropriately staffing a help desk to resolve issues for End Users	100%	Contractor must provide prompt remedies to the End User's issue related to the Contractor's iLottery. If the issue is one that cannot quickly be resolved during the phone call, chat, or email, Contractor must enact its approved Problem Escalation Process. For issues unrelated to the Contractor's iLottery, such as mobile and internet service providers, geolocation, banks, or identification related issues, players will be referred to those providers	N/A	Quarterly Performance Review	N/A

APPENDIX 7

iLOTTERY SERVICE LEVEL AGREEMENTS (SLA)

SLA	Description	Performance Target	Definition	Cause & Effect	Frequency of Action	Service Credit
Unauthorized iLottery Changes/Unauthorized Software Installations	iLottery changes and software installations require Lottery approval	100%	Except for changes required to address emergency system support as defined in the Problem Escalation Procedure, any changes to visual representations of games, the game playing experience or use of iLottery generally that indicates a change to what the players see or experience requires the express written consent of the Executive Director or designee. Software installations also require the express written consent of the Executive Director of the Lottery or his designee.	Unauthorized software changes	Per Occurrence	Lottery will receive a credit of \$5,000 per occurrence
Incident Awareness	The Contractor must communicate errors	100%	Upon discovering and issue, the Contractor notify the Executive Director in a method and timeframe that is agreed upon by the Parties. An incident is defined as anything that may cause or has caused any material and detectable issue that is likely to cause the integrity of the Lottery or the Lottery's products or services to be questioned. The incident must be communicated as mutually agreed by the Parties as defined in the Problem Escalation Procedures.	Violation of Incident Notification	Per incident	Lottery will receive a credit of \$5,000 for any incident not reported in the manner mutually agreed to by the parties
Security	Contractor must provide a secure environment and iLottery	100%	It is the responsibility of the Contractor to provide, install and maintain security for their offices, service facilities, and data centers. All security must be approved by the Lottery Director of Security which approval shall not be unreasonably withheld or delayed. Further, the Lottery will not unreasonably withhold or delay approvals to implement security changes recommended by the Contractor.	Any material violation of the approved security plans or any breach of security subject to a 24 hour cure period	Per Occurrence	Lottery will receive a credit of \$5,000

APPENDIX 7

iLOTTERY SERVICE LEVEL AGREEMENTS (SLA)

SLA	Description	Percentage Target	Definition	Credit Calculation	Frequency of Review	Service Credit
Reporting	The Contractor must provide timely accurate reports	100%	The Lottery relies heavily on reporting. The Contractor must provide timely and accurate reports from the Contractor's iLottery, as set forth in the SRS according to the agreed upon time frames	Reports must be available at times and intervals as mutually agreed by the Parties Critical late reports not provided as agreed will trigger this SLA subject to the following conditions. In the event the Contractor fails to provide the Lottery with such reports, the Contract shall have 48 hours from notification to provide such missing reports to the Lottery. The list of critical reports will be mutually agreed by the parties	Per Occurrence	Lottery will receive a credit of \$500 per day for any critical late reports after the defined cure period

APPENDIX 8

APPENDIX 8

Safeguarding Contract Language

CONTRACT LANGUAGE FOR TECHNOLOGY SERVICES

I. PERFORMANCE

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor or the contractor's employees.
- (2) The contractor and the contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
- (3) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
- (4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (5) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (6) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (7) All computer systems receiving, processing, storing or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal Tax Information.
- (8) No work involving Federal Tax Information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (9) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

(10) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS

(1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil*

Damages for Unauthorized Disclosure). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

APPENDIX 9

Copies maintained independently by the Department and the Contractor. Contains proprietary information/trade secrets not for public disclosure.

APPENDIX 10

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APPENDIX 11

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APPENDIX 12

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APPENDIX 13

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