

# **Eastern Cape Gambling Board**

Draft Request for Proposal in respect of Gambling Machine Site Licences  
July 2018

*(Only issued to the public for comment)*

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## **General Disclaimer**

The information contained in this draft Request for Proposal including the Appendices (“RFP”) has been prepared by the Eastern Cape Gambling Board (“the Board”) in good faith based on information obtained from various sources. While all reasonable care has been taken in preparing this draft RFP, the information contained herein does not purport to be comprehensive or to have been verified by the Board, any of its officers, employees, servants, agents, advisors or any other person.

The RFP may not contain all the information which may be required by the Applicant to develop a Proposal. Every Applicant should conduct its own independent analysis of the requirements and the relevant data supplied or referred to herein or that have been obtained during its investigations. Therefore, any party considering responding to this RFP should seek its own independent financial, legal and other advice.

The terms and conditions set out in this draft RFP are stipulated for the express benefit of the Board and save as expressly stated to the contrary, may be amended or waived at the Board’s discretion at any time.

No Applicant shall have any claim against the Board, its officers, employees, servants, agents or advisors arising out of any matter relating to the award of the Licence of any nature whatsoever where such claim is based on any act or omission by the Board, of any nature whatsoever, under any circumstances whatsoever or such claim is based on the content of or any omission from this RFP of any nature whatsoever.

The Board does not guarantee that any Applicant shall be granted a Licence and this RFP shall not constitute an offer of any kind whatsoever to the Applicants.

The Board further reserves the right to determine the terms and conditions of the final RFP.

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- Appendix F**    **Business history disclosure (Form LA2 on the ECGB website)**
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- Appendix H**    **The Act (Available on the ECGB website)**
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- Appendix L**    **Limited Payout Machine Policy (Available on the ECGB Website)**
- Appendix N**    **Socio Economic Impact study on Limited Payout Machines (Available on the ECGB Website)**

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**1 Definitions**

- 1.1 Unless the context clearly indicates otherwise, the following definitions shall be applicable to the contents of this RFP;
- 1.2 To the extent that there may be a contradiction between these definitions and those in the Act, the definitions in the Act will prevail.

Defined term/Acronym	Meaning
Act	The Eastern Cape Gambling Act, 1997 (Act No. 5 of 1997) as amended from time to time and any Regulations, Rules and Notices issued thereunder;
AFS	Annual Financial Statements;
Applicant	A Person who has responded to the RFP to apply for a Licence by submitting a Proposal and paid the applicable fee.
Application or Bid	The application for a Licence made in terms of the Act, effected by the submission of a Proposal;
B-BBEE Act	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) (as amended) as read with the B-BBEE Codes of Good Practice ;
Black Enterprise	An Enterprise that is at least 51% beneficially owned and controlled by Black People and in which Black People have substantial Management Control. Such beneficial ownership may be held directly by Black People or through Black Enterprises;
Black Equity	The Equity held by Black Shareholders from time to time;
Black People	See definition of PDIs below;
Black Shareholder	Any Shareholder that is a Black Person or a Black Enterprise;
Board	The Eastern Cape Gambling Board established by section 3 of the Act;
B-BBEE	Has the meaning ascribed thereto in section 1 of the BBBEE Act as read with the B-BBEE Codes of Good Practice;
Business Day	Any day of the week other than Saturday, Sunday, public holidays and any other day officially proclaimed as a holiday in South Africa;
CEMS	The Central Electronic Monitoring System as contemplated in the National Gambling Act;
CEO	The Chief Executive Officer of the Board appointed in terms of section 12 of the Act;
B-BBEE Codes of Good Practice	The applicable codes of good practice issued in terms of section 9(1) of the B-BBEE Act;

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Defined term/Acronym	Meaning
Constitution	The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
Control	In relation to any Enterprise, the ability directly or indirectly to direct or cause the direction of the votes attaching to the majority of its issued shares or interests carrying voting rights, or to appoint or remove or cause the appointment or removal of any directors (or equivalent officials) or those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body);
Dining facilities	A restaurant selling and serving meals and drinks to patrons (having an eat-in area clearly demarcated within the dining facility);
District	The area of jurisdiction of the Alfred Nzo, Amathole, Chris Hani, Sarah Baartman, Joe Gqabi and OR Tambo District Municipalities;
Employment Equity Act	Employment Equity Act, 1998 (Act No. 55 of 1998);
EMRs	means the essential minimum requirements of this RFP set out in paragraph 14.1 below;
Enterprise	A partnership, a juristic person (including a close corporation, company and trust) or any other form of legal entity recognised by law;
Equity	The entire issued share capital of the applicant(s)/ licensee;
Equity Members	Enterprises and natural persons that have committed to participate in this Project as shareholders in the Applicant including Black Shareholders and that have duly authorised the Lead Member in submitting its Proposal;
Evaluation Criteria	The criteria used by the Board for the purposes of evaluating the Proposal;
Evaluation Process	Means the process whereby the Board evaluates the Proposals submitted by Applicants against the RFP requirements;
Financial Interest	In relation to a juristic person means: <ul style="list-style-type: none"> <li>• having a right or entitlement to share in profits or revenue;</li> <li>• being the holder of any real right in respect of any property of the juristic person;</li> <li>• being the owner or holder of a real or personal right in any property by the juristic person in conducting its gambling business; or</li> <li>• having a direct or an indirect interest in the voting shares or voting rights attaching to the shares or other interest of the juristic person;</li> </ul>
Government	The Eastern Cape Provincial Government established with the authority as recognized in section 125 of the Constitution;

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Defined term/Acronym	Meaning
IFRS	International Financial Reporting Standards
Labour Relations Act	Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;
Licence	A licence granted by the Board in terms of section 50 of the Act which authorises the holder thereof, in terms of the Act and subject to any conditions imposed by the Board, to keep and expose LPMs for play in or on the licensed premises or such part of such premises as is specified in the Licence;
Licensee	The Applicant whose Proposal will be approved by the Board following the Evaluation Process, and subject to the provisions of the Act, and is awarded the Licence, note that a Licensee for a Type B and C site must be a company or corporation with its registered office in the Eastern Cape;
Licence Period	The period for which the Licence shall remain valid, as stipulated in paragraph 12.5 below;
Local PDI	a permanent resident in the Province or a juristic person whose Shareholders are all Local PDIs and whose principal place of business is in the Province;
LPM or LPMs	Limited Payout Machines;
LPM Policy	<b>Limited Payout Machine Policy (also available on the ECGB Website) which is Appendix L</b>
Management Control	In relation to any Enterprise, the ability to direct or cause the direction of the business and management policies or practices of that Enterprise, including but not necessarily limited to the ability to directly or indirectly direct or cause the direction of the votes attaching to the majority of its issued shares or interest carrying voting rights, or to appoint or remove or cause the appointment or removal of any directors (or equivalent officials) or those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body);
MEC	The Member of the Executive Council of the Province responsible for the administration of the Act; being the MEC for Economic Development, Environmental Affairs and Tourism;
Metro	The area of jurisdiction of the Nelson Mandela Bay and Buffalo City Metropolitan Municipalities;
Minor	A person under the age of 18 years
National Credit Act	The National Credit Act, 2005 (Act No. 34 of 2005);
National Gambling Act	The National Gambling Act, 2004 (Act No. 7 of 2004) (as amended);
National Regulations	The Regulations promulgated in terms of the National Gambling Act;

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Defined term/Acronym	Meaning
New Entrant	Means a black person who is neither a shareholder or license holder in the gambling industry excluding holders of employment registration certificate in the Eastern Cape
NRCS	National Regulator for Compulsory Specification
PDIs	A generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent; or are citizens of the Republic of South Africa by naturalisation: <ul style="list-style-type: none"> <li>(a) occurring before the commencement date of the Constitution of the Republic of South Africa Act of 1993; or</li> <li>(b) occurring after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, without the Apartheid policy would have qualified for naturalisation before then;</li> </ul>
Political Office Bearer	In addition to the definition in the Act means an office bearer of a political party if such person, in addition to being a member, occupies a named official position described in such political party's constitution or is conferred a position or duty beyond that of an ordinary member, for a public purpose by and on behalf of such political party;
Person	A natural and/or a juristic person as the context dictates;
Process	The evaluation by the Board of the Proposals submitted by an Applicant in terms of this RFP and the selection of a Successful Applicant;
Project	The roll out of Type A, B, and C Sites in the Province;
Proposal	An Applicant's bid in response to this RFP;
Province	The Eastern Cape Province as recognised in section 103 (a) of the Constitution;
RFP	The draft or final RFP Request For Proposal document together with its appendices as determined by the context;
RFP Fee	Means the fee payable by an Applicant upon receipt of the final RFP in terms of paragraph 8 below;
Regulations	The Eastern Cape Gambling Regulations, 1998 (Provincial Notice No. 34 of 1998) promulgated under the Act (as amended);
Registrant	Any person designated by the receiver of a final RFP from the Board on payment of the necessary non-refundable registration fees to whom bulletins clarifying this RFP shall be sent;
RMS	Route Monitoring Systems (PTY) LTD
Route Operator	The holder of a route operator licence as contemplated in section 49 of the Act;
Route Operator Licence	A route operator licence as contemplated in section 49 of the Act;

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Defined term/Acronym	Meaning
Rules	The Rules issued by the Board in terms of the provisions of the Act and the Regulations;
SANS	standards set by the South African Bureau of Standards, specifying the technical requirements for gambling equipment;
SED	Social Economic Development
Shareholder	The holder of the Equity of the Applicant, any reference to “Shareholder” shall incorporate a member of a close corporation, a beneficiary of a trust or a beneficial participant in any other entity;
Site	The licensed premises set out in a Licence issued by the Board, including the primary business of the Applicant, which include such amenities as would normally accompany a Type A, B and C Site (e.g. hotel, dining facilities, bars, lounges, entertainment, recreation, exhibition facilities and exclusive retail);
Skills Development Act	Skills Development Act, 1998 (Act No. 97 of 1998);
SME	Small and Medium Enterprise
SMMEs	Small Medium and Micro Enterprises;
South Africa	The Republic of South Africa as recognised in the Constitution;
South African	means a citizen of South Africa;
Successful Applicant	An Applicant, who met the licensing criteria in respect of the final RFP and to whom the Board has decided to grant a Licence subject to compliance with any conditions which the Board may stipulate, within such period as the Board may determine;
Sponsor Members	Those members of an Applicant providing or securing the financing of the Project;
Target Group	All or any Black People and/or Black Enterprises;
Type A Site	A Site that is licensed to expose not less than 3 and not more than 5 LPMs for play (linked to Route Operator);
Type B Site	A Site that is licensed to expose not less than 20 and not more than 40 LPMs for play (linked to Route Operator);
Type C Site	A Site that is licensed to expose not less than 6 and not more than 15 LPMs for play (linked to Route Operator).
Type D Site	A site that is licensed to expose not less than 21 and not more than 40 LPMs for play (not linked to Route Operator).

1.3 In this RFP, except where the context otherwise requires -

1.3.1 words importing one gender shall include the other and words importing the singular number shall include the plural and vice versa;

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- 1.3.2 “enactment” means any statute or statutory provision of South Africa and any other subordinate or delegated legislation, including regulations or guidelines made under any such statute or statutory provision;
- 1.3.3 a reference to any enactment shall be construed as including a reference to any enactment which such subsequent enactment has directly or indirectly replaced (whether with or without modification), and that enactment as re-enacted, replaced or modified from time to time, whether before, on or after the date of this RFP;
- 1.3.4 a list of contents, glossary and headings to the parts and paragraphs of this RFP are for ease of reference only and shall not affect the interpretation of this RFP; and
- 1.3.5 the appendices form part of this RFP and have the same force and effect as if expressly set out herein.

## 2. Introduction

### 2.1 The Board

The Board was established in terms of the Act. Its powers and functions are, *inter alia*:

- to oversee gambling and betting activities in the Province;
- to advise the MEC or provide a report or recommendation to the MEC on any matter referred to the Board by the responsible MEC for consideration and arising from the application of the Act relating to the control over gambling and racing in the Province;
- to exercise such powers and perform such functions and duties as may be assigned to the Board in terms of the Act or any other law; and
- include the particular powers outlined in subsections 4(1)(c)(i) to (xxxi), which include powers to invite applications for Licences in terms of the Act and to consider and dispose of applications for Licences in such manner and at such time and place as it may from time to time determine.

### 2.2 Objectives for introducing legal gaming in the Eastern Cape

Various provisions in the Act describe the policy objectives for developing a legal gambling industry in the Province. These objectives are, *inter alia*:

- the empowerment of historically disadvantaged individuals, including the extent to which the applicant intends to provide for participation in the ownership or profits of the business to which the application relates by historically disadvantaged persons, or groups or categories of historically disadvantaged persons, permanently resident in the Province;
- the promotion of tourism at such place where the Site will be situated and in the Province in general;
- the creation of sustainable employment opportunities at such place where the gambling takes place and in the Province in general;
- the development of non-metropolitan areas;

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- the provision by Licensees of training and skills to their employees as well as Site employees;
- the stimulation of the local economy through procurement by the Licensees of labour, goods and services within the Province;
- the provision by Licensees of facilities, advantages or contributions for the benefit of, or for utilisation or enjoyment by any needy community, or any persons or groups or categories of persons, previously disadvantaged by unfair discrimination;
- the enhancement of neighbourhoods and the environment;
- the provision of entertainment facilities to members of the public;
- to contribute to the eradication and/ or prevention of incidents of illegal gambling;
- the introduction of new and additional forms of gambling, thereby creating opportunities for the direct participation of Local PDIs more particularly those who are female, New Entrants including small and medium size enterprises within the gambling industry; and
- ensuring compliance with bid undertakings.

### 2.3 Purpose of the draft RFP

- 2.3.1 This draft RFP is being circulated to the public for comment and suggestions, after which a consultative session will be held to clarify the requirements of the RFP, to explain the evaluation process, and to answer written questions put to the Board by prospective Applicants, while allowing them an opportunity to raise issues from the floor and to allow the Board to receive input from interested parties. This process will culminate in the issue of a final RFP. The above process is aimed at making the award of the Licence fair, transparent and equitable to all Applicants.
- 2.3.2 The draft RFP further seeks to furnish all prospective Applicants for Licences with a clear indication of the underlying policies and principles applicable to the licensing of these operations, as well as the Evaluation Process and Evaluation Criteria applicable to the licensing of such Applicants. Simultaneously, the RFP will provide all Applicants with clear guidelines on the information required by the Board, in order to evaluate all applications.
- 2.3.3 Through this RFP process, the Board further seeks to diversify and expand access to gambling facilities and provide additional and alternative forms of leisure throughout the Province, including areas not served by other operators.
- 2.3.4 Applications for the following Licences will be invited through the final RFP:
- i) Licences for a Type A Site that is licensed to expose not less than 3 and not more than 5 LPMs for play;
  - ii) Licences for a Type B Site that is licensed to expose not less than 20 and not more than 40 LPMs for play; and
  - iii) Licences for a Type C Site that is licensed to expose not less than 6 and not more than 15 LPMs for play.
- 2.3.5 The Board intends to invite applications for Licences to be distributed in the following districts, local, and metropolitan Municipalities:

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**TABLE A: DISTRICT AND LOCAL MUNICIPALITIES**

District Municipality	Local Municipality	Available number and type of site Licenses	MAXIMUM NUMBER LPM EXPOSURE (for information purposes only)
ALFRED NDZO DISTRICT MUNICIPALITY	Umzimvubu Local Municipality	One Type A's	6
	Matatiele Local Municipality	type A's or Type C's or Type B	55
	Mbizana Local Municipality	Type A	7
	Ntabankulu Local Municipality	One type C and one Type A or Type B	20
AMATHOLE DISTRICT MUNICIPALITY	Amahlathi Local Municipality	Two type C's	30
	Great Kei Local Municipality	One type C or two Type A's	11
	Mbhashe Local Municipality	One Type C or two type A's	10
	Mnquma Local Municipality	One Type B or two type C's	30
	Ngqushwa Local Municipality	One Type C or three type A's	14
Chris Hani District Municipality	Emalahleni Local Municipality	One Type C or four type A's	18
	Instika Yethu Local Municipality	Two Type C's or one Type B or 5 Type A's	29
	Enoch Mgijima Local Municipality	One Type C or three type A's	13
	Sakhisizwe Local Municipality	One Type C site or two type A sites	9
JOE GQABI DISTRICT MUNICIPALITY	Elundini Local Municipality	Two Type C's or one Type B	33
OR TAMBO DISTRICT MUNICIPALITY	Ingquza Hill Local Municipality	One Type C and two Type A's	13
	KSD Local Municipality	Two Type C's	31
	Mhlontlo Local Municipality	One Type B or three Type C's	41
	Nyandeni Local Municipality	Two Type C's and one Type A	33
SARAH BAARTMAN DISTRICT MUNICIPALITY	Sunday's River Local Municipality	One Type A	5
<b>TOTAL</b>			<b>408</b>

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**TABLE B: METROPOLITAN MUNICIPALITIES**

METROPOLITAN MUNICIPALITY	Available number and type of sites	Maximum number of LPM EXPOSURE (for information purposes only)
BUFFALO CITY METROPOLITAN MUNICIPALITY	One Type C or Three Type A's	17

2.1.1 The maximum number of LPM exposure is determined by, amongst others,

- a) the Socio-Economic Impact Study on Limited Payout Machines,
- b) the LPM policy,
- c) Appendix B of the LPM policy as at 31<sup>st</sup> May 2018 and published in the ECGB website ([www.ecgbb.co.za](http://www.ecgbb.co.za)) showing the number of LPMs currently allocated by the Board in terms of existing site licenses, including for TYPE D sites.

2.1.2 The maximum number of LPM exposure is further subject to a limit of 1000 (one thousand) LPMs for each Route Operator in terms of the existing Route Operator licenses.

NOTE: The Board reserves the sole discretion as to the distribution of LPMs in the Province and shall prescribe such allocations by District, Local or Metropolitan Municipality from time to time through an Addendum to this RFP

## 2.4 **Background**

The Board issued two Route Operator Licences in the Province, one to Vukani Gaming Eastern Cape (Pty) Ltd and the other to Pioneer Slots (Pty) Ltd. The two Route Operator Licences expire on 31 March 2027 and 29 February 2028 respectively.

In order to ensure both economies of scale and effective competition between Route Operators, the Board has decided to award no more than two Route Operator Licences in the Province.

A Route Operator is licensed to operate a maximum of 1000 LPMs.

In terms of the Regulations, provision is made for Sites with not less than 3 and not more than 5 LPMs, a Type A Site; for Sites with not less than 20 but not more than 40 LPMs, a Type B Site and for Sites with not less than 6 but not more than 15 LPMs, a Type C Site.

The maximum number of LPMs which may be exposed for play in terms of all Route Operator licences and Licences issued in the Province shall be the number determined in terms of the National Gambling Act.

## 3. **Statutory Framework and Requirements: Sites**

It is the responsibility of Applicants to take cognisance of the Act and Regulations, the National Gambling Act, and the National Regulations to ensure they are not disqualified by any of the requirements.

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#### 4. **Fronting**

4.1 Any form of fronting is strictly prohibited. The B-BBEE Act describes fronting as a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of this Act or the implementation of any of the provisions of this Act, including but not limited to practices in connection with a B-BBEE initiative:

- in terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise;
- in terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation;
- involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
- involving the conclusion of an agreement with another enterprise in order to achieve or enhance broad-based black economic empowerment status in circumstances in which:
  - there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;
  - the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available; and
  - the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis.

#### 5. **Contracts with potential Sites**

5.1 The Board shall not be bound by any contract between a Route Operator and a potential Licensee and shall not be bound to grant or issue a licence to any such potential Licensee, even if that potential Site may be indicated in the application.

5.2 The Board has developed a standard Site Agreement, Appendix J hereto, to be entered into between the Route Operator and Licensee. Draft agreements between Route Operators and all prospective Licensees shall be submitted to the Board for approval. No final agreements shall be entered into prior to the approval of the relevant draft agreements. The draft agreements shall contain the standard terms contained in Appendix J and shall further stipulate that such agreements shall be of force and effect only once the premises to which they pertain have been approved in writing by the Board. No draft agreements not containing the above terms will be considered or approved by the Board.

5.3 Route Operators shall enter into draft agreements with the persons or entities exercising control over the premises in respect of which Licences are envisaged to be applied for. Each such draft agreement shall be concluded for a minimum term of two years, contingent on compliance by the parties with the Act, Regulations and Rules. The Board will not acknowledge or approve any agreements entered into by Route Operators which purport to be unconditional or do not contain the express terms stipulated above.

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- 5.4 All loan agreements entered into between a Licensee and a Route Operator in respect of Site improvement costs shall at times be subject to the approval of the Board and compliance with the National Credit Act. In considering whether to approve a loan agreement, the Board shall consider the best interest of the Licensee with a view to ensure that the latter’s portion of the revenue generated from gambling activities is not diminished by loan repayment(s).
- 5.5 The Board may at any time review any agreement approved by it.
- 5.6 No installation of any gambling or related equipment, including, but not limited to, communication lines, cabling, electrical wiring or power outlets will take place prior to the approval of a gambling-related agreement and the subsequent issue of Site licences. Prospective licence holders should guard against representing, through pre-licensing negotiations, the installation of gambling-related equipment, or any other conduct or omission that a Licence will be granted.
- 5.7 The prospective Licensee shall indicate only one Route Operator as its preferred choice and shall not present the Board with a second alternative. This will prevent unnecessary canvassing of potential Sites or unethical practices which could place the prospective Licensee at risk when licences are awarded.
- 5.8 The purpose of the execution of standard agreements by Route Operators is to level the playing fields, so that all Route Operators have an equal chance of canvassing suitable Sites. The Board will not tolerate any practices aimed at inducing potential Licensees to prefer one Route Operator above another for the purposes of the execution of such agreements, such as financial or similar incentives, and agreements found to have been concluded pursuant to such representations will not be recognised and will be rendered invalid.
- 5.9 No Route Operator or shareholder of a Route Operator shall have a financial interest in a Licensee and vice versa. The Board reserves the right to revoke a Route Operator’s or Licensee’s Licence in the event of a breach of this express provision.
- 5.10 The proposed agreement with the proposed Licensee shall contain terms regarding the allocation of profits. The Licensee shall be entitled to at least 40% of the profits generated by the conduct of the activities authorised by the licence for Type A & C sites, and at least 50% of the profits for Type B Sites, after the subtraction of all admissible deductions set out in 5.11 below.
- 5.11 The following formula shall be utilised in the determination of profits to be divided between the Route Operator and each Licensee and shall be incorporated into the draft agreements as a standard term:

**Gross Gaming  
Revenue Less:**

- (i) Gaming levy (as per Act and Regulations)
- (ii) CMS monitoring fee (as per service level contract with the NGB)
- (iii) Site Data Logger charge (as per agreement with RMS)
- (iv) Insurance

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## Equals the Net Gaming Revenue

### Net Gaming Revenue Split:

- |                                |  |
|--------------------------------|--|
| (i) Licensee: -                | At least 40% of Net Gaming Revenue (Type A & C Sites)<br>At least 50% of Net Gaming Revenue (Type B Sites) |
| (ii) Route Operator Licensee:- | Remainder Net Gaming Revenue   |

- 5.12. Apart from the agreement between a Route Operator and a Licensee relating to the division of profits between them, no gambling-related contract entered into by a Licensee shall contain terms, conditions or any similar provisions in terms of which the performance by the licence holder or Applicant for a licence, or any aspect of such performance, is directly or indirectly based upon, linked to or in any respect contingent upon, turnover generated by the gambling operations or proposed gambling operations of such licence holder or Applicant for a licence unless such Site's registered owner (landlord) has first obtained a Certificate of Suitability.
- 5.13 No person other than the Route Operator may share in the profit or turnover of the gambling operations of a Licensee without the consent of the Board.

## 6. Essential Minimum Requirements

Applicants must submit a Proposal which meets the EMRs listed below and, which responds to all information requested by the RFP.

Any Proposal may be accepted on its terms, and the Applicant in submitting its Proposal does so in the knowledge that the Proposal so accepted may be the basis on which the Licence shall be awarded to the Applicant by the Board.

## 7. The Request for Proposal

***The issuing of the final RFP will signal the commencement of the initial application process which will close and / or re-open upon notice by the Board from time to time.***

This RFP, prepared pursuant to section 20 of the Act, sets out the procedure for applying for a Licence in the Province. The final RFP will specify the information required from Applicants and their detailed plans for operating Sites. Applicants should note that the Board reserves the right to reject any or all applications which do not in its opinion satisfy the necessary requirements, details of which are contained in the final RFP. The Board also reserves the right to restructure the tender timetable. The Board will notify Route Operators of further application processes.

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## 8. Fee payments and costs

The draft RFP is available at no cost and can be downloaded from the ECGB website being [www.ecgbb.co.za](http://www.ecgbb.co.za).

The cost of the final RFP, the purchase of which will be compulsory for all Applicants, will be R30.00 for a Type A site, and R1000.00 for a Type B and Type C sites.

The non-refundable application fee for a Licence is R1 000.00 and will be compulsory for all Applicants.

An initial investigation deposit of R10 000.00 will be required from each Applicant for a Licence for a Type A Site and R35 000.00 from each Applicant for a Licence for a Type B or C Site.

All payments must be made through electronic funds transfer. No cash or cheques will be accepted.

The Board reserves the right to request additional deposits from each Applicant in respect of the Board's reasonable expenses to conduct the investigation as contemplated in section 20(5) of the Act. The Board uses a time based charge-out fee in order to recover its costs and the fee may be revised annually by the Board.

Any application not accompanied by the above statutory application fee and investigation deposit will be rejected outright.

## 9. Clarification of the final RFP

The Board will require all parties receiving the final RFP to register the contact details of a Registrant. The Board will circulate, as and when it sees fit, to all registrants (if before submission of the application) or to all Applicants (if after submission of the application) a copy of each request for clarification received by it, together with a copy of the Board's written reply to each such request.

## 10. Confidentiality

10.1 In terms of section 25 of the Act, any application, representations, responses and further information lodged in terms of sections 20 to 24 of the Act, shall be open to public inspection within 14 days of their lodgement for a period of 3 months and the period specified in the Act from the date of publication of the section 21 notice by the CEO.

10.2 The Board has determined in terms of section 25 that:

- (a) any document or information relating to the financial capacity of any person participating in an application, to the names of prospective employees or to the business plans of an Applicant, shall not be open to public inspection: Provided such information can be separated from the remainder of the application and is marked “confidential”; and
- (b) the identity of any person who lodged representations in relation to an application shall not be divulged to any other person.

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- 10.3 The Applicant must give reasons for any information they regard as confidential. In the interests of transparency, honesty and openness, Applicants shall keep to absolute minimum information to be categorised as confidential.
- 10.4 By submitting a proposal, an Applicant agrees that it shall not be entitled to any information disclosed by another Applicant to the Board which the Board has determined to be of a confidential nature.
- 10.5 The content and details of the evaluation of applications will remain confidential to the Board. The Board shall be entitled to disclose, in the appropriate manner, confidential information contained in its investigation reports and reasons for approving an application.
- 10.6 Unless required by law, Applicants shall not issue a news release or make any public announcement pertaining to the details of their proposals or other proposals or the process without prior written approval of the Board.
- 10.7 Any information relating to the project received by the Applicants, through the process or otherwise, shall be treated in strict confidence.
- 10.8 Applicants, its officers, employees, agents, advisors and representatives shall use the final RFP solely for the purpose of considering, developing and preparing the application and for no other purpose whatsoever. Applicants shall not divulge or distribute any information contained in the final RFP to any third party without the prior written approval of the Board.
- 10.9 Subject to the provisions of the Act, the Board and its advisors undertake to keep confidential all information received from an Applicant which is clearly identified as confidential in such Applicant's Proposal and which is not excused from confidentiality. It is a condition that the Applicant provides the Board with a written undertaking in its Proposal to indemnify the Board in respect of any losses suffered by the Board in it refusing to disclose the relevant material or data to any person seeking access thereto. Failure to include such an undertaking shall be deemed to be a waiver of the Applicant's right to exemption from disclosure and shall constitute authorisation to the Board to provide copies of material/ data forming part of the Proposal to third parties on due request therefor.
11. **Corrupt gifts and payments**
- 11.1 Neither the Applicant, its Equity Members nor any of their advisors shall directly or indirectly offer or give to a member of the Board, any person in the employment of the Board or any other Government official, who is directly involved in the Project and the award of the License; any gift or consideration of any kind as an inducement or reward for appointing the Applicant as the Successful Applicant, or for showing or omitting to show favour or disfavour to any Applicant, its Equity Members in relation to the Project and the award of the License.
- 11.2 In the event that any of the prohibited practices contemplated under 11.1 above is committed, the Board shall be entitled to terminate the Applicant's status and to prohibit such Applicant, its Equity Members, its Committed Subcontractors and their agents and advisors from participating in any further part of the procurement of the Project.

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## 12. Application process

### 12.1 Overview of the application process

- 12.1.1 The proposed timetable for the initial application and evaluation process is contained in Appendix A.
- 12.1.2 Applicants should be aware that the Board may, at any time, change the timetable for issuing of the licences.
- 12.1.3 Each Applicant is required to complete the application form as specified in Appendix B the closing date agreed with the Board. Each application must be prepared in accordance with the guidelines contained in the final RFP. Each Applicant shall provide full, detailed and honest responses to all information requested in the final RFP, plus any additional information that may be of relevance or requested by the Board.
- 12.1.4 The Board will undertake evaluations of all applications. To facilitate this process each Applicant may be required to provide additional information, in writing and/or by means of interview, to clarify particular aspects of their application. In addition, Applicants will be permitted to make formal oral presentations to the Board.
- 12.1.5 It is envisaged that this evaluation process will be completed within the time frames contained in the Act.
- 12.1.6 The provisions of the RFP and the terms offered by Applicants in the successful bids are likely to form the basis of the licences. Where the terms offered by the Applicants are in conflict with the RFP the RFP will prevail. There will then be a period of discussion and negotiation between the Board and the Successful Applicants during which time the terms of the licences will be finalised. It is intended that the discussions and negotiations referred to above, shall take no longer than a month. Each Applicant will be asked to provide details with their application of any confirmations and clearances, permissions and approvals necessary and appropriate, or the conditions that would need to be met before the Licences are issued.
- 12.1.7 Each Applicant must also be in a position to show the finance for their Proposal is irrevocably committed, should they be the Successful Applicant. In addition, in the case of a new Site or a Site requiring substantial alteration, each Applicant may have to supply the Board with an undertaking from the Route Operator for the completion of the development of the Site and related social project undertakings. These undertakings and guarantees, where applicable, would only come into operation should the Applicant be issued with a Licence.
- 12.1.8 All applications **must** be submitted to the Board through the proposed Route Operator of the Site. An application may only be submitted through one Route Operator. Applications are to be submitted in batches as agreed between the Board and the Route Operators and no Applications submitted either outside of the agreed batches or otherwise than through a Route Operator will be considered.

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- 12.1.9 Each Application will be subject to a content check at the time of submission. It will not be regarded as a valid submission unless the application fees have been paid and the application complies with the detailed requirements of the RFP. Applications that are non-compliant during the content check will be rejected outright.

## 12.2 Receipt of applications

An acknowledgement of receipt will be issued, on the submission date, to each Applicant who submits an application and the necessary fees and investigation deposit.

## 12.3 Enquiries and other contact with Applicants

- 12.3.1 All communication regarding the licence applications between Applicants and the Board shall be strictly in accordance with the following protocol and subject to the Act.

- 12.3.2 All communication between the Applicants and the Board will be in writing and sent by e-mail to [compliance@ecgbb.co.za](mailto:compliance@ecgbb.co.za), or by registered post or hand-delivered to the Board at the following address:

The Chief Executive Officer  
Eastern Cape Gambling Board  
P O Box 15355  
**BEACON BAY**  
5205

Quenera Park Office Complex  
Quenera Street  
Beacon Bay  
**EAST LONDON**  
5241

- 12.3.3 The Board will not entertain any RFP enquiries after the date for submission of applications.
- 12.3.4 Any attempt to communicate other than as prescribed above, to contact or communicate with a member of the Board or the staff of the Board or to otherwise obtain information outside this process could lead to the rejection of an application.
- 12.3.5 All enquiries and requests for additional information regarding this RFP must be made in writing and received by e-mail, registered post or hand-delivered to the address specified in paragraph 12.3.2 above. Responses thereto, if any, will be made in writing and published on the ECGB website. The Board reserves the right to decline to answer any irrelevant or unreasonable questions.

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- 12.3.6 The Board’s agents are permitted to communicate in writing with the Applicants on matters of technical interpretation of their bid submission. Applicants may not contact the Board’s agents unless in response to such written enquiry.
- 12.3.7 No other communication with the Board or its agents, initiated by the Applicants, will be allowed after the submission date (close of tenders), except to request permission in writing to issue a news release or make any public announcement pertaining to the details of their proposals or the process.
- 12.3.8 Prospective Applicants, Applicants, their employees or any stakeholders of the Applicants are strictly limited to the form of communication described above with the Board and its employees and agents. Any attempt to communicate regarding these licence applications, other than as prescribed above or to otherwise obtain information outside of this process, could lead to the disqualification of an Application. This does not apply to the bidders’ conference, presentations, Site visits, interviews or requests for further information as contemplated in this RFP.

#### **12.4 Changes to information supplied**

- 12.4.1 The Board must be notified immediately of any material changes to any of the information contained in any of the Applications during the period between the submission of an application and the issue of the Licences.

#### **12.5 Non-compliance and Rejection**

- 12.5.1 Any failure on the part of an Applicant to comply with the terms of the final RFP, read together with all the Briefing Notes, will result in its Proposal being treated as non-compliant.
- 12.5.2 Any Proposal received without all information or data requested in terms of the final RFP, or with insufficient information for substantive evaluation thereof, will be marked as incomplete and non-compliant.
- 12.5.3 The Board reserves the right to reject any or all incomplete and/or non-compliant Proposals in its sole and absolute discretion and to waive.

#### **12.6 Licence awarded**

- 12.5.1 Route Operators are licensed by the Board for a period of 15 years. Type A, B and C Sites will not be licensed beyond the period of validity of Route Operator Licences. The Licence awarded to the Successful Applicants will accordingly be for a period of less than 15 years, from the date of issue of the Licence to the Successful Applicants, subject to the payment of the fees determined by the Act. The aforesaid licence period may not be extended. For the sake of clarity, the licence period shall not exceed that of the Route Operator to which it is licensed and shall terminate on the expiry date of the Route Operator Licence.
- 12.5.2 Licences will be subject to continuous suitability in terms of the Act and as determined from time to time by the Board.

## 13 Evaluation of applications

### 13.1 Evaluation Objectives

The primary objectives of the Board in evaluating Licence applications are to ensure that, within commercial cost and time constraints, a reasonable level of assurance is provided that Successful Applicants will establish and operate Sites in the Province which are likely to result in:

- viable businesses which will contribute meaningfully to the development of the Province;
- directors, shareholders and management of such Applicants, and persons connected to the Applicants, being of an unimpeachable, high level of integrity and professionalism;
- financially sound businesses supported by shareholders who are committed to the long-term success of these ventures and who have adequate cash and financial resources to:

fund these operations over the long term; and

meet the empowerment, community, economic, social, financial, management, development and any other objectives set by the Board.

It is the further objective of the Board that the award of the Licence to an Applicant is unlikely to result in:

- a business that may substantially affect competition in the gambling industry in the Province; and
- the existence or to aggravate any dominant and over-concentrated market-share or any restrictive practices, acquisitions and monopoly situations

#### 13.1.1 Evaluation process

The evaluation process is regulated under the Act. The process followed will mirror that as contained in the Act, and Applicants are required to familiarize themselves with such processes. In essence, the Board will ensure that the process contemplated in the Act and as stipulated hereunder is followed.

Once Applications are received, they will be subject to a content check at the time of submission. They will thereafter be reviewed for compliance with the EMRs and the other requirements of the RFP, both as regards the completeness of information as well as the format of the Proposal.

Following the submission of the Applications, the CEO shall, in terms of section 21 and section 22 of the Act, publish the material particulars of the Applications so as to permit representations by interested persons as well as the local authority.

The CEO shall not be obliged to publish an Application that does not comply with any of the terms of the RFP regardless of whether such areas of non-compliance are material or immaterial.

Applicants may be requested to provide additional information to clarify aspects of their Applications, attend interviews and deliver formal presentations.

The Board shall then make any Proposal, representations, responses and further information lodged in terms of sections 21 to 24 of the Act open to public inspection by interested persons.

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The Board must allow the Applicant to lodge written responses to any representations lodged.

The Board shall conduct an inspection of the Site to which the Application relates being the proposed location of the Licensed Premises.

If necessary, the Board shall gather such further information as it deems necessary regarding the suitability of the Applicant and the suitability of the proposed location for the Licensed Premises.

The Board shall hold a hearing after the period for public inspection of the Application and related documents lapses in accordance with sections 28, 29 and 30 of the Act.

Adjudication and a decision of the award of the Licence by the Board in terms of section 32 of the Act will only commence once:

- all investigation reports have been completed;
- where there is more than one application, comparative evaluations have been performed; all objections and responses have been considered; and
- public hearings have been held.

### 13.3 Evaluation criteria

- 13.3.1. The Board will deliberate, consider and evaluate the respective proposals of Applicants as against the RFP requirements and other requirements, be they statutory or otherwise. In each case Board members would be guided by inter alia the bid documents, the Act, the Regulations, the RFP, presentations by Applicants, objections, responses, investigations, public hearings, et cetera.
- 13.3.2. Where more than one competing application is received, i.e. applications for a Type B or C Site from both Route Operators in close proximity, the Board will evaluate such application as follows:
- 13.3.2.1. The Board has adopted a decision making matrix which could be used to ensure that the licensing process is as objective as possible where competing Applications are received in the same geographical area;
- 13.3.2.2. The matrix involves each Board Member separately and without reference to other Board Members evaluating and scoring each criteria with regard to each applicant. After each Board member has scored each evaluation criteria and sub-criterion the scoring by the Board Members are averaged and fed into the computer which then performs the weighting;
- 13.3.2.3. The above system will ensure that the licensing process in this province be as objective as possible; and
- 13.3.2.4. The Matrix Evaluation is only a tool that is available to the Board for this process.
- 13.3.2.5. In evaluating Applications the Board will consider all relevant factors (including the factors contained in section 50 of the Act) and will in

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particular take into account the matters set out in the table below, which are not listed in any particular order of importance.

### 13.3 Evaluation criteria and weighting

Item No	Evaluation Criteria	% of Sub Criterion	Weighting
<b>1</b>	<b>Empowerment and community criteria</b>		<b>20%</b>
1.1	<i>Provision of sustainable employment in the Province in general and in the magisterial district where the Site is situated;</i>	25%	
1.2	<i>Provision of training and skills to employees;</i>	5%	
1.3	<i>Sourcing of labour, goods and services within the Province;</i>	10%	
1.4	<i>Participation by local PDIs and groups in ownership and/or profits; and</i>	30%	
1.5	<i>Participation by local PDI who are female in ownership and/or profits</i>	10%	
1.6	<i>Participation by local PDI who are New Entrants in ownership and/or profits</i>	10%	
1.7	<i>Facilities for/contributions to needy communities</i>	5%	
1.8	<i>Culture, art and sport promotion</i>	5%	
<b>2</b>	<b>Economic criteria</b>		<b>15%</b>
2.1	<i>Maximisation of new investment in the Province</i>	45%	
2.2	<i>Promotion of tourism</i>	10%	
2.3	<i>Opportunities for small, medium and micro enterprises</i>	45%	
<b>3</b>	<b>Social criteria</b>		<b>0</b>
3.1	<i>Protection of public interest</i>	0%	

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<b>4</b>	<b>Financial criteria</b>		<b>25%</b>
4.1	Financial control	40%	
4.2	Financial strength	20%	
4.3	Financing structure and access to capital resources	30%	
4.4	Financial viability <i>and acceptability of assumptions</i>	Non scoring	
4.5	Suitability of funder	10%	
<b>5</b>	<b>Management criteria</b>		<b>25%</b>
5.1	<i>Propriety and integrity</i>	Non scoring	
5.2	<i>Access to expertise and experience</i>	45%	
5.3	<i>Access to expertise and experience of other site operators</i>	55%	
<b>6</b>	<b>Development criteria</b>		<b>15%</b>
6.1	<i>Site Location and size</i>	35%	
6.2	<i>Site layout and design of features</i>	35%	
6.3	<i>Parking availability</i>	15%	
6.4	<i>Internal and external security</i>	15%	

13.4 Each bid will be scored using the following scoring table:

Category	Score	Indicator
Weak / Poor	1	↑
Satisfactory (Less than)	2	Partial Complies / Acceptable
Satisfactory	3	
Good	4	↓
Excellent	5	

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14. Information required

Applications shall be prepared in accordance with the guidelines contained in this RFP and shall be consistent with the following:

- (a) An application for a Licence for a Type A Site shall not be required to:
- comply with the EMR ‘Target Groups’ in paragraph 14.1 below; and
  - submit an Executive Summary (paragraph 14.2 below) and Detailed Proposal (paragraph 14.3 below).
- (b) An application for a Licence for a Type B and C Site shall comply with:
- all the requirements of the RFP; and
- (c) Each application must be in English with each page clearly numbered and cross referenced in a detailed index.
- (d) The financial information requested in paragraph 15.2.5 must be provided in both hard copy and electronic form on a USB storage in a Microsoft excel 2007 running under Windows 2007. The USB storage must be clearly labelled with the Applicant’s name and contents and shall be write-protected. It is each Applicant’s responsibility to ensure that the information provided on the electronic version is consistent with the information provided in the printed application. In the event of a discrepancy in information between the electronic and the printed version, then the printed version will take preference.

Applicants should not add columns and/or rows unnecessarily to the matrix. Where changes are made, these should be clearly indicated. Applicants should use shading to highlight input and are encouraged to submit a narration of any input or amendments which they consider require clarification. Applicants should not amend the formulae, line items or definitions contained in the matrix.

- (e) Except for Appendices F and G, Applications shall consist of an original master copy in hard copy format, **five (5)** electronic copies thereof on separate USB storage devices or tablets, a separate electronic copy of the executive summary and detailed proposal in Microsoft Word on a USB storage device, together with one numbered hard copy. For Appendices F and G, Applications shall consist of an original master copy, together with **one (1)** numbered copy. **Three (3)** loose-leaf copies of the Application and one (1) electronic copy on a USB storage device must be supplied for public inspection, with the appropriate confidential pages removed;
- (f) Any natural person who is a Shareholder of the Applicant and who has successfully been investigated and issued with a licence or certificate of suitability by the Board within the last five (5) years prior to the Closing Date is not required to submit Appendix G, provided that the natural person submits a duly completed Appendix K with an authorization to release information in the name of the Board and has complied with all the requirements of the RFP.

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- (g) Any juristic person who is a Shareholder of the Applicant and who has successfully been investigated and issued with a certificate of suitability by the Board within the twelve (12) months prior to the Closing Date is not required to submit Appendix K provided that the juristic person has complied with all the requirements of the RFP.
- (h) All Persons issued with a national licence by other Provincial Gambling Boards or in possession of a licence issued by another Provincial Licensing Authority must submit (i) a certified copy of the licence; (ii) a copy of the application submitted to the National Gambling Board or the responsible Provincial Licensing Authority; and (iii) authorisation to release information in the name of the Board.
- (i) All applications shall preferably be on A4 size paper and on A3 size paper, where necessary.
- (j) The company/personal history section of each bid shall be provided as a separate, detachable section of the application.
- (k) The essential minimum requirements section of each bid shall be provided as a separate, detachable section of the application.
- (l) The master copy must have the signature of two directors / members of the Applicant, where applicable. Proof of their authority to sign shall also be provided.
- (m) Each page of the application must be initialled to indicate that Applicants have checked their answers for completeness and accuracy.
- (n) All information must be delivered and accompanied by a Route Operator representative to the Board at the address specified in paragraph 12.3.2 herein above at the closing date agreed with the Board.
- (o) Facsimiled or e-mailed proposals will not be accepted.
- (p) Each applicant is required to provide responses in the same order as requested in this RFP, using a numbering system from 1 to 3, corresponding to the numbering system listed below (i.e. excluding the first digit, e.g. paragraph 14.1 below shall be numbered 1 in the application, paragraph 14.3.1 below shall be numbered 3.1, etc.).

The Proposal shall constitute an irrevocable binding offer by the Applicant to the Board, which shall remain open for acceptance for a period of 180 days from the date of submission, plus any agreed extension thereto.

In the event that the Board requests the Applicant to extend the period of validity of its Proposal, for any reason, the Applicant must issue its response in writing and should the extension be agreed to, the Proposal may not otherwise be varied.

## 14.1 Essential Minimum Requirements

- 14.1.1** The Board experienced considerable delays in the roll out of LPMs during the previous Route Operator licence period. The majority of the delays were as a result of the failure of the applications for Licences to secure a sufficient number of Sites that comply with the requirements of the Board and the NGB. The Board *inter alia* experienced problems with the quality of Sites applied for, incomplete applications

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for Site licences, the failure of Sites to have the appropriate liquor licences, Sites not meeting the zoning requirements of the local authorities in the area of operation, non-disclosure of information, incomplete responses to requests for information, uncooperative applicants, delays between licensing and operation, etc. As a result, applications that did not meet the requirements set by the Board, and that were not disqualified, were only approved when they eventually complied with the Board’s requirements.

#### 14.1.2

Applications for Licences that, do not have a primary business that complies with all applicable legislation and that do not contain at least the following will not be regarded as meeting the requirements of a valid application and will be rejected outright:

- Duly completed Business Entity Disclosure Form:
  - Confirmation of payment of prescribed fees;
  - Certified completed prescribed notice;
  - An affidavit in respect of the local PDI status of the Applicant for the site licence;
  - Site Location Plan;
  - Site Plan / Outlay (including photo’s of the interior and exterior of a site if constructed);
  - Financial statements in the event of an established business;
  - Financial projections in respect of both the primary and secondary business in the event of new business;
  - Bank statements for a period of 3 months (not older than 6 months from the date of the Application), if applicable;
  - Certified copies of Liquor, Gambling and/or other business licences, if applicable;
  - Original Tax Clearance Certificate in respect of the Applicant and all members or directors where applicable;
  - Valid BBBEE certificate issued by an accredited verification agency.
  - Proof of Zoning ;
  - GPS coordinates;
  - Proof of security of tenure of the proposed site (title deed or written lease agreement);

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- A SAPS clearance certificate; and
- Signed projections / viability calculations of LPMs.
- Duly completed Personal History Disclosure Forms.
- Duly commissioned affidavit, Appendix L hereto, together with all required annexures thereto

The Table below covers the additional EMRs in each of the evaluation areas which must be completed. Where an Applicant has not met the requirements as specified in the table below the Application will not be regarded as meeting the requirements of a valid application and will be rejected outright.

Evaluation area	Essential Minimum Requirement
<b>Application</b>	<ul style="list-style-type: none"> <li>▪ Completion of Appendix B (Licence Application)</li> <li>▪ Completion of Appendix E (the Prescribed Notice of Lodgement)</li> <li>▪ Completion of Appendices C and D;</li> </ul>
<b>Technical (Type A Sites)</b>	<p>The Applicant shall submit a technical proposal that shows the integration of the design, sustainability and operational aspects of the licensed activities which entail the following:</p> <ul style="list-style-type: none"> <li>○ Primary Business;</li> <li>○ Minimum floor space of 45 square meters;</li> <li>○ Not less than 3 LPMs and not more than 5 LPMs; and</li> <li>○ Parking facilities.</li> </ul> <p>Note: The operation of LPMs shall be incidental to primary business.</p>
<b>Technical (Type B Sites)</b>	<p>The Applicant shall submit a technical proposal that shows the integration of the design, sustainability and operational aspects of the licensed activities which entail the following:</p> <ul style="list-style-type: none"> <li>○ Primary Business;</li> <li>○ Minimum investment of R480 000;</li> <li>○ Minimum floor space of 360 square meters;</li> <li>○ Not less than 20 LPMs and not more than 40 LPMs;</li> </ul>

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Evaluation area	Essential Minimum Requirement
	<ul style="list-style-type: none"> <li>○ Dining facilities ; and</li> <li>○ Parking facilities.</li> </ul> <p>Note: The operation of LPMs shall be incidental to primary business.</p>
<p><b>Technical (Type C Sites )</b></p>	<p>The Applicant shall submit a technical proposal that shows the integration of the design, sustainability and operational aspects of the licensed activities which entail the following:</p> <ul style="list-style-type: none"> <li>○ Primary business;</li> <li>○ Minimum investment of R180 000;</li> <li>○ Minimum floor space of 135 square meters</li> <li>○ Not less than 6 LPMs and not more than 15 LPMs; and</li> <li>○ Parking facilities.</li> </ul> <p>Note: The operation of LPMs shall be incidental to primary business.</p>
<p><b>Target Groups (applicable to Type B Sites)</b></p>	<p>As a public entity, the Board upholds and promotes the principles enshrined in the legislation pertaining to Black Economic Empowerment and as such, will seek to ensure commitment to, adherence and compliance to BBBEE legislative provisions.</p> <p>Therefore, in addition to the other elements of BBBEE requirements the following minimum requirements are obligatory and the Applicant must provide, as a minimum response, the following:</p> <ul style="list-style-type: none"> <li>▪ Licensee equity, including:           <ul style="list-style-type: none"> <li>▪ a minimum of 51% shareholding by local PDIs</li> </ul> </li> <li>▪ Licensee management and employment including -           <ul style="list-style-type: none"> <li>▪ demonstration that at least 51% of the Total Management Fee accrues to Local PDI shareholders;</li> <li>▪ the submission of a written agreement to the above effect;</li> <li>▪ list of proposed key personnel and management of the Licensee; and</li> <li>▪ structure of, membership and/ or positions of the Board of directors of the Licensee and the participation of the Black Shareholders.</li> </ul> </li> <li>▪ a clear demonstration of how PDI’s are to be funded, and in particular Black Equity</li> </ul>

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Evaluation area	Essential Minimum Requirement
<p><b>Target Groups (applicable to Type C Sites)</b></p>	<p>As a public entity, the Board upholds and promotes the principles enshrined in the legislation pertaining to Black Economic Empowerment and as such, will seek to ensure commitment to, adherence and compliance to BBBEE legislative provisions.</p> <p>Therefore, in addition to the other elements of BBBEE requirements the following minimum requirements are obligatory and the Applicant must provide, as a minimum response, the following:</p> <ul style="list-style-type: none"> <li>▪ Licensee equity, including:           <ul style="list-style-type: none"> <li>▪ a minimum of 26% shareholding by local PDIs</li> </ul> </li> <li>▪ Licensee management and employment including -           <ul style="list-style-type: none"> <li>▪ demonstration that at least 26% of the Total Management Fee accrues to Local PDI shareholders;</li> <li>▪ the submission of a written agreement to the above effect;</li> <li>▪ list of proposed key personnel and management of the Licensee; and</li> <li>▪ structure of, membership and/ or positions of the Board of directors of the Licensee and the participation of the Black Shareholders.</li> </ul> </li> </ul> <p>a clear demonstration of how local PDI’s are to be funded, and in particular Black Equity</p>
<p><b>SED</b></p>	<p>The Applicant must provide, as a minimum response, a monetary commitment to the Board for socio economic development initiatives which amount shall be due and payable from the date of issue of the licence.</p> <p>In addition, the Applicant must provide, as a minimum response, a commitment to the Board to the extent that it will:</p> <ul style="list-style-type: none"> <li>○ procure labour, goods and services in the area where the Site is located;</li> <li>○ promote the welfare of disadvantaged persons; and</li> <li>○ provide training and skills to its employees.</li> </ul>
<p><b>Additional mandatory requirements</b></p>	<p>An Applicant must provide the following for an Applicant, the directors of an Applicant and all Shareholders with an effective financial interest of five (5) percent or more in the Applicant regardless of dormancy:</p> <ul style="list-style-type: none"> <li>○ Original SARS tax clearance certificates;</li> <li>○ Business history disclosure (in the case of an Enterprise): Applicants shall complete all information as per Appendix F; and</li> <li>○ Personal history disclosure (in the case of a natural Person): Applicants shall complete all information as per Appendix G.</li> </ul>

Applicants shall satisfy the Board that they comply with the above Essential minimum requirements, setting out the relevant information in support of this.

**NB: If any of the above essential minimum requirements are not met, the Application will be disqualified.**

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## **14.2 Executive summary (not applicable to Type A Sites)**

The executive summary should summarise the key aspects and benefits of the Applicant’s Proposal. Applicants are requested to restrict the executive summary to a reasonable length.

The key benefits of the proposed operation should be described, taking into account the evaluation criteria set out above.

The executive summary must include at least the following information:

### **14.2.1 Applicant and project team**

Identities of the Applicant and key parties (developer, Route Operator(s), financier(s), consultant(s), etc.) in the Applicant’s project team, including a detailed organisational chart of the shareholding structure depicting both direct and effective shareholdings in the Applicant.

### **14.2.2 Development and operating experience**

- (a) A summary of the qualifications, experience and ability of the Applicant to successfully manage the primary business.
- (b) Details of the proposed Route Operator (if any) including name, company registration number, address and details of contract. Evidence of any draft or conditional agreement (if any) needs to be supplied.

### **14.2.3 Summary of project concept**

- (a) Exact proposed location of the proposed Site, including the magisterial district where it is situated.
- (b) Outline of the project concept and the development schedule.
- (c) Highlights of the key features of the project and the impact of the proposed operation on the surrounding environment and society.
- (d) An outline of plans for a temporary site, if applicable, and for the transition from temporary to permanent site.

### **14.2.4 Project viability and financial returns**

- (a) Summary of the sourcing, level and nature of financing and the ability to meet financial obligations.
- (b) Summary of the estimated financial returns to the Applicant from the project over the licence period.

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#### **14.2.5 Benefits to the economy**

A summary of the key benefits (other than direct financial benefits) to the economy and to the citizens of the Province.

#### **14.2.6 Detailed proposal (not applicable to Type A Sites)**

The detailed proposal shall be a comprehensive document, which shall address all aspects of the Applicant’s proposed project.

The requirements regarding the contents of the detailed proposal together with supporting schedules to be completed are set out below.

The precise information required in each section will clearly depend upon the nature of the project and as such is largely left to the discretion of the Applicant. Where appropriate, supplementary sections may be included in the proposal.

The information provided should be as specific and measurable as possible. Wherever possible, there should also be a time frame attached to the information provided.

Applicants must bear in mind that any undertakings made in their proposals will be subject to performance audits once the Licences have been awarded. Successful Applicants will be subject to ongoing monitoring by the Board to ensure maintenance of standards and compliance with the conditions of licence. Licensees will be liable for such services calculated on hourly charge-out rates as determined by the Board from time to time. The Licensee or Successful Applicant shall provide the necessary onsite logistical facilities to the reasonable satisfaction of the Board.

#### **14.3.3 Empowerment and community aspects**

##### **14.3.3.1 Provision of sustainable employment in the Province in general and in the magisterial district where the Site is situated**

Applicants shall, in addition to their strategies for the promotion of BBBEE in this regard:

- (a) Outline their strategy for creating sustainable employment opportunities;
- (b) Specify how they are going to ensure that the maximum number of job opportunities is provided to residents of the Province. In particular, the following information shall be provided:
  - (i) The number of staff members to be recruited.
  - (ii) The number of staff members to be recruited from the area where the Site is situated.
  - (iii) A list of the number of job opportunities in respect of the Site operation, differentiating between the different grades of work and the anticipated staff mix in terms of race, gender and disability. The categories used in the Employment Equity Act, are to be used for this purpose and the information supplied should be in the form of an employment equity plan. This should be further categorised as follows, direct jobs being defined as those held by employees of the Applicant:

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Set-up phase - direct jobs

Full operational phase - direct jobs

#### 14.3.3.2 *Provision of training and skills to employees*

Applicants shall, in addition to their strategies for the promotion of BBBEE in this regard:

- (a) Provide the following details of staff and/or staff of Licensees and/or any general community training and development programmes:
  - (i) Details of individual training courses and facilities to be offered.
  - (ii) Relative positions in the organisation of each category of employment and the management training programmes to be implemented for the advancement of locally recruited staff.
  - (iii) Career and succession planning strategies, taking into account gender representation.

#### 14.3.3.3 *Sourcing of labour, goods and services from within the Province*

Applicants shall, in addition to their strategies for the promotion of BBBEE in this regard, commit on how they are going to contribute to the economy of the Province by sourcing products and services in the area in which the site is situated.

##### *Opportunities for small, medium and/or micro enterprises*

Applicants shall describe their plans and undertakings to promote opportunities for SMMEs, SMEs and Enterprise Development initiatives.

#### 14.3.3.4 *Participation by previously disadvantaged individuals and groups in ownership and/or profits*

Applicants shall, in addition to their strategies for the promotion of BBBEE in this regard:

- (a) Detail how they intend promoting black economic empowerment through ownership of a stake in the business and/or profit sharing.
- (b) Outline the strategies they intend to put in place to ensure that real empowerment takes place.

#### 14.3.3.5 *Participation by local PDIs who are female in ownership and/or profits*

Applicants shall, in addition to their strategies for the promotion of B-BBEE in this regard

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- a) Detail how they intend promoting participation of local PDIs who are female through ownership of a stake in the business and/or profit sharing;
- b) Outline strategies they intend to put in place to ensure that real empowerment takes place

#### *14.3.3.6 Participation by local PDIs who are New Entrants in ownership and/or profits*

Applicants shall, in addition to their strategies for the promotion of B-BBEE in this regard

- a) Detail how they intend promoting participation of local PDIs who are New Entrants through ownership of a stake in the business and/or profit sharing;
- b) Outline strategies they intend to put in place to ensure that real empowerment takes place

#### *14.3.3.7 Facilities for/contributions to needy communities*

Applicants shall:

- (a) outline how they intend contributing to the social development of communities within the Province (e.g. schools, clinics, community chests, etc.). This need not be limited to the particular area in which the Applicant intends to operate.
- (b) Outline how they are going to go about identifying community needs (i.e. the manner in which they intend to consult with the community to ensure that the most relevant community needs are addressed).
- (c) Specify the manner in which they are going to ensure that community projects undertaken will be sustainable and ongoing (i.e. not once-off).

#### *14.3.3.8 Culture, art and sport promotion*

Applicants shall provide details of how they will promote art, culture and sports.

### **14.3.4 Economic**

#### *14.3.4.1 Maximisation of new investment in the Province*

Applicants should provide details of the amount of new investment to be spent in the Province as a result of their development of Sites.

#### *14.3.4.2 Promotion of Tourism*

Applicants shall provide information as to how the project will contribute to tourism in the area in which the site is situated.

#### *14.3.4.3 Opportunities for small, medium and micro enterprises*

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Applicants shall, in addition to their strategies for the promotion of BBBEE in this regard describe their efforts to promote opportunities for small, medium and micro enterprises in the local area.

#### 14.3.5 **Social**

##### 14.3.5.1 *Protection of public interest*

Applicants shall outline their strategy to ensure that the public interest is protected. In particular, Applicants shall detail their social responsibility objectives and strategies with regard to problem gambling and its potential negative effects on the community.

Applicants shall provide details regarding the proximity of schools, churches, shopping centers, other licensed gambling establishment as well as other educational and/or social institutions, to their proposed Sites.

#### 14.3.6 **Financial**

##### 14.3.6.1 *Financial control*

Applicants shall, in addition to their strategies for the promotion of BBBEE in this regard provide sufficient details to enable the Board to establish the control structure and control mechanisms applicable to the Applicant at the date of the issue of the licence and throughout the licence period.

Accordingly, Applicants should provide the following (note that certain information is only applicable to Applicants that are juristic persons):

- (a) signed shareholders' agreements between all shareholders in the Applicant, all shareholders in any empowerment entity and any other major participant in the application.
- (b) Full names, addresses and identity numbers (if an individual) or registration numbers (if a juristic person) of all shareholders in the Applicant and effective shareholdings in the Applicant.
- (c) Full names, addresses and identity numbers of all directors and managers in the Applicant and their effective shareholdings in the Applicant.
- (d) Memorandum of Incorporation, rules of company and or Memorandum of Association or Founding Statement of Applicant, whichever is applicable. Complying with the provisions of, in particular, section 19 of the Act.
- (e) Full names, addresses and identity numbers or registration numbers of all shareholders of shareholders in the Applicant, effective shareholdings in the Applicant and full names of directors, trustees, beneficiaries etc.
- (f) Full details of all circumstances and/or agreements affecting the control of the Applicant by either the shareholders or the directors, or both.

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- (g) Significant recent changes in management or ownership of any of the financially and/or operationally responsible shareholders.
- (h) Full details of any anticipated future changes in the shareholdings, including the listing, of the Applicant or any shareholders thereof.
- (i) Articles of association, founding statement, association agreement and/or shareholders' agreements in respect of the Applicant must set out clearly how many directors are to be appointed, by whom, who appoints the chairman and whether the chairman has a casting vote.
- (j) Full details of any employees' share incentive scheme or other beneficial shareholdings in any of the shareholders.
- (k) With regard to shareholders (essentially the empowerment grouping), details of any arrangements by which the voting rights differ from those for ordinary voting shares (e.g. voting (O) and non-voting (N) shares, preference share arrangements, voting pools and conversion rights attaching to shares).

#### 14.3.6.2 *Financial strength*

Applicants shall provide:

- (a) The three most recent audited AFS for the Applicant and all persons holding more than an effective 5% shareholding in the Applicant, including the beneficiaries of a trust, and an interim report if this is more recent than the most recent AFS.
- (b) The most recent audited AFS for all persons with an effective shareholding of between 1% and 5% in the Applicant and in the event of a juristic person the full names, addresses and identity numbers of all directors, members or trustees Applicant.
- (c) For all dormant juristic persons, an auditor's confirmation of dormancy or a confirmation that the juristic person is not subject to any undisclosed or contingent liabilities.

#### 14.3.6.3 *Financing structure and access to capital resources*

Applicants shall:

- (a) For all persons having a direct holding in the Applicant, specify the nature, terms and conditions of all debt financing and details of all other financial commitments, including letters of commitment from financiers for the full debt requirements.
- (b) Provide names of contactable representatives of all financiers of the Applicant, financially responsible shareholders and empowerment vehicles.
- (c) Provide the proposed capital structure of the Applicant.

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- (d) Specify whether any of the project capital expenditure is based on cash flows from the primary business and detail secondary sources of funding if the primary cash flows fail.
- (e) Specify and schedule the ultimate source of all funding for the project.
- (f) Give comprehensive details of commitments for intended funding or funding or PDI shareholders' contribution to equity, including sources, terms and conditions relating to it.

#### 14.3.6.4 *Financial viability*

- (a) Applicants shall provide financial projections relating to the Applicant to cover the licence period, in the format as in Appendices C and D. Additional or alternative information shall be provided by Applicants in the form of clearly cross-referenced supporting schedules. This information must be provided in both hard copy and electronic form running under Windows 2003. This diskette must be clearly labelled with the Applicant's name and contents and shall be write-protected. The format of this spreadsheet is provided electronically on the diskette attached to this RFP.
- (b) Applicants shall provide a written report to support the financial information included in the proposal. In particular, all critical assumptions shall be clearly documented and cross-referenced to where they apply. Significant potential risks and uncertainties shall be specified.
- (c) The term “consolidated” as applied in the context of Appendices C and D refers to the combination of all elements of the proposed route. Financial information shall be presented in conformity with generally accepted accounting practice wherever applicable and accounting policies shall be stated.
- (d) The balance sheet to be prepared shall be related to the Applicant's cash flow projections, equity and debt financing and capital expenditure assumptions for the projected Site. Assumptions in respect of average working capital balances or other items included in the balance sheet should be clearly stated. All forms and sources of financing not disclosed on the balance sheet shall be fully disclosed by way of notes setting out details and amounts of all related assets and obligations relating to such financing. Full details of all material guarantees or securities provided to or by the Applicant shall be provided by way of notes.
- (e) The information to be provided in Appendices C and D shall be accompanied by a report from a firm of Chartered Accountants and Registered Auditors practicing in South Africa, addressed to the Board. This report shall contain an opinion as to whether or not the projections, including the sensitivity analysis, have been properly prepared on the basis of the stated assumptions and that the stated accounting policies have been properly and consistently applied. The financial information is to be presented in accordance with IFRS, where applicable.
- (f) Applicants shall be aware of all fees, taxes and levies payable, which they need to take into account when preparing their proposals.

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- (g) Applicants are to assume that the following rates will apply over the licence period:

A	inflation	6%
B	value added tax	14%
C	company tax	28%

However, should an Applicant have exceptional reasons to vary these rates, it may do so provided it indicates clearly what rate is used over the period.

- (f) The Board will only evaluate applications based on the initial committed Project. Future projected phases which the Applicant is not prepared to commit to as a condition of licence, will not be taken into account and must be excluded from the financial projections in Appendices C and D.

#### 14.3.6.5 *Suitability of funder*

- Applicants shall specify whether any party other than financially responsible shareholders has committed a deposit, line of credit or any other form of guarantee for the financing of the project and detail the terms and conditions of the guarantees, particularly in relation to the control of the Applicant.

#### 14.3.7 **Management**

##### 14.3.7.1 *Propriety and integrity*

Appendices F and G require background information on all persons involved in the operation of the Site. This will be used to establish whether the individuals and organizations are “fit and proper” to be involved in the operation of the Site.

The information requested in these forms include questions, inter alia, dealing with the integrity and good character of such person(s), compliance with the law, criminal listing and prior convictions, solvency history, associations with unsuitable persons, licensing history and taxation history.

Applicants shall provide the following in respect of the management structure:

- (a) Details, including an organizational chart, of intended senior staff to be dedicated to the management of the propose Site.
- (b) An organizational chart, which shall identify the persons responsible for specific areas of the route operation and the number of persons reporting to them.
- (c) An undertaking of the date that it will achieve the target that 80% of management constitutes of PDI's.
- (d) Strategies for the promotion of BBBEE in this regard.

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#### 14.3.7.2 *Access to expertise and experience*

Applicants shall provide details of their access to the route operator intended to supply the machines for the limited gambling machine operation:

- (a) The agreements governing these relationships.
- (b) The applicant shall outline in broad terms internal controls planned to be incorporated in the site operations which shall be consistent with internationally accepted standards. (The Board will adopt certain minimum requirements for internal controls to be incorporated in all site operations in the Eastern Cape, which shall be consistent with internationally accepted standards.)
- (c) Applicants shall state the measures they intend to implement to reduce the risk of money laundering activities going undetected as the Board is particularly concerned about the risk of gambling businesses being targeted for money laundering activities.

#### 14.3.7.3 *Access to expertise and experience of other site operators*

Applicants shall provide details of their access to operating expertise in terms of:

- (a) Their experience in managing and operating the primary business located on the Site and how this experience and expertise will be applied to the project.
- (b) The persons (including all directors, executives, principal officers, associates and consultants) associated with entities that will be responsible for the operation of the project.
- (c) The relationship between themselves and such persons.
- (d) The agreements governing those relationships.

#### 14.3.8 ***Development concept***

##### 14.3.8.1 *Site location and size*

- (a) Applicants shall describe the overall design of the proposed site in terms of:
  - (i) its size and prominence in terms of location and visibility; and
  - (ii) nearby land uses.
- (b) Site locality plans, including a plan of the site shall be provided.
- (c) Details shall be provided regarding the current ownership and operation of businesses on the site. Evidence of pre-contracts, guarantees or options regarding site availability shall be provided, together with any potential legal (e.g. potential land restitution claims) or physical impediments to site occupation and development.

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- (d) The current status of negotiations in respect of land and/or buildings, if applicable, and any lease or lease agreements shall be provided.
- (e) Local authority comments on land rights shall be provided.
- (f) The applicants shall indicate proximity of the site to other forms of gambling establishment.

14.3.8.2 *Site layout and design of features*

Applicants shall describe the Site design in terms of gambling area size, including the types and number of LPMs.

14.3.8.3 *Parking availability*

Applicants shall:

- (a) Describe parking at the proposed site development, which shall either be on the site or in close proximity to the site, in terms of:
  - (ii) on-site parking available for motor vehicles;
  - (iii) the extent of off-site parking;
  - (iv) security arrangements for parking.

14.3.8.4 *Internal and external security*

Applicants shall provide details of their planned security arrangements to ensure the safety of patrons and employees.

14.3.8.5 *Compliance with planning and other policies or regulations of various authorities*

Applicants shall provide details of the planning and other permissions that are required for the development, including the critical timing for planning and other permissions, including zoning.

14.3.8.6 *Suitability of premises*

Applicants shall indicate to what extent to which the premises will be suitable for the operating of a Site B or C.

14.3.8.7 *Security of tenure*

Applicants are required to provide a written valid lease agreement between an Applicant and the property owner or a title deed reflecting ownership in order to comply with the requirement of proof of security of tenure to a Site.

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#### 14.3.9 Disqualification

The Applicant is required to reveal any interest which may cause its project to be disqualified in terms of sections 49, 50 or 55 of the National Gambling Act.

#### 14.3.10 ***Proof of registration***

Applicants shall supply details and copies of all certificates of registration in respect of:

- (a) Income tax registration;
- (b) VAT registration;
- (c) PAYE registration; and
- (d) SDL registration.

#### 14.3.11 ***Company profile/personal history and development information***

##### 14.3.9.1 *Business history disclosure*

Applicants shall complete all information as per Appendix E.

##### 14.3.9.2 *Personal history disclosure*

Applicants shall complete all information as per Appendix F.

#### 14.3.12 *Licence preconditions*

Applicants shall provide details of any confirmations and clearances, permissions and approvals necessary and appropriate, or the conditions that would need to be met before being issued a Licence.

#### 14.3.13 ***Any other relevant information***

Applicants shall provide other relevant information to the application, if any.

#### 14.3.14 ***Good faith***

Applicants shall undertake to act in good faith in all their dealings with the Board and shall include in their proposals a statement of willingness to negotiate and to finalise agreements with the Board in such spirit.

Applicants are to timeously inform the Board of any grounds for disqualification which arise after submission of the application.

#### 14.3.15 ***Conflict of interest***

Applicants shall certify in their proposals that they do not have any direct or indirect connection with any member or staff member of the Board, which may in any way constitute or be deemed or seen to constitute a conflict of interest.

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#### 14.3.16 **Copyright**

Copyright in this RFP vests in the Board. Consequently, it cannot be copied, in whole or in part, in any form or in any format without the prior written consent of the Board.

#### 15. **Right to cancel or amend this RFP**

The Board reserves the right to cancel or amend this RFP, or restructure or cancel the process but without liability to compensate or reimburse any person in relation thereto.

Changes to the RFP will only be valid if given in writing by the Board. No reliance should be placed on any other information or comment from any other persons.

#### 16. **Costs and expenses**

The Board or its agents will not be responsible for any costs or expenses incurred in the preparation of an application for a licence, whether or not an application is submitted or a licence issued.

Direct costs, travel and accommodation of the Board and its agents in attending, conducting interviews and investigations and the actual cost of probity searches will be recovered in total from each Applicant. An initial deposit of the estimated costs of investigation will be required to be paid to the Board by Applicants for Licences.

#### 17. **Possibility of changes in legislation**

Each Applicant shall be aware that the law, legislation, taxation, regulations and directives pertaining to betting and gaming may change from time to time. Neither the Provincial Government, the responsible MEC, the Board nor their employees or agents will take any responsibility for such changes. The Board is in the process of a legislative review of the Act and the Regulations in order to amend same. In the event that the provisions of the RFP and/or the conditions of licence, following an amendment of the Act and the Regulations, is in conflict thereof the amended Act and Regulations will prevail.

#### 18. **No guarantee**

The Board does not guarantee that any Applicant shall be granted a licence and this RFP shall not constitute an offer of any kind whatsoever to the Applicants.

#### 19. **Rectification**

It shall be the duty of each Applicant to advise the Board forthwith in writing of any information contained in its proposal which the Applicant subsequently establishes to be incorrect and to rectify such information. The Board reserves the right to deal with such rectified information as it may deem fit.

#### 20. **Refusal, suspension or revocation of licence**

The Board may in terms of the law, refuse, suspend or revoke a licence if any information contained in a proposal is found to be false in any material respect or subject to any material omission, with the intention to mislead the Board, at the time the information was provided.

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21. **Dissemination of information and retention of material**

The Board reserves the right to publicly disseminate any information of a non-confidential nature contained in any proposal. Any and all eligible proposals including all related material shall become the property of the Board and shall not be returned.

22. **No binding agreement**

The final RFP and the proposal from the successful Applicant(s) shall not constitute a binding agreement and the selection of a successful Applicant does not mean that such Applicant's proposal is necessarily totally acceptable in the form submitted. The Board reserves the right to decline to issue a licence to the successful Applicant(s) should such Applicant fail, neglect or refuse to conform with any further or alternate requirements or conditions stipulated by the Board, or should any of the information contained in the proposal of the successful Applicant be invalid, or incorrect. In such event the Board may, at its sole discretion, either select another Applicant from the remaining Applicants for the licence or re-advertise for applications.

23. **Requirements of the Act**

It is the responsibility of Applicants to take cognisance of the Act, the National Gambling Act and the Regulations and any replacement litigation to ensure they are not disqualified by any of their requirements.