

# **MISSISSIPPI LOTTERY CORPORATION**

## **REQUEST FOR PROPOSALS NO. 5**

### **REQUEST FOR PROPOSALS FOR ONLINE LOTTERY GAMING SYSTEM**

**PROPOSAL SUBMISSION DEADLINE: AUGUST 2, 2019 (2:00 P.M. CST)**

**PROPOSAL DUE TO: MISSISSIPPI LOTTERY CORPORATION  
ONLINE GAMING SYSTEM BID  
DR. MICHAEL J. MCGREVEY, CHAIRMAN  
C/O REBECCA SANFORD  
BALCH & BINGHAM LLP  
188 E. CAPITOL STREET, SUITE 1400  
JACKSON, MS 39201**

**JUNE 27, 2019**

## TABLE OF CONTENTS

	<u>Page</u>
PART I - GENERAL INFORMATION.....	5
1.1 INTRODUCTION .....	5
1.2 CORPORATION OBJECTIVES.....	7
1.3 SUCCESSFUL VENDOR/CORPORATION RELATIONSHIP.....	8
1.4 GOVERNING LAW.....	8
1.5 PROPOSAL SUBJECT TO PUBLIC RECORDS ACT AND OPEN MEETINGS ACT .....	8
1.6 MISUNDERSTANDING OR LACK OF INFORMATION.....	9
1.7 REJECTION OF PROPOSALS AND CANCELLATION OF RFP; REISSUE OF RFP .....	9
1.8 INCURRED EXPENSES .....	10
1.9 PROPOSAL VALIDITY .....	10
1.10 RIGHT TO USE INFORMATION IN THE PROPOSAL.....	10
PART II - PROPOSAL PROCESS.....	10
2.1 CONTACT PERSON .....	10
2.2 PROHIBITION AGAINST UNAUTHORIZED CONTACTS.....	11
2.3 HIRING OF CORPORATION PERSONNEL.....	12
2.4 INQUIRIES.....	12
2.5 PROPOSAL SUBMISSION.....	12
2.6 PROPOSAL FORMAT .....	13
2.7 MULTIPLE VENDORS AND JOINT PROPOSALS .....	13
2.8 CHANGES, MODIFICATIONS AND CANCELLATION.....	13
2.9 MODIFICATION OR WITHDRAWAL OF PROPOSAL .....	14
2.10 ADDITIONAL INFORMATION.....	14
2.11 PROPOSAL EVALUATION .....	14
2.11.1 INTRODUCTION .....	14
2.11.2 EVALUATION COMMITTEE.....	15
2.11.3 EVALUATION PROCEDURE.....	15
2.11.4 EVALUATION CATEGORIES.....	16
2.12 DISPUTE PROCEDURE .....	17
2.13 SUMMARY OF KEY DATES.....	18
2.14 INTENT TO BID LETTER .....	18
2.15 PROPOSAL CONSTITUTES OFFER.....	19
2.16 NEGOTIATION AND EXECUTION OF CONTRACT .....	19
PART III - CONTRACTUAL TERMS AND CONDITIONS .....	19
3.1 GOVERNING LAW.....	19
3.2 CONTRACT ELEMENTS .....	20
3.3 AMENDMENTS .....	20
3.4 SUCCESSORS AND ASSIGNS .....	20
3.5 SUBCONTRACTING; ASSIGNMENT .....	20

3.6	BACKGROUND INVESTIGATIONS .....	21
3.7	COMPLIANCE.....	21
3.8	TERM OF CONTRACT.....	21
3.9	OWNERSHIP OF MATERIALS AND RIGHTS OF USE .....	21
3.10	PATENTS, COPYRIGHTS, TRADEMARKS, TRADE SECRETS AND OTHER INTELLECTUAL PROPERTY .....	22
3.11	TRADEMARK AND SERVICE MARK SEARCH AND REGISTRATION .....	22
3.12	INTELLECTUAL PROPERTY INDEMNIFICATION .....	22
3.13	WARRANTIES .....	23
3.14	TERMINATION FOR BREACH.....	23
3.15	BOOKS AND RECORDS.....	23
3.16	AUDIT REQUIREMENTS .....	24
3.17	INDEMNIFICATION.....	24
3.18	BONDS AND INSURANCE .....	24
3.19	PERFORMANCE BOND.....	25
3.20	INSURANCE.....	25
3.21	LIQUIDATED DAMAGES .....	26
3.22	FORCE MAJEURE/DELAY OF PERFORMANCE.....	26
3.23	TAXES, FEES AND ASSESSMENTS.....	26
3.24	NEWS RELEASE.....	27
3.25	ADVERTISING.....	27
3.26	CODE OF CONDUCT FOR SUCCESSFUL VENDOR.....	27
3.27	CONSULTANTS AND LOBBYISTS .....	27
3.28	CONTRACT CONVERSION .....	27
3.29	USUFRUCT.....	28
PART IV -	REQUIRED INFORMATION .....	28
4.1	MANDATORY COMPONENTS .....	28
4.2	STATEMENT OF UNDERSTANDING .....	28
4.3	VENDOR COMMITMENT .....	28
4.4	VENDOR CONTACT PERSON.....	28
4.5	BACKGROUND INFORMATION .....	29
4.6	DISCLOSURE OF LITIGATION AND LEGAL MATTERS .....	29
4.7	SUBCONTRACTORS .....	30
4.8	FINANCIAL SOUNDNESS .....	30
4.9	IMPLEMENTATION PLAN SUMMARY.....	30
4.10	EXPERIENCE .....	30
4.11	PROJECT STAFF.....	31
4.12	COMPUTATION OF LIQUIDATED DAMAGES .....	32
4.13	SYSTEM IMPLEMENTATION.....	32
PART V -	ONLINE LOTTERY GAME SERVICES AND LOTTERY GAMING SYSTEM AND SERVICES .....	32
5.1	TECHNICAL SPECIFICATIONS.....	32
5.1.1	GAMING SYSTEM .....	33
5.1.1.1	ONLINE LOTTERY GAMES AND OPERATING SYSTEM .....	33

5.1.1.2	PRIZE VALIDATION AND PAYMENT REQUIREMENTS.....	34
5.1.1.3	REQUIRED SYSTEM INTERFACES .....	35
5.1.1.4	INCIDENT REPORTS .....	35
5.1.1.5	DISASTER RECOVERY PLAN .....	36
5.1.1.6	ADDITION AND MODIFICATION OF GAMES.....	36
5.1.2	TERMINALS, PERIPHERALS AND SUPPORT .....	36
5.1.2.1	RETAILER OPERATED TERMINALS .....	36
5.1.2.2	FULL SERVICE VENDING MACHINES.....	38
5.1.2.3	LOTTERY MANAGEMENT TERMINALS.....	38
5.1.2.4	TECHNICAL AND OPERATIONAL SUPPORT.....	39
5.1.3	GAMING SYSTEM COMMUNICATIONS NETWORK .....	39
5.1.4	ONLINE SYSTEM DEVELOPMENT AND SUPPORT .....	40
5.1.5	LOTTERY BACK-OFFICE MANAGEMENT SYSTEMS .....	40
5.1.5.1	RETAILER APPLICATION AND CONTRACT TRACKING SYSTEM.....	40
5.1.5.2	RETAILER MASTER FILE.....	40
5.1.5.3	PRIZE VALIDATION AND PAYMENT SYSTEM.....	40
5.1.5.4	RETAILER ACCOUNTING BILLING SYSTEM.....	41
5.1.5.5	IRS TAX REPORTING SYSTEM.....	42
5.1.5.6	INSTANT GAME FILE MAINTENANCE.....	42
5.1.5.7	MANAGEMENT REPORTS .....	42
5.1.6	INTERNAL CONTROL SYSTEMS (ICS).....	43
5.2	OPERATIONAL SERVICES.....	43
5.2.1	RETAILER TRAINING.....	43
5.2.2	CORPORATION STAFF TRAINING.....	43
5.2.3	EQUIPMENT MAINTENANCE AND SUPPLIES .....	44
5.3	MARKETING SUPPORT .....	44
5.3.1	HOTLINE SERVICES .....	45
5.3.2	CORPORATE ACCOUNTS .....	46
5.3.3	RETAILER RECRUITMENT.....	46
5.3.4	TICKET STOCK AND PLAY SLIPS.....	46
5.3.5	PLAY STATIONS.....	46
5.3.6	ELECTRONIC DISPLAYS.....	47
5.3.7	LED OR EQUIVALENT SIGNS .....	47
5.4	SECURITY PLAN.....	47
5.5	MULTI-STATE GAMES .....	49
5.6	TELEMARKETING AND TICKET ORDERING AND INVENTORY CONTROL SYSTEM.....	49
5.7	OTHER REQUIREMENTS .....	50
PART VI -	COST .....	50
6.1	INTRODUCTION .....	50
6.2	PRICING FORMULA.....	51
6.3	DETERMINATION OF NET SALES .....	51
6.4	PAYMENT .....	52
6.5	PROGRAM ENHANCEMENTS.....	52

6.6 SUBMIT COST PORTION OF PROPOSAL SEPARATELY .....52

# MISSISSIPPI LOTTERY CORPORATION

## REQUEST FOR PROPOSALS FOR ONLINE LOTTERY GAMING SYSTEM

### RFP NO. 5

#### PART I - GENERAL INFORMATION

##### 1.1 INTRODUCTION

The Alyce G. Clarke Mississippi Lottery Law, Senate Bill 2001 (First Extraordinary Session 2018) (the “**Act**”), formed the Mississippi Lottery Corporation (the “**Corporation**”) to administer the State of Mississippi’s first lottery (the “**Mississippi Lottery**”). The Corporation’s Board of Directors (the “**Board**”) governs the Corporation. The Board is comprised of five (5) members appointed by the Governor, with the advice and consent of the Senate, in addition to the Commissioner of the Department of Revenue and the State Treasurer as ex officio members. Composing the current Board are Dr. Michael J. McGrevey, Dr. Cass Pennington, Kimberly LaRosa, Gerard Gibert, Philip Chamblee, Commissioner Herb Frierson, and Treasurer Lynn Fitch. The Act mandates that the Board appoint a President of the Corporation, subject to the approval of the Governor. The Board appointed Thomas N. Shaheen as President of the Corporation (the “**President**”), who was subsequently approved by Governor Phil Bryant.

In accordance with the Act, the Corporation must act for the benefit of the people of Mississippi through the operation of a lottery and strive to maximize lottery revenues to the State of Mississippi.

The purpose of this procurement (the “**Procurement**”) and Request for Proposal (“**RFP**”) is to invite responsible proposals (“**Proposals**”) from qualified and reputable vendors in the lottery industry (“**Vendors**”) for the provision, implementation and operation of a fully integrated online lottery gaming system, a statewide communications network, the provision of online lottery game products and services, associated lottery management services, instant ticket validation, and certain marketing services and other purposes described herein (collectively, the “**System**”). The System should include comprehensive equipment and services required to implement and maintain both the online game products, services and systems for the Corporation and instant ticket validation and certain marketing services. It is the Corporation’s desire to select a single Vendor that is able to provide a comprehensive System covered by this RFP.

The Corporation currently intends to execute a contract (the “**Contract**”) as a result of this Procurement of the System, if any Contract is executed at all, encompassing all of the products and services contemplated in this RFP and Procurement; provided, however, nothing herein obligates the Corporation to sign any Contract, or only one Contract, and the Corporation reserves the right to sign one or more Contracts, or no Contracts, as it determines in its sole discretion to be in the best interests of the Corporation and the State of Mississippi. Notwithstanding any provision of this RFP to the contrary, the Corporation may in its sole discretion favor multiple Proposals and accordingly select multiple “**Successful Vendors**” (as defined in this Section 1.1) and execute multiple Contracts.

This RFP is being used by the Corporation to take maximum advantage of the design capabilities, implementation knowledge and operational knowledge of the marketplace for the design, implementation and operation of the Corporation's instant and online lottery games and operations. All Vendors must fully acquaint themselves with the Corporation's needs and requirements and obtain all necessary information and understandings to be able to develop an appropriate solution and to submit responsive and effective Proposals. Vendors are encouraged to be creative in their Proposals and provide best in class and creative solutions so that the Corporation can maximize the revenues it raises as responsibly as possible.

The Corporation is an independent, self-supporting and revenue-raising corporation of the State of Mississippi, created by the Act. It plans to employ approximately eighty (80) people statewide and have approximately three (3) regional claim center offices (the "**Claim Center Offices**") in addition to the Corporation's headquarters to be located in Hinds, Rankin or Madison Counties, Mississippi (the "**Greater Jackson Metropolitan Area**") by the start-up of instant ticket sales on or before December 1, 2019. The exact numbers of employees, retailers selling the Corporation products and Claim Center Offices is subject to change in the discretion of the Corporation. The Corporation is committed to maximizing revenues to the State of Mississippi by providing entertaining lottery products and quality customer service to retailers and players, while maintaining its integrity and the integrity of its games.

The Corporation requires that instant ticket sales begin on or before December 1, 2019 (the "**Startup Deadline**"); thus, all components of the System must be in place, fully operational and tested prior to that Startup Deadline. The Corporation requires that online ticket sales begin on or before February 10, 2020 (the "**Online Deadline**"); thus, all of the Systems and online lottery game products and services must be in place, fully operational and tested prior to that Online Deadline. The Corporation currently expects to begin with instant ticket price points at \$1, \$2, \$3, \$5 and \$10 and may offer higher instant ticket denominations within the Contract term. The Corporation plans for the Vendor that is selected to provide the System, goods and services contemplated by this RFP (the "**Successful Vendor**") to develop and implement software and systems and do all things necessary to enable the Corporation to offer at a minimum the following online games during the course of the Contract:

- 3 DIGIT
- 4 DIGIT
- 5 DIGIT
- POWERBALL
- MEGA MILLIONS
- CASH4LIFE
- LOTTO AMERICA

The Corporation's retailer base ("**Retailers**") as of the Startup Deadline is currently expected to be approximately fifteen hundred (1,500) to seventeen hundred (1,700) (subject to change in the discretion of the Corporation). Thereafter, based on subsequent developments and sales and the recommendation of the President to the Board, the Retailer base may be expanded to three thousand (3,000) or more during the term of the Contract. Additionally, the Corporation currently plans to staff and operate three (3) Claim Center Offices throughout the State of Mississippi in addition to its headquarters to be located in the Greater Jackson Metropolitan

Area. Accordingly, the System proposed by the Vendors must be sufficiently scalable and fully functional to properly handle the growing needs of the Corporation as they evolve from time to time in the discretion of the Corporation.

## **1.2 CORPORATION OBJECTIVES**

All Proposals in response to this RFP shall reflect at least the following overall goals and objectives of the Corporation:

- To acquire a System in accordance with the Act and all of the needs of the Corporation that fully integrates instant games, online games and all related administrative systems and services that will suit the requirements of the Corporation now and into the future;
- To make prize payouts of a least fifty percent (50%) of the total annual gross revenues accruing from the sale of lottery tickets;
- To annually increase revenue to the Lottery Proceeds Fund in the Mississippi State Treasury (the “**Lottery Proceeds Fund**”), and meet the Act’s requirement to transfer the net proceeds of total annual gross revenues accruing from the sale of lottery tickets (after payment of prizes to the holders of winning lottery tickets and payment of costs incurred in the operation and administration of the lottery) to the Lottery Proceeds Fund;
- To market high quality products that provide entertainment and customer satisfaction;
- To ensure that the lottery receives services from Vendors who are financially sound and experienced and who maintain favorable reputations within the lottery industry for proper ethics and contract performance;
- To ensure that the Successful Vendor is capable of providing the Systems and services called for in this RFP, and that the Successful Vendor will be capable of continuing to provide the System and those services during the term of the Contract;
- To ensure that the System is fully operational and installed prior to the December 1, 2019 Startup Deadline supporting all instant ticket game functions in all Retailer locations approved by the Corporation at least two weeks prior to the Startup Deadline;
- To ensure that all aspects of the System and online ticket operations are fully operational, installed and tested in Retailer locations and that online tickets are available for sale to the public on or before the Online Deadline of February 10, 2020;



- To ensure that the Successful Vendor is capable of full compliance with “**Applicable Laws**” (as defined in Section 3.13) in the operations proposed to be conducted under any Contract awarded as a result of this Procurement;
- To provide for innovation and the ability to respond to changes in the industry and the demands of the marketplace;
- To obtain the highest quality goods and services at competitive prices; and
- To start up and operate the Mississippi Lottery as an extremely successful lottery, while maintaining its efficiency, security and integrity.

### **1.3 SUCCESSFUL VENDOR/CORPORATION RELATIONSHIP**

The nature of this RFP and the Contract that will result from this Procurement will result in a relationship between the Successful Vendor and the Corporation, which relationship must be founded on mutual trust and respect. The Successful Vendor must adopt the same attitudes and concerns and commitment towards the Corporation’s games, financial performance, legal compliance, integrity and security as are held by the Corporation.

### **1.4 GOVERNING LAW**

All Proposals and the Contract are automatically subject to the requirements of, and must comply with, the Act and the regulations, policies and procedures of the Corporation as they may be adopted or amended from time to time (collectively, the “**Regulations, Policies and Procedures**”), regardless of whether or not specifically addressed in either this RFP or the Proposal. All potential Vendors must read and be familiar with the Act and the Regulations, Policies and Procedures of the Corporation, a copy of which may be obtained either from the Corporation or through a link on the Corporation’s official web site, [www.mslotteryhome.com](http://www.mslotteryhome.com) (the “**Website**”). The Regulations, Policies and Procedures are subject to change from time to time in the sole discretion of the Corporation and no advance written notice of any such changes must be provided to any Vendor or other individual or entity. Unless otherwise indicated therein, any changes in the Regulations, Policies and Procedures adopted by the Corporation become effective thirty (30) days after their being published and posted on the Website. A Vendor may obtain the latest Regulations, Policies and Procedures at any time upon a written request to the Corporation. Thus, all Vendors are required to continually monitor and pay close attention to the Regulations, Policies and Procedures and all changes thereto. All Vendors shall automatically be deemed to be on notice of, and subject to, the latest Regulations, Policies and Procedures of the Corporation. All Vendors are precluded from alleging that any particular Regulations, Policies and Procedures are not applicable to them because of their lack of knowledge of their existence or modification.

### **1.5 PROPOSAL SUBJECT TO PUBLIC RECORDS ACT AND OPEN MEETINGS ACT**

All Proposal data, materials and documentation originated, prepared and submitted to the Corporation pursuant to this RFP shall belong exclusively to the Corporation. Unless required

by Applicable Laws, the Corporation will not release any Proposal data, materials and documentation originated, prepared and submitted to the Corporation pursuant to this RFP during the evaluation process or prior to an award of a Contract. After all Vendors have been notified of the award of a Contract, Vendors' Proposals will be available for public review, subject to the limitations of the Mississippi Public Records Act of 1983, *Miss. Code Ann.* §§ 25-61-1 *et seq.*, as amended, and the Corporation's Public Records Request Policy (the "**Open Records Laws**").

Vendors should properly and conspicuously identify any trade secrets or confidential commercial or financial information which are confidential information in accordance with the Open Record Laws (collectively, "**Confidential Information**") and in writing by page, paragraph and sentence prior to or upon submission to the Corporation of Confidential Information to be protected. It is the responsibility of the Vendors to identify all Confidential Information. All markings of identification must be conspicuous; use color, bold, underlining or some other method in order to conspicuously mark and distinguish the Confidential Information from the other text. If a portion of a Proposal is improperly marked as Confidential Information or similar designation, the Corporation may, in its sole discretion, determine it non-responsive. Do not mark the entire page if only portions of a page are protected. Vendors should also state the reasons such confidentiality is necessary. However, under no circumstance will the Corporation be liable to any Vendor or to any other person or entity for any disclosure of any such Confidential Information, including any trade secrets contained therein. The Corporation will not consider any Proposal which is declared, or a substantial portion of which is declared, by the Vendor submitting such Proposal to constitute Confidential Information.

Vendors are hereby notified that all meetings of the Board are subject to and shall be conducted pursuant to the Mississippi Open Meetings Act, *Miss. Code Ann.* §§ 25-41-1 *et seq.*, as amended.

## **1.6 MISUNDERSTANDING OR LACK OF INFORMATION**

By submitting a Proposal, Vendors covenant and agree that they fully understand and will abide by the terms and conditions of this RFP and all Regulations, Policies and Procedures and they will not make any claims for, nor have any rights to, cancellation, remedy or relief because of any misunderstanding or lack of information.

## **1.7 REJECTION OF PROPOSALS AND CANCELLATION OF RFP; REISSUE OF RFP**

Issuance of this RFP does not constitute a commitment on the part of the Corporation to award or execute a Contract. The Corporation retains the right, in its sole discretion, at any time to reject any or all Proposals, in whole or in part, and to cancel or cancel and reissue this RFP, before or after receipt and opening of Proposals in response thereto, or take any other actions, if it considers it to be in the best interests of the Corporation. Any Proposal that does not meet the requirements or specifications of this RFP may be considered to be non-responsive to this RFP and the Proposal may be rejected by the Corporation in its sole discretion. Any Proposal that restricts the rights of the Corporation or otherwise qualifies the Proposal may be considered to be non-responsive to this RFP and may be rejected in the sole discretion of the Corporation. The Corporation shall have the right, in its sole discretion, to reissue or not reissue an RFP and to

negotiate a Contract or not negotiate a Contract, all without any liability to any Vendor. Vendors submit proposals at their own risk and with no expectation that a Contract will be awarded to them or at all.

## **1.8 INCURRED EXPENSES**

The Corporation shall not, under any circumstance, be liable or responsible for any costs, expenses, reimbursements or fees incurred by a Vendor (or any other individual or entity) in preparing and submitting a Proposal or in performing any other action in connection with this Procurement, including, without limitation, any site visits, System demonstrations, negotiations, questions and answers, procurements or other activities of any kind or nature.

## **1.9 PROPOSAL VALIDITY**

All Proposals shall remain valid for one hundred and eighty (180) calendar days (the “**Proposal Offer Period**”) from 2:00 p.m. Central Standard Time (“**CST**”) August 2, 2019 (the “**Proposal Deadline**”) and as provided in *Attachment A* to this RFP. A Proposal constitutes an offer by the Vendor to contract with the Corporation in accordance with the terms of the Proposal and this RFP, which offer is irrevocable for the duration of the Proposal Offer Period and may not be withdrawn or amended during the Proposal Offer Period without the written consent of the Corporation.

By submitting a Proposal, a Vendor certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or federal government, and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or federal government.

## **1.10 RIGHT TO USE INFORMATION IN THE PROPOSAL**

Upon submission, all materials submitted to the Corporation by Vendors shall become the property of the Corporation and may be used as the Corporation deems appropriate.

# **PART II - PROPOSAL PROCESS**

Vendors are advised that all contents of this RFP, any amendments thereto, any “**Answers**” (defined in Section 2.4) prepared and published in accordance with this RFP by the Corporation to “**Questions**” (defined in Section 2.4) regarding this RFP and Procurement, the Successful Vendor’s Proposal and the Contract, will constitute the substantive terms and conditions, among others, of the relationship, if any occurs, between a Successful Vendor and the Corporation, all as further described herein.

## **2.1 CONTACT PERSON**

The sole point of contact (the “**Contact Person**”) for inquiries and additional information concerning this RFP and Procurement will be Rebecca Sanford, who can be reached as follows:

Email: rsandford@balch.com

**IF DELIVERED SOLELY BY US POSTAL SERVICE**

Mississippi Lottery Corporation Online Gaming System Bid  
Dr. Michael J. McGrevey, Chairman  
c/o Rebecca Sanford  
Balch & Bingham LLP  
P.O. Box 22587  
Jackson, MS 39225

**IF DELIVERED BY ANY OTHER MEANS (INCLUDING HAND DELIVERY)**

Mississippi Lottery Corporation Online Gaming System Bid  
Dr. Michael J. McGrevey, Chairman  
c/o Rebecca Sanford  
Balch & Bingham LLP  
188 E. Capitol Street, Suite 1400  
Jackson, MS 39201

**2.2 PROHIBITION AGAINST UNAUTHORIZED CONTACTS**

The Corporation is committed to a competitive procurement process that maintains the highest level of integrity, ethics and professionalism. Therefore, except as expressly contemplated in this RFP, or in connection with normal business activities not associated with this Procurement, no direct or indirect contact or other solicitation initiated by Vendors, or any employees or representatives of Vendors, including but not limited to their attorneys, representatives or others promoting their position, will be allowed with the President, any Board member (a “**Director**”), any member of an evaluation committee created by the Board for this Procurement (the “**Evaluation Committee**”) or any public official, or with any Corporation officer, employee, consultant or adviser, individually or otherwise, from and after the release of this RFP until the Corporation selects a Successful Vendor (the “**Quiet Period**”). During the Quiet Period, all contact and other solicitations made by a Vendor submitting a Proposal, or any person or entity employed by or on behalf of such a Vendor shall be directed towards the Contact Person identified in Section 2.1 of this RFP or otherwise as directed by the Corporation as part of the RFP, Procurement and evaluation processes (e.g., in connection with official site visits of a Vendor, or in response to the Evaluation Committee’s requests for information, or as a result of a required interaction with an Evaluation Committee member in the exercise of such member’s job). Any violation of this prohibition may result in the immediate disqualification of a Vendor and possible censure or other consequences in the sole discretion of the Corporation. Any attempt to intimidate or influence any Corporation employees, officers, consultants, advisors, Directors, the President or members of the Evaluation Committee with respect to this Procurement, whether such attempt is oral or written, formal or informal, successful or unsuccessful is strictly prohibited, will not be tolerated and will result in immediate, and possibly permanent, disqualification in the sole discretion of the Corporation. The Corporation takes its ethics, integrity and professionalism responsibilities extremely seriously and admonishes all Vendors to do the same or risk serious consequences!

## **2.3 HIRING OF CORPORATION PERSONNEL**

Vendors are expressly prohibited from officially or unofficially hiring, making any employment offer or proposing any similar representation, consulting or business arrangement whatsoever with any Corporation employee, officer or Director, whether directly or through an entity owned thereby, for compensation of any kind, from the time this RFP is issued until the earlier of either: (i) one (1) year after the execution of any Contract; or (ii) the rejection of all Proposals received by the Corporation.

Notwithstanding anything in this Section 2.3 to the contrary, Vendors are hereby notified that the Corporation's Conflict of Interest/Ethics Policy prohibits (i) former Corporation employees, officers or Directors representing any Successful Vendor before the Corporation, and (ii) former Corporation officers and Directors, whether directly or through an entity owned thereby, soliciting or accepting employment or entering into a contact for compensation of any kind with a Successful Vendor, each for a period of one (1) year after such person ceases to be a Corporation employee, officer or Director, as the case may be.

## **2.4 INQUIRIES**

All inquiries or concerns regarding this RFP must be submitted in the form of questions or requests for clarification (collectively, the "**Questions**"). Such Questions must be in writing and received by the Contact Person identified in Section 2.1 of this RFP on or before 2:00 p.m. CST on July 8, 2019 (the "**Question Deadline**"). Waiting until the submission of a Proposal or after the Question Deadline to raise any Questions may result in rejection of a Vendor's Proposal without recourse. The Corporation will not accept, review or respond to any Questions received improperly or after the Question Deadline. The Corporation is under no obligation to respond to any Questions submitted; however, responses to Questions properly received prior to the Question Deadline to which the Corporation chooses to respond (the "**Answers**") will be posted on the Website on or before 5:00 p.m. CST on July 16, 2019 (the "**Answer Deadline**").

## **2.5 PROPOSAL SUBMISSION**

Proposals must be received by the Contact Person identified above in Section 2.1 of this RFP no later than the Proposal Deadline of 2:00 p.m. CST on August 2, 2019 in sealed containers marked "Proposal Package." No extensions or exceptions will be made. A Vendor will submit a signed original and seven (7) reproduced complete copies of its Proposal. The original Proposal must be signed in blue or black ink by the Vendor's authorized agent. All copies of the cost/price portion of the Proposal required by Part VI must be submitted in sealed and labeled envelopes separate from the information required by all other parties of this RFP. The container shall also be clearly labeled with the name of the Vendor and the RFP to which the Proposal relates, and directed to the attention of the Contact Person. Proposals shall be mailed or hand-delivered to the Contact Person as stipulated in Section 2.1. No Proposals delivered by email or facsimile will be accepted. Proposals which fail to comply with the provisions of this RFP may, in the sole discretion of the Corporation, not be considered. Late Proposals will not be accepted, and shall be rejected and returned to the Vendor unopened. The Corporation reserves the right to refuse to accept any late Proposal even if the delay is occasioned by inclement weather or other events of force majeure, and thus Vendors should plan accordingly.

## **2.6 PROPOSAL FORMAT**

Each Vendor shall take steps to completely and totally familiarize itself with the requirements of this RFP and Procurement. Vendors must prepare and submit Proposals following the format of this RFP. Vendors must provide responses for all numbered items in Parts IV, V and VI which request or call for a response or information, and responses and signatures are required for any Attachments referenced within, or attached to, this RFP that are due with the Proposal.

A Proposal shall be prepared simply and economically to provide a straightforward and concise but complete delineation of the capabilities of a Vendor to satisfy the requirements set forth in this RFP, in accordance with the format prescribed in this RFP. Proposals that do not comply with this format may, in the sole discretion of the Corporation, be considered non-responsive and be rejected and not considered. Proposals shall be complete and must convey all of the information requested by the Corporation. The words “shall,” “must,” “will” and words of similar import denote material and essential requirements of this RFP. Failure to comply with any material and essential requirement may result in a rejection of a Proposal in the sole discretion of the Corporation.

## **2.7 MULTIPLE VENDORS AND JOINT PROPOSALS**

If the response submitted is a joint Proposal that includes multiple Vendors, it must define completely the roles, responsibilities, duties and obligations that each entity that is a part of a joint venture, strategic partnership or prime contractor team proposes to undertake, as well as the proposed responsibilities of each subcontractor of each entity. The Proposal must be signed by an authorized officer or agent of each entity. Also, the Proposal must designate a single authorized official from one of the entities to serve as the sole contact between the Corporation and the joint venture, strategic partnership or prime contractor team. Any Contract resulting from a joint Proposal must be signed by an authorized officer or agent of each entity. Any entity which is part of a joint venture, strategic partnership or prime contractor team included in the submission of a joint Proposal will be jointly and severally liable during the term of the Contract.

The Successful Vendor that submits a Proposal whereby any subcontractor will provide some portion of the specifications of this RFP shall retain ultimate responsibility for all design, implementation, operation, performance, maintenance and services provided by any subcontractor, and any claims or liabilities arising from or related to the subcontractor’s performance. Furthermore, each subcontractor of a Successful Vendor must comply with all of the requirements contained in this RFP. A Vendor that submits a Proposal whereby any subcontractor will provide some portion of the specifications of this RFP must also provide the information described in Part IV – “Required Information” for each such subcontractor.

## **2.8 CHANGES, MODIFICATIONS AND CANCELLATION**

The Corporation reserves the right, in its sole discretion, at any time prior to the Proposal Deadline of 2:00 p.m. CST on August 2, 2019, to make changes to this RFP by issuance of written addendum(s) or amendment(s) or to cancel all or part of this RFP and Procurement. Any addendum(s), amendment(s) or cancellation(s) will be posted on the Website.



## **2.9 MODIFICATION OR WITHDRAWAL OF PROPOSAL**

A submitted Proposal may be modified or withdrawn by written notice received by the Contact Person identified in Section 2.1 of this RFP at any time *prior* to the Proposal Deadline. After the Proposal Deadline, no Proposal may be modified or withdrawn.

A Vendor is under a continuing obligation to notify the Corporation following the submission of a Proposal of any changes to the Proposal information, data or facts submitted in response to Part IV, Part V and Part VI and the Attachments to this RFP which could reasonably be expected to affect the Corporation's consideration of the Proposal. The Corporation reserves the right to request additional information or clarification on the contents of a Proposal in its sole discretion. However, unless requested by the Corporation, no Vendor is authorized or permitted to submit any additional information or further clarifications after the Proposal Deadline.

## **2.10 ADDITIONAL INFORMATION**

The Corporation reserves the right, and a Vendor by submitting a Proposal grants to the Corporation the right, to obtain any information the Corporation desires from any lawful source regarding the Vendor, its officers, directors, employees, owners, team members, partners, joint venturers and/or subcontractors, and its or their past business history, practices, contracts, abilities, performance, reputation or track record. All such information may be taken into consideration in evaluating the Proposals and no Vendor may complain or object to the obtaining or consideration of any such information. If a Vendor is concerned about any such negative publicly available information being considered by Corporation, it may provide any factual and lawful explanation of such information along with its Proposal. Failure to provide such explanations with its Proposal, which the Corporation can consider or not consider in its sole discretion, estops a Vendor from complaining about the consideration of any such information obtained by the Corporation.

## **2.11 PROPOSAL EVALUATION**

### **2.11.1 INTRODUCTION**

The deadlines stated in this RFP are critical. Time is of the essence. It is not the intent of the Corporation to disqualify any Proposal based on minor technicalities. However, the Corporation reserves the right to determine if a particular deficiency or inadequacy is significant enough to disqualify the Proposal and Vendor. It is the intent of the evaluation procedure established by the Corporation to determine whether each Proposal meets the needs of the Corporation, as outlined in this RFP, and then to determine which Proposal best suits those needs. A variety of factors shall be considered by the Corporation in determining the Successful Vendor it believes provides the best overall solution at a fair and reasonable price and consistent with the goals and objectives of the Corporation. No one factor can or will be so paramount that the most favorable bidder in that category automatically is the Successful Vendor. While price and total cost are both important factors, as is a price/value analysis, the total System solution and maximizing net revenues for the Lottery Proceeds Fund in the most professional and responsible

manner with integrity is most critical. Thus, while Vendors are strongly encouraged to offer the lowest price and total cost and highest value possible, the Vendor offering the lowest price and total cost may not be selected as the Successful Vendor.

### **2.11.2 EVALUATION COMMITTEE**

The Corporation will conduct a fair, comprehensive and impartial evaluation of all Proposals deemed responsive and received in accordance with this RFP and Procurement using an Evaluation Committee selected by the Board. Legal counsel and consultants may provide such assistance to the Corporation and the Evaluation Committee as is deemed necessary or helpful. Any attempt to intimidate or influence the Evaluation Committee (or their advisors) will be met with the most severe remedies and will include disqualification, in the sole discretion of the Corporation. Any contacts by Vendors with Evaluation Committee members must be professional, ethical and limited to the specific business purpose for which such contact was initiated by the Evaluation Committee member.

### **2.11.3 EVALUATION PROCEDURE**

The Evaluation Committee will review all responsive Proposals timely and properly submitted in accordance with this RFP. The Evaluation Committee may, in its sole discretion, request clarifications or answers to any questions it may have of a Vendor as a result of any information or representations contained in its Proposal or otherwise identified, and may ask a Vendor to address technical questions or seek additional information regarding any Proposal before completing the initial evaluation. The Evaluation Committee may conduct site visits and/or require Vendors to make oral presentations to it as part of its evaluation process. Requests for clarification from Vendors, and any information received in response thereto, will be in, and will become part of, the evaluation record and the Contract if that Vendor is selected as the Successful Vendor. The Corporation may designate the Successful Vendor as a Vendor who submits a responsive Proposal as a result of this RFP and, in the opinion of the Corporation, in its sole discretion (all of the following being collectively defined as the “**Optimal Selection Objectives**”):

- (1) is the responsible lottery Vendor who submits the best proposal that maximizes the benefits to the State of Mississippi;
- (2) is able, and is otherwise qualified in all material respects, to perform fully the Contract requirements without delay;
- (3) has the integrity, professionalism, reliability and System to assure good faith and complete performance of the Contract;
- (4) successfully passes, to the satisfaction of the Corporation, the background, business practices, ethical, reputation, criminal record, civil litigation, competence, integrity and regulatory compliance checks and investigations conducted by the Evaluation Committee, the Board, the President or as required by the Act or other Applicable Laws;
- (5) whose Proposal as determined by the Corporation, in its sole discretion:



- (a) conforms in all material respects to this RFP, the Procurement, the Act and other Applicable Laws;
- (b) represents the best value to the Corporation; and
- (c) offers what the Corporation in its sole discretion believes can provide:
  - (i) the greatest long-term benefit to the Lottery Proceeds Fund and the State of Mississippi;
  - (ii) the greatest integrity for the Corporation; and
  - (iii) the preferred System, services and products for the Corporation and public taking into consideration the evaluation factors as deemed appropriate by the Evaluation Committee and the Corporation.

When the evaluation is completed, the Evaluation Committee will prepare a written recommendation to the President, who may meet with the Evaluation Committee to ask questions regarding the recommendation or require further work in connection therewith. The President may approve, disapprove, amend, modify, accept or reject the terms of the recommendation by the Evaluation Committee or require further work to be done. The President shall then ultimately submit his final written recommendation to the Board for the Board's consideration. The Board may approve, disapprove, amend, modify, accept or reject the terms of the recommendation by the President or require further work to be done. Additionally, before the Contract may be awarded to and signed by a Vendor, the President must obtain the Board's approval of such Contract award.

The Corporation shall promptly notify the Successful Vendor in writing of the Contract award and the Successful Vendor must commence work immediately following notification of the award, regardless of whether or not a Contract has been signed.

#### **2.11.4 EVALUATION CATEGORIES**

In evaluating the Proposals, the Evaluation Committee will be guided by various factors pertinent to the System and services sought as detailed in this RFP, and such factors shall include, but not necessarily be limited to, the following factors, which are not necessarily listed in the order of importance.

- Experience, including lottery start-up experience;
- Integrity;
- Background;
- Financial viability and ability to perform the Contract as required and proposed;

- Marketing plan;
- Online lottery gaming operations plan;
- Lottery gaming System, including telemarketing, ticket ordering software and systems, ticket inventory control, management services and internal control system;
- Security plan and security track record;
- Proposed technical solution; and
- Cost/price and value to the Corporation.

This RFP is intended to foster creative approaches to the implementation of the Mississippi Lottery in all respects. The RFP process will afford a Vendor the latitude to propose its best possible solution for the Corporation and will offer the Corporation a wide range of alternatives and allow it to consider all possible alternatives in determining the best solution for implementing the Mississippi Lottery.

The Corporation shall select a Vendor that it believes can best satisfy and achieve the Optimal Selection Objectives outlined in Section 2.11.3. Notwithstanding anything herein to the contrary, the Successful Vendor must, in the opinion of the Corporation, also successfully pass, to the satisfaction of the Corporation, the background, business practices, ethical, reputation, criminal record, civil litigation, competence, integrity, and regulatory compliance checks and investigations conducted by the Evaluation Committee, the Board, the President or as required by the Act or other Applicable Laws.

## **2.12 DISPUTE PROCEDURE**

All claims and disputes, including but not limited to protests related to this RFP, the Procurement and the award of the Contract to the Successful Vendor shall be handled solely and exclusively under and in accordance with Section 17 of the Act and the Corporation's Dispute Resolution Procedures (the "**Dispute Procedures**"), as adopted and/or amended from time to time by the Corporation in accordance with the authority granted to it in the Act. The Dispute Procedures are automatically considered to be a part of the Regulations, Policies and Procedures of the Corporation. All Vendors should read and be familiar with the Dispute Procedures which are available through a link on the Website. The Dispute Procedures include provisions governing the deadline for the filing of a Dispute Resolution Request. Any Vendor that submits a Proposal hereby expressly acknowledges and agrees that: (a) the Dispute Procedures represent the exclusive procedure and the exclusive forum for binding resolution of all claims, disputes, complaints and Dispute Resolution Requests of any kind relating in any way to any RFP, Procurement, Contract, bid, offer, quote, proposal or agreement entered into by the Corporation; (b) it is estopped from objecting to any court, agency or other entity as to the Dispute Procedures being such sole and exclusive forum for binding resolution; and (c) it agrees to be completely, solely and irrevocably bound by such Dispute Procedures. In addition, each Vendor submitting a

Proposal irrevocably waives any claim they might have had to protest or object to this RFP or its contents.

### **2.13 SUMMARY OF KEY DATES**

The Corporation reserves the right to change any dates and schedule contained in this RFP, including those shown below. If changes are made, the changes will be communicated in accordance with Section 2.8.

<b>June 27, 2019</b>	RFP Issuance Date
<b>July 8, 2019</b>	Intent To Bid Letter due to Corporation by 2:00 p.m. CST
<b>July 8, 2019</b>	Questions Deadline 2:00 p.m. CST
<b>July 16, 2019</b>	Answers to Written Questions Posted on Website by 5:00 p.m. CST
<b>August 2, 2019</b>	Deadline for Submission of Proposals 2:00 p.m. CST

#### **IF DELIVERED SOLELY BY US POSTAL SERVICE**

Mississippi Lottery Corporation Online Gaming System Bid  
Dr. Michael J. McGrevey, Chairman  
c/o Rebecca Sanford  
Balch & Bingham LLP  
P.O. Box 22587  
Jackson, MS 39225

#### **IF DELIVERED BY ANY OTHER MEANS (INCLUDING HAND DELIVERY)**

Mississippi Lottery Corporation Online Gaming System Bid  
Dr. Michael J. McGrevey, Chairman  
c/o Rebecca Sanford  
Balch & Bingham LLP  
188 E. Capitol Street, Suite 1400  
Jackson, MS 39201

<b>August 2, 2019</b>	Commence Evaluation of Proposals
<b>August 16, 2019</b>	Proposals Evaluated and Oral Presentations Held (if Requested by Corporation)
<b>August 23, 2019</b>	Target Date for Corporation Decision of Successful Vendor
<b>August 30, 2019</b>	Target Date for Contract Execution with Successful Vendor

### **2.14 INTENT TO BID LETTER**

All Vendors interested in submitting a Proposal are requested to deliver to the Contact Person an Intent To Bid Letter by the Questions Deadline of 2:00 p.m. CST on July 8, 2019 stating their intent to provide a Proposal in accordance with this RFP. Vendors not submitting an Intent To Bid Letter may still submit a Proposal in accordance with this RFP.

## **2.15 PROPOSAL CONSTITUTES OFFER**

By submitting a Proposal, a Vendor agrees to be governed by the terms and conditions set forth in this RFP, and any amendments thereto, and further agrees that the Contract will incorporate the terms and conditions of this RFP and any amendments hereto and the Questions and Answers, the Vendor's Proposal and any terms and conditions subsequently negotiated with such Vendor. A Vendor submitting a Proposal must complete and submit, as part of its Proposal, the Vendor Certification Form included as *Attachment A*, and made a part hereof. All Proposals shall remain valid for one hundred and eighty (180) calendar days from the Proposal Deadline (the "**Proposal Offer Period**"). A Proposal constitutes an offer by the Vendor to contract with the Corporation in accordance with the terms of the Proposal, which offer is irrevocable for the duration of the Proposal Offer Period, and may not be withdrawn or amended during the Proposal Offer Period without the written consent of the Corporation.

## **2.16 NEGOTIATION AND EXECUTION OF CONTRACT**

A Successful Vendor under this RFP shall negotiate and execute a Contract containing such terms and conditions as shall be satisfactory to, and required by, the Corporation in the sole discretion of the Corporation and its legal counsel. Initially, the Corporation may, in its sole discretion, negotiate only with the Vendor whose Proposal is the highest rated Proposal (the "**Apparent Successful Bidder**"), or it may, in its sole discretion, negotiate with several Vendors simultaneously or in seriatim. The occurrence of negotiations with any Vendor(s) conveys no right or status on such Vendor(s). In the event that negotiations with the Apparent Successful Bidder fail to result in a Contract, or if for any other reason a Contract with the Apparent Successful Bidder is not executed within fifteen (15) days of the Corporation's selection of a Successful Vendor, the Corporation is not obligated to negotiate a Contract with the Apparent Successful Bidder and it may instead conduct negotiations with other Vendors until a Contract is successfully executed. By submitting a Proposal, each Vendor acknowledges and agrees that the Corporation may negotiate with one or more Vendors, under such circumstances, at such times and in such a manner as it determines to be in the best interests of the Corporation, and no Vendor may object to the fact that the Corporation has not negotiated with it but may have negotiated with one or more other Vendors.

## **PART III - CONTRACTUAL TERMS AND CONDITIONS**

### **3.1 GOVERNING LAW**

The procurement process, the award procedure, and any Contract resulting from this RFP shall be governed by and construed in accordance with the laws of the State of Mississippi, including the Act. Any and all claims or disputes arising under or in connection with this RFP or the Contract shall be exclusively governed by the Dispute Procedures, as they may be adopted or amended from time to time by the Corporation.

### **3.2 CONTRACT ELEMENTS**

The Contract will follow the general format specified by the Corporation in this RFP. The terms of this RFP, as may be amended by the Corporation from time to time, and the Proposal of the Successful Vendor will be incorporated into and form a part of the Contract, as will the Questions and Answers. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the Contract, this RFP and any amendments thereto as well as Answers to the Questions, Proposal of the Successful Vendor, all of which must comply with the Act.

The currently proposed draft Contract is attached to this RFP as *Exhibit A* (the “**Proposed Contract**”). This Proposed Contract shall be the Contract executed by the Successful Vendor, subject only to: (a) any changes thereto made by the Corporation (which if made prior to the Proposal Deadline will be noticed in accordance with Section 2.8, and which in any event shall automatically become incorporated as a part of the Proposed Contract); and (b) any other changes proposed by the Successful Vendor and agreed to by the Corporation, in the Corporation’s sole discretion. If a Vendor has any changes it desires to make to the Proposed Contract, it must provide the exact wording of such changes and a redlined revised version of the Proposed Contract for the Corporation’s consideration as a part of the Vendor’s Proposal. Failure to provide any such suggested specific changes and redlined revised Proposed Contract along with its Proposal shall estop the Vendor from further negotiating the Contract if it is selected as the Successful Vendor, and in such case the Proposed Contract as prepared by the Corporation shall be the Contract that the Successful Vendor is required to execute. Merely because a Vendor has offered suggested changes to the Proposed Contract along with its Proposal does not bind the Corporation nor does it require the Corporation to accept any such suggestions or changes in whole or in part. The Corporation reserves the right to insist that all or any portion of the Proposed Contract be executed as presented by the Corporation.

### **3.3 AMENDMENTS**

The Contract may be amended only by the signed written agreement of each party thereto.

### **3.4 SUCCESSORS AND ASSIGNS**

Subject to the limitations on assignment contained herein, the Contract shall be binding on and inure to the benefit of the Successful Vendor, its subcontractors, successors and permitted assigns.

### **3.5 SUBCONTRACTING; ASSIGNMENT**

The Successful Vendor is prohibited from subletting, conveying, assigning or otherwise disposing of the Contract, its rights, duties, obligations, title, or interest therein, or its power to execute the Contract to any person or entity without the prior written approval of the Corporation in its sole discretion. If any portion of the Contract is to be subcontracted to a third party, the Corporation must approve same in advance and in writing and such third party must comply with the requirements of the Act, the Corporation, the Contract, this RFP and any amendments thereto and any other Applicable Law.

### **3.6 BACKGROUND INVESTIGATIONS**

The Corporation shall conduct background and other investigations, as required by the Act and Applicable Law, as it deems appropriate and as may be outlined in Section 4.5 of this RFP, of the Successful Vendor and its officers, directors, principals, shareholders, investors, owners, subcontractors, employees or other associates, parent companies, subsidiaries and affiliates.

### **3.7 COMPLIANCE**

The Successful Vendor shall comply with all applicable rules, procedures and regulations as adopted and/or amended from time to time by the Corporation under the Act, including but not limited to the Regulations, Policies and Procedures, and all other applicable federal, state and local laws, rules and regulations.

### **3.8 TERM OF CONTRACT**

The Contract shall commence as of its effective date and shall continue, unless sooner terminated, for a term of seven (7) years from the Startup Deadline of December 1, 2019 or such earlier start date as proposed by the Successful Vendor and agreed by the Corporation in the Contract, subject to the Corporation's sole option to exercise three (3) one (1) year extensions of the term of the Contract, which exercise by the Corporation may occur annually, in multiples of two (2) or three (3) years, or not at all

### **3.9 OWNERSHIP OF MATERIALS AND RIGHTS OF USE**

Neither the Successful Vendor nor any of its approved subcontractors or joint venturers shall have any proprietary rights or interests in the software, hardware, patents, copyrights, equipment, firmware, mask works, trademarks (and the goodwill associated therewith) and service marks (and the goodwill associated therewith), products, materials, intellectual properties developed, data, documentation, approaches, systems, programs, methodologies, or concepts developed, produced or provided in connection with the services provided exclusively for the Corporation under the Contract (collectively, the "**Corporation Intellectual Properties**"). All such Corporation Intellectual Properties, including all intellectual property rights therein, shall belong exclusively to the Corporation, and shall, to the greatest extent possible be deemed to be "works made for hire" for the Corporation.

The Corporation grants to the Successful Vendor during the period from the effective date of the Contract until the Contract expires or is otherwise terminated a non-exclusive license to use, sublicense, modify and create derivative works of the Corporation Intellectual Properties which are owned by the Corporation and created solely by the Successful Vendor, or its approved subcontractors or joint venturers, provided such use by the Vendor is only for the benefit of the Corporation and solely for the purpose of performing the Contract.

The Successful Vendor grants to the Corporation a perpetual, royalty free license to use, sublicense the use of, modify and create derivative works of any and all proprietary materials owned by it including, but not limited to, software, hardware, patents, copyrights, equipment, firmware, mask works, trademarks (and the goodwill associated therewith) and service marks (and the goodwill associated therewith) and used in connection with the System or performance

of the Contract (collectively, the “**Vendor Licensed Intellectual Properties**”), and the Successful Vendor irrevocably grants to the Corporation necessary rights and authority to modify such Vendor Licensed Intellectual Properties and to create derivative works in any manner the Corporation deems necessary. It is the intent of the Corporation that it has control over all such Vendor Licensed Intellectual Properties in a manner consistent with ownership thereof. The intent of the Corporation is that the Corporation is able to continue to use any or all of the Vendor Licensed Intellectual Properties that it chooses in the conduct of its the lottery games and other activities, if in the discretion of the Corporation it is in the best interests of the lottery and the Corporation to do so, after the expiration or termination of the Contract. A necessary component of such operations is for the Corporation to have access to the source code, operational diagrams and other proprietary materials so that the Corporation, or contractors engaged by Corporation, if the Successful Vendor is unable or unwilling to supply upgrades, modifications or other necessary support, can perform such functions so as not to jeopardize the operation of the Lottery. The Successful Vendor shall deposit the source code to all software in the Corporation Intellectual Properties, Vendor Licensed Intellectual Properties and other proprietary materials with an independent third party, acceptable to the Corporation and under terms acceptable to Corporation, to be accessed by the Corporation in the event of breach, expiration or termination of the Contract.

### **3.10 PATENTS, COPYRIGHTS, TRADEMARKS, TRADE SECRETS AND OTHER INTELLECTUAL PROPERTY**

The Successful Vendor represents and warrants that its performance under the Contract, its System and its Vendor Licensed Intellectual Properties does not and will not infringe any patent, copyright, trademark, service mark or other intellectual property rights of any other person or entity, and that it and they will not constitute the unauthorized use or disclosure of any trade secret of any other person or entity.

### **3.11 TRADEMARK AND SERVICE MARK SEARCH AND REGISTRATION**

The Successful Vendor, at its sole expense, will conduct trademark and service mark searches for all game names used during the term of the Contract. Copies of all such search reports will be delivered to the Corporation and its legal counsel. New trademarks and service marks developed for the Corporation will be registered by legal counsel chosen by the Corporation solely in the name of the Corporation for its sole use.

### **3.12 INTELLECTUAL PROPERTY INDEMNIFICATION**

The Successful Vendor shall indemnify and hold harmless the Corporation, its officers, Directors, agents, Retailers and employees and the State of Mississippi from and against any and all suits, damages, expenses, losses, liabilities, claims of any kind, costs or expenses of any nature or kind, including, without limitation, court costs, attorneys’ fees and other damages, arising out of, in connection with or resulting from the development, possession, license, modification, disclosure or use of any Vendor Licensed Intellectual Properties, copyrighted or non-copyrighted materials, trademark, service mark, patent, trade secret, confidential information, secure process, invention, process or idea (whether patented or not), article or appliance furnished or used in the performance of the Contract.



### **3.13 WARRANTIES**

The Successful Vendor warrants that it currently is, and will at all times during the term of the Contract remain, lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and that it currently is, and will at all times remain in full compliance with all legal requirements, laws, statutes, rules, regulations and orders of any court, agency or entity that has jurisdiction over it, including, without limitation, the Act and all applicable laws of its domicile, the State of Mississippi and the United States of America (all of the forgoing being collectively defined as, the “**Applicable Laws**”).

The Successful Vendor warrants that (i) it has never been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction and has never been found to be in possession of any illegal lottery device; (ii) it has obtained a signed tax clearance from the Mississippi Commissioner of Revenue indicating that it is current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the State of Mississippi, excluding items under formal appeal pursuant to applicable statutes; (iii) it currently is, and shall at all times during the term of the Contract remain, qualified to do business in the State of Mississippi; and (iv) at all times during the term of the Contract, it shall file appropriate tax returns as provided by the laws of the State of Mississippi.

The Successful Vendor represents, warrants and agrees that all Systems, analyses, systems design and programming pursuant to this RFP, its Proposal and the Contract have been and shall be prepared or done in a workman-like manner consistent with the highest standards of the industry in which the services are normally performed. The Successful Vendor further represents and warrants that all computer programs implemented for performance under the Contract shall meet the performance standards required thereunder and shall correctly and accurately perform their intended functions on the equipment supplied by the Corporation or the Successful Vendor.

The Successful Vendor represents, warrants and agrees that it will keep all equipment provided to the Corporation, or used by it for the benefit of the Corporation, in good condition and repair, and it shall make all reasonable efforts to prevent anything that may materially impair the operations thereof. The Successful Vendor shall not permit any such equipment to be used in violation of any provision of the Contract, this RFP or any Applicable Laws, and shall not encumber such equipment or otherwise dedicate the use of such equipment in such a way as to compromise the ability of the Successful Vendor to perform the services provided in the Contract.

### **3.14 TERMINATION FOR BREACH**

The Corporation may terminate the Contract: (a) if certain material breaches are not cured within seventy-two (72) hours; and (b) if any other breaches are not cured within thirty (30) days of notice (all as more particularly described in the draft Contract attached hereto as *Exhibit A*).

### **3.15 BOOKS AND RECORDS**

The Successful Vendor shall maintain its books, records and other evidence pertaining to the Contract in accordance with the Act, good business practices, United States generally accepted



accounting principles (or other applicable accounting principles or policies) and Applicable Laws records retention requirements.

### **3.16 AUDIT REQUIREMENTS**

The Successful Vendor shall maintain all documentation and records as required by the Act and other applicable Mississippi laws. The books, documents, papers, accounting records and other evidence pertaining to System, products and/or services to be provided or performed or money received under the Contract shall be maintained in accordance with all requirements of the Act and all other Applicable Laws and for a period of not less than five (5) full years from the date of the final payment and shall be subject to audit or inspection at any reasonable time and upon reasonable notice by the Corporation, or its duly appointed representatives, including, without limitation, the Corporation's auditors, the Office of the Mississippi State Treasurer, the Mississippi State Auditor or any other appropriate representative of Mississippi state government. The Successful Vendor shall make such materials available at its offices, and copies thereof shall be furnished to the Corporation or its duly appointed representative by the Successful Vendor, at no cost to the Corporation or its duly appointed representative, if requested by the Corporation or its duly appointed representative. Such records shall be maintained in accordance with the Act and any applicable provisions of United States generally accepted accounting principles (or other applicable accounting principles or policies) and any other applicable procedures established by the Corporation from time to time. A copy of the annual financial statements of the Successful Vendor, with an independent audit opinion expressed without reservation or qualification, shall be provided to the Corporation within six (6) months of the fiscal year end. The Corporation and its auditor, the Mississippi State Auditor, the Office of the Mississippi State Treasurer and any other appropriate representative of the State of Mississippi shall have the right to audit the records and operations of the Successful Vendor as relates to the Corporation and the System.

### **3.17 INDEMNIFICATION**

The Successful Vendor shall indemnify and hold harmless the Corporation, its officers, Directors, agents, employees and Retailers, and the State of Mississippi from and against any and all suits, damages, expenses, losses, liabilities, claims of any kind, costs or expenses, including court costs and attorney's fees, which may be incurred, suffered, or required, in whole or in part, by an actual or alleged act or omission of the Successful Vendor, or a subcontractor or joint venturer of the Successful Vendor, or any person directly or indirectly employed by the Successful Vendor or a subcontractor of the Successful Vendor whether the claim, liability, loss, damage, cost or expense is based on negligence, strict liability or any other action or omission.

### **3.18 BONDS AND INSURANCE**

All required bonds and insurance as provided under the Act or other Applicable Laws must be issued by companies or financial institutions which are financially rated "A" or better (or equivalent ratings) by a nationally recognized rating agency and are duly licensed, admitted and authorized to transact business in the State of Mississippi.

### **3.19 PERFORMANCE BOND**

Contemporaneously with the delivery of a Proposal, the Vendor must post a bond or letter of credit from a bank or credit provider acceptable to the Corporation in the amount of Five Hundred Thousand Dollars (\$500,000.00) to secure, in part, the Vendor's obligation to pay the cost of the Corporation's investigation of the Vendor under Section 35 of the Act and criminal record check of the Vendor conducted under Section 36 of the Act. In addition, contemporaneously with the execution of the Contract, the Successful Vendor shall provide a performance bond, letter of credit from a bank, or deposit securities, pursuant to Section 35 of the Act and acceptable to the Corporation, in the amount of not less than Fifteen Million Dollars (\$15,000,000.00). The amount of the above-noted performance bond, letter of credit or securities may be reduced after the third year of the Contract term, in the sole discretion of the Corporation.

### **3.20 INSURANCE**

The Successful Vendor shall be required to maintain at least the following types and amounts of insurance during the term of the Contract from reputable and solvent carriers reasonably acceptable to the Corporation, and designating the Corporation as an additional insured on each policy:

- General liability insurance in the amount of at least \$5,000,000.00;
- Property insurance in the amount of replacement cost;
- Errors and omissions insurance in the amount of at least \$5,000,000.00;
- Automobile liability insurance in the amount of at least \$5,000,000.00;
- Crime insurance in the amount of at least \$5,000,000.00;
- Cyber and Privacy insurance in the amount of at least \$5,000,000.00;
- Social Engineering Fraud insurance in the amount of at least \$5,000,000.00;
- Workman's Compensation Insurance at or above the levels required by the State of Mississippi;
- Self-insurance with respect to equipment in the field; and
- Such other types and amounts of insurance as the Corporation shall from time to time reasonably require.

The Successful Vendor shall provide the Corporation with certificates of insurance within ten (10) days after the Contract date and evidence of any renewed bonds or insurance policies within five (5) days prior to the expiration of then existing bonds or insurance policies during the term of the Contract.

### **3.21 LIQUIDATED DAMAGES**

A Vendor must complete and submit as part of its Proposal, and the Contract will contain provisions and maximum amounts for each of the following types of liquidated damages:

- Delay in the start of the lottery;
- Delay in response to Retailer service calls;
- Delay in System operations;
- Delay in the start of a new game;
- System downtime;
- Terminal downtime;
- Delayed monitor repair;
- Insufficient Vendor resources;
- Failure to provide enhancements;
- Shortage of online ticket stock;
- Security violations;
- Untimely vending machine repair;
- Failure to deliver log files;
- Untimely software additions or modifications;
- Untimely reports;
- Claimed prize tickets not approved by the Corporation;
- Defective or nonconforming tickets;
- Unavailability of telemarketing and inventory control system;
- Untimely or unauthorized software modifications; and
- Incomplete or incorrect game validation files.

The Successful Vendor will remit damages directly to the Corporation, or at the option of the Corporation, the Corporation may withhold amounts otherwise due to the Successful Vendor.

### **3.22 FORCE MAJEURE/DELAY OF PERFORMANCE**

In the event that either party to the Contract is unable to perform any of its obligations under the Contract, or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies, or other events of force majeure not the fault of the affected party, the affected party shall immediately give notice to the other party and shall use its best efforts to resume performance. Upon receipt of such notice, each party's obligations under the Contract shall be immediately suspended. Any such causes of delay or failure shall, in the exercise of reasonable diligence, extend the period of performance, for a reasonable period, until after such causes of delay or failure have been removed. However, if delays resulting from any foregoing causes extends for more than thirty (30) days and the parties have not agreed upon a revised basis for continuing the work at the end of the delay, including adjustment for price, then either party, upon written notice may terminate the Contract and in due course collect monies properly due up to and including the date of such termination.

### **3.23 TAXES, FEES AND ASSESSMENTS**

The Corporation shall have no responsibility whatsoever for the payment of any federal, state or local taxes which become payable by the Successful Vendor or its subcontractors, joint venturers, agents, officers or employees. The Successful Vendor shall pay and discharge all such taxes when due.

### **3.24 NEWS RELEASE**

The Successful Vendor shall not issue any news releases or participate in any media interview pertaining to this RFP, Procurement or the Contract without the express prior written consent of the Corporation in each instance, and then only in cooperation with the Corporation.

### **3.25 ADVERTISING**

The Successful Vendor agrees not to use the Corporation's names, trademarks, service marks, logos, images, or any data arising or resulting from this RFP or the Contract as a part of any commercial advertising or proposal without the express prior written consent of the Corporation in each instance.

### **3.26 CODE OF CONDUCT FOR SUCCESSFUL VENDOR**

The Corporation is an extremely sensitive enterprise because of the nature of the lottery industry and its status as a corporation of the State of Mississippi, created by the Act. Therefore, it is essential that its operation, and the operation of other enterprises which would be linked to it in the public mind, avoid not only actual impropriety but also the appearance of impropriety. Accordingly, the Successful Vendor is expected to establish and enforce a code of conduct for all employees, independent vendors and subcontractors that will help achieve these objectives as well as follow the rules and procedures established, and from time to time amended, by the Corporation.

### **3.27 CONSULTANTS AND LOBBYISTS**

The Successful Vendor and its approved subcontractors shall disclose all written and oral agreements with all lobbyists and consultants doing work on its behalf in the State of Mississippi and before the federal government. The Successful Vendor and its approved subcontractors shall also comply with all state and federal lobbying Applicable Laws.

Any Contract with the Successful Vendor who has not complied with these disclosure requirements is voidable at the sole option and discretion of the Corporation. Failure to provide the Corporation with timely disclosure updates during the term of the Contract may result in the termination of the Contract by the Corporation.

### **3.28 CONTRACT CONVERSION**

It is contemplated that the Corporation, prior to the expiration of the term of the Contract resulting from this RFP, will award a new contract for replacement of the System, including online lottery game services. The parties understand and agree that the Corporation may utilize the last specified number of days of the Contract term, as agreed upon by the parties to the

Contract, for conversion or transfer of equipment, supplies, materials, ticket inventory and functions. The Successful Vendor will cooperate fully with this process.

The continuation of games without any service interruption is of the highest priority to the Corporation. Accordingly, the Successful Vendor agrees to cooperate with any subsequent new Vendor to ensure the continuation, or the seamless transition, of the System, including but not limited to the communications network and online lottery game services, without any service interruption.

### **3.29 USUFRUCT**

If, for any reason other than breach of Contract by the Corporation, the Successful Vendor should become unable to service the Contract resulting from this RFP, the Corporation shall acquire a usufruct (or the equivalent thereof) in all contractual items owned or licensed by the Successful Vendor in conjunction with the Contract which are necessary to provide such services.

## **PART IV - REQUIRED INFORMATION**

### **4.1 MANDATORY COMPONENTS**

The integrity of the Mississippi Lottery is essential. The Corporation must maintain control over all functions and be assured that they are performed to provide the greatest long-term benefit to the State of Mississippi, the greatest integrity for the Corporation and the best service and products for the public, all in a manner consistent with the dignity of the State of Mississippi. This RFP sets forth the minimum requirements, specifications, functions, marketing services and equipment that the Corporation believes must be provided by a Vendor that is committed to the implementation of such a program.

### **4.2 STATEMENT OF UNDERSTANDING**

Any deviation from any requirement set forth in this RFP may affect the evaluation of a Proposal and may cause its rejection as non-responsive to this RFP.

### **4.3 VENDOR COMMITMENT**

A Vendor must sign and submit the Proposal Signature and Certification Form included as *Attachment B* and made a part hereof. The form must be signed by a person duly authorized to legally bind such Vendor.

### **4.4 VENDOR CONTACT PERSON**

A Vendor shall provide the name, address, telephone number, e-mail address and facsimile number of the person to provide notification or contact concerning questions regarding its Proposal.

Until the Corporation is notified otherwise by the Successful Vendor, this contact person shall serve as such to all joint ventures, strategic partners and prime contractor team members throughout the term of the Contract, if awarded and executed.

#### **4.5 BACKGROUND INFORMATION**

The Corporation will investigate, at a minimum, the financial responsibility, security and integrity of any Vendor that submits a Proposal.

A Vendor must complete and submit as part of its Proposal the Contract compliance and Financial Disclosure Form, included as *Attachment C* and made a part hereof. Vendors must also fully comply and cooperate with all investigations conducted under Sections 35 and 36 and other applicable Sections of the Act or Applicable Laws.

A Vendor must complete and submit, as part of its Proposal, for itself and all of the individuals listed in this paragraph, the Authorization for Investigation and Release Form, included as *Attachment D* and made a part hereof, and Consent Form, included as *Attachment E* and made a part hereof, in both cases to allow the Corporation access to the criminal history of the Vendor and its employees assigned to this project. Such Authorization for Investigation Form and Consent Form shall authorize access to the criminal history and backgrounds of the following persons, as well as the Vendor, as applicable: (i) if the Vendor is a corporation, the officers, directors and each stockholder known to the corporation to own beneficially five percent (5%) or more of such corporation's securities, as well as the same information for every business entity that is a direct or indirect five percent (5%) or greater shareholder of such Vendor corporation; (ii) if the Vendor is a limited liability company, the equivalent disclosure of that required for corporations; (iii) if the Vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust; (iv) if the Vendor is an association, the members, officers and directors; and (v) if the Vendor is a partnership or joint venture, all of the general partners, limited partners or joint ventures.

A Contract resulting from this RFP shall not be entered into with any Vendor who has not complied with the disclosure requirements of this RFP, the Act and Applicable Laws. Any Contract with a Successful Vendor who has supplied false disclosure information is voidable at the option of the Corporation. A Contract with the Successful Vendor who does not comply with the requirements for periodically updating such disclosures as specified by the Contract during the term or the Contract may be terminated by the Corporation.

#### **4.6 DISCLOSURE OF LITIGATION AND LEGAL MATTERS**

A Vendor must include in its Proposal a complete disclosure of any civil or criminal litigation or indictment involving such Vendor. A Vendor must also disclose any civil or criminal litigation or indictment involving any of its joint venturers, strategic partners, prime contractor team members and subcontractors. Specifically, the Vendor must disclose, on behalf of itself, its joint venturers, strategic partners, prime contractor team members and subcontractors, and each of the persons or entities described in Section 4.5, all of the items and information requested in Questions 10-12 of *Attachment C*. Failure to comply with these minimum required disclosures

can result in the Vendor's Proposal being deemed to be non-conforming and the Vendor being disqualified. This disclosure requirement is a continuing obligation, and any civil or criminal litigation or indictment commenced after a Vendor has submitted a Proposal under this RFP must be disclosed to the Corporation in writing within five (5) days after it is filed.

#### **4.7 SUBCONTRACTORS**

For any subcontractor, such Vendor shall disclose all of the information required by Sections 4.5 and 4.6 for such subcontractor as if the subcontractor itself was the Vendor.

#### **4.8 FINANCIAL SOUNDNESS**

A Vendor must provide adequate information to permit an evaluation of its capabilities to undertake and complete satisfactorily any Contract awarded and executed pursuant to this RFP. A Vendor must provide evidence of financial responsibility and stability for performance of a Contract of this magnitude. A Vendor must demonstrate the ability to finance the project described by the Vendor's submission and must also disclose any outside financial resources that will be utilized.

In addition, a Vendor must submit a copy of its last three (3) years financial statements that have been audited by an independent public accounting firm. A Vendor's failure to submit the requested financial statements will result in a disqualification of its Proposal.

#### **4.9 IMPLEMENTATION PLAN SUMMARY**

A Vendor must provide a summary overview and an implementation plan for the entire project being proposed. The intent of this requirement is to provide the Corporation with a concise but functional summary (the "**Executive Summary**") discussion of each phase of the Vendor's plan in the order of progression. While the Corporation expects a Vendor to provide full details in each of the Sections in other areas of the RFP relating to its plan, the Executive Summary will provide a "map" for the Corporation to use while reviewing the Proposal.

Each area summarized must be listed in chronological order, beginning with the date of Contract execution, to provide a clear indication of the flow and duration of the project. A Vendor may use graphics, charts, pre-printed marketing pieces or other enhancements as a part of this Section to support the chronology or add to the presentation. Any such materials must be included in the original and each copy of the Proposal.

#### **4.10 EXPERIENCE**

A Vendor, and its joint venturers, strategic partners and prime contractor team members must demonstrate overall experience in the functions described in this RFP, including System start-up experience, as well as that of their subcontractors. In addition, the joint venturers, strategic partners, prime contractor team members and subcontractors proposed to perform specific tasks, duties or functions must clearly document that they possess the qualifications and experience necessary to fulfill the relevant requirements of this RFP. At a minimum, Vendors must demonstrate the following:



- The ability to complete a System start-up and start-up of online lottery games;
- The ability to install and operate a System and terminals proposed for the Corporation (and the Vendor should provide the lottery name as well as a contact name and telephone number where the Vendor has installed and operated such a System and terminals); and
- A commitment to support all products and services that are proposed.

The Corporation reserves the right to verify all information provided via direct contact with a Vendor's and its joint venturers', strategic partners', prime contractor team members' and subcontractors' prior project or client personnel, and a Vendor and its joint venturers, strategic partners, prime contractor team members and subcontractors agree to provide any release necessary for the Corporation to check on any previous projects. Misstatements of experience, scope of prior projects or results thereof may result in the disqualification of the Proposal.

#### **4.11 PROJECT STAFF**

A Vendor's Proposal shall include an organization diagram and a staffing plan. Key staff must be identified, the nature and scope of each person's responsibilities and duties must be outlined, and detailed resumes must be provided. Reference to System-specific experience should be noted.

In addition to all other persons needed by the Successful Vendor to perform all services required under this Procurement, the Successful Vendor must provide and identify a minimum of four (4) full-time, on-site experienced operations professionals qualified to occupy the following permanent positions, assigned exclusively to service the Mississippi Lottery and made available to the Corporation, at the Successful Vendor's cost, from the date of the Contract Award through the entire term of the Contract:

- General Manager;
- Quality Assurance (duties will include testing of releases and patches);
- Business Analyst (duties will include development of BRS/FRS specification documents for new games); and
- Database Administrator (duties will include provision of ad hoc reports on demand).

The individuals occupying these permanent on-site positions must be identified in the Proposal, and a complete resume of each such individual must be submitted. These individuals will be required to reside in the Greater Jackson Metropolitan Area. The Successful Vendor may be required to rent office space at the Corporation's headquarters for these individuals at the Successful Vendor's cost.

In addition to all other persons needed by the Successful Vendor to perform all services required under this Procurement, and the individuals occupying the aforementioned permanent on-site



positions, a Vendor must provide and identify a minimum of four (4) additional experienced start-up professionals who will be made available to the Corporation for on-site general start-up assistance as determined by the Corporation from the date of Contract Award through the date of the first (1<sup>st</sup>) online game sale.

#### **4.12 COMPUTATION OF LIQUIDATED DAMAGES**

A Vendor must propose a program of liquidated damages to cover the damages listed in Section 3.21 and provide the rationale and the computation formula used to determine the level of damage penalties that are included in this response. All proposed liquidated damages amounts shall be subject to the satisfaction of the Corporation.

#### **4.13 SYSTEM IMPLEMENTATION**

The Vendor must include a comprehensive implementation plan to ensure a smooth start-up of the System and online lottery games. The Corporation requires that operations not be delayed during this process.

The Vendor must propose an implementation plan that addresses, at a minimum, the following:

- Back-office system;
- Data center setups including Retailer support (hotline) equipment;
- Computer hardware and software installations;
- Communication network activities;
- Delivery and installation of Retailer equipment;
- Software development, testing and simulation;
- Staffing requirements and commitments;
- Retailer and Corporation staff training;
- Retailer manual, including binders;
- Project reporting and monitoring; and
- Corporation responsibilities, other than software acceptance testing activities.

The implementation plan must include a detailed timeline beginning with the Contract execution date.

### **PART V - ONLINE LOTTERY GAME SERVICES AND LOTTERY GAMING SYSTEM AND SERVICES**

#### **5.1 TECHNICAL SPECIFICATIONS**

The objective of this RFP is to encourage Vendors to provide a solution for the challenges facing the Corporation associated with the start-up and operation of the Mississippi Lottery. Vendors should be innovative in developing their Proposals. However, the Corporation also believes that Vendors should be provided with guidelines as to the functionality desired by the Corporation. For this reason, the Corporation has provided the specifications, requirements and functional features in this Part V of the RFP. The portions of Proposals that address the functional

requirements of the RFP will provide the Corporation with the information necessary to conduct a fair evaluation of the proposed technical solutions from all Vendors.

Any items that are not specifically mentioned in this RFP but which are integral to the smooth efficient operation of the proposed services should be included in a Vendor's Proposal and pricing. Those items not specifically requested under this RFP shall be identified in the appropriate Sections of the Proposal. All required supplies and materials necessary for the success of the overall operation of the Mississippi Lottery are to be included in the base Proposal price, even though those items may not be specifically requested under this RFP.

### **5.1.1 GAMING SYSTEM**

#### **5.1.1.1 ONLINE LOTTERY GAMES AND OPERATING SYSTEM**

A Vendor must describe and discuss in detail its proposed integrated solution for start-up and operation of the System and related services, including online lottery games. The Successful Vendor must procure, install, operate and maintain the required equipment and software necessary to make functional all primary and back-up data centers, as well as Claim Center Offices and the central prize claim operations. The hardware, software, terminals, game draw personal computers (PCs), monitors and communications equipment should be installed to operate efficiently and dependably and also to allow for future growth and ease of integration with third party applications and/or hardware. The Vendor must certify that the computing equipment, terminals, monitors and PCs are new and unused and meet Underwriters Laboratories or equivalent certification.

A Vendor must provide a recommended location where the primary data center site and hot backsite may be located. Each site must be in a separate location and be approved by the Corporation. A Vendor must describe in detail the benefit to the Corporation of each proposed location. The Successful Vendor will be responsible for all the gaming system related costs of developing, starting, maintaining, upgrading and operating the data center and claim centers. The Corporation will require the Successful Vendor to maintain and provide staffing for the primary and secondary central gaming system sites twenty-four (24) hours a day, seven (7) days a week. The primary and hot backup gaming systems must have a time-synchronizing mechanism to ensure that both locations are processing one hundred (100%) percent of the transaction data.

The Successful Vendor must provide, and the System configuration must support, an anticipated load of fifteen hundred (1,500) to seventeen hundred (1,700) full service online Retailer terminals at start-up with growth capacity to support up to three thousand (3,000) full service online Retailer terminals and three thousand (3,000) color monitors and three thousand (3,000) player activated ticket checkers, whereby players can scan a ticket to determine if it's a winner. The terminal response times must not exceed three (3) seconds per wager measured from the time a wager is entered until the ticket is cut.

Fail-safe operation is required at both the primary and hot backup sites. Fault tolerant hardware and software at each site will satisfy this requirement. The goals of this requirement are to minimize service interruptions, to prevent loss or corruption of data resulting from hardware or software failure and to prevent loss of processing capability resulting from component failure. The System must permit timely switching to a backup processor or site within ten (10) minutes maximum and must permit sales and all other gaming transactions for a minimum of twenty (20) hours per day, seven (7) days per week. The System must record all transactions processed and that information must be available to the Corporation upon request.

#### **5.1.1.2 PRIZE VALIDATION AND PAYMENT REQUIREMENTS**

- The Vendor must ensure that all prizes are paid in accordance with the online game rules and regulations and the prize structure defined in the instant ticket working papers. The System must allow for the validation and payment of prizes in accordance with above rules, regulations and working papers while maintaining a high degree of integrity and security.
- The Vendor must describe in detail how the proposed System will ensure the processing of prize payments in accordance with the above directives. At a minimum, the System must be able to:
- Allow same day validation of prizes for online games with draws occurring more often than once a day or occurring earlier in the day prior to System shutdown;
- Allow dual entry of winning draw information between the Vendor and the Corporation and Internal Control System ("ICS") winner verification, prior to setting any online draw to a "pay" status;
- Allow for varying claim periods based on the individual online or instant game features;
- Verify the validity of a ticket prior to validation; ensure that a ticket has not been previously paid or cancelled, does not fall within a blocked range (if an instant ticket), that it is presented within the required claim period and includes all required validation codes; and
- Process all online and instant ticket validations in real-time (no batching of transactions).

At the Retailer level, the System should provide for the following, at a minimum:

- Cross redemption of online and instant tickets;

- Scanning of ticket bar codes via the terminal scanning device;
- Notification to Retailers for authorization to pay and generate a pay receipt;
- Other appropriate validation status messages to Retailers as may be determined by the Corporation;
- Automatic generation of an exchange/replacement ticket for remaining draws if the ticket is a multi-draw or advance draw ticket; and
- Inquiry capability for online and instant ticket — instant ticket inquiry may be restricted to privileged terminals, as determined by the Corporation.

#### **5.1.1.3 REQUIRED SYSTEM INTERFACES**

The Successful Vendor will be required to receive and process instant ticket game inventory data from the instant ticket vendor on a daily, or more frequent, basis. Additionally, the Successful Vendor will be required to provide instant pack status data and certain Retailer maintenance data to the Corporation and instant ticket vendor on, at a minimum, a daily basis.

Vendors must describe how they expect to accomplish these interface requirements, and detail all control and security procedures to ensure the data integrity between the two systems.

#### **5.1.1.4 INCIDENT REPORTS**

The Successful Vendor will be required to provide an incident report to the Corporation's President or his designee within twenty-four (24) hours of the occurrence of a system incident (an "**Incident Report**"). Incidents include, but are not limited to, any system issue impacting sales, redemptions, validations, reporting, check writing, system down or any other degraded performance of the gaming system. An Incident Report will include the following information:

- Prepared by (typically the Vendor's Operation Manager);
- Date of incident;
- Time of incident;
- Duration of incident;
- System impacted;
- Vendor escalations, including identification of Vendor personnel notified of issue;
- Lottery notified, including identification of designated Corporation point of contact;
- Time of notification;

- Vendor service ticket number;
- Initial description of incident;
- Incident root cause;
- Impact, specifically who or what was impacted;
- Current status;
- Short term solution; and
- Long term solution.

If the Vendor cannot identify a long term solution within twenty-four (24) hours of the occurrence of a system incident, the Vendor will include in the Incident Report the steps the Vendor is taking to ensure that a long term solution is identified. Upon the Vendor's identification of a long term solution, the Vendor will supplement the Incident Report with the long term solution, and the Incident Report will be considered final.

#### **5.1.1.5 DISASTER RECOVERY PLAN**

Availability of the gaming System is of utmost importance to the Corporation. It is critical that Vendors be able to quickly recovery from any condition resulting from loss of System availability or communication to our Retailers.

Vendors must describe in detail how they expect to recover from any system and/or communications failures, including the expected responsibilities of the Corporation in plan administration. The plan must include the recommended frequency for testing and the method by which the results will be communicated to the Corporation.

#### **5.1.1.6 ADDITION AND MODIFICATION OF GAMES**

The Successful Vendor will add, modify and provide traditional online lottery games to the Corporation for testing within one hundred twenty (120) days of mutual agreement on specifications, or as otherwise mutually agreed in writing.

### **5.1.2 TERMINALS, PERIPHERALS AND SUPPORT**

#### **5.1.2.1 RETAILER OPERATED TERMINALS**

The terminal models proposed shall be of a size and appearance that will ensure Retailer acceptance. The terminals must be new and certified by an approved laboratory such as Underwriters Laboratories. The terminals also must use open system architecture standards and industry standard communication protocols. Each terminal must have an easily operated keyboard or interactive touch screen to allow for sales, the validation and cancellation of online tickets, all instant ticket sales functions and accounting and must print reports. All terminals must allow for fixed length tickets only.

The display screen of each full range terminal must be large enough to display an entire transaction, and each terminal must provide the following features: password protection, key lock (or equivalent), selective receipt of broadcast messages, and sufficient keys to provide for at least the following functions:

- Game selection (at least ten (10));
- Play type;
- Play amounts to accommodate common wager amounts;
- Cash;
- Cancel;
- Repeat/bulk print;
- Advance day of week and multiple draws advance;
- Report;
- Reprint (last of any transaction);
- Subtotal/total;
- Terminal function test key;
- Quick-pick;
- Clear;
- Training mode help;
- Promotions; and
- Bar code and UPC scanning capabilities.

Each full range terminal must accept manual wagers and play slip transactions. Play Slip Readers should allow for the optical scanning capability.

All terminals must validate online and instant tickets.

All terminals must include audio sound alert functionality or other options for alerting players presenting tickets for validation that their ticket is a winner. Retailers must not have the capability of disconnecting, eliminating or reducing the volume of the winning alert system.

Each terminal must have an LED or electronic display unit provided by the Successful Vendor to display winning numbers and jackpot amounts to the player. In addition, the player must be able to see the purchase price and amount won from each terminal.

The Vendor must provide the bar code and PC scan/read rates for their proposed terminal scanning/reader devices and the bar code symbologies the device supports.

The Corporation will consider other options or features proposed that will enhance Retailer acceptance and use.

Retailer terminals must also accomplish the following instant game transactions: pack receipt/confirmation, pack activation, pack settle settlement, pack returns (full and partial) inventory reports and real time "TOP Prize remaining" report

that include top level prize remaining for each instant game and that has the capability of feeding the real time information directly to the Website.

#### **5.1.2.2 FULL SERVICE VENDING MACHINES**

A Vendor's Proposal must include a plan to provide, install, and maintain a minimum of three hundred (300) new compact unit, full product, self-service twenty (20) bin vending machines with sales tracking capabilities at Retailer locations.

This response should provide a plan for using these machines to help achieve the Corporation's sales goal.

A start-up plan to ensure that instant tickets will be sold on or before December 1, 2019 must be provided.

Recommended vending machine specifications must be provided with the Proposal.

All vending machines provided by the Successful Vendor for the use of Retailers will include a light emitting diode ("**LED**") message display unit or equivalent type messaging unit. Vending machines must be provided to the Corporation on an "as-needed" basis as Retailer locations are established and will not be ordered until such time as Retailer locations are established.

#### **5.1.2.3 LOTTERY MANAGEMENT TERMINALS**

The Vendor must provide an appropriate level of management terminals or management terminal-level access to Corporation staff as will be required to perform gaming-related and back-office management related activities. These will include at a minimum one (1) each at the primary and hot backup sites for Corporation personnel use and one (1) at each of the three (3) Claim Center Offices and the Corporation headquarters to be staffed by the Corporation. The Corporation must have printing capability from all management terminals, but those located at the prize payment offices must have dedicated printers and include check-writing capability with a secured signature card.

Game management features should include, at a minimum, the following:

- Entry and confirmation of winning numbers;
- Online capability to select, sort, view and list a detailed transaction listing;
- Selectively enable or disable any or all Retailer terminals' capability to sell, cancel, validate or cash tickets; and
- Selectively broadcast messages from the central system.

Back-office management features should include, at a minimum, the following:

- Application tracking and contracting;
- Retailer master file maintenance;
- Retailer account, including adjustments; and
- Instant game management, including game start/end, pack status changes, inventory accounting and ticket validation activities.

#### **5.1.2.4 TECHNICAL AND OPERATIONAL SUPPORT**

For the life of the Contract, the Successful Vendor shall provide technical support in the form of consultation, answering questions, assistance in diagnosing problems and providing additional hardware or software capabilities as requested by the Corporation. The Vendor shall specifically describe its plan for providing this support including staff resources and physical location.

#### **5.1.3 GAMING SYSTEM COMMUNICATIONS NETWORK**

The communications network and equipment is to be provided by the Successful Vendor and the installation and operating costs for required connectivity shall be part of the base price. The communications network must support data communications between all computer sites (primary, back up and Corporation headquarters), online and instant game Retailer locations, the Claim Center Offices, the sales kiosk (to be located at Corporation headquarters), and the instant ticket packaging warehouse. The Retailer's normal business line and telephone equipment will be excluded from the base price.

The Successful Vendor must take the appropriate security measures to prevent unauthorized access to the network. The Corporation reserves the right to assume control of the network at any time during the Contract period.

The Vendor should describe the recommended communications network that best meets the overall objectives of this RFP.

Vendors must provide a network design. The Corporation expects Vendors to be creative in network design in order to allow for maximum flexibility, growth, throughput and cost effectiveness. Vendors must explain the network and its cost benefits to the Corporation in clear detail. The proposed communications network must be operational in an existing lottery jurisdiction.

Vendors will be responsible for implementing, monitoring and operating all elements of the network.

Vendors will provide the dedicated communications connection to all online Retailers.



Vendors will be responsible for coordinating interactions among any network providers and contractors that would be involved in the implementation of the network.

Vendors must describe a functional communications network that will handle the immediate needs of the System and accommodate the anticipated growth in the Retailer network. The network must be designated to meet the needs of the online terminals and to connect all network devices to the primary data center as well as the hot backup site.

#### **5.1.4 ONLINE SYSTEM DEVELOPMENT AND SUPPORT**

The Successful Vendor will be responsible for maintaining and modifying the System software once it becomes operational and for developing future software at the request of the Corporation. The Corporation requires a minimum of one (1) full-time, on-site gaming system programmer and one (1) full-time lottery back-office management system programmer for the duration of the Contract. The cost for this support must be included in the overall price.

A Vendor must describe its software change management approach to ensure the quality and data integrity of its software applications, including, at a minimum, its acceptance testing methodology and software change documentation procedures.

#### **5.1.5 LOTTERY BACK-OFFICE MANAGEMENT SYSTEMS**

The Corporation will require the online Vendor to provide the following lottery back-office management systems, to encompass both online and instant game activities.

##### **5.1.5.1 RETAILER APPLICATION AND CONTRACT TRACKING SYSTEM**

The Successful Vendor's System must track and monitor incoming Retailer applications. Describe the functionality and operations regarding this requirement.

##### **5.1.5.2 RETAILER MASTER FILE**

The Successful Vendor will be required to include a Retailer master file as part of its System, consistent with Corporation's anticipated Retailer types. Describe the functionality and maintenance of this file.

##### **5.1.5.3 PRIZE VALIDATION AND PAYMENT SYSTEM**

The Successful Vendor will provide a prize validation and payment system that will enable designated staff to validate and pay prizes of all values for both online and instant games. These functions are to be operated by the Corporation's staff at its headquarters (for prizes of all values, including grand prize annuity payments) and at three (3) Claim Center Offices and one (1) kiosk (for prizes valued up to \$249,999.99). For prizes paid of \$600 or more, Corporation prize checks will include IRS Form W-2G. Check printers and maintenance will be provided by the Successful Vendor.

Pursuant to Section 23 of the Act, the Corporation must withhold from prizes claimed any (i) outstanding child support arrearages; (ii) delinquent debt as submitted by any "claimant agency" under *Miss. Code Ann. §§ 27-7-501 et seq.*; and (iii) outstanding debts owed to the State of Mississippi.

The Corporation requires the following prize payment related functions:

- Validation and payment of "normal" prize claims;
- Validation and payment of grand prize annuity claims;
- Payment of prizes previously validated by Retailers but not paid to players;
- Payment of prizes for tickets legitimately sold within a partially stolen or returned pack; and
- Payment of prizes with a debt setoff.

A Vendor's Proposal must describe how each of these related processes would be accomplished in its System. Describe the equipment and operational steps required, screens and reports available, data retention periods and internal controls inherent in using the System. Describe how the System handles paying multiple prizes to one player. Describe how the System interfaces with the online and instant validation files to ensure the prize payment is legitimate. Describe how periodic annuity payments are tracked and controlled. Discuss the recommended check printer with secured signature plate, its (technical) capacity, useful life, required maintenance/replacement plan, etc.

The Successful Vendor's System must ensure that tickets input for validation, of all types, are legitimate prior to payment. The Corporation prefers a two-step process whereby one person first validates the prize and a second person pays/prints the prize check. Prize validation staff can perform both steps (validate and pay), but not within the same prize claim. Payments, other than for "normal" prizes, should ideally require systematic authority to "pay." Describe the controls in place to ensure that all tickets which are validated, are subsequently paid, and that they are paid only once.

#### **5.1.5.4 RETAILER ACCOUNTING BILLING SYSTEM**

The Successful Vendor will be required to provide a Retailer accounting and billing system for online and instant ticket activities that, at a minimum, provides for the following capabilities:

- Retailer ability to obtain daily, weekly and previous week billing activity at the terminal level, including all related online and instant sales, cashes, commissions and adjustments;
- Retailer ability to review and print the instant ticket pack level detail for packs in confirmed, activated or settled status within an accounting week;

- Corporation staff ability to inquire on variety of search criteria, such as billing week, Retailer number, date range, etc. and to print detailed and summary statements for both individual Retailers and corporate accounts for current and up to fifty-two (52) prior accounting periods;
- Corporation staff ability to enter debit and credit adjustments to a Retailer's account;
- Corporation staff ability to review and print deferred instant ticket liability (instant tickets activated but not yet settled, less commissions) activity for a specific Retailer or a group of Retailers for any date range within fifty-two (52) prior billing weeks;
- Creation of a Retailer statement file in an XML format or other customized format as the Corporation may require from time to time. The Corporation is very interested in electronic transmissions of Retailer billing statement information; and
- The System is required to produce a weekly Electronic Funds Transfer ("EFT") file for processing of funds to/from Retailer bank accounts by the Corporation. The System should have the ability to produce an EFT transaction file for all or specific Retailer(s) on a weekly as well as daily basis. The System must allow for verification and auditing functions to be performed by the Corporation before releasing transactions to/from the bank.

Provide details in this Section as to how the proposed software will accomplish Retailer accounting, billing, and funds transfer. Describe its ability to interact with other system modules. Describe the basic operator requirements to accomplish each, including screens and menus, if applicable.

#### **5.1.5.5 IRS TAX REPORTING SYSTEM**

The Successful Vendor will be required to provide the data files necessary to meet annual IRS tax reporting and remittance requirements. Describe this process and any required Corporation intervention.

#### **5.1.5.6 INSTANT GAME FILE MAINTENANCE**

The Successful Vendor will be required to load instant game related files to the System. These files will include at a minimum, game start/end parameters, prize validation information, pack information and periodic file updates to be received no less frequently than daily from the instant ticket vendor.

The System must be able to provide pack status history information.

#### **5.1.5.7 MANAGEMENT REPORTS**

The Corporation is seeking ways to utilize the data that will exist on the System for purposes of enhanced management reporting capabilities.

A Vendor should describe in detail its proposed System reporting tool and capabilities to provide efficient and effective management reporting capabilities. The proposal should address hardware and reporting functionality.

#### **5.1.6 INTERNAL CONTROL SYSTEMS (ICS)**

The Corporation will procure a third party internal control system (“ICS”). The Successful Vendor is required to provide a near real time transaction data feed from the central gaming system to the lottery ICS. This feed must occur at a minimum every sixty (60) minutes and at draw close for online games. The transmission protocol will be mutually agreed upon by the Successful Vendor and the ICS vendor and approved by the Corporation. The Successful Vendor is required to provide space to co-house a backup to the ICS system at the facility where the backup gaming services are located.

### **5.2 OPERATIONAL SERVICES**

The Successful Vendor will have certain operating responsibilities, while the Corporation will retain overall management and guidance of the entire gaming operation. Those functions for which the Successful Vendor, at its own cost, will be directly responsible, and which should be addressed in the Proposal, are as follows:

#### **5.2.1 RETAILER TRAINING**

When a new Retailer is approved, the Successful Vendor must provide a comprehensive classroom training program in the use of appropriate Retailer terminals as well as training on both the online and instant products. The Successful Vendor will also be responsible for retraining Retailers at the request of the Corporation. Describe your training program, including, but not limited to, the start-up period. At a minimum address the following:

- Numbers of people per session;
- Length of training;
- Method of delivery;
- Procedure for tracking attendance;
- Ongoing training sites;
- Number of training sites;
- Number of start-up training sites and location with a goal that no Retailer should travel more than two (2) hours;
- Who will deliver the training (Successful Vendor or outside source); and
- Provide a sample Retailer manual with binder to be issued to each Retailer.

#### **5.2.2 CORPORATION STAFF TRAINING**

The Successful Vendor will be responsible for training the Corporation sales and administrative staffs in the use of all Retailer terminals. Describe your training program, including but not limited to the start-up period. At a minimum address the following:

- Retailer terminal operation;
- Prize payment;
- Retailer master file maintenance;
- Retailer accounting;
- Prize liability monitoring; and
- Provide a user manual for Corporation staff.

### **5.2.3 EQUIPMENT MAINTENANCE AND SUPPLIES**

The Successful Vendor must establish procedures for the maintenance and repair of the central system hardware, network, printers, Retailer operated terminals, claims terminals and management terminals. The Successful Vendor is required to have sufficient staffing levels to cover repair and maintenance functions of an anticipated load of fifteen hundred (1,500) to seventeen hundred (1,700) full service online terminals at start-up with a growth capacity of up to three thousand (3,000) full service online terminals, up to three thousand (3,000) color monitors and three thousand (3,000) player activated ticket checkers. The number of terminals in operation will vary from start-up until the lottery is fully operational. The Successful Vendor must provide staffing support that is appropriate for the number of terminals in operation at all times. The Successful Vendor will be required to respond to all service requests within two (2) hours in metropolitan areas and within five (5) hours in non-metropolitan areas within the State, as determined by the Corporation. The Successful Vendor will also be responsible for providing all supplies the Corporation and all active Retailers including but not limited to, ticket stock, ribbons, play slips, play stations, pens, pencils and neon or equivalent signs. Cash drawers are to be furnished at a cost to the Retailers. Describe your experience with and provide a detailed proposed plan and the approach you would use to handle this function. Include the following:

- The staffing levels, including during start-up of the System and online lottery games;
- The staffing levels for covering the repair functions;
- The planned location of staff; and
- Repair functions that might be handled by the Corporation's marketing representative and the training required.

### **5.3 MARKETING SUPPORT**

The Corporation will require the Successful Vendor to play a significant role in its marketing program. On an ongoing basis, it will be responsible for providing marketing support for all current online games, as well as for conducting research on possible future games and making

recommendations for the Corporation's approval. At the request of the Corporation, the Successful Vendor will be involved in the development, maintenance and growth of the Retailer network including recruitment support and will also be responsible for suggesting possible incentive programs for online game products. The Successful Vendor will also evaluate sales data, the development of trend analysis and the implementation of programs in response to that data. The Corporation will require the Successful Vendor's corporate marketing group to meet with Corporation personnel no less frequently than quarterly. Describe your expertise in this area and your proposed approach to this function.

The Corporation will require the Successful Vendor to maintain a marketing budget in the amount of Thirty-Five Thousand Dollars (\$35,000.00) annually to be utilized for general marketing purposes approved by the Corporation, including but not limited to expenses associated with Retailer conferences.

In order to assist the Corporation in responding to changes in the industry and the demands of the marketplace, a Vendor should describe its approach to the expanding industry including, but not limited to, the following:

- In-lane ticket sales; and
- New game development (including your existing library of games).

### **5.3.1 HOTLINE SERVICES**

The Successful Vendor will be required to provide a Retailer hotline for purposes of receiving and responding to inquiries and requests from Retailers. The hotline will be housed at the Successful Vendor's main data center. Describe your approach to this function.

A Vendor's Proposal must address how the hotline services will be staffed and managed to ensure timely, professional and accurate responses to all calls, especially during the start-up period.

The hotline should include, at a minimum, the following features:

- Telephone call management equipment must be capable of handling all incoming calls on toll-free circuits. If all circuits are busy, a pre-recorded message must be played and the calls must be queued.
- The call management system must be able to create statistical reports, to be made available to the Corporation upon request.
- The system must allow for recording and monitoring capabilities by the Vendor and/or the Corporation staff.
- Hotline equipment must have display of line and drop status allowing the hotline operator to see if a line is operational, if a drop or line is down, and if a Retailer is signed on or not signed on.

- Hotline staff must be trained to perform diagnostic tests to determine network communications, Retailer or terminal problems.
- The Corporation will maintain a separate hotline for Retailer accounting problem resolution. The Successful Vendor will be responsible for the communications costs for both lines and must indicate how the two systems will interface. The Corporation will consider a single toll-free circuit that will allow Retailers to choose their call destination.

### **5.3.2 CORPORATE ACCOUNTS**

A Vendor's Proposal should address how it will cooperate with the Corporation's corporate account personnel and describe special procedures that will be available to facilitate their marketing and accounting needs. Vendors must provide Retailers access to all accounting functions on a specially designed, Retailer-specific website.

### **5.3.3 RETAILER RECRUITMENT**

Discuss the role of the Successful Vendor in Retailer recruitment and the designation of Retailers for online sales. While the Corporation will maintain control over the contracting function, the Successful Vendor will be expected to become involved in the maintenance and growth of the Retailer network including recruitment of certain designated Retailers and research, recruitment, development and maintenance of Retailers for niche games.

### **5.3.4 TICKET STOCK AND PLAY SLIPS**

The Successful Vendor will provide the ticket stock and play slips for the terminals. The ticket stock must be a premium, top coated, high sensitivity, gaming ticket grade. The requisite specifications are set out in *Attachment F* made a part hereof. Tickets will be a fixed length of 4.66 inches. Describe the size, readability/accuracy rate, etc. of the play slips proposed and provided.

The Act mandates, and the Corporation shall require as part of any contract for the production or printing of lottery tickets, that all tickets printed by the Successful Vendor pursuant to the Contract contain the toll-free telephone number of any state or national organization that provides information and referral services regarding compulsive or problem gambling, as approved by the Corporation.

### **5.3.5 PLAY STATIONS**

The Successful Vendor will be responsible for the purchase, delivery and installation of a play station unit at each approved Retailer location with a maximum of five thousand (5,000) over the term of the Contract.

The Successful Vendor will be responsible for maintenance and repair of the play stations.



- Each play station shall include storage for materials, an area to display posters, winning numbers and related lottery information, space for play slips, brochures and pencils and space for customers to complete play slips.
- A sketch or photograph of the unit proposed for use must be provided.
- Vendors must describe the materials to be used in the construction of the unit, i.e., plastic, wood or metal.
- The Successful Vendor will be required to provide Retailers with a supply of pencils or writing instruments for the completion of play slips.
- The Corporation reserves the right to approve the design of the play station, including the colors.

### **5.3.6 ELECTRONIC DISPLAYS**

The Successful Vendor must provide electronic displays for terminals. The Successful Vendor will be responsible for delivery and installation of these electronic displays at each approved online Retailer location, as needed.

### **5.3.7 LED OR EQUIVALENT SIGNS**

The Successful Vendor will be responsible for the purchase, delivery, installation, maintenance and repair of an LED sign or equivalent at each approved online Retailer location. A sketch or photograph of the unit proposed for use must be provided. The Corporation reserves the right to approve the design and colors of the sign.

## **5.4 SECURITY PLAN**

The Corporation will require the Successful Vendor to maintain a security program that protects the integrity of the transaction processed and protects the physical environment that houses the system's software and hardware components.

A Vendor should describe in detail its approach to ensure that these security control objectives will be met. The Corporation will require the Vendor to have an annual Statement of Auditing Standards (SAS) No. 7 Third Party Controls Review performed at the Vendor's expense by an independent CPA firm to be selected and approved by Corporation.

The plan approach should address, at a minimum, the following:

- Physical security of all facilities;
- The security features of the System proposed;
- Employee security, including background checks of officers, employees and subcontractors;

- Game security, including online game security controls and instant ticket validation controls. At a minimum, the game security features and controls should include:
  - Pool summary data immediately following pool closing;
  - At game cutoff, create a report (printed or electronic) at the management terminals showing (a) time of day, (b) net game pool and (c) total of wagered numbers;
  - Online ability for Corporation to select, sort, view and list a detailed transaction listing;
  - The ability to establish and monitor liability limits for fixed payoff games and initiate the cut-off of wagering as required;
  - All records time stamped to the nearest second;
  - Only completed transactions are recorded on the System;
  - Transactions cannot be duplicated;
  - Tickets cannot be duplicated on terminal equipment;
  - Control of access at file and application levels;
  - All commands executed by System operators and any System warning or problem messages must be logged immediately on a numerically sequenced console log file, a copy of which will be provided daily or more frequently as required by the Corporation;
- Security features and control of ticket stock;
- Adequate organizational segregation of duties;
- Restriction of access to gaming system processing functions, files and programs to authorized users only;
- Physical security restrictions to preclude unauthorized persons from accessing data center site or operations;
- Development of control procedures for software change management and documentation, including updating of service and operational manuals, written procedures and updating of the source code maintained in an escrow account;
- Development of data security requirements, including data encryption, transaction logging with time stamp, terminal and central system re-send and ticket printing confirmation;
- Ensuring that every transaction is written to at least three (3) media before authorization is given to print the ticket, which includes the primary and secondary central systems and the hot backup system at the alternate site;
- Requiring the use of User ID/password for access to authorized software and related programs residing in the terminals and management workstations, and to

provide an audit trail of sign-on attempts and successes on non-erasable/modifiable magnetic media;

- Use of validation algorithms for inquiry, validation and reporting on any winning wagers;
- Serial number encryption for external serial numbers printed on the tickets;
- Establishment of an escrow account for storing of software source code offsite; and
- Establishing appropriate network security firewalls to prevent unauthorized access to the gaming or communications network, and to monitor and prevent viruses from attacking the system.

## **5.5 MULTI-STATE GAMES**

Vendor shall meet and be in compliance with all Security and Integrity requirements of both the Multi-State Lottery Association/Powerball Game Group and the Mega Millions Consortium, as well as the requirements for any other multi-state games desired for implementation in the State of Mississippi by the Corporation.

## **5.6 TELEMARKETING AND TICKET ORDERING AND INVENTORY CONTROL SYSTEM**

The Successful Vendor will provide a Customer Relations Management System that includes telemarketing and ticket ordering software and systems. Telemarketing sales and ordering functions will be handled by the Corporation employees. The Proposal should describe, at a minimum, how the software accomplishes the ticket order entry processing for:

- Inventory distribution management;
- Retailer initiated orders;
- Emergency orders;
- Reissues of returned packs;
- Capability to restrict a Retailer from ordering;
- Tracking and confirmation of pack deliveries;
- Real-time monitoring of warehouse inventory;
- Initial allocation for new games;
- Sales and account information available to telemarketers;
- Other reporting capabilities; and
- Call features and scheduling.

At a minimum, the System must have the capability to perform as follows:

- Handle all instant ticket processes and functions from any instant ticket printer;

- Accept and process ticket inventory data files produced by one or more secondary instant ticket vendors for up to eight (8) instant games a year for purposes of warehousing and distribution to Retailers;
- Create and provide inventory data files of packs ordered, distributed and returned for transfer to the online gaming system on a daily, or more frequent, based as determined by the Corporation;
- Accept and process ticket inventory data files (i.e., pack statuses, etc.) and Retailer file maintenance data files from the online gaming system on a daily, or more frequent, basis as determined by the Corporation;
- Allow the creation of ad-hoc reports online, and to print certain reports as may be desired by the user; and
- Restrict system access to only authorized Corporation staff and others as approved by the Corporation.

A Vendor must describe in its response the following:

- How the system will allow the Corporation staff appropriate access via proposed hardware/software communication configuration to the software applications;
- A proposed plan for interfaces between the instant inventory system and an online gaming system;
- A proposed backup system plan to ensure little or no interruptions of services, and the business recovery plans to return to normal processing; and
- The proposed security plan including system software (i.e., passwords, data transfer integrity, etc.) and physical controls.

## **5.7 OTHER REQUIREMENTS**

A Vendor must list in this Section other significant services, procedures, materials, supplies, programs, policies, equipment, facilities, etc., necessary for the successful daily operational aspects of the System, even though there are no specific requirements for those items listed in this RFP. The Successful Vendor is not released from the responsibility of providing all needed items to make the System successful.

## **PART VI - COST**

### **6.1 INTRODUCTION**

The Corporation will offer a compensation package that is based on a percentage of “**Net Sales**” (as defined in Section 6.3). A Proposal must meet both the immediate and long-term needs of the Corporation. Therefore, the object of this RFP is to develop a program of compensation that rewards the Successful Vendor for excellent performance while ensuring that the Corporation

will achieve its desired goal regarding start-up of the lottery, including the maximization of net proceeds of total annual gross revenues accruing from the sale of lottery tickets (after payment of prizes to the holders of winning lottery tickets and payment of costs incurred in the operation and administration of the lottery) to the Lottery Proceeds Fund and an integrated lottery System with online lottery game operations and operating efficiency.

## **6.2 PRICING FORMULA**

The method of compensation that will be utilized is a percentage of total Net Sales achieved by the Corporation during the term of the Contract. A Vendor must state the percentage of total sales required for compensation to accomplish the tasks specified in the Proposal. The single cost quotation should be presented on a separate, signed page and be expressed as a numeric percentage of Net Sales carried to no more than four (4) decimal places. For example, 1.0000%.

Vendors are reminded that the cost quotation should cover all of the Systems, products and services covered and required by this RFP and Procurement, as well as other services deemed necessary by the Vendor, to be provided by the Successful Vendor during the full term of the Contract, as may be extended pursuant to Section 3.8.

ALL PRICES QUOTED ARE APPLICABLE FOR TEN (10) YEARS FROM THE STARTUP DEADLINE OF DECEMBER 1, 2019 OR SUCH EARLIER START-UP DATE AS MAY BE AGREED-UPON BY THE CORPORATION.

Each Vendor shall assume in its pricing the use of its top-of-the-line terminal. If a Vendor would like the Corporation to consider some other option, please so indicate as an alternative and additional proposal.

## **6.3 DETERMINATION OF NET SALES**

At the end of each full week of sales after start-up, total Net Sales during the calendar week (or since start-up for the first week) will be calculated to determine the amount subject to compensation. The following factors will apply:

- Instant ticket sales shall be equal to the total number of tickets activated during the week, less any tickets returned.
- For instant games that include "free ticket" prizes, the sales calculation will be reduced to reflect actual sales revenue.
- Total sales will be reduced by the number of defective instant tickets returned or stolen tickets reported by Retailers during any given week.
- Online games shall be equal to all tickets sold during the week, less any tickets cancelled.
- When sales are the result of advance purchases, the amount of advance purchases shall be counted as sales in the weeks when the purchase occurred.

- Total sales will be reduced by the number of promotional tickets issued by the Corporation in any given week.

#### **6.4 PAYMENT**

Upon determination of the amount due to the Successful Vendor for any week, payment (less applicable damages and penalties which may be deducted) will be processed in an expedited manner. Vendors may propose any alternative methods or schedules of payments, which will be considered during Contract negotiations with the Apparent Successful Vendor.

#### **6.5 PROGRAM ENHANCEMENTS**

The Successful Vendor may be requested by the Corporation to perform tasks, provide equipment or otherwise perform in a manner that was not originally contemplated in the Contract. By mutual agreement, those functions may be performed for a specific fee to be mutually agreed upon. This procedure is not intended to avoid a competitive solicitation for goods and services that might appropriately be provided by other potential suppliers. However, the Corporation may decide to separately procure any option not covered in the Successful Vendor's Proposal. The Successful Vendor will provide enhancements to the instant tickets system and the Corporation's back-office management system to the Corporation for testing within one hundred twenty (120) days of mutually agreed upon specifications or as otherwise agreed in writing.

The Corporation anticipates participating in promotional events throughout the State of Mississippi. Describe your solution to provide portable terminals for these events.

As part of the basic compensation that has been proposed by the Successful Vendor, all items represented in the Proposal must be provided for unless specifically identified as options. If programs, equipment or services represented in the Proposal are not clearly indicated as options, the Corporation will rightfully assume that the cost is included in the percentage of Net Sales quotation in the Proposal.

#### **6.6 SUBMIT COST PORTION OF PROPOSAL SEPARATELY**

All copies of the cost portion of a Proposal required under this Part VI must be submitted in sealed and labeled envelopes separate from the information required by Parts IV and V of this RFP. Any Proposal which fails to adequately separate the cost portion of the Proposal from the other information required by this RFP may be considered non-responsive and rejected by the Corporation.

## ATTACHMENT A

### VENDOR CERTIFICATION

#### ONLINE SERVICES AND LOTTERY GAMING SYSTEM AND SERVICES

I hereby do certify as follows:

1. the initial prices and other terms and provisions included in the Proposal submitted by \_\_\_\_\_ (the “**Proposing Vendor**”) are accurate and binding for 180 days from the Proposal due date (the “**Proposal Offer Period**”);
2. all charges are, to the best of my knowledge, accurate and complete;
3. the Proposing Vendor acknowledges and agrees that this Proposal will be considered valid and irrevocable for the Proposal Offer Period and, if an award is not made within the Proposal Offer Period or if a Contract with the Successful Vendor is for any reason not executed within the Proposal Offer Period, it shall be incumbent upon the Proposing Vendor to notify the designated contact person identified in Section 2.1 of the RFP in writing if it does not want its Proposal to be further considered beyond the Proposal Offer Period (i.e., in the event of a breach or termination, the Corporation may decide to return to the remaining Vendors’ Proposals). Failure on the part of the Proposing Vendor to notify the designated contact person identified in Section 2.1 of this RFP will mean that its Proposal remains valid even after the Proposal Offer Period;
4. the cost and other terms and provisions contained in the Proposal accurately reflect the Proposing Vendor’s total proposed cost, including any applicable discounts, and the Proposing Vendor would deliver the services and related items for that amount and according to those terms and provisions if the Corporation wanted to accept the prices and other terms and provisions described in its Proposal without negotiation;
5. all inquiries to the Corporation and other pre-Proposal review and evaluation efforts have been completed and that no extra costs or payments to any entity, including this Proposing Vendor, will be allowed for any miscalculation, deficiency, oversight and failure to make suggestions regarding possible additional needs for desired features, or any other difference in cost if later discovered;
6. by submission of this Proposal, the Proposing Vendor agrees to fully comply with all requirements of the RFP, and its separate parts, and any deviation noted in the Proposing Vendor’s submission may be the basis for rejection of its Proposal by the Corporation without recourse;
7. the Proposing Vendor has read and understands the Act and all of the requirements contained in the RFP and any amendments thereto, the responses to written questions submitted by Vendors and its Proposal, and agrees to be bound by all the terms and conditions contained in each of these documents, without exception;



8. the Proposing Vendor has taken appropriate steps to completely and fully familiarize itself with the requirements of the RFP in order to render full performance under any resulting relationship between the Corporation and Proposing Vendor; and
9. the Proposing Vendor had the opportunity to submit written questions regarding the RFP and thereby address any concerns related to the RFP, and therefore, the Proposing Vendor has availed itself of every opportunity to understand its obligations contained in the RFP and any amendments thereto, the response to written questions and the Proposal.

---

(Signature of Authorized Representative)

---

(Print Name)

---

(Title)

---

(Date)

**ATTACHMENT B**

**PROPOSAL SIGNATURE AND CERTIFICATION**

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Proposal for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and federal law and can result in fines, prison sentences and civil damage awards. I understand and agree to abide by all conditions of the RFP and this Proposal and certify that I am authorized to sign this Proposal for \_\_\_\_\_ (name of company submitting Proposal).

Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

## ATTACHMENT C

### CONTRACT COMPLIANCE AND FINANCIAL DISCLOSURE FORM

Note: For any subcontractor that will provide some portion of the specifications of this RFP (a “**Subcontractor**”), disclose all the same information for each Subcontractor as if each Subcontractor were itself the Vendor. In addition, disclose all of the same information for each member of a joint venture, a strategic partnership or a prime contractor team as if each such joint venturer, strategic partner or member of a prime contractor team were itself the Vendor. (Vendor and all members of a joint venture, a strategic partnership or a prime contractor team are sometimes herein referred to as “**Vendor Team**”).

[These pages may be copied and used as needed]

#### PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Name of Business:
2. Type of legal entity and the state under whose laws the business entity is organized:
3. Address:
  - a. All prior addresses for the prior ten (10) years:
4. Telephone Number, including area code:
5.
  - a. List any trade names or assumed names used:
  - b. List all states where each name is or has been used:
  - c. Attach verification of authorization to conduct business in the State of Mississippi.

List the name, address, area code and telephone number, and social security number of the Vendor’s officers, directors and each stockholder if the Vendor is a corporation (in the case of a publicly-traded corporation, only those stockholders known to the corporation to own beneficially five percent (5%) or more of such corporation’s securities), as well as the same information for every business entity that is a direct or indirect five percent (5%) or greater shareholder of such Vendor corporation; if the Vendor is a limited liability company, the equivalent disclosure of that required for corporations; if the Vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust; if the Vendor is an association, the members, officers and directors; if the Vendor is a partnership or joint venture, all general partners, limited partners or joint venturers:

- a. Name:

Relationship to Vendor:

Address:

Telephone number, including area code:

Social Security number:

b. Name:

Relationship to Vendor:

Address:

Telephone number, including area code:

Social Security number:

c. Name:

Relationship to Vendor:

Address:

Telephone number, including area code:

Social Security number:

7. Disclose all the states and jurisdictions (domestic and foreign) in which any member of the Vendor Team does business and the nature of the business for each such state or jurisdiction:

8. Disclose all the states and jurisdictions (domestic and foreign) in which any member of the Vendor Team has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and the nature of the good or services involved for each such state or jurisdiction:

9. List all states and jurisdictions (domestic and foreign) in which any member of the Vendor Team has applied for, sought renewal of, has received, has been denied, has pending, or has had revoked a lottery or gaming license or lottery contract of any kind, or has had fines or penalties assessed to his or its license, contract or operation and the disposition of such in each such state or jurisdiction. Include all facts or circumstances underlying the revocation or non-renewal of any lottery or gaming license or contract or any lottery or gaming license or application that has been either denied or is pending and has remained pending for more than six (6) months:

a. State:

Type of license:

Status of license:

Fines or penalties:

Circumstances:

b. State:

Type of license:

Status of license:

Fines or penalties:

Circumstances:

c. State:

Type of license:

Status of license:

Fines or penalties:

Circumstances:

10. For each member of the Vendor Team, if applicable, list the details of any finding or pleas, conviction or adjudication of guilt in a state or federal court, or in another jurisdiction, for any felony or any other criminal offense other than a traffic violation, including, but not limited to, felonies related to the security or integrity of a lottery:

Charge:

Date of proceeding:

Custodian of records concerning this proceeding:

Outcome of proceeding:

Charge:

Date of proceeding:

Custodian of records concerning this proceeding:

Outcome of proceeding:

11. For each member of the Vendor Team, if applicable, list the details of any finding or plea, conviction or adjudication of guilt in a state or federal court, or in another jurisdiction, of any charge or offense involving gambling, prostitution, theft, computer

offenses, forgery, perjury, dishonesty or for unlawfully selling or providing a product or substance to a minor:

Charge:

Date of proceeding:

Custodian or records concerning this proceeding:

Outcome of proceeding:

Charge:

Date of proceeding:

Custodian or records concerning this proceeding:

Outcome of proceeding:

12. For each member of the Vendor Team, if applicable, list the details of any bankruptcy, insolvency, reorganization, corporate or individual purchase or takeover of another business, including bonded indebtedness, or any pending litigation:

a. Filing or action:

Date of filing or action:

Court of filing or action:

Date of discharge if bankruptcy:

Pending litigation:

b. Filing or action:

Date of filing or action:

Court of filing or action:

Date of discharge if bankruptcy:

Pending litigation:

13. List the business entities that are a part of the Vendor Team, and list the Fiscal Years for each team member. Complete an Authorization for Investigation and Release for each (see *Attachment D*).

14. List all the individuals constituting the Vendor Team who will work on the Contract. Complete a Consent Form for each (see *Attachment E*).

15. Does the Vendor Team or any individual member thereof have an ownership interest in any entity that has supplied consultation services under contract to the Corporation regarding this RFP? If yes, please provide details.
16. Does any “public officer” or employee of such public officer have an ownership interest of five percent (5%) or more in any member of the Vendor Team? If yes, please provide details.
17. List any conflict of interest with the products, promotions and goals contemplated by the Corporation that could result from other projects in which the Vendor Team or any of the staff members designated to work on the project are involved. Failure to disclose any such conflict may be cause for Contract termination or disqualification of the Proposal.
18. List all lobbyists and consultants working on behalf of the Vendor Team in connection with this Proposal or any subsequent Contract.



**Certification**

I, \_\_\_\_\_, hereby certify that I am duly authorized to act on behalf of the Vendor and Vendor Team. In that capacity, I hereby certify that the Vendor and all members of the Vendor Team have filed appropriate tax returns as provided by the laws of the State of Mississippi. I further warrant that the information contained in this Contract Compliance and Financial Disclosure Form is true and complete, and acknowledge that a finding that it is not true or complete may result in a cancellation of the Contract.

I further certify that the Vendor and each member of the Vendor Team recognizes and acknowledges that there are certain limitations on their activities, now and in the future, including, but not limited to, limitation on certain political contributions, limitation of the ability to submit proposals, in response to subsequent request for proposals issued by the Corporation, limitation on the ability to purchase lottery tickets. The restrictions on the ability to purchase lottery tickets and entering into contracts or other arrangements apply to the employees of the Vendor and the members of the Vendor Team as well as the members of all such employees' households, and the Vendor and each member of the Vendor Team will enforce such restrictions upon its employees and subcontractors.

Date: \_\_\_\_\_ Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT D**

**AUTHORIZATION FOR INVESTIGATION AND RELEASE**

\_\_\_\_\_, hereby authorize the Mississippi Lottery Corporation or its designee to conduct a Vendor background investigation pursuant to Sections 35 and 26 of The Alyce G. Clarke Mississippi Lottery Law, including but not limited to the criminal and financial credit history of \_\_\_\_\_, and hereby release the Mississippi Lottery Corporation, its officers, Board of Directors, agents and employees and the State of Mississippi from any liability arising out of, in connection with or resulting therefrom. Further, I hereby release all organizations, individuals, agencies, and other employees and agents from any liability that may result from their furnishing such information and authorize all organizations, individuals, agencies and their employees and agents contacted by the Mississippi Lottery Corporation or its designee to provide such information. A photocopy of this release will be valid as an original thereof, even though said photocopy does not contain an original writing of my signature.

Business Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT E**

**CONSENT FORM**

I hereby authorize the Mississippi Lottery Corporation or its designee to request and receive any criminal history record information pertaining to me that may be in the files of any criminal justice agency.

\_\_\_\_\_  
Full Name Printed  
(First, Middle, Last – *no initials*)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Sex

\_\_\_\_\_  
Race

\_\_\_\_/\_\_\_\_/\_\_\_\_  
Date of Birth

\_\_\_\_\_  
SSN

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary

Date: \_\_\_\_\_

Date:

Notary

## ATTACHMENT F

### ONLINE PAPER SPECIFICATIONS

**Type:** Thermal, no ground wood allowed. No smudges, watermarks (other than logo patterns or border advertising as approved by the Corporation), embossed or printed patterns shall be present.

**Initiation:** 65.5° C (150°F)

**Functional:** 85°C (185°F)

**Image Intensity:** 5.2 @ 149°C (300°F), average (based on average BNL opacimeter readings).

**Basis Weight:** 20.0 ± 1.0 lbs. (75.20 ± 3.76 g/m<sup>2</sup>); Caliper target 0.0032 in. (0.08 mm).

**Caliper (Thickness):** 0.0030 to 0.0037 in. (0.08 to 0.09 mm).

**Reflectance:** The entire stock shall have a 75% minimum reflectance as measured with a Macbeth PCM II print contrast meter. The face side of the stock must be the thermal coated side.

**Dirt in Paper:** Not to exceed 10 parts per million.

**Smoothness:**

**Face Side (Thermal):** 65 maximum (Sheffield)

**Reverse Side:** 120 maximum (Sheffield)

**Stiffness:**

**Machine Direction:** 100 mg (Gurley) nominal

**Cross Direction:** 80 mg (Gurley) nominal

**Tear Resistance:** The tear resistance is performed using Elmendorf method per TAPPI T414om-88 on an average of no less than 10 measurements.

**Machine Direction:** 37-70 g (Elmendorf)

**Cross Direction:** 40-70 g (Elmendorf)

**Test Conditions:**

**Temperature:** 73.4 ± 1.8°F (23 ± 2°C)

**Relative Humidity:** 50 + 5%

**Durability:** Separate samples with black printed characters shall be exposed to the following durability tests for a period of 24 hours, except milk at 12 hours. The maximum reflectance of the black numbers shall not exceed more than 30% as processed on the Macbeth PCM II Optical tester using a barium sulfate plaque as 100% standard reflectance. Regions on the paper which have been blushed by the thermal printing process shall not have their reflectance increased to more than 30%, when measured by the Macbeth PCM II, when exposed to the following conditions. Regions on the paper which have not been blushed by the thermal printing process shall not have their reflectance changed by more than 5%, as measured by the Macbeth PCM II, when exposed to the following conditions:

- 50°C
- 40 watt fluorescent light, height 1.0 inch from the paper.
- Placed between two PVC sheets with a 15 lb. weight on top.
- Immersed in water at room temperature.
- Immersed in whole milk at room temperature.
- Coated with butter or margarine at room temperature.
- Coated with lanolin softeners at room temperature.

**Ticket Dimensions:** 5" fixed length and 3.5" fixed width

## LOTTERY GAMING SYSTEMS AGREEMENT

THIS LOTTERY GAMING SYSTEMS AGREEMENT (the "**Agreement**") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 (the "**Effective Date**"), by and between MISSISSIPPI LOTTERY CORPORATION ("**MLC**"), a corporation of the State of Mississippi, created pursuant to the Alyce G. Clarke Mississippi Lottery Law (*Miss. Code Ann. §§ 27-115-1 et seq.*) (as may be amended from time to time, the "**Act**"), and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_ (the "**VENDOR**").

### W I T N E S S E T H:

WHEREAS, MLC was created to organize and operate a state lottery in the State of Mississippi (the "**Lottery**");

WHEREAS, VENDOR, on behalf of itself and certain of its "**Subcontractors**" (as defined in Section 3(a) hereof) with which it will enter into contracts, submitted the proposal dated \_\_\_\_\_, 2019, attached hereto as Exhibit A and incorporated herein by reference (the "**Proposal**"), to MLC in response to MLC's Request For Proposals for Online Lottery Gaming System dated June 27, 2019, attached hereto as Exhibit B and incorporated herein by reference (the "**RFP**"), as interpreted by MLC's Answers to Questions concerning the RFP, which were published by MLC on \_\_\_\_\_, 2019, attached hereto as Exhibit C and incorporated herein by reference (the "**Answers**"); and

WHEREAS, subject to the terms and conditions hereinafter set forth, MLC desires to retain VENDOR to provide lottery gaming systems and services to MLC, and VENDOR desires to provide such systems and perform such services for MLC.

NOW, THEREFORE, for and in consideration of the premises, the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereto hereby agree as follows:

### 1. SERVICES

Subject to the terms and conditions set forth in this Agreement, MLC retains VENDOR to provide lottery gaming systems and services to MLC as contemplated by the RFP, the Answers and the Proposal, and VENDOR agrees to provide such systems and render such services to MLC.

### 2. DUTIES AND RESPONSIBILITIES OF VENDOR AND SUBCONTRACTORS

(a) VENDOR and its Subcontractors will work in conjunction with the President of MLC (the "**President**"), MLC staff, MLC Board of Directors (the "**Board**") and the other vendors, subcontractors, employees, agents, retailers and consultants of MLC. VENDOR and its Subcontractors will provide lottery gaming systems, equipment and services to MLC as detailed in the RFP, the Answers and the Proposal and will perform such specific

services and provide such deliverables and equipment as requested, from time to time, orally or in writing, by the President, his designee(s) or the Board, provided such services, deliverables and equipment are within the scope set forth in any of this Agreement, the RFP, the Answers or the Proposal. Except as otherwise set forth herein, VENDOR agrees that all systems, deliverables, equipment and services to be provided to MLC under this Agreement shall be capable of the full level of capacity and capability required by the RFP and the Answers.

(b) VENDOR, and its Subcontractors as requested from time to time, shall meet regularly with the President or his designee(s) and shall establish work plans, implementation schedules and timetables for completion as and when required by the President or his designee(s).

(c) VENDOR hereby agrees to use its best efforts to make available to MLC such of its employees and its Subcontractors as may be necessary or appropriate for the timely performance of VENDOR's obligations pursuant to this Agreement. No employee or agent of VENDOR or any of its Subcontractors shall undertake or participate in, during the term of this Agreement, any other engagement which will interfere with the completion of the work contemplated by this Agreement. VENDOR will provide to MLC, as requested from time to time, written reports of the names and work schedules of VENDOR's and the Subcontractors' employees who will be performing services pursuant to this Agreement.

### 3. **SUBCONTRACTORS**

(a) None of VENDOR or any Subcontractors will subcontract or otherwise assign any or all of its duties or obligations under this Agreement to any individual or entity without the prior written consent of MLC in each instance, which consent may be withheld in MLC's sole discretion. VENDOR will provide MLC with the name, qualifications, experience and expected duties of each proposed subcontractor under this Agreement each time it desires to retain a subcontractor. All subcontractors which are approved by MLC for work pursuant hereto will be defined collectively as the "**Subcontractors**" and individually as a "**Subcontractor**" and will become a subcontractor for purposes hereof and must execute such agreements or other documentation as may be necessary pursuant to the Act or as MLC may require. VENDOR agrees that it will obtain the prior consent of the President or his designee(s) prior to having any Subcontractor perform any activities for MLC under this Agreement.

(b) Upon the request of MLC, VENDOR will promptly provide MLC with copies of all subcontracts and other agreements entered into by VENDOR with respect to its obligations under this Agreement. No such subcontract or other agreement may contain any terms or conditions inconsistent or in conflict with the terms and conditions contained in this Agreement. In the event of any such inconsistent or conflicting provisions, such inconsistencies or conflicts will be resolved in favor of this Agreement.

(c) MLC shall have the right, at any time and from time to time, to instruct VENDOR not to use the services of any Subcontractor, individual or employee in connection with the

work to be performed for MLC under this Agreement, and VENDOR agrees to comply with all such instructions.

(d) Notwithstanding anything herein to the contrary, VENDOR will remain fully liable and responsible for all work to be performed under this Agreement, whether or not subcontracted to or performed by a Subcontractor or any other person or entity retained by VENDOR or under VENDOR's control, and VENDOR will ensure the compliance of its employees, and will exercise its best efforts to ensure the compliance of, and in any event be responsible for, Subcontractors and their employees with the terms of this Agreement, the Act and all other applicable laws which govern the performance of services pursuant to this Agreement and such other standards or policies as MLC may establish from time to time.

#### **4. INDEPENDENT CONTRACTOR.**

(a) Both MLC and VENDOR, in the performance of this Agreement, will be acting in their own separate capacities and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees, agents or partners of the other party for any purposes whatsoever. Neither party will assume any liability for any injury (including death) to any persons, or any damage to any property or other claim arising out of the acts or omissions of the other party or any of its agents, employees or subcontractors. It is expressly understood and agreed that VENDOR is an independent contractor of MLC in all manners and respects and that neither party to this Agreement is authorized to bind the other party to any liability or obligation or to represent that it has any such authority, and no Subcontractor is authorized to bind MLC to any liability or obligation or to represent that it has any such authority.

(b) VENDOR shall be solely responsible for all payments to Subcontractors and all compensation, withholding taxes and benefits for its employees and for providing all necessary unemployment and workmen's compensation insurance for its employees.

#### **5. COMPENSATION**

(a) As full and complete compensation for all goods and services provided by VENDOR pursuant to this Agreement, MLC will pay VENDOR, and VENDOR will accept, an amount equal to \_\_\_\_\_ percent (\_\_\_\_%) of:

- (i) MLC's gross on-line ticket sales revenue less cancelled transactions during the term of this Agreement; plus
- (ii) the total number of instant tickets activated during the week, less instant tickets: (A) returned; (B) given as "free ticket" prizes; (C) returned as defective; (D) reported stolen by a retailer; or (E) issued by MLC as a promotion during the term of this Agreement; multiplied by the "face value" (i.e., non-promotion retail sales price) of instant tickets for the applicable game.



For purposes of this Section 5, a "week" shall mean the period beginning 12:01 a.m. Tuesday and ending at midnight Monday.

(b) Subject to the availability of funds and any other restrictions imposed by the Act, the "**Governing Laws and Regulations**" (as defined in Section 14) or this Agreement, MLC will pay to VENDOR all uncontested amounts due under this Agreement on a weekly basis, unless the parties otherwise agree upon a less frequent payment schedule, in accordance with the policies and procedures established by MLC from time to time and subject to setoff or offset for all sums owed by VENDOR or its Subcontractors.

(c) Within thirty (30) days after the expiration of the term of this Agreement, the parties shall in good faith mutually agree upon the reimbursement amount due MLC with respect to instant tickets activated during the term of this Agreement and: (i) returned; (ii) given as "free ticket" prizes; (iii) returned as defective; (iv) reported stolen by a retailer; or (v) issued by MLC as a promotion after the term of this Agreement. The parties hereby agree that the historical percentages based on the ten (10) week period immediately prior to the termination of this Agreement for each of the categories set forth in the subparagraphs of this Section 5(c) shall be used as the guidelines for such negotiations. VENDOR shall pay such reimbursable amount to MLC within fifteen (15) days after the conclusion of such negotiations.

## **6. TERM**

(a) Unless sooner terminated in accordance with the provisions of Section 18 or other provisions of this Agreement, the RFP or the Answers, and subject to the provisions of Section 25 hereof, the term of this Agreement shall commence as of the Effective Date and shall continue for a period of seven (7) years after December 1, 2019, the date on which MLC expects to commence instant ticket sales (the "**Instant Ticket Start-Up Date**"), subject to three (3) one (1) year extensions of the term of this Agreement as set forth below.

(b) At the sole option of MLC, MLC may exercise up to three (3) one (1) year extensions of the term of this Agreement, which exercise may occur annually, in multiples of two (2) or three (3) years, or not at all. MLC shall exercise any extension and notify VENDOR of same no later than one hundred eighty (180) days prior to the expiration of the term of this Agreement, as extended (if applicable).

(c) VENDOR acknowledges and agrees that, prior to the expiration of the term of this Agreement, MLC will award a new contract for replacement of the lottery gaming systems, equipment and services provided by VENDOR under this Agreement and that VENDOR has no right or expectation in or to any such new contract. VENDOR further agrees that MLC may use the final one hundred eighty (180) days of the term of this Agreement to convert to the use of such replacement systems; provided that VENDOR shall continue to be compensated in accordance with Section 5 hereof during such one hundred eighty (180) day period. VENDOR shall cooperate fully and in good faith and shall assist MLC and the new contractor, to the extent reasonable and practical, to

accomplish such conversion in a timely and efficient manner, at no additional cost to MLC or such new contractor.

**7. WORK STANDARD**

(a) VENDOR hereby agrees that it and its Subcontractors shall at all times comply with and abide by all terms and conditions set forth in this Agreement, and all requirements of the Act and Governing Laws and Regulations. VENDOR further agrees that it and its Subcontractors shall perform their respective duties and responsibilities as set forth in this Agreement by following and applying the highest professional and technical guidelines and standards.

(b) VENDOR hereby agrees that it and its Subcontractors will perform their respective duties and responsibilities as set forth in this Agreement with integrity and dignity and free from political influence, collusion and fraud. VENDOR further agrees that none of it, its Subcontractors, nor any of their respective employees or agents will solicit or accept, or attempt to solicit or accept, any kickbacks or other inducements from any offeror, supplier, manufacturer or subcontractor in connection with the performance of its obligations under this Agreement.

(c) If MLC becomes dissatisfied with the work product of or the working relationship with any of the individuals assigned to perform services under this Agreement by VENDOR or any Subcontractors, MLC may require the prompt replacement of any or all of such individuals. Personnel identified in the Proposal as performing services under this Agreement will continue to perform such services in their designated capacities until such services are completed unless they cease to be employed by VENDOR or a Subcontractor or unless MLC requests their removal, in which case a person or persons of suitable competency and acceptable to MLC, in its discretion, will be substituted forthwith.

(d) Nothing in this Section 7 shall be construed to prevent VENDOR from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of such key personnel, including secretarial, clerical and common labor duties. VENDOR shall at all times remain responsible for the performance of all necessary tasks under the scope of this Agreement, whether performed by key personnel or other workers.

(e) Nothing in this Agreement shall prohibit MLC from retaining the services of any individual or entity to perform any services on its behalf, whether or not such or similar services were initially contemplated to be performed by VENDOR or a Subcontractor. MLC is not prohibited by this Agreement from retaining the services of any individual or entity to perform any services it requires, and it is under no obligation to exclusively use the services of VENDOR or any Subcontractors. If MLC desires to add an item provided by an entity other than VENDOR or a Subcontractor to VENDOR's hardware or software systems provided pursuant hereto, then VENDOR and MLC agree to negotiate in good faith an amendment to this Agreement (if necessary) or a separate agreement which contains all of the mutually agreed-upon terms and conditions, including, without limitation, any price, liquidated damages and other terms. To the extent VENDOR is

capable of providing any such comparable item, MLC will consider any offer tendered by VENDOR with respect thereto.

(f) VENDOR hereby designates \_\_\_\_\_, or such other person or persons as it may from time to time notify MLC, as its primary contact with MLC for purposes of this Agreement.

**8. PROGRESS REPORT AND ON-LINE TERMINAL INSTALLATION**

(a) To assure MLC that its work under this Agreement is progressing and is being performed in a manner consistent with MLC's policies until the start of instant and on-line lottery system ticket sales, VENDOR will submit written progress reports to MLC, no less frequently than weekly, covering all work performed by VENDOR and all Subcontractors in form and substance satisfactory to the President.

(b) VENDOR hereby agrees that it shall have installed and have caused to be fully operational at least: (i) fifteen hundred (1,500) to seventeen hundred (1,700) full service on-line retailer terminals on or before December 1, 2019 (subject to a possible reduction in the number of installed retailers in the discretion of MLC if MLC has certified a fewer number of retailers as of said date); (ii) five hundred (500) additional full service on-line retailer terminals on or before February 1, 2020; (iii) five hundred (500) additional full service on-line retailer terminals no later than April 1, 2020; (iv) three thousand (3,000) color monitors as of a mutually agreed-upon date; and (v) and three thousand (3,000) player activated ticket checkers whereby players can scan a ticket to determine if it's a winner as of a mutually agreed-upon date.

**9. CHANGES IN WORK**

By written or oral request by the President or his designee(s) to VENDOR, MLC may from time to time make changes in the services, deliverables or equipment to be provided by VENDOR or any Subcontractor, or the place of delivery or performance of such services or any requested deliverables or equipment; provided, however, to the extent any such changes in services, deliverables or equipment are outside the scope of any of this Agreement, the RFP, the Answers or the Proposal, MLC and VENDOR shall in good faith negotiate mutually acceptable terms and compensation. VENDOR and all applicable Subcontractors shall promptly comply with such requests and take all necessary or appropriate actions to effect such change.

**10. BOOKS AND RECORDS**

VENDOR and each Subcontractor shall provide, as soon as it is available, to MLC on an annual basis a copy of its audited financial statements for such year; provided, however, if a Subcontractor does not obtain audited financial statements, then its financial statements must be certified by its chief financial officer. VENDOR and all Subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to the services to be performed under this Agreement in accordance with the Act, Governing Laws and Regulations, generally accepted accounting principles and any other applicable procedures established by MLC from time to time. VENDOR and all Subcontractors shall make all such materials available at its

offices, at all reasonable times during the term of this Agreement and for five (5) years after the date of final payment under this Agreement, for inspection by MLC, or by any authorized representative of MLC, and copies thereof shall be furnished to MLC by the appropriate entity, at no cost to MLC, if requested by MLC. MLC shall have the right to audit the records and operations of VENDOR and each Subcontractor with respect to the goods to be provided and services to be performed pursuant to this Agreement. VENDOR and Subcontractor shall also comply with all other requirements of the Act and Governing Laws and Regulations.

## **11. CONFIDENTIALITY; OWNERSHIP OF WORK PRODUCT**

- (a) For purposes of this Agreement:
- (i) "**Confidential Information**" means any and all items or information of a party which are: (A) marked "Confidential" or some such similar designation; or are (B) valuable, proprietary and confidential information belonging to or pertaining to such party that does not constitute a "**Trade Secret**" (as hereafter defined) and that is not generally known but is generally known only to said party and those of its employees, independent contractors or agents to whom such information must be confided for business purposes, including, without limitation, information regarding said party's customers, suppliers, manufacturers and distributors; and
  - (ii) a "**Trade Secret**" means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that: (A) derives independent actual or potential commercial value from not being generally known or readily ascertainable thorough independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and (B) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (b) In recognition of the need of VENDOR to protect its legitimate business interests, MLC hereby covenants and agrees that with regard to any: (i) VENDOR Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) VENDOR Trade Secrets, at all times such information remains a Trade Secret under applicable law, MLC will regard and treat all such items as strictly confidential and wholly owned by VENDOR and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such VENDOR Confidential Information or VENDOR Trade Secrets to any individual or entity for any purpose other than in accordance with this Agreement, pursuant to the instructions from a duly authorized representative of VENDOR or except to the extent necessary to fulfill the purposes of this Agreement or conduct the Mississippi Lottery. MLC shall not be liable, however, to VENDOR or to any other person or entity, if despite MLC's reasonable efforts, VENDOR Confidential Information is disclosed in breach of the foregoing. Notwithstanding anything hereto the contrary, the entirety of

Section 1.5 of the RFP, the Act, the MLC's Public Records Request Policy, the Governing Laws and Regulations, the Mississippi Open Meetings Act (*Miss. Code Ann. §§ 25-41-1 et seq.*, as amended) and the Mississippi Public Records Act of 1983, *Miss. Code Ann. §§ 25-61-1 et seq.*, as amended) (collectively, the "**Superseding Provisions and Statutes**") shall supersede and control any provision of this Agreement, and MLC's confidentiality and nondisclosure obligations and liabilities set forth herein, or in the RFP, Answers or Proposal, shall be subject to, and never be greater than, as set forth in any of the Superseding Provisions and Statutes.

(c) In recognition of the need of MLC to protect its legitimate business interests, VENDOR hereby covenants and agrees that with regard to any: (i) MLC Confidential Information, at all times during the term of this Agreement and for a period of three (3) years following the expiration or termination of this Agreement for any reason; and (ii) MLC Trade Secrets, at all times such information remains a Trade Secret under applicable law, VENDOR and all Subcontractors will regard and treat all such items as strictly confidential and wholly owned by MLC and will not, for any reason or in any fashion, either directly or indirectly use, disclose, transfer, assign, disseminate, reproduce, copy, or otherwise communicate any such MLC Confidential Information or MLC Trade Secrets to any individual or entity for any purpose other than in accordance with this Agreement or pursuant to the instructions from a duly authorized representative of MLC. In addition, to the extent the Act, the Governing Laws and Regulations or any other law imposes any greater restrictions or prohibitions with respect to any MLC Confidential Information, MLC Trade Secrets or other information or property of MLC, VENDOR covenants and agrees that it and all Subcontractors shall comply with such greater restrictions or prohibitions. To ensure the compliance by it and all Subcontractors with the provisions of this Section 11(c), VENDOR shall use its best efforts, including, without limitation, obtaining written confidentiality agreements with all Subcontractors which incorporate requirements no less restrictive than those set forth herein and which contain provisions which permit MLC to independently enforce the requirements set forth in such agreements.

(d) All work product, property, data, documentation or information or materials conceived, discovered, developed or created by VENDOR or any Subcontractor pursuant to this Agreement exclusively and specifically for MLC and solely for MLC's use (collectively, the "**Work Product**") shall be owned exclusively by MLC. Notwithstanding the foregoing, nothing contained herein shall limit or be deemed to limit VENDOR's intellectual property ownership rights in its basic, unmodified proprietary software systems which are generally provided to its customers. To the greatest extent possible, any Work Product shall be deemed to be a "**work made for hire**" (as defined in the Copyright Act, 17 U.S.C.A. § 101 *et seq.*, as amended) and owned exclusively by MLC. VENDOR hereby unconditionally and irrevocably transfers and assigns to MLC, and VENDOR shall cause all Subcontractors and others it retains to irrevocably transfer and assign to MLC, all right, title and interest in or to any Work Product, including, without limitation, all patents, copyrights, Trade Secrets, trademarks, service marks and other intellectual property rights therein. VENDOR agrees to execute and deliver to MLC, and to cause its Subcontractors and others it retains to execute and deliver, any transfers, assignments, documents or other



instruments which MLC may deem necessary or appropriate, from time to time, to vest complete title and ownership of any Work Product, and all associated intellectual property and other rights, exclusively in MLC. During the performance of the services and provisions of the goods specified herein, VENDOR shall be responsible for any loss or damage to any Work Product while in the possession of VENDOR or any Subcontractor, and any loss or damage thereto shall be restored at VENDOR's expense. MLC shall have full, immediate and unrestricted access to all Work Product during the term of this Agreement.

(e) MLC hereby grants to VENDOR a fully paid-up, non-exclusive, perpetual and transferable license to use, sublicense, modify and create derivative works of software, hardware, equipment, firmware and mask works which are owned by MLC and created solely by VENDOR or any Subcontractor, and which constitute Work Product (the "**Created Work Product Items**"). While MLC has the free rights to use, modify and create derivative works of such Created Work Product Items for its own use, it agrees not to license any of the rights licensed to VENDOR to any other entity unless VENDOR: (i) ceases to function as a going concern; (ii) files, or has filed against it, any bankruptcy or insolvency proceeding of any kind; (iii) dissolves, liquidates or otherwise ceases its corporate existence; (iv) makes an assignment for the benefit of its creditors; or (v) VENDOR announces it will cease, or actually ceases, to perform continuing maintenance, support or enhancement services with regard to Created Work Product Items (any of the foregoing events being defined as "**Material Event**"). Upon the occurrence of any Material Event, the license granted by this Section 11(e) to VENDOR with respect to the Created Work Product Items, and any restrictions of MLC's rights with respect to such Created Work Product Items set forth in this Section 11(e) shall immediately terminate and cease, and MLC shall have the right, without limitation, to grant to another entity a license to use, modify and create derivative works of Created Work Product Items for the use or benefit of MLC.

(f) VENDOR hereby grants to MLC a fully paid-up, non-exclusive, perpetual, non-transferable license for MLC to use all software which is provided by VENDOR or Subcontractors for the use by or benefit of MLC pursuant to this Agreement, whether such software is currently set forth in the Proposal or subsequently provided (collectively, the "**VENDOR Software**"). Upon the occurrence of a Material Event, in addition to any rights or licenses which MLC may acquire pursuant to any source code escrow agreement required by Section 3.9 of the RFP or otherwise entered into for the benefit of MLC, MLC's license to the VENDOR Software shall automatically be expanded to include the license and right for MLC, or others on behalf of MLC, to use, modify and create derivative works of the VENDOR Software for MLC's use or benefit.

(g) VENDOR hereby agrees to develop, test and implement, within one hundred twenty (120) days of when specifications are mutually agreed upon in good faith, any modifications or additional functionality to VENDOR'S back-office, online and instant ticket gaming software system which MLC requests.

(h) Notwithstanding the foregoing, the nondisclosure restrictions of Section 11(b) shall not apply to VENDOR information that is: (i) generally known to the public other than due to a disclosure by MLC; (ii) already known to MLC at the time it is disclosed by VENDOR to MLC; (iii) independently developed by MLC; or (iv) received by MLC from a party that MLC believed in good faith had the right to make such disclosure.

(i) Notwithstanding the foregoing, the nondisclosure restrictions of Section 11(c) shall not apply to MLC information that is: (i) generally known to the public other than due to a disclosure by VENDOR or a Subcontractor; (ii) already known to VENDOR at the time it is disclosed by MLC to VENDOR; (iii) independently developed by VENDOR; or (iv) received by VENDOR from a third party that VENDOR believed in good faith had the right to make such disclosure.

## **12. LIMITATION OF LIABILITY**

**THE PAYMENT OBLIGATIONS UNDERTAKEN BY MLC UNDER THIS AGREEMENT ARE SUBJECT TO THE AVAILABILITY OF FUNDS TO MLC. THERE SHALL BE NO LIABILITY ON THE PART OF MLC EXCEPT TO THE EXTENT OF AVAILABLE FUNDS PERMITTED TO BE PAID FROM THE PROCEEDS OF LOTTERY OPERATIONS AND OTHER FUNDS AVAILABLE TO MLC. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES WILL THE STATE OF MISSISSIPPI, ITS GENERAL FUND OR ANY OF ITS AGENCIES OR POLITICAL SUBDIVISIONS BE RESPONSIBLE OR LIABLE AS A RESULT OF THIS AGREEMENT OR ANY LIABILITY CREATED HEREBY OR ARISING HEREUNDER.**

## **13. ANTITRUST ACTIONS**

VENDOR hereby conveys, sells, assigns and transfers to MLC all of its right, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States of America and the State of Mississippi relating to any systems, equipment and services acquired by MLC under this Agreement.

## **14. COMPLIANCE WITH LAWS**

VENDOR agrees to comply with all applicable rules, policies, procedures and regulations adopted from time to time by MLC under the Act and all other applicable federal, state and local laws, rules, regulations, ordinances or executive orders, including, without limitation, the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 1201 *et seq.*) and all other labor, employment and anti-discrimination laws, and all provisions required thereby to be included herein, are hereby incorporated by reference (all of the foregoing being sometimes referred to collectively as the "**Governing Laws and Regulations**").

## **15. REPRESENTATIONS, WARRANTIES AND ADDITIONAL COVENANTS**

VENDOR hereby represents, warrants or covenants, as the case may be, to MLC, on its own behalf and with respect to each of its Subcontractors that as of the Effective Date and at all times throughout the term of this Agreement, as follows:

(a) VENDOR has the power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement, and VENDOR has taken all necessary and appropriate action to authorize the execution and delivery of this Agreement and the performance of its obligations under this Agreement. The execution and delivery of this Agreement and the performance of its obligations under this Agreement are not in contravention of any provisions of law or any material indenture or agreement by which VENDOR is bound and do not require the consent or approval of any governmental body, agency, authority or other person or entity which has not been obtained. This Agreement constitutes the valid and legally binding obligation of VENDOR, enforceable against VENDOR in accordance with its terms.

(b) VENDOR and its Subcontractors have disclosed or will disclose to MLC all matters required to be disclosed under the Governing Laws and Regulations. In addition, VENDOR recognizes and acknowledges that there are certain limitations on its activities, and the activities of its Subcontractors, now and in the future, including, but not limited to, limitations on certain political contributions, limitations on the ability to submit proposals in response to subsequent requests for proposals issued by MLC, limitations on the ability to enter into or perform contracts or other arrangements with certain third parties, and limitations on the ability to purchase lottery tickets, all of which shall be honored. Some of these restrictions also apply to the employees of VENDOR and the members of such employees' households, and VENDOR will enforce such restrictions upon its employees and Subcontractors.

(c) Neither VENDOR, the Subcontractors nor any of its or their respective officers, directors, partners or major shareholders (i) have ever been found guilty of, or plead guilty to, any crime in any way related to the security, integrity or operation of any lottery in any jurisdiction; (ii) currently under indictment for any crime in any way related to the security, integrity or operation of any lottery in any jurisdiction; or (iii) have ever been found to be in possession of any illegal lottery device.

(d) Neither VENDOR, the Subcontractors nor any of its or their respective officers, directors, partners or major shareholders has an ownership interest in any entity that has supplied consultation services under contract to MLC with respect to the RFP.

(e) No "public official" has an ownership interest of five percent (5%) or more in VENDOR or any of the Subcontractors.

(f) VENDOR and all Subcontractors (i) are, and will remain at all times during the term of this Agreement, qualified to do business in the State of Mississippi; (ii) have obtained a signed tax clearance from the Mississippi Commissioner of Revenue indicating that it is current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the State of Mississippi, excluding items under formal appeal pursuant



to applicable statutes; and (iii) will file Mississippi income tax returns at all times during the term of this Agreement.

(g) Neither VENDOR nor any Subcontractor are currently debarred from contracting with any political subdivision or agency of the State of Mississippi or federal government, and neither VENDOR nor any Subcontractor is an agent of a person or entity that is currently debarred from contracting with any political subdivision or agency of the State of Mississippi or federal government.

(h) All Work Product: (i) shall be prepared, worked on and completed solely by employees of VENDOR or a Subcontractor in the scope of their employment or by independent contractors of VENDOR or a Subcontractor working under the strict and direct supervision of such employees; (ii) shall be original works of authorship; (iii) shall not infringe, plagiarize, pirate or constitute misappropriations of any copyrights, trademarks, service marks, trade names, patents, Confidential Information, Trade Secrets or other intellectual properties or proprietary rights of any individuals or entities; and (iv) shall not be false, misleading, actionable, defamatory, libelous or constitute an invasion of privacy of any individual or entity.

(i) None of VENDOR or any Subcontractors, nor any of its or their respective employees, officers, directors, partners or major shareholders, shall issue any press release, conduct any press or news conference, participate in any media interview or otherwise make any public statement or announcement on behalf of, with respect to or in connection with this Agreement, MLC or the Lottery without the prior written consent of the President or his designee(s) in each instance.

(j) None of VENDOR or any Subcontractors, nor any of its or their respective employees, officers, directors, partners or major shareholders, shall use MLC's or the Lottery's name, logos, images or any other information or data related to the services to be provided pursuant to this Agreement as a part of or in connection with any commercial advertising without the prior written consent of the President or his designee(s) in each instance.

(k) VENDOR's and all Subcontractors' computer systems, and all of its or their respective equipment and components, used in connection with this Agreement shall in all respects meet any requirements, performance standards and specifications of the RFP, the Answers, the Proposal and this Agreement, and design of and software used in connection with VENDOR's and all Subcontractors' computer systems shall be suitable and fit for the purposes of an on-line, player-selection lottery, instant ticket gaming system and retailer activated bar code reader data collection system.

(l) All equipment and components of VENDOR's and all Subcontractors' computer systems, other than as permitted by the RFP, shall be new equipment and shall conform to the manufacturer's current official published specifications. Unless MLC is otherwise notified by VENDOR, all such equipment and components not manufactured by VENDOR or a Subcontractor shall carry manufacturer warranties of merchantability and

warranties against defects in materials and workmanship. All adjustments, repairs and replacement parts necessary to maintain such equipment and components in good working order shall be promptly provided and performed by VENDOR. Any such equipment or components not meeting the requirements set forth herein shall be replaced by VENDOR as soon as feasible and without cost to MLC.

(m) VENDOR and all Subcontractors shall keep all of their hardware and equipment used in connection with the Lottery in good condition and repair and shall make all reasonable efforts to prevent anything that may materially impair the operations thereof. Such hardware and equipment shall not be used in violation of this Agreement, the RFP, the Act or any of the Governing Laws and Regulations, and neither VENDOR nor any Subcontractor shall pledge, grant a security interest or lien on, hypothecate or otherwise encumber such hardware or equipment or otherwise dedicate the use of such hardware or equipment in such a way as to compromise the ability of MLC to use same for the proper functioning of the Lottery or the ability of VENDOR or any Subcontractor to perform its or their obligations under this Agreement.

(n) All systems analysis, systems design and programming prepared or done by VENDOR or any Subcontractor in connection with this Agreement, the RFP or the Proposal have been and shall be prepared or done in a workmanlike manner consistent with the highest professional and technical guidelines and standards of the industry in which VENDOR is engaged.

(o) All computer programs and equipment implemented by VENDOR or any Subcontractor for performance under this Agreement shall meet their stated performance standards and shall correctly and accurately perform their intended functions in all material respects on all hardware and other equipment supplied by MLC, VENDOR or any Subcontractor.

(p) All Lottery games provided by VENDOR pursuant to this Agreement shall in all respects conform to, and function in accordance with, their specifications and designs, as approved by MLC. Without limiting the generality of the foregoing, VENDOR's computer system: (i) shall issue Lottery tickets only from authorized terminals; (ii) shall only authorize payment on legitimate winning tickets; and (iii) if the game design so provides, shall limit purchases on any given number or numbers.

## **16. OBLIGATIONS OF VENDOR**

(a) VENDOR shall provide to MLC on an annual basis an updated certificate of existence showing that it and each Subcontractor are qualified to transact business in the State of Mississippi.

(b) VENDOR agrees to fully disclose to MLC all matters materially affecting MLC, this Agreement or the performance of this Agreement and all matters reasonably necessary to perform background and security investigations with respect to VENDOR, the Subcontractors, their respective officers, directors, partners, shareholders and employees,

and the individuals performing services pursuant to this Agreement or otherwise for the benefit of MLC or the Lottery. In addition, VENDOR acknowledges that some or all of its employees, officers, directors, partners and shareholders, and its Subcontractors and their respective employees, officers, directors, partners and shareholders, may be required to submit to background and other investigations, and VENDOR shall cause any such individuals or Subcontractors to fully cooperate with any such investigations and to provide all necessary information and authorizations in connection therewith. VENDOR further agrees that it will routinely and continuously update all information disclosed to MLC pursuant to this Agreement or the RFP, including, without limitation, any breaches of all representations, warranties and additional covenants set forth in Section 15 hereof, no less often than every six (6) months; provided, however, VENDOR shall as soon as possible notify MLC upon the occurrence of any event the effect or results of which VENDOR would be required to disclose, or to update a previous disclosure, to MLC under this Agreement or the RFP and which materially affect MLC, VENDOR, the Subcontractors, any of their respective officers, directors, partners, shareholders or employees, this Agreement or the performance of this Agreement. VENDOR further agrees to notify MLC: (i) as soon as possible, but no more than five (5) days after the filing of any criminal proceeding or issuance of any indictment involving VENDOR or any Subcontractor or any officer, director or employee of Vendor or any Subcontractor; and (ii) within thirty (30) days of VENDOR's first learning of any civil or administrative proceeding involving VENDOR or any Subcontractor or any officer, director or employee of Vendor or any Subcontractor; provided, however, if any such proceeding would have a material adverse effect on VENDOR or a Subcontractor or their ability to perform pursuant to this Agreement, then such notice must be delivered to MLC no more than five (5) days after VENDOR learns of such proceeding.

(c) VENDOR must, contemporaneously with the execution of this Agreement, post and maintain at least throughout the term of this Agreement a performance bond (the "**Bond**"), letter of credit from a bank, or deposit securities, pursuant to Section 35 of the Act and acceptable to the MLC in its sole discretion, in an amount equal to Fifteen Million Dollars (\$15,000,000). The security provided by VENDOR pursuant to this Section 16(c) shall provide funds to MLC in the event MLC suffers any liability, loss, damage or expense as a result of VENDOR's failure to fully and completely perform any or all of the requirements contained in this Agreement, including, without limitation, VENDOR's obligation to pay any liquidated damages due hereunder or to indemnify MLC pursuant hereto. The Bond may be renewable annually, provided that: (i) it provides that, in the event the Bond will not be renewed for an additional year, MLC will be provided written notice thereof at least thirty (30) days prior to the expiration thereof; and (ii) if any such Bond is not renewed for an additional year, VENDOR must obtain a replacement equivalent Bond or letter of credit to be in place so that at no time is VENDOR in violation of its obligation pursuant to this Section 16(c) to maintain a performance bond at least throughout the term of this Agreement.

(d) VENDOR shall maintain the following types and amounts of insurance during the term of this Agreement, designating MLC as an additional insured on each policy:

- (i) General liability insurance in the amount of \$5,000,000.00;
- (ii) Property insurance in the amount of replacement cost;
- (iii) Errors and omissions insurance in the amount of \$5,000,000.00;
- (iv) Automobile liability insurance in the amount of \$5,000,000.00;
- (v) Crime insurance in the amount of \$5,000,000.00;
- (vi) Cyber and Privacy insurance in the amount of \$5,000,000.00;
- (vii) Social Engineering Fraud insurance in the amount of \$5,000,000.00;
- (viii) Workman's Compensation Insurance at or above the levels required by the State of Mississippi;
- (ix) Self-insurance with respect to equipment in the field; and
- (x) Such other types and amounts of insurance as MLC shall from time to time reasonably require.

(e) VENDOR shall provide MLC with certificates of insurance within ten (10) days after the date hereof and evidence of any renewed bonds or insurance policies within five (5) days prior to the expiration of the then existing bonds or insurance policies. All bonds and insurance required of VENDOR by this Agreement must be issued by companies or financial institutions which are financially rated "A" or better (or a comparable rating) by a nationally recognized rating agency and duly licensed, admitted and authorized to transact business in the State of Mississippi.

(f) VENDOR agrees to escrow the source codes to all applicable software and other similar proprietary materials developed or provided by VENDOR or any Subcontractor in connection with its performance under this Agreement, in accordance with a standard Source Code Escrow Agreement in form and substance acceptable to MLC, in its sole discretion. VENDOR hereby grants to MLC a perpetual, non-exclusive, non-transferable, non-sublicensable license to use any and all proprietary materials owned by it and used in connection with its performance under this Agreement. VENDOR hereby further grants to MLC all rights and authority to modify such proprietary materials in any manner MLC deems necessary following the occurrence of a Material Event or in the event they are released from escrow pursuant to any Source Code Escrow Agreement.

(g) VENDOR shall, at its own expense, conduct trademark and service mark searches with respect to the names of all on-line games provided by VENDOR for use in connection with the Lottery.

(h) VENDOR and its Subcontractors shall allow any authorized representatives of MLC to inspect, at reasonable times with notice upon arrival, the plants, places of business

and job sites of VENDOR or any Subcontractors which are being used in connection with the performance of this Agreement. VENDOR shall not change the location of its computer system, offices or service facilities used in connection with this Agreement without the prior written approval of MLC.

(i) VENDOR shall establish and maintain a physical and software security program that is acceptable to MLC and shall adhere to all security requirements established from time to time by MLC.

## **17. TAXES**

MLC will not be responsible for any taxes levied on VENDOR or any Subcontractor as a result of the execution, delivery or performance of this Agreement. VENDOR and Subcontractors shall pay and discharge any and all such taxes in a timely manner.

## **18. TERMINATION**

(a) Notwithstanding anything herein to the contrary, MLC may cancel and terminate this Agreement: (i) if VENDOR fails to correct or cure any breach of any of Sections 7(b), 15(c), 15(d), 15(e), 15(i), 16(b), 16(h) or 16(i) of this Agreement (collectively, the "**Major Sections**") within seventy-two (72) hours of the earlier of: (A) VENDOR's having knowledge of such breach; or (B) VENDOR's receiving oral or written notice of such breach from MLC; or (ii) if VENDOR fails to correct or cure any breach of any other provisions or Sections of this Agreement, other than Major Sections, after thirty (30) calendar days' prior written notice from MLC.

(b) If MLC, after thirty (30) calendar days' prior written notice from VENDOR, fails to correct or cure any breach of this Agreement, then VENDOR may cancel and terminate this Agreement and in due course collect monies properly due up to and including the date of such termination.

(c) In the event that either party hereto is unable to perform any of its obligations under this Agreement, or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies or communication line failure, or other events of force majeure not the fault of the affected party, the affected party shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, each party's obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds thirty (30) days from the receipt of notice of an event described in this Section 18(c), the party whose ability to perform has not been so affected may terminate this Agreement by giving written notice thereof to the other party.

(d) If, for any reason other than a breach of this Agreement by MLC, VENDOR is unable to perform its obligations hereunder, MLC shall acquire a usufruct (or the equivalent thereof) in all property owned by VENDOR or any Subcontractor which is used in conjunction with, and is necessary to, the performance of this Agreement, which usufruct shall exist until the expiration or termination of this Agreement.

(e) If VENDOR is unable to install the appropriate number of on-line lottery terminals by any of the corresponding dates as set forth in any subsection of Section 8(b) hereof due solely to MLC's failure to timely identify for VENDOR the appropriate number of corresponding locations therefore, then, in any such event, VENDOR shall be able to extend the installation deadline set forth in solely the affected subsection of Section 8(b) by the number of days equal to the number of days MLC is late (the "**Number of Late Days**") in getting such necessary information to VENDOR, and no otherwise applicable liquidated damages or default provisions of this Agreement shall be applicable in solely such instance until the new deadline for such affected subsection of Section 8(b), which shall be amended to be the Number of Late Days after the original deadline set forth herein.

**(LIQUIDATED DAMAGES PROVISIONS, DESCRIPTIONS AND LEVELS MUST BE NEGOTIATED, REVIEWED AND CONFORMED TO RFP, PROPOSAL AND FINAL AGREED-UPON NEGOTIATED PROVISIONS)**

**19. LIQUIDATED DAMAGES**

(a) If any of the below-described events occurs, MLC shall have the right to assess VENDOR for liquidated damages subject to the maximum liquidated damage amounts set forth below corresponding to each such event:

- (i) Delay in the start of the lottery (\$\_\_\_\_\_);
- (ii) Delay in response to Retailer service calls (\$\_\_\_\_\_);
- (iii) Delay in System operations (\$\_\_\_\_\_);
- (iv) Delay in the start of a new game (\$\_\_\_\_\_);
- (v) System downtime (\$\_\_\_\_\_);
- (vi) Terminal downtime (\$\_\_\_\_\_);
- (vii) Delayed monitor repair (\$\_\_\_\_\_);
- (viii) Insufficient Vendor resources (\$\_\_\_\_\_);
- (ix) Failure to provide enhancements (\$\_\_\_\_\_);
- (x) Shortage of online ticket stock (\$\_\_\_\_\_);
- (xi) Security violations (\$\_\_\_\_\_);
- (xii) Failure to deliver log files (\$\_\_\_\_\_);
- (xiii) Untimely software additions or modifications (\$\_\_\_\_\_);

- (xiv) Untimely reports (\$\_\_\_\_\_);
  - (xv) Claimed prize tickets not approved by MLC (\$\_\_\_\_\_);
  - (xvi) Defective or nonconforming tickets (\$\_\_\_\_\_);
  - (xvii) Unavailability of the telemarketing and inventory control system (\$\_\_\_\_\_);
  - (xviii) Untimely or unauthorized software modifications (\$\_\_\_\_\_); and
  - (xix) Incomplete or incorrect game validation files (\$\_\_\_\_\_).
- (b) VENDOR and MLC hereby acknowledge and agree that:
- (i) MLC's damages following the occurrence of any event set forth in Section 19(a) hereof are difficult or impossible to accurately estimate or calculate;
  - (ii) the liquidated damages amounts set forth in Section 19(a) hereof are reasonable pre-estimates of what MLC's damages would be in the event of the occurrence of any such events and, if assessed, shall be MLC's sole remedy with respect to such events;
  - (iii) it is their mutual intention that Section 19(a) hereof provide for liquidated damages to compensate MLC upon the occurrence of such an event, rather than penalties to deter VENDOR from breaching this Agreement and/or to punish VENDOR upon the occurrence of such an event;
  - (iv) to the extent an event occurs for which liquidated damages are assessable under more than one subsection of Section 19(a), MLC shall recover under only such subsection that provides for the highest amount of liquidated damages; and
  - (v) MLC shall have the right, in its sole discretion, to waive (in whole or in part) payment by VENDOR of liquidated damages due hereunder. A waiver in any one instance shall be strictly limited to that specific instance and shall not in any way constitute or be construed to be a waiver of the payment of any other liquidated damages that are due or may become due hereunder.

**20. INDEMNIFICATION**

- (a) VENDOR agrees to indemnify, defend and hold harmless MLC, the Board, its agents, officers, directors and employees, the State of Mississippi and its agencies and political subdivisions, and their respective agents, officers and employees, against any and all suits, damages, expenses (including, without limitation, court costs, attorneys' fees and other damages), losses, liabilities and claims of any kind, caused by or resulting from any



breach of this Agreement or any other act or omission of VENDOR, the Subcontractors, or any of its or their respective agents or employees, whether the same may be the result of negligence, responsibility under strict liability standards, any other substandard conduct or otherwise.

(b) In addition, VENDOR agrees to indemnify, defend and hold harmless MLC, the Board, its agents, officers, directors and employees, the State of Mississippi and its agencies and political subdivisions, and their respective agents, officers and employees, against any and all suits, damages, expenses (including, without limitation, court costs, attorneys' fees and other damages), losses, liabilities and claims of any kind, arising out of, in connection with or resulting from the development, possession, license, modifications or use of any copyrighted or non-copyrighted composition, trademark, service mark, service process, patented invention or item, trade secret, article or appliance furnished to MLC, or used in the performance of this Agreement, by VENDOR or any Subcontractor, excluding claims for personal injury.

**21. CONFLICT RESOLUTION PROCEDURES**

Prior to bringing any judicial enforcement action with respect to any claims or controversies arising in connection with the performance of this Agreement, VENDOR must first pursue and exhaust any and all remedies available to it in accordance with the dispute resolution procedures adopted by MLC, as amended from time to time (collectively, the "**Dispute Resolution Procedures**").

**22. NOTICES**

(a) All notices and statements provided for or required by this Agreement shall be in writing, and shall be delivered personally to the other designated party, or mailed by certified or registered mail, return receipt requested, or delivered by a recognized national overnight courier service, as follows:

If to MLC: Mississippi Lottery Corporation  
c/o Balch & Bingham LLP  
188 E. Capitol Street, Suite 1400  
Jackson, MS 39201  
Attn: Thomas N. Shaheen, President

with a copy to: Lucien Smith  
Balch & Bingham LLP  
188 E. Capitol Street, Suite 1400  
Jackson, MS 39201

If to VENDOR: VENDOR



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn:

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn:

(b) Either party hereto may change the address and/or person to which notice is to be sent by written notice to the other party in accordance with the provisions of this Section 22.

**23. MISCELLANEOUS**

(a) This Agreement, together with the Proposals, the Answers and the RFP, contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. Notwithstanding anything herein to the contrary, in the event of an inconsistency among this Agreement, the Proposal, the Answers and/or the RFP, the terms of this Agreement, as may be amended pursuant hereto, shall control the Answers, the terms of the Answers shall control the RFP, and the terms of the RFP shall control the Proposal. No waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. This Agreement may not be modified or amended, except by a writing executed by both parties hereto. No waiver by either party hereto of any term or provision of this Agreement or of any default hereunder shall affect such party's rights thereafter to enforce such term or provision or to exercise any right or remedy in the event of any other default, whether or not similar.

**(b) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MISSISSIPPI. ONLY AFTER EXHAUSTION OF ALL REMEDIES AND PROCEDURES IN THE DISPUTE RESOLUTION PROCEDURES OF MLC, IF APPLICABLE LAW PERMITS ANY FURTHER APPEALS, ANY SUCH APPEAL MUST BE BROUGHT SOLELY IN THE CHANCERY COURT OF \_\_\_\_\_ COUNTY, MISSISSIPPI. VENDOR HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT WHICH IT MAY NOW OR HEREAFTER HAVE TO APPEAL ANY FINAL DECISIONS OF THE BOARD MADE PURSUANT TO THE DISPUTE RESOLUTION PROCEDURES, AND VENDOR IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE VENUE OF ANY APPEAL BEING SOLELY IN THE CHANCERY COURT OF \_\_\_\_\_ COUNTY, MISSISSIPPI.**

(c) Neither party hereto shall assign this Agreement, in whole or in part, without the prior written consent of the other party hereto, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect; provided, however, nothing herein shall prevent MLC from freely assigning this Agreement, without requiring VENDOR's prior written consent, to any entity which operates or will operate the Lottery. For purposes of this Section 23(c), any sale or transfer of a controlling equity interest in, or substantially all of the assets of, VENDOR will be deemed an assignment for which MLC's consent is required.

(d) This Agreement shall be binding on VENDOR, and its Subcontractors, successors and permitted assigns.

(e) The headings contained herein are for the convenience of the parties only and shall not be interpreted to limit or affect in any way the meaning of the language contained in this Agreement.

(f) This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or any electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other facsimile transmission of any signature shall be deemed an original and shall bind such party.

(g) If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision of this Agreement shall be affected as a result thereof, and accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.

(h) Upon the request of either party, the other party agrees to take, and VENDOR agrees to cause any Subcontractor to take, any and all actions, including, without limitation, the execution of certificates, documents or instruments, necessary or appropriate to give effect to the terms and conditions set forth in this Agreement.

(i) VENDOR agrees to act in accordance with any policy which shall be adopted by MLC which shall prescribe minimum sales volumes for on-line Lottery gaming retailers.

#### **24. ADDITIONAL SERVICES**

In the event MLC desires to retain the services of VENDOR for activities in addition to those contemplated by this Agreement, and VENDOR agrees to perform such services, payment therefor shall not exceed the rates identified in this Agreement unless agreed to in writing by MLC. Any such services, the rates, and the terms of payment shall be approved, in writing, prior to the commencement of any such additional work. In no event shall VENDOR or any Subcontractor be paid for work not authorized, or for work in excess of that authorized, in writing by MLC.

**25. APPROVAL OF MLC AND REQUIRED INVESTIGATIONS**

MLC and VENDOR hereby agree that this Agreement, and all of the terms and conditions contained herein, is subject to the approval of the Board and the completion of all criminal and other background investigations required by the Act, Governing Laws and Regulations or MLC. This Agreement will not be binding upon MLC until the completion of all such investigations and the Board has expressly approved the awarding of the Agreement to VENDOR and executed this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement to be effective as of the Effective Date.

"MLC"

MISSISSIPPI LOTTERY CORPORATION

By: Michael J. McGrevey  
Its: Chairman

“VENDOR”

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Exhibit A  
[Proposal]

Exhibit B  
[RFP]

Exhibit C  
[Questions  
and  
Answers]