



REQUEST FOR APPLICATIONS

FOR

**LIMITED PAYOUT MACHINES
SITE OPERATORS**

TABLE OF CONTENTS

SECTION A:	4
1.1 DEFINITIONS	4
1.2 INTRODUCTION	7
1.3 OBJECTIVES OF LICENSING ROUTE AND SITE OPERATORS	7
1.4 PURPOSE OF REQUEST FOR PROPOSAL (RFP).....	9
1.5 SUBMISSION OF APPLICATIONS	9
1.6 DELIVERY ADDRESS AND BOARD'S CONTACT DETAILS	10
1.7 CLARIFICATION / RECTIFICATION OF APPLICATIONS	10
1.8 FEES AND COSTS (Excluding Investigation Fees)	12
1.9 INVESTIGATION OF LICENCE APPLICATIONS.....	12
1.10 PAYMENT OF INVESTIGATION FEES	13
1.11 PUBLIC INSPECTION, REPRESENTATIONS BY INTERESTED PERSONS AND RESPONSE TO REPRESENTATIONS.....	13
1.12 EVALUATION PROCESS.....	14
1.13 SCHEDULE OF DATES	15
1.14 APPLICATION AND LICENSING PROCESS	16
2. TERMS AND CONDITIONS	16
2.1 DISCLAIMER	16
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	18
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 ROUTE OPERATOR AND SITE OPERATOR AGREEMENTS	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	24
3.15	DISPLAY OF LICENCES	24
3.16	REGISTRATION OF EMPLOYEES	24

SECTION B **25**

1.	REQUIREMENTS FOR THE APPLICATION FOR A SITE OPERATOR LICENCE (TYPE A)	25
1.1	APPLICATION INSTRUCTIONS.....	25
2.	DETAILED PROPOSAL	27
3.	ASSESSMENT CRITERIA IN RESPECT OF SITES.....	30
3.1	TYPE A SITE LICENCE (SITES WITH FIVE MACHINES OR LESS).....	30
3.1.1	A lawfully operated establishment providing primarily an adult leisure facility.....	30
3.1.2	Demonstration of enforceability of the legal age restrictions to the playing of gaming machines.....	31
3.1.3	The main business of the establishment must not be the operation of gaming machines	31
3.1.4	The location of LPM machines	32
3.1.5	The major portion of the premises shall not be used as a family residence.. ..	32
3.1.6	The exclusion of certain sites	32
3.1.7	Other factors as the Board may deem relevant.....	33

SECTION C..... **33**

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

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 , type A or as contemplated in section 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 27 of the National Gambling Act, Act 7 of 2004, as amended, and Regulation 14 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. 71 of 2008 , 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.

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.

1.3 OBJECTIVES OF LICENSING SITE OPERATORS

1.3.1 Flowing from the objectives stated in 1.2 above, the Board realises that the licensing of Site Operators on its own, will not fully accomplish the above stated objectives set for the introduction of legalised gambling in the Province. 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 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 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 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 levies are paid, as provided for in terms of the Act 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 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) Site Operator Licence - sites with a maximum of 5 limited payout machines (Type A Licence).

This RFP constitutes an invitation for proposals from interested Site Owners for Type A Site Operator licence within the Limpopo Province.

1.5 SUBMISSION OF APPLICATIONS

1.5.1 Route Operators 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.

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 Site Operator/s.

Section C

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

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

1.7 CLARIFICATION / RECTIFICATION OF APPLICATIONS

1.7.1 Applicants may seek clarification of the requirements of this RFA, during office hours (07:45 to 16:30). All requests for clarification must be in a formal written and signed letter, and may be sent by facsimile or e-mail. If requests for clarification are raised which, in the opinion of the Board, are relevant to all other prospective applicants, the Board will provide written clarification to be published in the website of the Board (www.lgb.org.za).

Requests for clarification should be directed to:

The Chief Executive Officer
Limpopo Gambling Board
Private Bag X9520
Polokwane, 0700

Or

The Chief Executive Officer
Limpopo Gambling Board
22 Schoeman Street
Polokwane, Limpopo Province, 0700

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

- 1.7.2 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.
- 1.7.3 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.
- 1.7.4 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.
- 1.7.5 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

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:

Purchase Price of RFP :R 15 000 (Fifteen thousand rands)

Site Operator Licence Application Fee : R 6000 (Six thousand rands)

Key employee registration : R 1000.00 (One thousand rands)

Gaming Employee registration : R 300.00 (Three hundred rands)

All fees shall be payable into the Board's bank account. Proof of payment must be furnished at the time of submission of the Application.

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 R 1 500.00 per Site Application and R 438.60 per key employee, to the Board for all reasonable direct and indirect expenses to be 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.

1.11 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 Application , 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.

	ACTIVITY	First Batch
		Mopani District
1	Issue of RFP	02 September 2011
2	Closing date for Purchase of RFP	09 September 2011
3	Submission of written Clarification Questions	16 September 2011
4	Written Responses to Clarification Questions	22 September 2011
5	Closing date for submission of Applications	30 September 2011
6	Applications available for Public Inspection at the Board's Offices	03 October 2011
7	Closing date for submission of Objections	04 November 2011
8	Start Date for Evaluation of Applications	07 November 2011
8	Public Hearing for applications with objections	To be announced

1.14 APPLICATION AND LICENSING PROCESS

This is an open ended RFP for LPM Site Operator licences and the duration of the application process shall extend beyond the stipulated time period determined by the Board in agreement with the Route Operators.

The Board intends receiving the Applications in batches. The first batch will be for Mopani district applications. Route Operators will submit further applications for other districts every two months after the 30th of September 2011. The sequence of Districts will be discussed with the Route Operators. Submission dates for other districts are as follows:

- | | | |
|------|--------------|---------------|
| i) | Second Batch | 30 Nov 2011 |
| ii) | Third Batch | 29 Feb 2012 |
| iii) | Fourth Batch | 30 April 2012 |
| iv) | Fifth Batch | 30 June 2012 |

2. TERMS AND CONDITIONS

2.1 DISCLAIMER

2.1.1 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.

2.1.2 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.

2.1.3 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.

2.1.4 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.

2.1.5 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 470 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) are rolled-out.

2.14 ROUTE OPERATOR AND SITE OPERATOR AGREEMENTS

2.14.1 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.

2.14.2 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 is of the opinion that the distribution of Site Operators within the five 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 South African National Standards (SANS) .

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.

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 (CEMS) 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 5.263157894% 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 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.

SECTION B

1. REQUIREMENTS FOR THE APPLICATION FOR A SITE OPERATOR LICENCE (TYPE A)

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 Two copies including a loose-leaf copy of the Application excluding such information must accompany this Application. Each page of the Application must be initialed 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) 2 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 scanned copy of the Application on a disc.

1.1.6 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.

1.1.7 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.

1.1.8 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) A valid tax clearance certificate;

- (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.
- (xi) Release authorizations 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 two years previous annual financial statements of the establishment reflecting the revenues of the various activities of the business of the establishment.
- 2.7 A projection/ budget for three years 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 (e.g. liquor licences and other gambling licences).

- 2.10 Demonstration of the maximisation of positive, and limitation of negative social impact on the local community.

In providing the information required by the Board in the above appendices and Annexures, applicants should note the following:

- a) the Board assumes that applicants are in possession of copies of the Act, Regulations and Rules and, that they have familiarised themselves with each of the provisions contained therein;
- b) failure to provide all the information required by the Board, could result in a delay in the processing of an application;
- c) the Board may deny an application for a Site licence, if any of the information contained in an application for a Site Operator licence was false in any material respect, or was subject to omission with the intention to mislead the Board; and
- d) the Board may also suspend and/or revoke a licence subsequent to the issuing thereof, should it at a later stage be found that any of the information contained in an application for a Site Operator licence was false in any material respect, or was subject to omission with the intention to mislead the Board.

3. ASSESSMENT CRITERIA IN RESPECT OF SITES

3.1 TYPE A SITE LICENCE

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 places 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.

SECTION C

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