



**REQUEST FOR APPLICATION**

**FOR**

**ROUTE AND SITE OPERATOR LICENCE**

## TABLE OF CONTENTS

<b>SECTION A:</b> .....	<b>6</b>
1.1	DEFINITIONS .....6
1.2	INTRODUCTION .....8
1.3	OBJECTIVES OF LICENSING ROUTE AND SITE OPERATORS ..... 10
1.4	PURPOSE OF REQUEST FOR PROPOSAL (RFP)..... 11
1.5	SUBMISSION OF APPLICATIONS ..... 11
1.6	DELIVERY ADDRESS AND BOARD'S CONTACT DETAILS ..... 12
1.7	CLARIFICATION / RECTIFICATION OF APPLICATIONS ..... 13
1.8	FEES AND COSTS (Excluding Investigation Fees) ..... 13
1.9	INVESTIGATION OF LICENCE APPLICATIONS..... 14
1.10	PAYMENT OF INVESTIGATION FEES ..... 14
1.11	PUBLIC INSPECTION, REPRESENTATIONS BY INTERESTED PERSONS AND RESPONSE TO REPRESENTATIONS ..... 15
1.12	EVALUATION PROCESS ..... 15
1.13	SCHEDULE OF DATES ..... 16
2.	TERMS AND CONDITIONS ..... 17
2.1	DISCLAIMER ..... 17
2.2	CONFIDENTIALITY ..... 17
2.3	CANCELLATION AND VARIATIONS..... 18
2.4	NO GUARANTEE ..... 18
2.5	COMPENSATION ..... 18
2.6	REFUSAL, SUSPENSION OR REVOCATION OF LICENCE ..... 18
2.7	DISSEMINATION OF INFORMATION AND RETENTION OF MATERIAL ..... 19
2.8	GOOD FAITH ..... 19
2.9	NO BINDING AGREEMENT ..... 19
2.10	CHANGES IN LEGISLATION ..... 19
2.11	COSTS AND EXPENSES ..... 19
2.12	WAIVER OF IMMATERIAL DEFECTS..... 20
2.13	NUMBER OF LIMITED PAYOUT MACHINES ..... 20
2.14	NUMBER OF ROUTE OPERATOR LICENCES..... 20
2.15	GEOGRAPHIC DISTRIBUTION OF LIMITED PAYOUT MACHINES THROUGHOUT THE PROVINCE..... 21
3.	GENERAL PRINCIPLES AND LEGISLATIVE REQUIREMENTS APPLICABLE TO ROUTE AND SITE OPERATORS ..... 21
3.1	PROHIBITION OF GAMBLING BY CERTAIN PERSONS..... 21
3.2	STAKES AND PRIZES ..... 21
3.3	RANDOMNESS OF GAMES ..... 22

3.4	RETURN TO PUBLIC.....	22
3.5	DISPLAY OF PRIZES .....	22
3.6	LICENSING OF LIMITED PAYOUT MACHINES.....	22
3.7	MOVEMENT AND PLACEMENT OF LIMITED PAYOUT MACHINES .....	22
3.8	CENTRAL ELECTRONIC MONITORING SYSTEM .....	22
3.9	CREDIT EXTENSION AND PROHIBITED TRANSACTIONS .....	23
3.10	OPERATION HOURS.....	23
3.11	COMMENCEMENT OF GAMBLING OPERATIONS.....	23
3.12	ADVERTISING .....	23
3.13	RECORDS AND RETURNS (INCLUDING ACCOUNTING RECORDS) .....	23
3.14	PAYMENT OF LEVIES .....	23
3.15	DISPLAY OF LICENCES .....	24
3.16	REGISTRATION OF EMPLOYEES .....	24
3.17	BROAD BASED BLACK ECONOMIC EMPOWERMENT.....	25
<b>SECTION B .....</b>		<b>25</b>
1.	REQUIREMENTS FOR THE APPLICATION FOR A ROUTE OPERATOR LICENCE .....	25
1.1	APPLICATION INSTRUCTIONS.....	25
2.	SUBMISSION GUIDELINES .....	27
2.1	EXECUTIVE SUMMARY .....	27
2.2	PROJECT TEAM: .....	28
2.3	SUMMARY OF BUSINESS PLAN: .....	28
2.4	FINANCIAL PROJECTIONS: .....	28
2.5	PROJECT VIABILITY: .....	28
2.6	RELATED MANAGERIAL EXPERIENCE: .....	28
2.7	BENEFITS TO THE ECONOMY:.....	28
2.8	BENEFITS TO LOCAL COMMUNITIES .....	28
3.	DETAILED PROPOSAL .....	28
3.1	INTRODUCTION .....	28
3.2	GENERAL REQUIREMENTS.....	29
3.3	CONTENT REQUIREMENTS .....	29
	3.3.1 APPLICANT .....	29
	3.3.2 ROUTE OPERATION DETAILS .....	29
4.	ASSESSMENT CRITERIA.....	29
4.1	Suitability and management competence .....	30
4.2	Viability and financing of the Route Operation.....	30
4.3	Empowerment, human resource strategy and community benefits .....	30
4.4	Prevention of monopolistic situations.....	31
4.5	Measures to promote responsible gambling .....	31

4.6	Geographic spread .....	31
4.7	Other licence applications/development commitments .....	31
<b>SECTION C .....</b>		<b>32</b>
1.	REQUIREMENTS FOR THE APPLICATION FOR A SITE OPERATOR LICENCE (TYPE A AND TYPE B) .....	32
1.1	APPLICATION INSTRUCTIONS.....	32
2.	DETAILED PROPOSAL .....	33
3.	ASSESSMENT CRITERIA IN RESPECT OF SITES.....	35
3.1	TYPE A SITE LICENCE (SITES WITH FIVE MACHINES OR LESS).....	35
3.1.1	A lawfully operated establishment providing primarily an adult leisure facility.....	35
3.1.2	Demonstration of enforceability of the legal age restrictions to the playing of gaming machines.....	36
3.1.3	The main business of the establishment must not be the operation of gaming machines .....	36
3.1.4	The location of LPM machines .....	37
3.1.5	The major portion of the premises shall not be used as a family residence.. ..	37
3.1.6	The exclusion of certain sites .....	37
3.1.7	Other factors as the Board may deem relevant.....	37
3.2	TYPE B SITE LICENCE (SITES WITH MORE THAN FIVE MACHINES BUT LESS THEN FORTY).....	38
3.2.1	A lawfully operated establishment primarily providing an adult leisure facility.....	38
3.2.2	Demonstration of enforceability of the legal age restrictions to the playing of gaming machines.....	38
3.2.3	The exclusion of certain sites .....	38
3.2.4	The main business of the establishment may not be the operation of gaming machines .....	39
3.2.5	Other factors the Board may deem relevant.....	39
3.2.6	Standard of premises.....	39
3.3	NATIONAL MINIMUM LICENSING CRITERIA FOR SITES WITH MORE THAN FIVE LIMITED PAYOUT MACHINES .....	41
3.3.1	Suitability of Location.....	41
3.3.2	Social Responsibility Programme .....	41
3.3.3	Social Investment Programme .....	41
3.3.4	Responsible Gambling Contribution to the South African Responsible Gambling Trust (SARGT) .....	41
3.3.5	Ownership of Sites.....	41
3.3.6	Management of Sites .....	41
3.3.7	Employment Equity.....	42

3.3.8	Skills Development and Transfer .....	42
3.3.9	Preferential Procurement .....	42
3.3.10	Enterprise Development .....	42
3.3.11	Residual Elements .....	42
3.4	ADDENDUM .....	42

## **SECTION A:**

### **1.1 DEFINITIONS**

In this Request for Proposals ("RFP"), unless the context indicates otherwise, the following terms have the meaning indicated against each of them:

**"Act"** means the Limpopo Gambling Act (Act no. 4 of 1996) as amended.

**"Applicant"** means any person or entity who has responded to the Board's invitation to apply for a Route Operator, type A or type B Site Operator licence as contemplated in section 31 and 32 of the Act, and section 26 of the National Act, by submitting a proposal and paying the required Application fee.

**"Application"** means an application for a Route Operator, type A or type B Site Operator licence made in terms of the Act and National Act.

**"B-BBEE"** means Broad-Based Black Economic Empowerment, as envisaged in the Broad-Based Black Economic Empowerment Act No. 53 of 2003 and the Codes of Good Practice issued in terms of this Act, as amended from time to time.

**"Board"** means the Limpopo Gambling Board established in terms of the Act.

**"Central Electronic Monitoring System"** means the central electronic monitoring system in respect of limited payout machines contemplated in Section 13(1)(l) of the National Gambling Act, Act 33 of 1996, as amended, and Regulation 8 of the Regulations promulgated in terms of such Act, as published in the Government gazette No. R1425 dated 21 December 2000.

**"Close Corporation"** means a close corporation incorporated under the Close Corporation Act No. 69 of 1984, as amended.

**"Company"** means a company registered in terms of the Companies Act No. 61 of 1973, as amended.

**"Designated Area"** means an area at a site where limited payout machines are authorised to be placed.

**"Licence"** means a Route Operator licence or a Site Operator licence as contemplated in Sections 31 and 32 of the Act.

**"Licensee"** means a successful applicant to whom a Route Operator licence or a Site Operator licence has been granted.

**“Limited Payout Machine”** means a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed by the National Regulations on Limited Payout Machines.

**“National Gambling Act (National Act)”** means the National Gambling Act No. 7 of 2004, as amended.

**“National Gambling Regulations”** means the National Regulations, 2004 (promulgated on 15 November 2004), and as amended from time to time.

**“National Regulations on Limited Payout Machines (LPM’s)”** means the National Regulations on Limited Payout Machines, 2000 (promulgated on 21 December 2000).

**“Person”** means both natural and a juristic person.

**“Province”** means the Limpopo Province.

**“Provincial Government”** means the Limpopo Province Government.

**“Regulations”** means the Limpopo Gambling Regulations, 1997 (promulgated on 26 September 1997 in terms of the relevant provisions of the Act), and as amended from time to time.

**“Republic”** means the Republic of South Africa.

**“Responsible Member”** means the Member of the Executive Council responsible for the administration of the Act in the Province.

**“RFP”** means the Request for Proposals.

**“Route Operator”** means the holder of a licence as contemplated in Section 31 of the Act.

**“Rules”** means the Limpopo Province Gambling Rules laid down in terms of the relevant section of the Act.

**“Site Operator”** means a person who is authorised to keep limited payout machines on a site in terms of section 32 of the Act, and as contemplated in section 18 of the National Act.

**“Site Premises”** means premises licensed by the Board for the placement of one or more limited payout gambling machines contemplated in section 18 of the National Act.

**“Type A Site Licence”** means a Site Operator, who on a single site, is allowed to operate a maximum of five limited payout machines.

**“Type B Site Licence”** means a Site Operator, who on a single site, is allowed to operate a maximum of forty limited payout machines.

In addition to the definitions provided herein, any word, term or expression used in this entire document, unless the context within which it is used otherwise indicates, has the meaning assigned to it in the Act and the Regulations framed under the Act; and any word or term used in this document, importing the singular include the plural and vice versa.

## **1.2 INTRODUCTION**

The National Gambling Act provides for the establishment of the National Gambling Board. Its objectives are *inter alia* to promote uniform norms and standards applying generally throughout the country so that:

- (i) gambling activities are effectively regulated, licenced, controlled and policed;
- (ii) members of the public who participate in any licenced gambling activity are protected;
- (iii) society and the economy are protected against over stimulation of the latent demand for gambling; and
- (iv) the licensing of gambling activities is transparent, fair and equitable.

Section 104 of the Constitution of South Africa authorises the legislative authority of the Province to pass legislation for the Province with regard to gambling. The Provincial Government has established the Board in terms of Section 2 of the Act. The powers and functions of the Board are set out in the Act, and include, *inter alia*, the granting of Licences subject to the provisions of the Act and other relevant legislation.

A person who applies for a Licence, must ensure that he is fully qualified to hold a Licence, in terms of section 22 of the Act, which states as follows:

**“22. Disqualification for licences in general**

- (1) *A licence shall not be granted to any person, including a juristic person-*
  - (a) *unless the person-*
    - (i) *is fit and proper person;*
    - (ii) *is of good character and integrity and whose prior activities, reputation, habits and associations do not pose a threat to the public interest; and*
    - (iii) *is of good financial standing;*
  - (b) *if the person-*
    - (i) *is an unrehabilitated insolvent;*
    - (ii) *is a political office-bearer;*



- (iii) *is a family member of the responsible Member or a member of the Board.*
- (iv) *has in the Republic or elsewhere in the preceding 10 years been convicted of any offence, unless-*
  - (aa) *the Board is of the opinion that the offence was of such a nature that it does not imply that such a person is unsuitable to hold a licence; or*
  - (bb) *the conviction and sentence have been set aside by a competent court; or*
  - (cc) *such a person has received a grant of amnesty or free pardon for an offence which would otherwise have disqualified that person from holding a licence;*
- (v) *is a minor on the date of the consideration of the application concerned or;*
- (vi) *is in the employ of an official law enforcement agency, including the South African Police Services;*
- (viii) *is the spouse of a person contemplated in subparagraphs (i), (ii), (iv) or (vi).*
- (c) *unless the board is satisfied that-*
  - (i) *the state, any organisation with which the State is concerned, a political party or any official of a political party does not hold any financial interest in the gambling business of the applicant or the premises on which a casino is to be conducted: Provided that this subparagraph shall for a period of two years after the commencement of this Act not apply in respect of any financial interest and by the State or such organisation at the commencement of this Act;*
  - (ii) *the granting of such licence will not bring into existence or aggravate any dominant and over concentrated market-share or any restrictive practices, acquisitions and monopoly situations as envisaged in the Maintenance and Promotion of Competitions Act, 1979 (Act No. 96 of 1979), in the gaming industry or branch thereof;*
  - (iii) *the granting of such licence will not result in the establishment of an unduly large gambling industry in the Province, having regard to the number of inhabitants of the Province and their financial means and the number of licences already granted in terms of this Act or any other law.*
- 2. *If a person who in terms of subsection (1) is disqualified to hold a licence-*
  - (a) *has a direct or indirect financial interest of five percent or more, or such smaller interest as the Board may determine, in a company, close corporation, partnership, trust or any other corporate body;*
  - (b) *Is a beneficiary under a trust who receives or is entitled to more than five percent or more, or such smaller percentage as the Board may determine, of the proceeds or assets of the trust; or*

- (c) *is a manager of a company, close corporation, trust, partnership or corporate body, such company, close corporation, partnership or corporate body shall also be disqualified to hold a licence: Provided that the applicant, prior to disqualification, be given a reasonable opportunity to rectify the disqualifying circumstances.*
- (3) *In the application of subsection (1)(b)(iv), "preceding" means preceding the date of the application concerned.*
- (4) *Any disqualification person contemplated in subsection (1) shall not accept more for his or her interest in the applicant than he or she paid for it, or greater amount approved by the Board."*

### **1.3 OBJECTIVES OF LICENSING ROUTE AND SITE OPERATORS**

- 1.3.1 Flowing from the objectives stated in 1.2 above, the Board realises that the licensing of Route and Site Operators on its own, will not fully accomplish the above stated objectives set for the introduction of legalised gambling in the Province. Route and Site Operators are seen as supplementary to casinos in achieving the above objectives, through their support and development of entertainment, sport and recreational facilities throughout the Province.
- 1.3.2 Simultaneously, Route and Site Operators could create opportunities for the direct involvement of small and medium size entrepreneurs within the gambling industry and will provide employment and entrepreneurial opportunities for all the people of the Province. In addition, the licensing of Route and Site Operators could also play a major role in satisfying the gambling needs of the people of the Province, in that it will have a much wider distribution throughout the Province, including areas not serviced by casinos.
- 1.3.3 The Board realises the potential negative impact that Route and Site Operators may have within the Province. The Board will therefore, regulate this sector of the gambling industry to ensure that:
  - (a) the demand for gambling is absorbed, without over-stimulating the latent demand thereof;
  - (b) gambling at licensed site premises will remain a secondary activity to the main form of entertainment or business provided at such a site.
  - (c) minors are prohibited from participating in gambling activities;
  - (d) the number of limited payout machines per site and the maximum prize and bet size, are controlled; and
  - (e) gambling taxes and levies are paid, as provided for in terms of the Limpopo gambling legislation and other relevant legislation.

1.3.4 The concept of a Route Operator, results from the fact that it is often regarded as more cost effective for owners of premises on which a relatively small number of limited payout machines are operated, not to own those machines, but rather to enter into a service agreement with a Route Operator, who owns the limited payout machines. The Route Operator normally maintains the limited payout machines, effects the collection of monies, and pays the fees and taxes due to the Board and Government.

1.3.5 As a result of the fact that sites do form an integral part of the Route Operator, the Board wishes to satisfy itself that both the Site Operator, as well as the Route Operator, comply with the provisions of the National Act and National Regulations, as well as the Act, Regulations and Rules and the requirements of the Board.

#### **1.4 PURPOSE OF REQUEST FOR PROPOSAL (RFP)**

1.4.1 The purpose of this RFP is to furnish all Applicants for Route and Site Operator licences with a clear indication of the underlying policies and principles applicable to the licensing of these operators, as well as the process and 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.

1.4.2 In terms of sections 31 and 32 of the Act and section 18 of the National Act, the Board hereby invites all persons to submit applications for the following types of licences:

- i) Route Operator Licence.
- ii) Site Operator Licence - sites with a maximum of 5 limited payout machines (Type A Licence).
- iii) Site Operator Licence - sites with a minimum of 25 and a maximum of 40 limited payout machines (Type B Licence).

This RFP constitutes an invitation for proposals from interested parties for the abovementioned licences within the Limpopo Province.

#### **1.5 SUBMISSION OF APPLICATIONS**

1.5.1 In order to be eligible to submit an application, it is necessary for prospective Applicants to register with the Board. Upon purchase of the RFA, Applicants are required to register with the Board. Applicants shall hand deliver copies of their Applications together with a clearly marked non confidential copy of their Application to be made available for public scrutiny at the offices of the Board. Each Applicant shall assume full responsibility for the delivery of a complete Application on or before 16h00 South African time on 14 May 2010.

1.5.2 This RFP is divided into the following sections

**Section A (*Supra*)**

Provides for a broad description of the Application process, the terms and conditions, a schedule of significant dates and the relevant statutory requirements.

**Section B**

Sets out the requirements and the assessment criteria to be applied by the Board in selecting a Route Operator/s.

**Section C**

Sets out the requirements and the assessment criteria to be applied by the Board in selecting a Site Operator/s.

**Section D**

Appendices "A" to "B", contain pro-forma forms which must be completed by Applicants in accordance with the instructions of the RFP.

Appendix "C" is the National minimum Licensing Criteria for sites with more than five limited payout machines.

**1.6 DELIVERY ADDRESS AND BOARD'S CONTACT DETAILS**

1.6.1 Applications must be hand-delivered by the Applicant, to the Board, for the attention of the Chief Executive Officer. The address for delivery is:

**LIMPOPO GAMBLING BOARD  
22 SCHOEMAN STREET  
POLOKWANE  
LIMPOPO PROVINCE  
0699**

1.6.2 For the purpose of any other communication with the Board, the contact details of the Board are as follows:

Postal address:

**THE CHIEF EXECUTIVE OFFICER  
LIMPOPO GAMBLING BOARD  
PRIVATE BAG X9520  
POLOKWANE  
0700**

Telephone : (015) 295 5581  
Facsimile : (015) 295 3566  
E-mail : [ceo@lgb.co.za](mailto:ceo@lgb.co.za)

## **1.7 CLARIFICATION / RECTIFICATION OF APPLICATIONS**

- 1.7.1 The Board may, at any time, request an Applicant to clarify information provided in its detailed proposal, or to provide further information. Any information so provided must be in writing and will be deemed to form part of that Applicant's detailed proposal. The Board may also call upon Applicants to submit presentations on certain aspects of their proposals once they have been submitted. In addition the Board may interview Applicants at their expense to obtain clarification.
- 1.7.2 If, in the opinion of the Board, an Applicant fails to adequately provide information sought by this RFP, or by a subsequent request from the Board, such failure will be considered by the Board in the evaluation process and may result in the disqualification of the Applicant.
- 1.7.3 It shall be the duty of each Applicant to advise the Board forthwith in writing of any information contained in the proposal which the Applicant subsequently establishes to be incorrect and to rectify such information. The Board reserves the right to deal with such rectification as it may deem fit.
- 1.7.4 In this regard an amendment of Applications will be dealt with in light of Regulation 4.4 of the Limpopo Gambling Board Regulations, 1997, which states as follows:

*"An application may, with the approval of the Board, be amended in any respect at any time prior to final consideration thereof by the Board."*

An amendment or rectification that amounts to a material variation of the Application will not be considered or accepted by the Board.

## **1.8 FEES AND COSTS (Excluding Investigation Fees)**

The fees and costs that are payable by the Applicant are prescribed by the Regulations and are non-refundable. The amounts reflected below are subject to change pending amendment of the prescribed fees in the Regulations:

<b>Purchase Price of RFP</b>	:R15 000 (Fifteen thousand rands)
<b>Route Operator Licence Application Fee</b>	:R68 400 (Sixty eight thousand four hundred rands)
<b>Site Operator Licence Application Fee</b>	:R6840 (Six thousand eight hundred and forty rands)

**(Type A and Type B)**

All payments shall be payable to the Board by a bank guaranteed cheque or electronic transfer. Proof of payment must be furnished at the time of submission of the Detailed Proposal.

## **1.9 INVESTIGATION OF LICENCE APPLICATIONS**

1.9.1 In order to determine whether or not a Licence should be awarded, the Board shall, subject to the Act, the Regulations and any other applicable legislation, gather such information as it deems necessary from any source or person regarding the suitability of the Applicant to hold a Licence under the Act, and the suitability of the project in respect of which the Application is made.

1.9.2 A comprehensive probity investigation will be conducted which will include, without limitation, checks of companies, beneficial owners and key individuals, in order to ensure that the Applicant and any other party concerned with the project satisfy the requirements of the legislation and this RFP.

1.9.3 The Board would *inter alia* be entitled to request additional information from the Applicant as mentioned *supra*, but also written authorisation from the Applicant permitting the Board to procure information directly from third parties and authorising such third parties to provide that information. Moreover, the Board may request a report from any other competent authority such as the Financial Intelligence Centre, the Director of Public Prosecution, the South African Revenue Service, the South African Police Service or any other relevant authority. It is specifically noted that such reports may include particulars of any convictions recorded against a person as set out in Section 57(2) of the National Act.

## **1.10 PAYMENT OF INVESTIGATION FEES**

1.10.1 Applicants shall pay to the Board all reasonable direct and indirect expenses incurred by the Board for all investigations undertaken in respect of the Application. Direct costs, travel, accommodation and related costs of the Board and its advisors in attending site visits, holding public hearings, conducting interviews, investigations and actual probity searches are included. Participation in this bid by an Applicant signifies acceptance of this condition.

1.10.2 Applicants will be advised on the estimated cost of such investigations prior to the commencement of such investigations. The Board shall not consider an Application unless all investigation fees have been paid in full.

## **1.11 PUBLIC INSPECTION, REPRESENTATIONS BY INTERESTED PERSONS AND RESPONSE TO REPRESENTATIONS**

1.11.1 Applicants are required to comply with the following relevant Regulations:

*"4.5 The applicant shall, within seven days before lodgement of the application for a licence, cause the notice of the application to be published-*

*(a) in the Provincial Gazette, in any official language; and*

*(b) in a newspaper circulating in the district in which the premises are situated to which such application relates, in any official language in which such newspaper is published."*

1.11.2 In this regard, Applicants shall submit, together with their detailed proposals, certified copies of advertisements in the Provincial Gazette and in newspapers circulating in the area in which the site premises are proposed to be situated.

1.11.3 The notice contemplated above shall, in terms of regulation 4.6:

*"(a) contain the material particulars of the application;*

*(b) invite interested persons –*

*(i) to lodge their written objections in relation thereto with the Chief Executive Officer within one month from the date of such notice."*

1.11.4 All detailed proposals lodged with the Board shall be open for public inspection for a period of thirty (30) days, during which time interested parties will be allowed to submit written comments and objections on any of these proposals to the Board.

1.11.5 After expiry of the period of public inspection, all comments and objections received from interested parties will be referred to the Applicant concerned who shall furnish a written response to such comments and objections within fourteen (14) days of the date on which comments and objections are referred to the Applicant, or such longer period as the Board may allow.

## **1.12 EVALUATION PROCESS**

1.12.1 The evaluation process of the Application will take into account the completed Application including the executive summary, the detailed proposal and the probity reports. Subject to a court order to the contrary, the content and details of the evaluation of Applications will remain confidential to the Board.

1.12.2 As part of the Board's evaluation process of the proposals, the Board may conduct site visits, hold public hearings and do all that is necessary to enable proper evaluation of the Applications. After exercising its duties in the evaluation and determination of the proposals in terms of the Act, the Board shall announce the Successful Applicant, if any.

1.12.3 It is specifically noted that the Board will not issue a Licence/s if it considers that the proposed activity would be inconsistent with the Act or any relevant legislation; or the use of the proposed premises would be contrary to existing zoning laws or rights. Moreover, the Board will not issue a Licence/s if it considers that the proposed site is an unsuitable location for the proposed activity, having regard to the Act or any relevant legislation; or the premises do not meet the required standard.

### **1.13 SCHEDULE OF DATES**

The timetable outlined below provides the anticipated timing of the licensing process by the Board. The Board reserves the right to amend or deviate from the schedule.

	<b>ACTIVITY</b>	<b>DATE</b>
		<b>ROUTE OPERATOR</b>
1	Issue of RFP	1 December 2009
2	Closing date for Purchase of RFP	1 February 2010
3	Submission of written Clarification Questions	31 March 2010
4	Written Responses to Clarification Questions	16 April 2010
5	Closing date for submission of Applications	14 May 2010
6	Applications available for Public Inspection at the Board's Offices	17 May 2010
7	Closing date for submission of Objections	17 June 2010
8	Public Hearing	To be announced
9	Final Board Adjudication	To be announced
10	Announcement of Board's Decision	To be announced
11	Granting of Licence/s	To be announced



## **2. TERMS AND CONDITIONS**

### **2.1 DISCLAIMER**

- 2.6.1 Every effort has been made to ensure that the information contained in this RFP is complete and correct, but it is the obligation of interested parties to ensure that their Applications are complete, correct and comply with the provisions of the relevant legislation in all material respects.
- 2.6.1 Each Applicant shall make an independent assessment and investigation of the issues required to be dealt with in its Application and shall not rely absolutely on the adequacy or accuracy of the information in this RFP.
- 2.6.1 Neither the Board, its employees nor its agents shall be held liable for anything done in good faith. A member of the Executive Council performing his functions in terms of the Act shall not be held liable for anything done in good faith.
- 2.6.1 If it becomes necessary to revise any part of this RFP, or if an Applicant requires additional data to interpret any of its provisions, the revisions or additional data will be provided to all Applicants. The Applicants shall then have the opportunity to modify their Applications on such items as the Board may specify. Any additional information provided to the Applicants by the Board or any of its employees in connection with this RFP, will be subject to the terms of the RFP.
- 2.6.1 The Board reserves the right to request new or additional information regarding an Applicant or other businesses associated with its Application. If, in the opinion of the Board, an Applicant fails to adequately provide information sought by this RFP, or by a subsequent request from the Board, such failure will be considered by the Board in the evaluation process and may result in the disqualification of the Application by such Applicant.

### **2.2 CONFIDENTIALITY**

- 2.2.1 If requested by an Applicant, the Board may keep confidential any document or information relating to the financial capacity of the Applicant and any person participating in the process, the names of prospective employees, or the business plans of the Applicant, provided that such documentation or information can physically be separated from the rest of the proposal which shall be open for public inspection and is clearly marked "confidential". In the interest of the constitutional principles of transparency and openness, the Applicants must keep absolute minimum information to be categorised as confidential.
- 2.2.2 The decision regarding confidentiality is however finally that of the Board. It is the Board that may determine that any document or information relating to the financial capacity of an Applicant, the names of prospective employees, the business plan of an Application or any other matter which in the opinion of the Board is of a confidential nature, shall not be open to public inspection, if such document or information can be separated from the remainder of the Application

and is marked confidential. Furthermore, the Board may upon request, determine that the identity of any person, who lodged an objection to an Application, shall not be divulged to any other person.

2.2.3 The Board reserves its right to disclose any information or material that is marked as "confidential". The Board further reserves the right to publicly disseminate any information which it deems to be of a non-confidential nature contained in any proposal. All proposals including related material shall become the property of the Board and shall not be returned.

2.2.4 Unless required by law, an Applicant and its shareholders, officers, employees, agents, consultants and professional advisors shall not make or encourage public comment with regard to details pertaining to their proposals, to the evaluation process or any other matter relevant to the Application, without the prior written consent of the Board, which consent shall be given at the Board's sole discretion.

### **2.3 CANCELLATION AND VARIATIONS**

2.3.1 The Board reserves the right to cancel this RFP or may, at its sole discretion, by notice in writing to all Applicants, vary, supplement or update any of the contents or terms and conditions of the RFP.

2.3.2 It may similarly change procedures, timetable, requirements and any other aspects of or in connection with matters covered in the RFP.

2.3.3 Any costs and expenses associated with variations shall be for the account of the Applicant.

### **2.4 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.

### **2.5 COMPENSATION**

The Board shall not under any circumstances be liable to compensate an Applicant or any other party for any costs, expenses or losses incurred or suffered by that Applicant or any party in evaluating or acting upon the RFP, in supplying any further information as may be required by the Board, or in submitting a Application or otherwise participating in the process.

### **2.6 REFUSAL, SUSPENSION OR REVOCATION OF LICENCE**

The Board may, in terms of the Act, refuse, suspend or revoke a Licence if any information contained in an Application should be found to have been false in any material respect or subject to any material omission with the intention of misleading the Board, at the time the information was furnished.

## **2.7 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 Application. Any and all eligible Applications including all related material shall become the property of the Board and shall not be returned.

## **2.8 GOOD FAITH**

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

## **2.9 NO BINDING AGREEMENT**

2.9.1 This RFP and Applications from the successful Applicants shall not constitute a binding agreement.

2.9.2 The selection of the successful Applicants does not mean that such Applications are necessarily totally acceptable in the form submitted, nor does it constitute a binding agreement, nor acceptance by the Board, of all or any specific aspect of the Proposal of such Applicant/s.

2.9.3 The Board reserves the right to decline to issue a Licence to any successful Applicant should such successful 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 Application of such successful Applicant be invalid, or incorrect.

2.9.4 In such an event the Board may select another successful Applicant from the remaining unsuccessful Applicants for the Licence, proportionally increase the allocation of limited gambling machines to the remaining successful Applicants or re-advertise, as the case may be.

## **2.10 CHANGES IN LEGISLATION**

Each Applicant shall be aware that the legislation, regulations and directives pertaining to gambling may change from time to time. Neither the Board, Provincial Government, Responsible Member of the Executive Council (MEC), the National Gambling Board, employees nor its agents shall not be held liable for such changes.

## **2.11 COSTS AND EXPENSES**

The Board 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 is issued.

## **2.12 WAIVER OF IMMATERIAL DEFECTS**

The Board may at its sole discretion, waive any immaterial defect or lack of compliance with any formality in any Application procedure. The level of materiality and/or lack of compliance warranting such waiver shall be determined by the Board.

## **2.13 NUMBER OF LIMITED PAYOUT MACHINES**

2.13.1 The maximum number of limited payout machines in the Province is prescribed by National Regulations. Regulation 13 of the National Regulations provides for the gradual introduction of limited payout machines in South Africa. Regulation 2(2) of the National LPM Regulations specifies that the maximum number of limited payout machines which may be licensed in Limpopo is 3000 (three thousand).

2.13.2 The introduction process is divided into phases, with the first phase allowing the Board to roll-out no more than 50 (fifty) percent of the total number of limited pay-out machines allocated to Limpopo, i.e.  $3000 \times 50\% = 1500$  (one thousand five hundred) limited pay-out machines.

2.13.3 The Board has since rolled out approximately 550 limited payout machines of the 1500 limited payout machines allocated for roll out in the first phase. This RFP forms part of the aforementioned first phase and will remain valid until the allocated limited payout machines for Site Operators (Type A and B) are rolled-out.

## **2.14 NUMBER OF ROUTE OPERATOR LICENCES**

2.14.1 The Board intends licensing up to (2) Route Operators with a maximum of 475 (four hundred and seventy five) machines per Route Operator.

2.14.2 In terms of Section 32(3) of the Act, provision is made for the holder of a Route Operator licence to enter into an agreement with a Site Operator, for the placement of limited payout machines on the premises concerned. The Route Operator has a responsibility to provide a detailed explanation to the Site Operator of its responsibilities, as set out in the agreement, in an appropriate official language, understandable by the Site Operator, to enable the Site Operator to have a better understanding thereof.

2.14.3 It is important to note that although the prospective Site Operator may enter into an agreement with the Route Operator to facilitate the submission of the Site Operator licence application to the Board, this agreement is distinct and separate from the contractual agreement for the placement and keeping of limited payout machines at licensed premises owned or leased by the site operator. The terms and conditions for the contractual agreement for the placement and keeping of machines, must however be approved by the Board.

## **2.15 GEOGRAPHIC DISTRIBUTION OF LIMITED PAYOUT MACHINES THROUGHOUT THE PROVINCE**

2.15.1 The Board acknowledges that adult entertainment in the form of gambling is presently lacking in most of the rural and specifically, disadvantaged areas within the Province and the roll-out of limited payout machines create an opportunity to address this situation.

2.15.2 The Board has decided to license 950 limited payout machines in the Province in the following districts:

- i) Capricorn District
- ii) Mopane District
- iii) Waterberg District
- iv) Vhembe District
- v) Bushbuckridge District
- vi) Sekhukhuni District

2.15.3 The Board is of the opinion that the distribution of Site Operators within the six districts of Limpopo, will be determined by the population distribution, the size of the market, the economies of scale and the viability and sustainability of the operation.

## **3. GENERAL PRINCIPLES AND LEGISLATIVE REQUIREMENTS APPLICABLE TO ROUTE AND SITE OPERATORS**

### **3.1 PROHIBITION OF GAMBLING BY CERTAIN PERSONS**

3.1.1 A person under the age of 18 years may not enter a designated area or take part in gambling on a limited payout machine or operate a limited payout machine.

3.1.2 A Licensee or employee of such Licensee may not permit any person who is under the age of 18 years to enter or remain in a designated area or to take part in any gambling or to handle or operate a limited payout machine.

### **3.2 STAKES AND PRIZES**

3.2.1 The maximum amount that may be wagered in total, to enable a person to play all pay lines of a game on a limited payout machine as prescribed in the National LPM Regulations is R5 (five rands).

3.2.2 The maximum amount or value of any prize, which may be paid out in respect of a game played on a limited payout machine as prescribed in the National LPM Regulations is R500 (five hundred rands). Progressive jackpots or double-ups are not permitted in respect of limited payout machine games.

### **3.3 RANDOMNESS OF GAMES**

All games in limited payout machines offered for play shall be purely random, as prescribed in the relevant SANS specifications.

### **3.4 RETURN TO PUBLIC**

Limited payout machines offered for play must have a theoretical return to the public of not less than 75 (seventy five) percent.

### **3.5 DISPLAY OF PRIZES**

All winning combinations, together with the corresponding prizes must be clearly displayed on every limited payout machine offered for play.

### **3.6 LICENSING OF LIMITED PAYOUT MACHINES**

A limited payout machine shall not be distributed to a site or exposed for play, unless such limited payout machine has been:

- a) certified according to the prescribed SANS specifications; and
- b) approved, registered and licensed by the Board.

### **3.7 MOVEMENT AND PLACEMENT OF LIMITED PAYOUT MACHINES**

3.7.1 All movements of limited payout machines within the Province must be done with the prior approval of the Board. The successful Applicant must submit to the Board as part of the minimum of internal control procedures the following:

- a) sourcing of machines;
- b) distribution and movement of machines;
- c) machine conversions;
- d) disposal of machines; and

3.7.2 The number of limited payout machines at a site shall not exceed the maximum number of machines licensed, as stated on the licence certificate of the said site. The Board may allow a lesser number of limited payout machines or changes to the location of any limited payout machine on a site premises, from time to time.

### **3.8 CENTRAL ELECTRONIC MONITORING SYSTEM**

3.8.1 All gaming machines shall be linked to a central electronic monitoring system as contemplated in section 31(4) of the Act and section 27 of the National Act.

3.8.2 The holder of the said licence shall comply with the SANS specifications, as well as the minimum standards of the Board. After ensuring compliance with the aforementioned requirements, the Board will grant approval for the operation of the said equipment.

3.8.3 A Route or Site Operator shall at their own cost, supply and install a site data logger connecting each limited payout machine at the site premises to the national CEMS.

### **3.9 CREDIT EXTENSION AND PROHIBITED TRANSACTIONS**

A person licenced to make any gambling activity available to the public, shall not extend credit in the name of the Licensee or a third party to any person for the purposes of gambling.

### **3.10 OPERATION HOURS**

3.10.1 The hours of operation of limited payout machines may form part of the conditions of the licence.

3.10.2 The Board is of the view that while in many cases the operating hours of a licensed establishment may not need to be limited at all; each case should be dealt with on its own merits. In this regard, the Board will consider hours of operation that are appropriate for the type of business and related activities at these establishments.

### **3.11 COMMENCEMENT OF GAMBLING OPERATIONS**

Route and Site Operators shall not commence with gambling operations on a licensed site, unless it has been finally inspected and approved for the commencement of gambling on the particular premises.

### **3.12 ADVERTISING**

Advertising of limited payout machine operations is permitted on condition that all advertising must comply with the provisions of the National Act and National Regulations, as well as the Act and Regulations.

### **3.13 RECORDS AND RETURNS (INCLUDING ACCOUNTING RECORDS)**

Holders of Route and Site Operator Licences, will be expected to keep records and returns, as prescribed in Regulations, Rules and their respective internal control procedures and licence conditions and any other legislation applicable to the business operations.

### **3.14 PAYMENT OF LEVIES**

As prescribed, the gambling levy payable in terms of Section 54 of the Act shall be at the rate of six (6) percent of the Licensee's gross gaming revenue. The levy rate will be amended from time to time.

### **3.15 DISPLAY OF LICENCES**

The licence issued by the Board to Route and Site Operator must be prominently displayed at the entrance to the designated area. Site Operators must display their licence together with a copy of the licence issued to the relevant Route Operator.

### **3.16 REGISTRATION OF EMPLOYEES**

3.16.1 Registration of all employees will take place in accordance with the provisions of Chapter 4 of the Act or Chapters 2 and 3 of the National Act.

3.16.2 The Board shall consider Applications for certificates of approval by employees of Licensees in accordance with section 56 of the Act and Chapter 35 of the Regulations. Employees should also not be disqualified from holding an employment licence in terms of Section 49 of the National Act.

3.16.3 The following employees are classified as key employees of Route and Site Operators:

- a) The senior management of the Licensee;
- b) If the Licensee is a corporate body, every director, officer or equivalent of such corporate body;
- c) An individual who has the authority to hire or terminate the employment of personnel;
- d) An executive, employee or agent of a Licensee having the power to exercise a significant influence over decisions concerning any part of the operations of such Licensee;
- e) An individual who has been specifically represented to the Board by a Licensee, officer or director thereof as being important or necessary to the operation of the Licensee; and
- f) Persons who individually or as part of a group formulate management policy.

3.16.4 The operation of limited payout machines must at all times be conducted under the supervision of an employee who is knowledgeable in the operation of limited payout machines and duly registered with the Board. Persons who are not classified as key employees will be regarded as other employees.

3.16.5 The Board may, upon written notification, declare any position, function or individual to be a key or other employee. The Board will not be restricted by the employer or title of the position or individual, but will consider the functions and responsibilities of the person or position involved in making its decision as to key or other employee status.

3.16.6 A Licensee must, within 14 (fourteen) days of termination of the employment of a key or other employee, notify the Board in writing of such termination and the reasons thereof.



- 3.16.7 Any information that comes to the attention of a Licensee which may affect the suitability of an employee to be registered or who has previously been registered, must be brought to the attention of the Board within 14 (fourteen) days of such information coming to the Licensee's attention.
- 3.16.8 A Licensee must, in respect of every key or other employee, keep a copy of such employee's certificate in the employment record of that employee.
- 3.17 BROAD BASED BLACK ECONOMIC EMPOWERMENT**
- 3.17.1 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 BBEE legislative provisions.
- 3.17.2 Each Applicant must submit their BBEE credentials, duly supported by a rating certificate issued by an accredited rating agency. Equity participation by residents of Limpopo, more specifically locals of the areas where the site licences are targeted, will be favourably considered by the Board. In the event that the licensed Route Operators' strategic operational activities are managed or directed outside the licensed entity, such entity tasked with the strategic operational activities shall comply with the requirements herein.
- 3.17.3 At least 51% of the Route Operator's site Licensees with machines in excess of five shall be owned, operated or controlled by black people.

## **SECTION B**

### **1. REQUIREMENTS FOR THE APPLICATION FOR A ROUTE OPERATOR LICENCE**

#### **1.1 APPLICATION INSTRUCTIONS**

- 1.1.1 An Applicant may, in the Application, identify any document or information included in the Application which, in the opinion of the Applicant, is confidential or should for any reason not be disclosed to the public, and show cause why the Board may determine under Section 27(2)(a) of the Act that such document or information should not be open to public inspection, provided such document or information can be separated from the remainder of the Application.
- 1.1.2 In the event that the Applicant identifies certain documentation to be confidential, a separate file of the Application should be compiled excluding the confidential copies and this Application should be clearly marked, "non-confidential copy".

- 1.1.3 In addition, the Applicant SHALL furnish the Board with a CD containing ALL the information pertaining to the Application and supporting documents to enable e-filing by the Board.
- 1.1.4 The Application may be submitted on the Applicant's own reproduction provided that the content is exactly the same as contained herein. Any reproduction and all accompaniments must be on standard A4-size paper.
- 1.1.5 The Application must be submitted in the following format and sequence:
- (i) Letter of Application;
  - (ii) Copies of advertisements required by Section 24(2)(b)(ii) of the Act;
  - (iii) Applicant's proposal in accordance with the requirements set out in this RFP;
  - (iv) Relevant Declaration and Release Authorisation by the Applicant and, if a company, the required Personal Declarations and Personal Release Authorisations relevant to the Applicant company only; and
  - (v) Company Declarations and Release Authorisations for companies contemplated in paragraph 1.1.9 below, together with the required Personal Declarations and Release Authorisations in respect thereof contemplated in paragraph 1.1.10 below.
- 1.1.6 The Application shall be submitted as follows:
- (i) 1 x original Application;
  - (ii) 10 x copies of the original Application;
  - (iii) 1 x loose-leaf copy of the original Application;
  - (iv) 2 x public copies of the Application marked as such (which shall exclude confidential information in terms of the Act); and
  - (v) 1 x electronic (soft) or scanned copy of the Application.
- 1.1.7 The declarations shall, where applicable, be accompanied by the following documentation:
- (i) Police clearance in respect of natural persons issued by the South African Criminal Record Centre or its authorised agent;
  - (ii) Certified colour copy of identity document or passport;
  - (iii) Copy of work permit and criminal / police clearance from country of birth in respect of foreign Applicants;
  - (iv) Copies of tax returns (excluding supporting schedules) and assessments of the individual for the most recent five years;
  - (v) Copies of the two most recent VAT returns and assessments (if applicable) of the individual; and
  - (vi) Two recent passport – sized photographs signed and dated on the back by the individual.

- 1.1.8 The Board may in writing require additional information during the investigation process.
- 1.1.9 Company Declaration and Company Release Authorisation must be submitted by all companies falling within the following categories:
- (i) The Applicant, if a company;
  - (ii) All companies holding 5% or more of the issued share capital of the Applicant; and
  - (iii) All corporate shareholders of the companies listed in (ii) who effectively hold an interest of 5% or more of the issued share capital of the Applicant.
- 1.1.10 Personal Declaration and Personal Release Authorisation must be submitted by all natural persons falling within the following categories:
- (i) The Applicant, if a natural person;
  - (ii) All natural persons holding 5% or more of the issued share capital of the Applicant;
  - (iii) All natural shareholders of the companies listed in 1.1.9(ii) and (iii) who effectively hold an interest of 5% or more of the issued share capital of the Applicant;
  - (iv) All current and proposed directors, the company secretary and senior management of the Applicant; and
  - (v) All current directors and the company secretary of companies listed in 1.1.9(ii) and (iii) that are not listed on a recognised Stock Exchange. For listed companies Personal and Financial Institution Declarations and Personal Release Authorisations are only required where the interest contemplated in 1.1.9(ii) and (iii) is 20% or more.

## **2. SUBMISSION GUIDELINES**

An Applicant's proposal must be in two parts:

Part 1 – Executive Summary

Part 2 – Detailed Proposal

### **2.1 EXECUTIVE SUMMARY**

- 2.1.1 The Executive Summary, as part of the proposal should summarise the key aspects of the Applicant's proposed route operation.
- 2.1.2 The key aspects of the proposed project should be described taking into account, *inter alia*, the assessment criteria and shall include: -

## **2.2 PROJECT TEAM:**

Identification of the key parties in the Applicant's Project Team (operator, financier, consultant, etc)

## **2.3 SUMMARY OF BUSINESS PLAN:**

Outline of concept, strategy for its development, schedule and any other key features of the Project and the number and distribution of sites envisaged.

## **2.4 FINANCIAL PROJECTIONS:**

- (i) Summary of the estimated financial projections to the Board in respect of fees, levies and taxes.

## **2.5 PROJECT VIABILITY:**

- (i) Summary of project funding and cash-flow,
- (ii) Summary of the estimated financial return to the Applicant from the Project over a five-year period, and
- (iii) Summary of the key market and financial assumptions (size, frequency of use, segmentation) used in the financial projections.

## **2.6 RELATED MANAGERIAL EXPERIENCE:**

Summary of the qualifications, experience and ability of the Applicant to manage the Project successfully.

## **2.7 BENEFITS TO THE ECONOMY:**

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

## **2.8 BENEFITS TO LOCAL COMMUNITIES**

Summary of the key benefits to persons and entities from previously disadvantaged sectors of the community.

## **3. DETAILED PROPOSAL**

### **3.1 INTRODUCTION**

3.1.1 The detailed proposal will be a comprehensive document which will address all aspects of the Applicant's proposed operation;

3.1.2 All Applicants are required to address all content requirements of the detailed proposal set out below. The precise information required will clearly depend upon the nature of the proposed operation and is left to the discretion of the Applicant subject to the pro-forma schedules included at the end of this Annexure

being completed. Appropriate supplementary information may be included in the proposal; and

- 3.1.3 In conjunction with the above, it is required that the information within the detailed proposal address the assessment criteria stated below.

## **3.2 GENERAL REQUIREMENTS**

- 3.2.1 Applicants should prepare financial information relating to the proposed project to cover a ten year period;
- 3.2.2 Applicants should ensure that they are aware of all relevant taxes and levies payable, when preparing the proposal; and
- 3.2.3 Annual licence fees have been set out in the Regulations. The first payment is due on the granting of the licence.

## **3.3 CONTENT REQUIREMENTS**

The detailed proposal should, in addition to addressing the assessment criteria, contain at least the following information:

### **3.3.1 APPLICANT**

Full details of the identity of the Applicant and the effective ownership thereof, including group structures, must be provided.

### **3.3.2 ROUTE OPERATION DETAILS**

The following details should be provided:

- 3.3.2.1 The anticipated size of the operation reflecting the number of gaming machines and licensed premises to be operated;
- 3.3.2.2 Location and or geographical spread of operation;
- 3.3.2.3 The critical path of the operation, including start dates and other critical dates, should be provided;
- 3.3.2.4 Capital cost forecast by major capital component of the operation;
- 3.3.2.5 Contingencies;
- 3.3.2.6 Assumptions underlying cost forecasts and critical dates; and
- 3.3.2.7 A copy of the draft agreement with the site owner.

## **4. ASSESSMENT CRITERIA**

The Board will evaluate Applications using the following broad assessment criteria:

## **4.1 Suitability and management competence**

- 4.1.1 Financial resources or access thereto and standing of the Applicant;
- 4.1.2 Good character and integrity of key persons;
- 4.1.3 Compliance with the law;
- 4.1.4 Criminal history and prior convictions;
- 4.1.5 Associations with unsuitable persons;
- 4.1.6 Licensing history, if any;
- 4.1.7 Ability or potential to successfully and profitably manage the proposed route operation; and
- 4.1.8 Taxation history.
- 4.1.9 Applicants should provide details of the expertise of their team in developing and operating such projects. Details, including an organisation chart, of top management of the Applicant should be provided.

## **4.2 Viability and financing of the Route Operation**

The following details should be specified and a narrative should be provided to support the financial information included in the Application:

- 4.2.1 Detailed cash flow (including sourcing of funds), income statement and balance sheet projections should be provided together with the assumptions used.
- 4.2.2 Applicants must prove that their proposed project is commercially viable. This should include an analysis of the market potential relevant to the proposed project and a comparison with the experience of other gaming jurisdictions, where applicable.
- 4.2.3 A summary of the key market demand assumptions (size, frequency of use, etc) used in the financial projections should be provided.
- 4.2.4 Potential risks and uncertainties must be identified.
- 4.2.5 Details on financing must be supplied i.e. sourcing, level and nature of financing and the ability to meet financial obligations.
- 4.2.6 Acceptability of key assumptions used in proving the financial or operational viability of the proposed project.

## **4.3 Empowerment, human resource strategy and community benefits**

- 4.3.1 Demonstration of economic empowerment for persons disadvantaged by unfair discrimination as contemplated in the Broad Based Black Economic Empowerment Act including but not limited to equity or profit participation, skills transfers, etc.
- 4.3.2 The creation of employment opportunities, split between direct employment creation and estimated indirect employment creation.
- 4.3.3 The numbers of staff to be recruited from the Province, other Provinces and other countries.
- 4.3.4 Policies of the Applicant indicating that it will apply fair labour practices.
- 4.3.5 Revenue benefits accruing to Government from taxes.
- 4.3.6 Social impact: The maximisation of positive, and limitation of negative social impact on the local community.
- 4.3.7 Equity participation by persons disadvantaged by unfair discrimination.

- 4.3.8 Efforts to promote small and medium business opportunities.
- 4.3.9 Proposed staff training courses/facilities to be introduced.
- 4.3.10 Proposed education/bursary schemes for employees.
- 4.3.11 Proposed employee share-option schemes.
- 4.3.12 Housing/leisure facilities to be provided to employees.
- 4.3.13 Any other economic or community benefits.
- 4.3.14 Projected composition of employees indicating provision for race, gender, employment of disabled persons and staffing levels in respect of employees.
- 4.3.15 Succession planning and mentoring of previously disadvantaged persons.
- 4.3.16 Applicants shall fully describe the extent to which provision is made for training of employees, with specific reference to:
  - (i) Measures to be taken to ensure meaningful capacity – building for empowerment employees in the Project;
  - (ii) Measures to be taken to provide for the appropriate training of empowerment of senior personnel at executive and non executive level;
  - (iii) Training with particular reference to employment mix, and
  - (iv) Training programmes, with reference to the various levels of employment provided for.

#### **4.4 Prevention of monopolistic situations**

- 4.4.1 Prevention of any market power in the LPM industry.
- 4.4.2 Promotion of competition.

#### **4.5 Measures to promote responsible gambling**

- 4.5.1 Specific measures or strategies to promote responsible gambling.
- 4.5.2 Percentage of gross gaming revenue to be spent on strategies to promote responsible gambling.
- 4.5.3 Development of staff of the Route Operator and that of a site Licensee on measures to promote responsible gambling.

#### **4.6 Geographic spread**

- 4.6.1 Location of proposed site of gambling machines indicating the physical address.
- 4.6.2 A memorandum of understanding between the Route Operator and the site owner confirming the arrangements for location of the machines.

#### **4.7 Other licence applications/development commitments**

Details of any pending licence Applications or any proposed commitment or participation in other projects that have been entered into or are being contemplated over the next two years and the impact, if any, that this may have on capital or financing resources.

## **SECTION C**

### **1. REQUIREMENTS FOR THE APPLICATION FOR A SITE OPERATOR LICENCE (TYPE A AND TYPE B)**

Only once a licence has been granted to a Route Operator by the Board, then only shall an application be made by a Site Operator for a Type A or Type B Site Operator licence.

#### **1.1 APPLICATION INSTRUCTIONS**

1.1.1 An Applicant may, in the Application, identify any document or information included in the Application which, in the opinion of the Applicant, is confidential or should for any reason not be disclosed to the public, and show cause why the board may determine under Section 27(2)(a) of the Act that such document or information should not be open to public inspection, provided such document or information can be separated from the remainder of the Application.

1.1.2 Twelve copies including a loose-leaf copy of the Application excluding such information must accompany this Application. Each page of the Application must be initialled or suitably identified.

1.1.3 The Application may be submitted on your own reproduction provided that the content is exactly the same as contained herein. Any reproduction and all accompaniments must be on standard A4-size paper.

1.1.4 The Application must be submitted in the following format and sequence:

- (i) Letter of Application;
- (ii) Copies of advertisements required by Section 24(2)(b)(ii) of the Act;
- (iii) Applicant's proposal in accordance with the requirements set out in this RFP.
- (iv) Relevant Declaration and Release Authorisation by the Applicant and, if a company, the required Personal Declarations and Personal Release Authorisations relevant to the Applicant company only; and
- (v) Company Declarations and Release Authorisations for companies contemplated in paragraph 1.1.8 below, together with the required Personal Declarations and Release Authorisations in respect thereof contemplated in paragraph 1.1.9 below.

1.1.5 The Application shall be submitted as follows:

- (i) 1 x original Application;
- (ii) 10 x copies of the original Application one of which shall be in a loose leaf format;
- (iii) 2 x public copies of the Application marked as such (which shall exclude confidential information in terms of the Act); and
- (iv) 1 x electronic (soft) or scanned copy of the Application.



- 1.1.6 Any incomplete Application will be returned and the Application fee will be forfeited. The Applicant will be entitled to resubmit the Application afresh on the next succeeding batch submission date.
- 1.1.7 In the event that a Site Operator signs and submits more than one Application with different Route Operators, all the Applications in respect of this site will be returned until the Route Operators and the Site Operator have resolved as to who is entitled to lodge the Application; and all Application fees will be forfeited.
- 1.1.8 Company Declaration and Company Release Authorisation must be submitted by all companies falling within the following categories:
- (i) The Applicant, if a company;
  - (ii) All companies holding 5% or more of the issued share capital of the Applicant; and
  - (iii) All corporate shareholders of the companies listed in (ii) who effectively hold an interest of 5% or more of the issued share capital of the Applicant.
- 1.1.9 Personal Declaration and Personal Release Authorisation must be submitted by all natural persons falling within the following categories:
- (i) The Applicant, if a natural person;
  - (ii) all natural persons holding 1% or more of the issued share capital of the Applicant;
  - (iii) all natural shareholders of the companies listed in 1.1.8(ii) and (iii) who effectively hold an interest of 1% or more of the issued share capital of the Applicant;
  - (iv) all current and proposed directors, the company secretary and senior management of the Applicant; and
  - (v) all current directors and the company secretary of companies listed in 1.1.8(ii) and (iii) that are not listed on a recognised Stock Exchange. For listed companies Personal Declarations and Personal Release Authorisations are only required where the interest contemplated in 1.1.8(ii) or (iii) is 20% or more.

## **2. DETAILED PROPOSAL**

The proposal must include full details of the identity of the Applicant and the effective ownership thereof including group structures. The proposal must comprehensively address all the assessment criteria set out below and must clearly demonstrate that the establishment meets these requirements.

- 2.1 The following details of the Applicant are required:
- (i) The name, address and identity number, if applicable, of the Applicant;

- (ii) Description of the form of the enterprise;
- (iii) A registration certificate or number, if applicable;
- (iv) A detailed description of the primary business conducted at the premises;
- (v) Details of ownership of the business conducted at the premises;
- (vi) Tax details, including proof of registration or Application for VAT, PAYE, Regional Services Council levies and income tax, including a valid tax clearance certificate if already registered, where applicable;
- (vii) details of ownership of the premises, and or agreements whereby the Applicant is entitled to be in possession of the premises subject to the Application;
- (viii) Diagram, photographs and description of the site layout;
- (ix) Site location plan;
- (x) Confirmation of payment of any fees required in terms of the relevant provincial legislation, where payment is not made by cheque simultaneously with the Application;
- (xi) Release authorisations to conduct background investigations;
- (xii) A copy of the licence for the principal business conducted on the site;
- (xiii) Personal declaration forms of the Applicant, the enterprise of the Applicant, its owners, directors and officers, if applicable;
- (xiv) Where LPM's are in larger premises to which persons under the age of eighteen years have access, the physical area within which the machines are exposed for play must be clearly demarcated and adequate access and control arrangements must be in place to ensure that persons under the age of eighteen years are prevented from access to such machines at all times, and
- (xv) For the purposes of determining whether a business is secondary in nature, the following considerations may apply;
  - (i) The size of the floor space for limited gambling machines as compared with the floor space used for the primary activity.
  - (ii) The investment in the operation of the LPM's as compared to the investment in the primary business.
  - (iii) The time required to manage the activities of the primary business as compared to the time required to manage the LPM business, and
  - (iv) The gross revenue generated by LPM's as compared with the gross revenue generated by the primary business.

2.2 A sketch plan to scale of the premises indicating the proposed positioning of the gambling machines. The diagram must be clear and legible, be representative and proportional; include specific reference to the size of the premises through the use of detailed measurements and depict the number of limited payout machines to be exposed for play and their location within the establishment.

2.3 The photographs of the exterior of the business, a diagram and a meaningful written description of the primary business, must be provided. The diagram must reflect:

- (i) That the machines are placed in a manner which provides for adequate supervision for each machine.
  - (ii) An unobstructed view of each limited payout machine from the point of supervision;
  - (iii) Any mirrors necessary to maintain adequate supervision, and
  - (iv) Any video surveillance equipment that will be used for supervision.
  - (v) That there is a separate cordoned off area, or a restricted area as contemplated in the Liquor Act, 1989 (Act No 27 of 1989) when the larger (primary) premises are accessible to persons under the age of 18 years,
  - (vi) That no limited payout machine be within two meters of the edge of the area contemplated in the previous paragraph where the floor area is continuous, unless a non-transparent continuous wall with a height of at least two meters is constructed. All machines must be located at least two metres from any apertures in the wall.
- 2.4 If the establishment forms part of a residence, a plan of the entire premises clearly indicating area usages. The number of residents must also be reflected.
- 2.5 The average daily number of persons frequenting the establishment indicating number of adults and number of children (under 18).
- 2.6 At least three years previous annual financial statements of the establishment reflecting the revenues of the various activities of the business of the establishment.
- 2.7 The budget for the year after the introduction of gaming machines reflecting the various sources of revenue.
- 2.8 Local authority approval for the conducting of the business including the operation of gaming machines, on the premises.
- 2.9 Copies of any relevant licences required (eg liquor licences).
- 2.10 Demonstration of the maximisation of positive, and limitation of negative social impact on the local community.

### **3. ASSESSMENT CRITERIA IN RESPECT OF SITES**

#### **3.1 TYPE A SITE LICENCE (SITES WITH FIVE MACHINES OR LESS)**

The criteria and factors that will be considered in evaluating an Application for a Type A site licence, include:

##### **3.1.1 A lawfully operated establishment providing primarily an adult leisure facility**

- 3.1.1.1 All activities carried on at the establishment must be perfectly legal and where applicable the establishment must be in possession of the necessary licence.

3.1.1.2 An establishment providing primarily an adult leisure facility is an establishment which concentrates on attracting the adult population to spend leisure time in it. The types of activities envisaged, but not limited to, include:

- (i) Bars, taverns and shebeens;
- (ii) Bona fide sport and social clubs;
- (iii) Certain other premises upon which licensed gambling activities are conducted, such as a bookmaker or totalizator premises; and
- (iv) Such other entertainment, leisure and recreational facilities as may be approved by the Board.

**3.1.2 Demonstration of enforceability of the legal age restrictions to the playing of gaming machines**

The establishment will have to demonstrate, where persons under the age of eighteen are permitted on the premises, that it will have the necessary controls in place to enforce the restriction of underage persons from being able to play the gambling machines.

**3.1.3 The main business of the establishment must not be the operation of gaming machines**

3.1.3.1 The establishment will have to demonstrate that the playing of gaming machines will be a secondary or ancillary activity to the main adult leisure attraction or attractions which are offered.

3.1.3.2 In determining whether the Applicant's proposed operation of limited payout machines is incidental to the primary business at particular premises, the Board may consider some or all of the following factors:

- (i) the floor space used for the limited payout machines as compared to the floor space used for the primary business;
- (ii) the investment in the operation of the limited payout machines as compared to the investment in the primary business;
- (iii) the time required to manage or operate the limited payout machines as compared to the time required to manage or operate the primary business;
- (iv) the gross revenue generated by the limited payout machines as compared to the gross revenue generated by the primary business;
- (v) whether a substantial portion of the financing of the business as a whole has been provided in exchange for the right to operate limited payout machines on the premises; or
- (vi) other factors, including but not limited to the establishment's name, the establishment's marketing practices and the public's perception of the business.

### **3.1.4 The location of LPM machines**

3.1.4.1 The gambling area for the location of LPM machines shall not be less than 3 square meters per LPM machine.

3.1.4.2 It will also have to be demonstrated that the placing of gambling machines will not interfere with the normal business of the establishment.

3.1.4.3 Available area will also be a consideration in the number of gambling machines awarded.

### **3.1.5 The major portion of the premises shall not be used as a family residence**

Where the establishment is on the same site as or forms part of a residence, the establishment shall form the major portion of the premises and shall be totally separate from the household with no shared facilities.

### **3.1.6 The exclusion of certain sites**

3.1.6.1 The following categories of premises will not be licensed regardless of whether they provide an adult leisure facility:

- (i) Cafés.
- (ii) Supermarkets.
- (iii) Liquor retail or off-sales stores.
- (iv) General dealers.
- (v) Theatres or cinemas.
- (vi) Video arcades.
- (vii) Fast food outlets.
- (viii) Places of worship.
- (ix) Institution of learning.
- (x) Shops and other retail outlets.
- (xi) Laundromats.
- (xii) Restaurants, hotels, bed and breakfast facilities unless such contain separate premises falling within any of the categories listed as qualifying for licensing above.

### **3.1.7 Other factors as the Board may deem relevant**

These shall include but not limited to the following:

3.1.7.1 The maximisation of positive, and limitation of negative social impact on the local community.

3.1.7.2 Proximity to: –

- (i) church, mosque, synagogue or other place of worship;
- (ii) school or other institution of primary or secondary level;

- (iii) premises where video or similar games may be played by persons including persons under the age of eighteen years; and

3.1.7.3 Any other area that the Board may deem inappropriate for licensing.

**3.2 TYPE B SITE LICENCE (SITES WITH MORE THAN FIVE MACHINES BUT LESS THEN FORTY)**

The following additional criteria will be considered in evaluating an Application for a Type B site licence:

**3.2.1 A lawfully operated establishment primarily providing an adult leisure facility**

3.2.1.1 All activities carried on at the establishment must be perfectly legal and where applicable the establishment must be in possession of the necessary licence.

3.2.1.2 An establishment providing primarily an adult leisure facility is an establishment which concentrates on attracting the adult population to spend leisure time in it. The types of activities envisaged, but not limited to, include:

- (i) A sporting or social club which has more than 75 members, occupies fixed premises, is licensed in terms of the relevant laws relating to liquor, is operated as an association not for gain and membership is non racial.
- (ii) A racecourse
- (iii) Bookmaker outlet
- (iv) Totalizator outlet
- (v) Night club
- (vi) Hotel
- (vii) A bar licensed in terms of the relevant laws relating to liquor.
- (viii) A restaurant with a separate cordoned off – area where all limited payout machines are located.
- (ix) Bona fide Community centre which is not operated for gain, occupies fixed premises and where gambling machines cannot constitute the main facility and must have substantial facilities.
- (x) Any other premises determined as being suitable by the Board.

**3.2.2 Demonstration of enforceability of the legal age restrictions to the playing of gaming machines**

The establishment will have to demonstrate, where persons under the age of eighteen are permitted on the premises, that it will have the necessary controls in place to enforce that such underage persons are restricted from being able to play the gambling machines.

**3.2.3 The exclusion of certain sites**

The following categories of premises will not be licensed regardless of whether they provide an adult leisure facility:

- (i) A supermarket, café or other such retailer of food;
- (ii) An amusement arcade;
- (iii) An airport, railway station, taxi rank or bus station,
- (iv) A theatre or cinema;
- (v) Places of culture, including museums;
- (vi) A liquor store;
- (vii) A private home;
- (viii) A petrol or diesel station;
- (ix) A guest house or bed and breakfast establishment;
- (x) A school, university, college or technikon; or
- (xi) Any other premises considered by the Board to be unsuitable.

### **3.2.4 The main business of the establishment may not be the operation of gaming machines**

The establishment will have to demonstrate that the playing of gaming machines will be a secondary or ancillary activity to the main adult leisure attraction or attractions which are offered.

### **3.2.5 Other factors the Board may deem relevant**

These shall include but not limited to the following:

- (i) Range, size and quality of other facilities;
- (ii) Gaming machines do not constitute the main facility.

### **3.2.6 Standard of premises**

- 3.2.6.1 The premises must comply with all applicable local authority health and safety regulations.
- 3.2.6.2 The layout of the premises must be such as to preclude access to the gambling area by persons under the age of eighteen years. In this regard, the premises must, at a minimum, be roped off from that of the primary business conducted thereon.
- 3.2.6.3 Availability of sufficient parking on the site of the business, or street, or both.
- 3.2.6.4 Any signage advertising the limited payout machines available for play on the Premises will be subject to the Board's approval, based on conformity with the requirements for and standards regarding advertising contained in the relevant legislation.
- 3.2.6.5 Premises and the management thereof shall comply with all lawful requirements in respect of the activities to be conducted thereon.
- 3.2.6.6 Adequate security should exist at the Premises.
- 3.2.6.7 The Premises must have the capacity to link up with the central monitoring system.
- 3.2.6.8 The Premises shall be immovable.

- 3.2.6.9 The interior decoration must be of an acceptable standard and the gambling area should not be less than 3 square meters per limited payout machine.
- 3.2.6.10 Limited payout machines must not be visible from outside of the premises on which they are located.
- 3.2.6.11 Sites which serve meals to the public or alcoholic beverages must have adequate toilet facilities.
- 3.2.6.12 A Licensee will be required to install a surveillance system which at a minimum comply with the following:
- (i) A Licensee shall install, maintain and operate at all times a surveillance system comprising cameras, monitors, digital video recorders, and a video printer, that provides the coverage required by this RFP.
  - (ii) The surveillance system must include date and time generators that display on each video recording the date and time of the recorded events and the displayed date and time must not obstruct the recorded view.
  - (iii) All equipment that may be utilised to monitor or record views obtained by the surveillance system must be and remain located in a room used exclusively for surveillance purposes and the entrance to the surveillance room must be located away from the view of employees and the general public.
  - (iv) A Licensee must retain all video recordings for at least fourteen (14) days after the recording is produced, unless a longer time period is required by the Board.
  - (v) All digital video recordings must be made in real time or extended play time and not in a time lapse recording mode.
- 3.2.6.13 The surveillance system shall contain at a minimum, the following equipment:
- (i) dedicated cameras which are cameras that monitor a specified activity continuously, the placement of which shall be subject to approval by the Board;
  - (ii) a matrix which is a microprocessor controlled switching device which shall enable the system to direct any number of inputs to any number of outputs;
  - (iii) a titler with the capability to superimpose time, date and a title onto a video signal without obstructing the recorded view;
  - (iv) video loss detectors with the capability to detect loss in video and or generate an alarm when video loss is experienced;
  - (v) a video printer with the capability to generate upon command, a clear, still black and white or colour copy or photograph or the images depicted on a video recording;
  - (vi) digital video recorders which shall record the video signals from the system;
  - (vii) monitors on which the views recorded by the surveillance system shall be displayed;
- 3.2.6.14 A surveillance remote station with access to the surveillance system shall only have the capability to monitor and switch between signals;
- 3.2.6.15 Each camera shall have the capability of displaying its picture on a video monitor; and



3.2.6.16 Cameras recording gambling machines shall be positioned in such a manner that opened machine doors do not obstruct the view to the inside of the gambling machine cabinet. A maximum of 12 gambling machines shall be covered by one camera. (Note that this requirement is based on the room that would be taken up by 12 standard gambling machines installed next to each other. Therefore gaps between gambling machines shall be taken into account when reviewing the required number of cameras).

### **3.3 NATIONAL MINIMUM LICENSING CRITERIA FOR SITES WITH MORE THAN FIVE LIMITED PAYOUT MACHINES**

The National Gambling Board has laid down minimum licensing criteria for sites with more than 5 limited payout machines. (Appendix C). Applicants must comply with all the criteria listed in Appendix C. The following are some of the minimum licensing criteria listed in Appendix C:

#### **3.3.1 Suitability of Location**

The site must not be located near a casino, and must at least be a 2km radius away from any educational institution and places of worship.

#### **3.3.2 Social Responsibility Programme**

The Applicant must undertake to engage in a social local investment project.

#### **3.3.3 Social Investment Programme**

The Applicant must undertake to make local investment of at least 1% of its GGR, for every Application. This investment shall be in the field deemed appropriate by the Board and cannot be accumulated for a period of more than three years.

#### **3.3.4 Responsible Gambling Contribution to the South African Responsible Gambling Trust (SARGT)**

The Applicant must contribute to the SARGT, through the Route Operator, in line with the contribution by all operators as set out by the SARGT from time to time.

#### **3.3.5 Ownership of Sites**

The Applicant must show commitment to BBBEE by ensuring that at least 51% of ownership of the site is acquired by blacks. This must be in place at Application stage or prior to operation of the site.

#### **3.3.6 Management of Sites**

The Applicant must show commitment to BBBEE by ensuring that at least 51% of management of the site is acquired by blacks.

### **3.3.7 Employment Equity**

- 3.3.7.1 The Applicant must show commitment to BBBEE by submitting a 3 year plan and strategy of employment equity.
- 3.3.7.2 This plan must at a minimum be commitment to obtain 70% of general staff from the black local community and 60% of management from the same community.
- 3.3.7.3 The Employment Equity Plan must be in line with the Employment Equity Act, 1998 (Act No 55 of 1998).

### **3.3.8 Skills Development and Transfer**

- 3.3.8.1 The Applicant must show commitment to BBBEE by submitting a skills transfer plan.
- 3.3.8.2 This plan must ensure that skills are transferred to black local community within 5 years of operation which will enable that community to fully operate and manage the sites.

### **3.3.9 Preferential Procurement**

- 3.3.9.1 The Applicant must show good commitment to BBBEE by committing to procure goods and services, if obtainable, from local community.
- 3.3.9.2 A three year preferential procurement plan must be approved by the Board and be submitted to the National Gambling Board with the Application.

### **3.3.10 Enterprise Development**

The Applicant must show commitment to BBBEE by procuring a majority of goods and services from SMMEs. A three year enterprise development plan must be submitted to the Board and may be consolidated with the preferential procurement plan stipulated above.

### **3.3.11 Residual Elements**

The Applicant must show commitment to BBBEE by further engaging relevant commitments not mentioned above. Some of these factors are but not limited to, infrastructural support to the local community, support of rural commitment, investment in social wage employees etc.

## **3.4 ADDENDUM**

On 27 October 2009, The National Gambling Board resolved that additional criteria must be considered by the Board during the submission of Applications to the National Gambling Board for the approval of sites with more than five, but less than forty machines (Type B sites). The criteria are as follows:

- i) The new gambling outlet should not contribute towards proliferation of gambling in the area;
- ii) Socio-economic conditions of the community where application is made and motivated in line with its considerations/findings of such;

- iii) Measures in place to ensure that staff is paid in line with applicable minimum wage;
- iv) The Provincial Gambling Board must substantiate the balance it will maintain in respect of allocation of LPMs between rural and urban areas;
- v) Extensive public consultation, measures utilized to create awareness of the public applications over and above the newspaper and government gazette advertisements;
- vi) Provide response/consideration of matters raised as public objection; and
- vii) Route Operators contribution towards social development in the communities they operate and that such contributions be made part of their licence conditions.