

**LOTTERY RETAILER AGREEMENT**

**BRITISH COLUMBIA LOTTERY CORPORATION**

**AND**

[\_\_\_\_\_]

**DATED:** [\_\_\_\_\_, 2\_\_]

**AGREEMENT NO:** [\_\_\_\_\_]

# LOTTERY RETAILER AGREEMENT

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## LOTTERY RETAILER AGREEMENT

THIS AGREEMENT made as of the Effective Date,

BETWEEN

**BRITISH COLUMBIA LOTTERY CORPORATION**

(“BCLC”)

AND

---

(the “Retailer”)

### RECITALS:

- A. BCLC is responsible for the conduct, management and operation of gaming on behalf of the government of British Columbia, and may, without limitation:
- (i) develop, undertake, organize, conduct, manage and operate provincial gaming on behalf of the government of British Columbia; and
  - (ii) enter into agreements with registered gaming services providers.
- B. Under Section 90(b) of the *Gaming Control Act* (BC), the Retailer is prohibited from providing certain of the Services unless the Retailer is authorized by BCLC.
- C. BCLC has requested and the Retailer has agreed to provide certain services pertaining to BCLC’s conduct, management and operation of gaming at the Sites, subject to the terms and conditions set out in this Agreement.

**IN CONSIDERATION** of the foregoing and the mutual agreements contained in this Agreement, the Parties agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Certain Rules of Interpretation

In this Agreement:

- (a) Definitions - capitalized terms have the meanings set out in Schedule "A"
- (b) Currency - unless otherwise specified, references to money amounts are to lawful currency of Canada;
- (c) Headings - headings of Articles are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement;

- (d) Including - where the word “include”, “includes”, “including”, “included” or other variation on “include” is used in this Agreement, such word is deemed to be followed by the words “without limitation”;
- (e) Discretion - a provision relating to the discretion, approval, consent, authorization, determination, option, satisfaction or opinion of BCLC is in BCLC’s sole, absolute and unfettered discretion, with no requirement to act reasonably or provide reasons unless expressly required under the provisions of this Agreement;
- (f) Approval in Writing - any approval, consent, authorization or permission contemplated to be given by BCLC under this Agreement must be in writing;
- (g) Number and Gender - unless the context otherwise requires, words importing the singular include the plural and vice versa, and words importing gender include all genders;
- (h) Statutory References - a reference to a statute includes the regulations, directives and rules made pursuant to such statute and, unless otherwise specified, the provisions of any statute, regulation directive or rule which amends any such statute, regulation, directive or rule; and
- (i) Articles and Schedules - unless the context otherwise requires, references to "Article" or "Schedule" mean the specified Article or Schedule of this Agreement.

## **1.2 Schedules**

The following schedules are attached hereto and incorporated into this Agreement by reference and are deemed to be a part of this Agreement:

- Schedule "A" - Definitions
- Schedule "B" - Sites
- Schedule "C" - Privacy Protection Schedule

## **ARTICLE 2 BCLC OBLIGATIONS**

### **2.1 Authorization to Provide Services**

Pursuant to Section 90(b) of the *Gaming Control Act* (BC) and the terms and conditions set out in this Agreement, BCLC hereby authorizes the Retailer to provide the Services at the Sites.

### **2.2 Equipment**

BCLC will in BCLC’s discretion provide the Retailer with Equipment.

As between BCLC and the Retailer, the Retailer acknowledges and agrees that the Equipment is the sole property of BCLC. BCLC grants the Retailer a limited, non-exclusive, non-transferable, non-assignable licence, subject to any restrictions, license terms, or Policies required by BCLC, to use the Equipment at the Sites for the sole purpose of providing the Services.

### **2.3 Tickets**

BCLC will in BCLC's discretion provide the Retailer with Tickets.

The Retailer acknowledges and agrees that the Tickets are the sole property of BCLC.

### **2.4 Compensation**

Subject to the Retailer's compliance with this Agreement, BCLC will pay the Retailer the Compensation.

## **ARTICLE 3 RETAILER OBLIGATIONS**

### **3.1 Regulatory Matters**

The Retailer will maintain throughout the term of this Agreement, at its own expense, all approvals, permits, licenses, certifications, registrations and other regulatory consents or permissions of the Retailer and its personnel ("**Regulatory Consents**") that are necessary for the fulfilment of this Agreement. Without limiting the generality of the foregoing, the Retailer will appoint, designate or have in its employ a GPEB Registrant, approved by BCLC, who agrees to assume managerial responsibility for the Sites as described in section 34(2)(a)(i) or 34(2)(b)(i) of the *Gaming Control Regulation* and are party to a valid and subsisting agreement with BCLC regarding that responsibility. Such agreement will be in a form required by BCLC from time to time.

The Retailer will immediately advise BCLC if it or any of its personnel do not have, or cease to maintain in good standing, any required Regulatory Consent. The Retailer will upon request provide BCLC with proof of compliance with this Article 3.1.

### **3.2 Operations**

The Retailer will:

- (a) provide the Services in compliance with this Agreement, the Policies and Applicable Law;
- (b) provide the Services and sell the Tickets only at the Sites;
- (c) offer Games as required by BCLC in its discretion;
- (d) locate and use the Equipment as approved by BCLC;
- (e) permit and assist BCLC and its authorized contractors and representatives to install, maintain and remove the Equipment;
- (f) provide and maintain such telecommunication facilities at the Sites for the effective delivery of the Services and operation of Equipment, and upgrade the telecommunications facilities from time to time to maintain a commercially reasonable standard of telecommunications service, all at the Retailer's expense;

- (g) be responsible for third party charges incurred in the operation of Equipment and telecommunication facilities;
- (h) provide at all times for the physical security of any Tickets, Equipment, and Records in the Retailer's care or control and immediately notify BCLC of any suspected or actual damage, misappropriation, misuse, malfunction, theft, or destruction of any Tickets, Equipment or Records;
- (i) return or provide to BCLC any Equipment, Tickets or Records in the Retailer's care or control upon request by BCLC;
- (j) not attempt to repair, move, reverse engineer, alter or otherwise tamper with the Equipment, except as approved by BCLC; and
- (k) not destroy or modify any Records, except as approved by BCLC.

### **3.3 Marketing**

The Retailer will:

- (a) display the promotional materials provided by BCLC;
- (b) not engage in any advertising of BCLC products except as approved by BCLC;
- (c) not offer promotional contests with respect to the Tickets or Games, except as expressly permitted by BCLC; and
- (d) use the BCLC Marks only as permitted under this Agreement and in accordance with Article 11.

### **3.4 Business Practices**

The Retailer will:

- (a) perform the Services with diligence and in a courteous and business-like manner;
- (b) complete and cause its employees or agents that provide Services to complete training as required by BCLC;
- (c) not offer Lottery Schemes, other than the Tickets and Games authorized under this Agreement or Charitable Lottery Schemes permitted by Applicable Law;
- (d) not sell, check, validate or payout Tickets unless in the physical presence of the customer;
- (e) not sell Tickets to a Person who the Retailer reasonably suspects is likely to resell the Tickets;
- (f) not sell Tickets for a price other than the price set by BCLC;

- (g) not offer promotional pricing on Tickets or pricing of Tickets together with other products, except as expressly permitted by BCLC;
- (h) not use the words “lottery”, “lotteries”, “lotto”, “casino”, “gambling”, or other like words denoting activities managed by BCLC in either the Retailer’s legal name or any business or trade name that the Retailer uses to identify its business, including in any signage, display, or promotion, unless prior written permission is obtained from BCLC;
- (i) comply with all requirements of BCLC relating to responsible gambling and any responsible gambling policies or programs required by the Policies or Applicable Law;
- (j) not subcontract any of the Services set out in this Agreement, except as expressly permitted by BCLC; and
- (k) immediately notify BCLC in writing of any breach or any anticipated breach of any term in this Agreement.

### **3.5 Insurance**

The Retailer will maintain sufficient insurance to cover the Retailer's obligations under this Agreement, including sufficient coverage for the new replacement cost of all Equipment and Tickets located at the Sites, will increase and maintain any additional insurance as BCLC may require in its discretion from time to time, and will provide proof of insurance to BCLC at any time upon BCLC’s request.

## **ARTICLE 4 FINANCIAL**

### **4.1 Designated Account**

Upon execution of this Agreement, the Retailer will establish an account, or provide account information of an existing active account, at an accredited financial institution acceptable to BCLC (the “**Designated Account**”). BCLC may require, in its discretion upon 30 days’ written notice to the Retailer, that the Designated Account be a sole purpose account to be used strictly for the purposes contemplated in this Agreement.

### **4.2 Instant and Pull Tab Tickets**

The Retailer will pay for Instant Tickets and Pull Tab Tickets as invoiced by BCLC by depositing the monies owed to BCLC into the Designated Account.

### **4.3 On-line Tickets**

The Retailer will deposit to the Designated Account all monies collected from the sale of On-line Tickets, less monies used to pay out Winning Tickets in accordance with the Policies (the “**Proceeds**”).



#### **4.4 Ticket Monies in Trust**

The Retailer acknowledges and agrees all monies received from the sale of Tickets or through provision of the Services are the sole property of BCLC and hereby declares that the Retailer receives, holds and deals with the same as trustee for BCLC.

#### **4.5 Other Financial Obligations**

The Retailer will:

- (a) pay any fees, costs, charges, expenses and other payments, including for Tickets and Games, as established from time to time by BCLC in its discretion, without deduction;
- (b) keep all Records, Equipment and Tickets free of all encumbrances, liens, charges, pledges, mortgages and security interests of any nature;
- (c) use reasonable commercial efforts to have on hand at each Site at all times sufficient funds to meet Prize payout obligations up to the Prize level for the Retailer set by BCLC;
- (d) bear the loss for all lost, stolen or otherwise unaccounted for monies, credit or debit card or other payment fraud or counterfeit monies; and
- (e) allow BCLC at its discretion and from time to time, to obtain a credit assessment of the Retailer.

#### **4.6 Security**

The Retailer will if requested by BCLC provide a cash security deposit, a letter of credit from a Canadian chartered bank or other financial institution approved by BCLC, or any such additional or other security for the obligations of the Retailer under this Agreement as BCLC may require in its discretion from time to time.

#### **4.7 Governance of Records**

BCLC Records will be determinative in the event of any inconsistency between BCLC generated Records and Retailer generated Records.

### **ARTICLE 5 TERM, SUSPENSION, TERMINATION AND OTHER REMEDIES**

#### **5.1 Term**

The term of this Agreement will commence on the Effective Date and continue until such time as this Agreement is terminated in accordance with this Article 5.

## **5.2 Suspension or Termination by BCLC**

- (a) BCLC may suspend its authorization to the Retailer from providing Services at one or more Sites effective immediately upon the Retailer receiving notice of the suspension from BCLC.
- (b) BCLC may terminate this Agreement or revoke its authorization to the Retailer from providing Services at one or more Sites immediately and without notice upon occurrence of any of the following events:
  - (i) the Retailer is in breach or is being investigated for a possible breach of this Agreement, the Policies or Applicable Law all as amended from time to time;
  - (ii) the Retailer makes a fraudulent misrepresentation on the Retailer application form or on any documentation the Retailer submits to BCLC;
  - (iii) GPEB denies or revokes the gaming registration or certification issued to the Retailer or to the Sites, as required by Applicable Law, whether such revocation is temporary or permanent;
  - (iv) the Retailer ceases to employ or obtain services from a GPEB Registrant as required by Article 3.1;
  - (v) the Retailer sells, sub-leases, sub-licenses, or discontinues its business operations, or provides Services from a location or premises other than the Sites, without BCLC's approval;
  - (vi) the Retailer declares bankruptcy or becomes insolvent, or a receiver or a liquidator is appointed over some or all of the assets of the Retailer, or in the event any of the assets of the Retailer are seized or distrained upon; or
  - (vii) the Retailer engages in conduct or activities which BCLC in its discretion determines to be contrary to the public interest or harmful to the integrity or reputation of lottery gaming or BCLC.

## **5.3 Termination without Cause**

Either Party may terminate this Agreement without cause by giving at least 30 days' written notice to the other Party.

## **5.4 Effects of Suspension of Services at a Site**

Suspension of Services at a Site does not release the Retailer from any and all of the Retailer's obligations under this Agreement. Upon suspension of Services at a Site, the Retailer will:

- (a) cease to sell Tickets and provide the Services at the suspended Site for the time period of the suspension; and

- (b) comply with any other requirement as determined and communicated in writing by BCLC, as the case may be.

### **5.5 Effects of Termination of Services at a Site**

Termination of Services at a Site does not release the Retailer from any and all of the Retailer's obligations to BCLC under this Agreement. Upon expiration or termination of Services at a Site, the Retailer will:

- (a) immediately cease to sell Tickets and provide the Services at that Site as of the effective date of the termination;
- (b) immediately cease any and all use of BCLC Marks at that Site;
- (c) ensure that the Equipment at that Site is in good working order as of the effective date of termination;
- (d) deliver immediately to BCLC all unsold Tickets, and any other property relating to the Services at that Site, including Ticket rolls, paper stock, selection slips, point of sale advertising, BCLC signs, and other promotional materials at that Site; and
- (e) facilitate BCLC's or its agent's immediate access to the terminated Site to remove all Equipment and BCLC property relating to the Services.

### **5.6 Effects of Termination of Retailer**

Termination of this Agreement does not release the Retailer from any of the Retailer's outstanding obligations to BCLC. Upon termination of this Agreement, the Retailer will put to immediate effect Articles 5.5(a) to 5.5(e) above, and:

- (a) immediately cease any and all use of BCLC Marks; and
- (b) cooperate fully with BCLC in the orderly wind-down of the Retailer's involvement in the provision of the Services, including the sale of Tickets.

### **5.7 Other Remedies**

In the event the Retailer does not comply with its obligations under this Agreement, BCLC may: upon notice to the Retailer:

- (a) reduce in whole or in part, for a specified time period, the Compensation to the Retailer;
- (b) require the Retailer, Retailer's employees or agents who provide the Services to perform training or re-training, at the expense of the Retailer; and
- (c) require such other remedies as reasonably implemented by BCLC or as provided for in the Policies,

and the Retailer will comply with the foregoing. Application of any of the remedies in this Article 5.7 does not waive BCLC's right to any other remedy in this Article 5, this Agreement or under Applicable Law.

## **ARTICLE 6 CONFIDENTIALITY**

Each of BCLC and the Retailer (each a "**Receiving Party**") acknowledges that it may have access to Confidential Information of the other Party (the "**Disclosing Party**"). The Receiving Party agrees that at all times it will hold in strict confidence and not disclose Confidential Information to any third party, except as approved in writing by the Disclosing Party, and will use the Confidential Information for no purpose other than in connection with the performance of this Agreement.

The Receiving Party may reveal Confidential Information of the Disclosing Party to its directors, officers, employees, professional advisors (including financial advisors, consultants, lawyers and accountants) and agents (each, a "**Related Party**") who:

- (a) require the Confidential Information in connection with this Agreement;
- (b) are informed of the confidential nature of such Confidential Information; and
- (c) agree to be bound by these confidentiality provisions or are otherwise bound by confidentiality obligations substantially consistent with these provisions.

In each such case, the Receiving Party will be liable for any harm, loss or damage resulting from any unauthorized use, release or disclosure by any such Person, as if done by the Receiving Party.

Notwithstanding the foregoing, BCLC is entitled to disclose any Confidential Information to GPEB, the Minister of Finance, the Minister responsible for the Corporation or to any other governmental authority as required by Applicable Law or to any other extent reasonably required to enforce the rights and remedies under this Agreement.

The Receiving Party will employ at least the same efforts it uses with respect to its own Confidential Information, and, in no event less than commercially reasonable efforts, to safeguard the Disclosing Party's Confidential Information from unauthorized use or disclosure.

As between BCLC and the Retailer, Confidential Information will remain the property of the Disclosing Party, and disclosure does not grant any rights to the Confidential Information by licence or otherwise.

Notwithstanding the foregoing, the obligations of the Receiving Party in this Article 6 will not apply to any information that the Receiving Party can reasonably show:

- (a) is publicly available or is public knowledge at the time of disclosure;
- (b) lawfully becomes part of public knowledge through publication or otherwise, but through no fault of the Receiving Party;

- (c) the Receiving Party possesses at the time of the disclosure of such information and which was not acquired, directly or indirectly, from the Disclosing Party, or from any third party who was or could reasonably have been expected to be under an obligation of confidentiality;
- (d) was independently developed by the Receiving Party without the use of Confidential Information; or
- (e) is obligated to be produced under order of a court of competent jurisdiction or other governing authority having jurisdiction over such matters including pursuant to applicable privacy and access to information legislation provided, however, that the Receiving Party will provide sufficient notice to the Disclosing Party so that appropriate actions may be taken to protect the confidentiality of the information to be disclosed.

## **ARTICLE 7 PRIVACY**

The Retailer will abide by the obligations set out in the Privacy Protection Schedule attached hereto as Schedule "C". Schedule "C" may be amended or substituted from time to time by BCLC, upon notice to the Retailer, with effect from the later of the date of the notice or the effective date indicated in the notice.

In order for BCLC to administer this Agreement, the Retailer may provide BCLC with certain personal information. The Retailer consents to BCLC and its service providers storing and accessing such personal information outside of Canada for the purposes of administering the Agreement.

## **ARTICLE 8 REPRESENTATIONS AND WARRANTIES**

The Retailer represents and warrants that the execution, delivery and performance of this Agreement are within the powers and capacities of the Retailer and this Agreement has been duly authorized by all necessary action, has been duly executed and delivered, constitutes legal, valid and binding obligations of the Retailer enforceable in accordance with its terms and does not contravene or violate any provision of the Retailer's constating documents, any Applicable Law or any other Person's rights.

## **ARTICLE 9 INSPECTION, INVESTIGATION AND AUDIT RIGHTS**

In addition to any of BCLC's rights under the Policies or Applicable Law:

- (a) at any time and in BCLC's discretion, BCLC and its authorized representatives may conduct inspections, investigations and audits of the Retailer in relation to the Services, the Sites and this Agreement;
- (b) the Retailer will provide access to all records, to the Site and to the Services during operational hours and without prior notice;
- (c) BCLC may remove and reproduce copies of records;

- (d) BCLC may interview the Retailer's personnel and subcontractors;
- (e) upon request, the Retailer will provide access to all security and other surveillance video, photographs and other data in relation to the Services, the Sites and this Agreement; and
- (f) the Retailer will provide reasonable assistance to BCLC.

## **ARTICLE 10 INDEMNITY AND LIMITATION OF LIABILITY**

### **10.1 Indemnification**

The Retailer will indemnify and save harmless BCLC and its directors, officers, employees, representatives, consultants and agents (the "**Indemnified Parties**") from and against all Losses based on, arising from, occurring from or relating to, directly or indirectly:

- (a) any act or omission of the Retailer in relation to this Agreement, including:
  - (i) illegal acts or omissions, including illegal transactions; and
  - (ii) fraud, negligence and/or wilful misconduct;
- (b) any non-compliance by the Retailer with, or breach of, this Agreement, the Policies or Applicable Law;
- (c) any stolen, lost or damaged property or assets of BCLC, including Equipment and Tickets, excluding the cost for repairs necessitated by normal wear and tear;
- (d) any Losses of any third party, including for loss of or physical damage to property or assets or injury (including death);
- (e) any infringement of any intellectual property right of any third party; and
- (f) the Retailer's use of any third party devices, information and communication technology systems, or other systems, all as may be accessed by the Retailer in connection with this Agreement.

### **10.2 Limitation of Liability**

In no event will BCLC and the other Indemnified Parties be liable for any indirect or consequential Losses of any kind, including Losses arising from lost business, lost savings, lost data and lost profits, regardless of the cause and whether arising in contract, tort, negligence or otherwise, even if BCLC has been advised of the possibility of such Losses or such Losses could have been reasonably foreseen by BCLC. BCLC's aggregate cumulative liability for Losses to the Retailer arising out of or related to this Agreement, regardless of the basis of the claim, will in no event exceed \$10,000.00.

## **ARTICLE 11 INTELLECTUAL PROPERTY**

### **11.1 Non-Infringement**

The Retailer will in performing its obligations under this Agreement not infringe any intellectual property rights of any third party including any patent, trade-mark, trade secret or copyright of a third party, whether registered, unregistered or recognized in Canada or elsewhere.

### **11.2 Ownership of BCLC Marks and BCLC Confidential Information**

BCLC will be and remain the exclusive owner of all rights, title and interest in and to the BCLC Marks and the BCLC Confidential Information.

### **11.3 License to the Retailer**

BCLC hereby grants to the Retailer a limited, non-exclusive, non-transferable, non-assignable right, subject to any restrictions, license terms or Policies required by BCLC, to use the BCLC Marks and the BCLC Confidential Information as required to provide the Services to BCLC. The foregoing license rights may be suspended or terminated as set out in Article 5 of this Agreement or upon written notice from BCLC, as applicable.

### **11.4 Irreparable Harm**

Without limiting the remedies available to BCLC, the Retailer acknowledges that damages at law will be an insufficient remedy to BCLC in view of the irrevocable harm which will be suffered if the Retailer violates any of the terms of Article 6 or Article 11 hereof and agrees that BCLC may apply for injunctive relief in any court of competent jurisdiction specifically to enforce any such terms upon the breach or threatened breach of any such provisions, or otherwise specifically to enforce any such terms, and the Retailer hereby waives all defenses to any such relief sought by BCLC.

## **ARTICLE 12 ASSIGNMENT**

### **12.1 Assignment by BCLC**

Upon notice to the Retailer, this Agreement may be assigned, in whole or in part, by BCLC.

### **12.2 Assignment by the Retailer**

The Retailer may not assign its interest in this Agreement or any portion of this Agreement (including any other rights, interests, duties or obligations under this Agreement), without the consent of BCLC.

### **12.3 Successors and Assigns**

This Agreement will be to the benefit of and will be binding on the legal representatives and successors of each of the Parties, the assigns of the Retailer or the permitted assigns of BCLC.

## **Article 13 GENERAL TERMS**

### **13.1 Non-Exclusive**

Nothing in this Agreement is intended to grant to the Retailer any exclusivity rights as to subject matter, time or geographic location, and BCLC is free to contract with, or grant any rights to, any other Person in any location that BCLC deems appropriate in its discretion. The Retailer will not assert, or attempt to enforce, exclusivity rights with respect to the Services or restrict, or seek to restrict, any other Person from offering Tickets or Games, including in any lease it may have for the Sites.

### **13.2 Ownership of Records**

As between the Retailer and BCLC, the Records are the sole property of BCLC.

### **13.3 No Compensation for Amendment**

BCLC may amend the Compensation and the Policies from time to time, and the Retailer will comply with such amendments without any entitlement to compensation for or contribution to costs from an amendment.

### **13.4 Taxes**

Under Applicable Law, the Retailer is not required to charge GST or PST on the sale of Tickets nor pay GST or PST on the purchase of Tickets from BCLC. BCLC will be responsible for all GST and PST applicable to payment by BCLC of Compensation. The Retailer will be responsible for all applicable Taxes in connection with the operation of its business, including those levied on or in respect of:

- (a) hardware, software, systems, facilities, goods, services, property, assets or resources acquired or consumed by the Retailer; and
- (b) the Retailer's net income or gross receipts.

### **13.5 Relationship of Parties**

It is expressly agreed and understood that the Parties have entered into an arms-length independent contract for the rendering of the Services and that the Retailer and its employees are not the employees or agents of BCLC. This Agreement will not be deemed to constitute or create any partnership, joint venture, master-servant, employer-employee, principal-agent or any other relationship apart from an independent contractor and contractee relationship.

### **13.6 Responsibility for Subcontractors**

The Retailer is responsible to BCLC for the performance of all subcontractors and will require the subcontractors to perform their services in accordance with the terms and conditions of this Agreement. The Retailer is fully responsible to BCLC for acts and omissions of subcontractors and their personnel and of any other Persons directly or indirectly engaged by them.



### **13.7 Assumption of Risk**

Except to the extent expressly allocated to BCLC under this Agreement, all risks, costs and expenses in relation to the performance by the Retailer of its obligations under this Agreement, including costs of an operator or manager of a Site, are allocated to, and accepted by, the Retailer as its entire and exclusive responsibility.

### **13.8 No Fettering of Discretion**

Nothing in this Agreement will fetter or otherwise interfere with or limit the rights, powers and authority of BCLC to enact, amend, administer and enforce any laws, regulations or rules, and the Retailer is not entitled to claim or receive any compensation or other relief whatsoever as a result of BCLC enacting, amending, administering or enforcing any laws, regulations or rules.

### **13.9 Set Off**

If, under this Agreement or any document delivered under this Agreement, the Retailer becomes required to pay any sum of money to BCLC, then such sum may, at the election of BCLC, and without limiting or waiving any right or remedy of BCLC under this Agreement, be set off against and will apply to any amounts owed by BCLC to the Retailer including the Compensation, until such sum has been completely set off.

### **13.10 Remedies**

The remedies to which any Party may resort are cumulative and not exclusive of any other remedies allowed by law or equity to which such Party may be entitled, and such Party is entitled to pursue any of its remedies concurrently, consecutively and alternatively.

### **13.11 Severability**

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

### **13.12 Survival**

Article 4.4, Article 4.5(b), Article 4.7, Article 5.6, Article 5.7, Article 6, Article 7, Article 9, Article 10, Article 11.1, Article 11.2, Article 11.4, Article 13 and Schedule "C", all rights accrued prior to expiry or earlier termination of this Agreement and any other provision that by its nature survives the termination of this Agreement will continue to be in effect and will survive termination of this Agreement.

### **13.13 Waiver**

No course of dealing or failure of either Party to strictly enforce the terms of this Agreement will be construed as a waiver of the future performance of that term or condition.



**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date indicated below.

**BRITISH COLUMBIA LOTTERY CORPORATION**

Per: \_\_\_\_\_  
Authorized Signatory

Print Name: \_\_\_\_\_  
Effective  
Date: \_\_\_\_\_

**[Individual: insert RETAILER name]**

\_\_\_\_\_  
Retailer Signature

Print Name: \_\_\_\_\_

**[Corporation: insert RETAILER name]**

Per: \_\_\_\_\_  
Authorized Signatory

Print Name: \_\_\_\_\_

**[Partnerships: [insert RETAILER name], jointly and severally by its partners [insert Partner(s) names]]**

\_\_\_\_\_  
Partner Signature

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Partner Signature

Print Name: \_\_\_\_\_

**[Limited Partnership: [insert RETAILER name], by  
its general partner [insert general partner]]**

Per: \_\_\_\_\_  
Authorized Signatory

Print Name: \_\_\_\_\_

## SCHEDULE "A" - DEFINITIONS

- (a) “**Agreement**” means this lottery retailer agreement, including any schedules attached hereto, all as amended or supplemented from time to time;
- (b) "**Applicable Law**" means any domestic or foreign law, treaty, statute, subordinate legislation, regulation, rule, bylaw, standard, order, ordinance, protocol, code, guideline, treaty, policy, notice, direction or juridical, arbitral, administrative, ministerial or departmental judgment, order, award, decree, directive or other requirement or guideline issued by any governmental, regulatory, legislative or executive authority, professional or standard-setting body or other crown agency, judicial, quasi-judicial or administrative body, which applies to or is otherwise intended to govern or regulate either of the Parties, the Sites or the Services, whether or not having the force of law, and including the *Criminal Code*, the *Gaming Control Act*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and all regulations, directives and rules made thereunder, and all guidance and requirements of GPEB or any successor thereto;
- (c) “**BCLC**” has the meaning given on page 1 of this Agreement;
- (d) “**BCLC Marks**” means any trade-marks, official marks, business names, trade names, domain names, training styles, logos, or other distinguishing marks, whether registered or unregistered, of BCLC or used by BCLC;
- (e) “**Charitable Lottery Scheme**” means the type of lottery scheme defined at section 207(1)(b) of the *Criminal Code* (Canada);
- (f) “**Compensation**” means all commissions, bonuses, fees and other amounts to be paid by BCLC for the performance by the Retailer of the Services, less any fees, costs, charges, expenses or payments that may be charged by BCLC, and any conditions of payment, all as established by BCLC from time to time in its discretion;
- (g) “**Confidential Information**” means any non-public information disclosed by a Disclosing Party to a Receiving Party in written, graphic, electronic, oral or other form and marked “Confidential” or “Proprietary” or which, under the circumstances surrounding disclosure, ought to be treated as confidential. BCLC’s Confidential Information includes information relating to the business of BCLC, prize distribution and winning information, non-public information and trade-secrets relating to present and contemplated Services, marketing techniques, distribution processes, suppliers, customers, or other information relating to the business and affairs of BCLC. Confidential Information may include information received from others that the Disclosing Party is obligated to treat as confidential;
- (h) “**Designated Account**” has the meaning given in Article 4.1;
- (i) “**Disclosing Party**” has the meaning given in Article 6;

- (j) “**Effective Date**” means the date indicated as the Effective Date on the execution page of this Agreement;
- (k) “**Equipment**” means any mechanical, electronic or other equipment, devices or systems supplied by BCLC to the Retailer during the term of this Agreement, including any signs, fixtures, kiosks, terminals and paraphernalia and any software, information, communication, network and wireless technology equipment, devices or systems;
- (l) “**Game**” means a Lottery Scheme conducted, managed and operated by BCLC;
- (m) “**GPEB**” means the Gaming Policy Enforcement Branch;
- (n) “**GPEB Registrant**” means lottery retailer personnel (including hospitality retailer personnel if the Retailer is in BCLC’s hospitality retailer network), as those terms are defined in the Gaming Control Regulation under the *Gaming Control Act* (BC);
- (o) “**Indemnified Parties**” has the meaning given in Article 10.1;
- (p) “**Instant Ticket**” means an instant win Ticket that requires the player to remove a latex coating or other cover to determine if the Ticket is a Winning Ticket;
- (q) “**Losses**” means all claims, demands, actions, causes of action, suits, proceedings, judgments, settlements, debts, damages, costs, charges, fines, interest, penalties, assessments, taxes, duties, tariffs, liens, liabilities and expenses including legal costs on a solicitor and own client basis;
- (r) “**Lottery Scheme**” means a lottery scheme as defined in section 207(4) of the *Criminal Code* (Canada);
- (s) “**On-line Ticket**” means a Ticket where a draw is made sometime after purchase and the player must check his or her numbers against the drawn numbers in order to determine if the Ticket is a Winning Ticket;
- (t) “**Party**” means each of BCLC and the Retailer;
- (u) “**Person**” means any natural person, corporation, partnership, joint venture, association, company, trust, estate, unincorporated organization, society, government, agency or governmental authority;
- (v) “**Personal Information**” has the meaning ascribed to it in Schedule "C";
- (w) “**Policies**” means BCLC’s policies relating to this Agreement, including the Services and Compensation, as amended by BCLC in its discretion from time to time, including any manuals, procedures, instructions, directives, codes of conduct, operating manuals and retailer information sheets;

- (x) **“Prize”** means a sum of money, merchandise, property, service, activity or any benefit to a holder of a Ticket for winning a Game;
- (y) **“Proceeds”** has the meaning given in Article 4.3;
- (z) **“Pull Tab Ticket”** means an instant win Ticket on which the player tears open a number of flaps to see if the Ticket is a Winning Ticket;
- (aa) **“Receiving Party”** has the meaning given in Article 6;
- (bb) **“Records”** means records and documentation related to the delivery of the Services;
- (cc) **“Regulatory Consents”** has the meaning given in Article 3.1;
- (dd) **“Related Party”** has the meaning given in Article 6;
- (ee) **“Retailer”** has the meaning given on page 1 of this Agreement;
- (ff) **“Services”** means the obligations of the Retailer under this Agreement, including the marketing, sales, and if applicable, the validation of Tickets and payout of Winning Tickets, and otherwise the provision of Games;
- (gg) **“Site”** means a retail location or premises listed in Schedule "B", or such location or premises as may by written agreement be added or removed from time to time, at which the Retailer is authorized by BCLC to provide the Services.
- (hh) **“Taxes”** means all federal, provincial, municipal, local or foreign taxes or other charges imposed, assessed or collected by a governmental or regulatory authority including employment insurance premiums, pension plan contributions or premiums, all withholdings on amounts, any fine, penalty, interest, or addition to tax and any liability for any of the foregoing as a transferee, successor, guarantor, or by contract or by operation of law;
- (ii) **“Ticket”** means a ticket, certificate, or other instrument defined as a lottery ticket under the *Gaming Control Act* (BC) issued and authorized for sale by BCLC, and includes Instant Tickets, Pull Tab Tickets and On-line Tickets; and
- (jj) **“Winning Ticket”** means a valid Ticket entitling its holder to a Prize.

**SCHEDULE "B" - SITES**

BCLC authorizes the Retailer to provide the Services from the following Sites:

Location Name:

Address:

City:

Postal Code:

Tel:

Site #:



## SCHEDULE "C" - PRIVACY PROTECTION SCHEDULE

### Definitions

1. In this Schedule,
  - (a) "access" means disclosure by the provision of access;
  - (b) "Act" means the Freedom of Information and Protection of Privacy Act (British Columbia), as amended from time to time;
  - (c) "contact information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
  - (d) "personal information" means recorded information about an identifiable individual, other than contact information, collected or created by the Retailer as a result of the Agreement or any previous agreement between BCLC and the Retailer dealing with the same subject matter as the Agreement but excluding any such information that, if this Schedule did not apply to it, would not be under the "control of a public body" within the meaning of the Act.

### Purpose

2. The purpose of this Schedule is to:
  - (a) enable BCLC to comply with its statutory obligations under the Act with respect to personal information; and
  - (b) ensure that, as a service provider, the Retailer is aware of and complies with its statutory obligations under the Act with respect to personal information.

### Collection of personal information

3. Unless the Agreement otherwise specifies or BCLC otherwise directs in writing, the Retailer may only collect or create personal information that is necessary for the performance of the Retailer's obligations, or the exercise of the Retailer's rights, under the Agreement.
4. Unless the Agreement otherwise specifies or BCLC otherwise directs in writing, the Retailer must collect personal information directly from the individual the information is about.
5. Unless the Agreement otherwise specifies or BCLC otherwise directs in writing, the Retailer must tell an individual from whom the Retailer collects personal information:
  - (a) the purpose for collecting it;
  - (b) the legal authority for collecting it; and
  - (c) the title, business address and business telephone number of the person designated by BCLC to answer questions about the Retailer's collection of personal information.

### Accuracy of personal information

6. The Retailer must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Retailer or BCLC to make a decision that directly affects the individual the information is about.

### Requests for access to personal information

7. If the Retailer receives a request for access to personal information from a person other than BCLC, the Retailer must promptly advise the person to make the request to BCLC unless the Agreement expressly requires the Retailer to provide such access and, if BCLC has advised the Retailer of the name or title and contact information of an official of BCLC to whom such requests are to be made, the Retailer must also promptly provide that official's name or title and contact information to the person making the request.

### Correction of personal information

8. Within 5 business days of receiving a written direction from BCLC to correct or annotate any personal information, the Retailer must annotate or correct the information in accordance with the direction.
9. When issuing a written direction under section 8, BCLC must advise the Retailer of the date the correction request to which the direction relates was received by BCLC in order that the Retailer may comply with section 10.
10. Within 5 business days of correcting or annotating any personal information under section 8, the Retailer must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was made to BCLC, the Retailer disclosed the information being corrected or annotated.
11. If the Retailer receives a request for correction of personal information from a person other than BCLC, the Retailer must promptly advise the person to make the request to BCLC and, if BCLC has advised the Retailer of the name or title and contact information of an official of BCLC to whom such requests are to be made, the Retailer must also promptly provide that official's name or title and contact information to the person making the request.

### Protection of personal information

12. The Retailer must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

### Storage and access to personal information

13. Unless BCLC otherwise directs in writing, the Retailer must not store personal information outside Canada or permit access to personal information from outside Canada.

### Retention of personal information

14. Unless the Agreement otherwise specifies, the Retailer must retain personal information until directed by BCLC in writing to dispose of it or deliver it as specified in the direction.

### Use of personal information

15. Unless BCLC otherwise directs in writing, the Retailer may only use personal information if that use is for the performance of the Retailer's obligations, or the exercise of the Retailer's rights, under the Agreement.

### Disclosure of personal information

16. Unless BCLC otherwise directs in writing, the Retailer may only disclose personal information inside Canada to any person other than BCLC if the disclosure is for the performance of the Retailer's obligations, or the exercise of the Retailer's rights, under the Agreement.
17. Unless the Agreement otherwise specifies or BCLC otherwise directs in writing, the Retailer must not disclose personal information outside Canada.

### Notice of foreign demands for disclosure

18. In addition to any obligation the Retailer may have to provide the notification contemplated by section 30.2 of the Act, if in relation to personal information in its custody or under its control the Retailer:
  - (a) receives a foreign demand for disclosure;
  - (b) receives a request to disclose, produce or provide access that the Retailer knows or has reason to suspect is for the purpose of responding to a foreign demand for disclosure; or
  - (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosurethe Retailer must immediately notify BCLC and, in so doing, provide the information described in section 30.2(3) of the Act. In this section, the phrases "foreign demand for disclosure" and "unauthorized disclosure of personal information" will bear the same meanings as in section 30.2 of the Act.

### Notice of unauthorized disclosure

19. In addition to any obligation the Retailer may have to provide the notification contemplated by section 30.5 of the Act, if the Retailer knows that there has been an unauthorized disclosure of personal information in its custody or under its control, the Retailer must immediately notify BCLC. In this section, the phrase "unauthorized disclosure of personal information" will bear the same meaning as in section 30.5 of the Act.

### Inspection of personal information

20. In addition to any other rights of inspection BCLC may have under the Agreement or under statute, BCLC may, at any reasonable time and on reasonable notice to the Retailer, enter on the Retailer's premises to inspect any personal information in the possession of the Retailer or any of the Retailer's information management policies or practices relevant to its management of personal information or its compliance with this Schedule and the Retailer must permit, and provide reasonable assistance to, any such inspection.

### Compliance with the Act and BCLC's Information Systems Security requirements

21. The Retailer must in relation to personal information comply with:
  - (a) the requirements of the Act applicable to the Retailer as a service provider, including any applicable order of the commissioner under the Act;
  - (b) BCLC's Information Systems Security requirements in respect of the personal information as may be provided to the Retailer from time-to-time; and
  - (c) any direction given by BCLC under this Schedule.
22. The Retailer acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.

### Notice of non-compliance

23. If for any reason the Retailer does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Retailer must promptly notify BCLC of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

### Termination of Agreement

24. In addition to any other rights of termination which BCLC may have under the Agreement or otherwise at law, BCLC may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Retailer, terminate the Agreement by giving written notice of such termination to the Retailer, upon any failure of the Retailer to comply with this Schedule in a material respect.

### Interpretation

25. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
26. Any reference to the "Retailer" in this Schedule includes any subcontractor or agent retained by the Retailer to perform obligations under the Agreement and the Retailer must ensure that any such subcontractors and agents comply with this Schedule.
27. The obligations of the Retailer in this Schedule will survive the termination of the Agreement.
28. If a provision of the Agreement (including any direction given by BCLC under this Schedule) conflicts with a requirement of the Act or an applicable order of the

commissioner under the Act, the conflicting provision of the Agreement (or

direction) will be inoperative to the extent of the conflict.)