

# NORTH CAROLINA EDUCATION LOTTERY POLICIES AND PROCEDURES MANUAL

## CHAPTER 8 – SALES

### 8.01 – RETAILER RULES AND REGULATIONS

#### A. SCOPE

The Retailer Rules and Regulations contain specific rules, regulations, procedures, instructions and directives which apply to Lottery Retailers as defined by the North Carolina State Lottery Act (“Act”). The North Carolina Education Lottery (NCEL) will, from time to time, amend these Rules and Regulations and adopt new Rules and Regulations. When this occurs, all existing Lottery Retailers will be advised of these changes. By signing a Retailer Contract, each Retailer agrees to comply with all terms, conditions, obligations and requirements of Retailers set forth in these Rules and Regulations, as they may be amended from time to time, and the Act.

#### B. DEFINITIONS

Capitalized terms used herein shall have the meanings set forth in Chapter 8.00, “Definitions” unless otherwise defined in context.

#### C. GENERAL RULES

1. At each respective Retailer Business Location listed in the Retailer Contract for which a Certificate of Authority has been issued, each Retailer shall sell NCEL Lottery Tickets, but only for those Lottery games authorized by the NCEL. The Lottery games authorized by the NCEL, in its sole discretion, may include Instant Games, On-Line Games and any other games which may be developed, distributed and sold under the authority of the NCEL. For each of the NCEL Lottery games that the Retailer is authorized by NCEL to sell, the Retailer shall abide by any and all Rules and Regulations adopted by the NCEL to govern each respective game.
2. No Lottery Retailer may sell any NCEL Lottery Tickets at any location unless that Lottery Retailer has in effect a Retailer Contract issued in accordance with the Act which has not been terminated, suspended, canceled or revoked. No Lottery Retailer shall sell any Lottery Tickets or Shares except from a Retailer Business Location listed in its Retailer Contract and as evidenced by the display of a Certificate of Authority for such Retailer Business Location. However, in certain instances, the NCEL may issue a temporary Certificate of Authority to specifically authorize the sale of Tickets from a temporary location.
3. If the NCEL issues a Certificate of Authority for more than one retailer Business Location listed in the Retailer Contract, to the extent that it may be necessary for administrative or regulatory purposes, the Retailer Contract shall be deemed a separate contract for each such Retailer Business Location. In the event that the NCEL and Retailer may enter into more than one Retailer Contract for any specific Retailer Business Location, whether at the time of Retailer Contract renewal or otherwise, the most recently dated Retailer Contract shall amend, renew, replace, and restate any prior Retailer Contract in its entirety for each of the Retailer Business Locations listed therein.
4. No Lottery Retailer can be exclusively engaged in the business of selling Lottery Tickets or shares or operating electronic computer terminals or other devices solely for entertainment at any Retailer Business Location.

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5. For each location at which Tickets are to be sold, a Retailer Contract is required which lists the designated location as a Retailer Business Location. A Retailer applicant who desires to operate more than one (1) Retailer Business Location to sell Tickets must submit separate information for each such location in such form as the NCEL may require. The NCEL, in its sole discretion, may authorize the sale of Lottery Tickets for all, any or none of the NCEL's Lottery games from each such respective location.
6. No Retailer Contract is assignable or transferable, in whole or in part, to any person or entity. No Retailer Contract is transferable to any location(s) other than as specified in the Retailer Contract. For purposes of a Retailer Contract, any of the following actions will be deemed to be an impermissible assignment of the Retailer Contract which may result in the Retailer Contract for that Retailer Business Location being suspended or revoked:
  - a. the change in ownership of a controlling equity interest in the Retailer;
  - b. the addition or deletion of any of the owners holding more than ten percent (10%) of the retailer; and/or
  - c. the sale of all or substantially all of the assets of the Retailer; or a change in the location of the Retailer's business or in the nature of the business of the Retailer. Any proposed new owner must file a new application for a Retailer Contract. If prior notice is provided to the NCEL in writing at least thirty (30) days before any proposed business or location change or change in ownership, an interruption of Lottery Terminal operation may possibly be avoided.

An Executor of an Estate managing the decedent's business will be exempt from the application fee.
7. An Applicant or Retailer shall notify the NCEL of any change in the information in the Applicant's or Retailer's most recent application for a Retailer Contract or upon renewal of a Retailer Contract. The Applicant or Retailer shall notify the NCEL of the change in the information within thirty (30) days following the date of the change. Notwithstanding the preceding sentence, a corporate Applicant or Retailer is not required to notify the NCEL under this subsection of a transfer of less than ten percent (10%) of the corporate stock unless the transfer results in a change in ownership of a controlling equity interest in the Retailer or the addition or deletion of any of the owners holding more than ten percent (10%) of the Retailer.
8. No person shall sell a Ticket or Share at a price other than established by the NCEL. No person other than a duly contracted Lottery Retailer shall sell Lottery Tickets, but this shall not be construed to prevent a person who may lawfully purchase Tickets or Shares from making a gift of Lottery Tickets or Shares to another. Nothing shall be construed to prohibit the NCEL from designating certain of its representatives and employees to sell or give Lottery Tickets or Shares directly to the public.
9. Lottery Tickets or Shares may be given by merchants as a means of promoting goods or services to customers or prospective customers, subject to prior approval by the NCEL.

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10. Retailers shall not condition the sale of Lottery Tickets upon the purchase of any other goods or services and shall not impose any other unauthorized restriction or condition upon the sale or redemption of Lottery Tickets. Neither Retailer nor its employees shall request, demand or accept gratuities or other remuneration of any kind in exchange for the performance of any obligation required under the Retailer Contract, unless specifically authorized by the NCEL.
11. No Lottery Tickets shall be sold to Minors (persons under eighteen (18) years of age). Retailer shall establish such safeguards as are necessary to ensure that no sales are made or prizes paid to Minors.
12. Retailer shall place any vending machine utilized for the purpose of dispensing Instant Tickets only in locations on the premises which are within the view of such Retailer or an employee of same, and said vending machine shall bear a conspicuous label prohibiting its use by Minors.
13. Retailers shall not extend credit to the purchaser of Lottery Tickets nor accept a charge card or food stamps for the purchase of any Lottery Ticket.
14. Retailers shall not sell Lottery Tickets by mail, telephone, fax or other similar method of communication.
15. Retailers shall make the purchase of Tickets conveniently and readily accessible to their customers during the Retailers' normal business hours, unless circumstances arise that are out of the control of the Retailers and could not have been avoided by the exercise of due care. This requirement also applies to the American with Disabilities Act ("ADA") requirements.
16. Retailers shall, upon validation and payment of a winning Lottery Ticket, immediately deface the ticket. Tickets must be defaced either by punching a hole through the validation bar code of the Ticket, drawing a heavy black line through the entire validation bar code or tearing the Ticket in half. Otherwise, the Retailer shall be charged for any prizes paid by the NCEL to claimants who submitted Tickets that have previously been validated and not properly defaced.
17. Retailers shall maintain a copy of "How to Play" brochures for specified games being sold by the NCEL at any particular time at their location.
18. Retailers shall only accept from players official North Carolina Education Lottery Play Slips that are manually prepared.
19. Retailers shall not sell lottery Tickets or Shares in the State of North Carolina other than those authorized by the NCEL.
20. Retailers shall not knowingly sell a Ticket or combination of Tickets to any person or entity which would guarantee such purchaser a grand prize win or a jackpot win.
21. Retailer shall attend training sessions from time to time, as requested by the NCEL.
22. Retailer shall:

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- a. Immediately report to the NCEL's Security Department any knowledge of unlawful activities or other improprieties that concern the operations of the NCEL or the NCEL's lottery games;
  - b. Report all stolen Instant Tickets to the NCEL's Security Department within 24 hours of discovery. In addition, the Retailer shall file a police report for the stolen Tickets within 24 hours, and forward a copy to the NCEL within seven (7) calendar days of the initial report of the theft to the NCEL; and
  - c. Fully cooperate with the NCEL in the investigation of any lost, stolen, altered, or counterfeit Lottery Tickets or other unlawful or improper activities affecting the operations of the NCEL or the NCEL's games.
23. If more than one Retailer Business Location is to be covered by a Retailer Contract, each such location shall be listed in Form A, Page 2, attached to the Retailer Contract. Locations may be added or deleted from Form A, Page 2 by mutual agreement of Retailer and the NCEL, effective upon the date of a revised Form A, Page 2 signed by both Retailer and the NCEL. However, the NCEL may cancel, deny, revoke, suspend, terminate or refuse to renew the Retailer Contract with regard to any individual location(s) for any of the reasons set forth in the "Termination, Cancellation, Suspension and Revocation of the Retailer Contract" Section.
24. In the event that the Retailer's business, or any of its Retailer Business Locations, is sold, the Retailer shall continue to be liable of the successor owner's NCEL transactions as if the successor owner was an agent of the Retailer, unless and until timely written notice from the Retailer on or before such transfer is delivered to the NCEL specifically requesting cessation of NCEL sales at the transferred Retailer Business Location(s). The Executive Director may adopt, from time to time, any appropriate and necessary procedures to verify the ownership of a Retailer and/or any Retailer Business Location to ensure that Tickets are in fact sold only by Retailers under an approved Retailer Contract, and all in accordance with the Act and these Rules and Regulations.
25. Retailer shall maintain such financial and accounting records relating to Lottery Ticket sales and its performance under the Retailer Contract, in such form as the NCEL shall, from time to time, prescribe. Retailer shall file reports with the NCEL specifying the Retailer's receipts and transactions relating to the sale of Lottery Tickets on such forms and in such manner as shall be required, from time to time, by the NCEL. Retailer shall make such records available for inspection and review at any time during Retailer's normal business hours by any NCEL employees or agents designated to take such action by the Executive Director.
26. By entering into the Retailer Contract, the Retailer:
- a. acknowledges that the NCEL has made no representations or warranties as to whether Retailer may or may not be prohibited from engaging in the sale of Lottery Tickets by reason of controlling federal statute, rule or regulation;
  - b. represents and warrants to the NCEL that it is not prohibited from entering into the Retailer Contract or engaging in the sale of Lottery Tickets by any deed, lease, contract, charter, bylaw or other restriction;

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- c. represents and warrants to the NCEL that Retailer fully satisfies all requirements for a “Retailer” as defined in the Act;
  - d. agrees and acknowledges that failure by Retailer to comply with any of the terms or provisions of the Retailer Contract, including the provisions of the Act and these Rules and Regulations, shall constitute a breach of the Retailer Contract; and
  - e. agrees and acknowledges that Retailer shall be liable for all costs incurred by the NCEL in enforcing the Retailer Contract and in collecting any amounts due to the NCEL from Retailer there under, including court costs and attorneys’ fees;
  - f. agrees and acknowledges that it shall defend, protect and hold harmless the State of North Carolina, the NCEL and any and all commissioners, officers, directors, employees and agents thereof, from and against all claims, suits or actions arising from any willful or negligent act or omission of Retailer or its officers, directors, employees or agents while performing its obligations under the Retailer Contract;
  - g. agrees and acknowledges that it is responsible for any loss or property damage to the NCEL or its Vendors which results from a willful or negligent act or omission of Retailer or which results from the failure on the part of Retailer to secure, maintain and administer any such property in accordance with sound management practices; and
  - h. agrees and acknowledges that it is responsible for making or having made and bearing all costs associated therewith, any and all necessary or appropriate modifications to its telecommunications systems or facilities which are reasonably requested by the NCEL to facilitate the installation, operation and maintenance of any Lottery related equipment, including Lottery Terminals and display monitors.
27. Retailer shall not subcontract any of its duties or obligations under the Retailer Contract.
28. Retailer shall exercise control and supervision over its employees selling Lottery Tickets and shall be fully responsible and liable for their conduct, as it relates to the sale of Lottery Tickets. Retailer shall provide instructions to its employees concerning the Act, these Rules and Regulations, the Retailer Contract and any other information provided by the NCEL from time to time.
29. Retailer shall maintain any and all bank accounts required by the NCEL.
30. Retailer shall not sell any Lottery Tickets or hold itself out as a Lottery Retailer if the Retailer Contract is no longer in force for any reason, whether by virtue of suspension, termination, revocation, cancellation or non-renewal.
31. Retailer shall return to the NCEL all Lottery Tickets, goods, materials and Lottery equipment delivered to the Retailer pursuant to the Retailer Contract upon cancellation, denial, termination, suspension, revocation or non-renewal of the Retailer Contract or upon demand by the NCEL.

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32. Retailer shall not use a NCEL insignia, logo, trademark, service mark or name of any NCEL game in an advertisement without the prior written authorization of the Executive Director in each instance.
33. Retailer shall not display or publish Lottery related material which may be considered derogatory or adverse to the operation or dignity of the NCEL or the State of North Carolina. Retailer shall remove any such materials from the Retailer Business Location upon the request of the NCEL.
34. Retailer shall accurately complete, timely return and otherwise comply with any and all information update requests or other forms required by the NCEL from time to time during the term of the Retailer Contract.
35. Retailer shall perform its obligations under the Retailer Contract solely as an independent contractor of the NCEL, and not as an agent, partner, joint venture or employee of the NCEL or the State of North Carolina.
36. Notices:
  - a. Retailer shall notify the NCEL in writing at least thirty (30) calendar days in advance of any of the following changes:
    - i. voluntary cancellation of the Retailer Contract by Retailer “Termination, Cancellation, Suspension and Revocation of the Retailer Contract” Section;
    - ii. the change in the designated separate bank account from which payments are to be made; and/or
    - iii. the change in ownership of Retailer’s business at any Retailer Business Location.
  - b. Retailer shall notify the NCEL in writing no more than thirty (30) calendar days after the occurrence of any of the following changes:
    - i. the change in any of the information submitted to NCEL in the Retailer’s most recent application, including ownership changes, pursuant to the “General Rules” Section above;
    - ii. the death or incapacity of owner(s), partner(s), sole proprietor, etc.; and/or
    - iii. any change causing Retailer to no longer satisfy fully all requirements of a “Retailer” as defined in the Act. Specifically, without limitation, Retailer shall submit such notice if, at any time during the term of the Retailer Contract, Retailer or any of its owners are convicted of, or enter a plea of guilty or nolo contendere, to a criminal offense prohibited by the Act or have assessed against them a tax delinquency, within ten (10) calendar days of the occurrence of such event.

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37. No waiver by either the NCEL or the Retailer of any term or provision of the Retailer Contract, or of any default there under, shall affect such party's rights thereafter to enforce such term or provision or to exercise any right or remedy in the event of any other default, whether or not similar.
38. The invalidity or unenforceability of any term or provision of the Retailer Contract shall not affect or diminish the validity or enforceability of the remaining provisions contained therein.

#### **D. RETAILER SELECTION CRITERIA**

1. Retailer selection criteria established by the NCEL are designed to comply with all requirements of the Act, to provide clear and objective guidelines to Retailer applicants and to maximize the participation of retailers in the State of North Carolina.
2. It is illegal to sell North Carolina Lottery tickets without a contract or to sell tickets out-of-state or through the mail. It is also illegal to sell Lottery tickets in North Carolina from any other lottery.
3. Retailer applicants may be eligible to become Retailers, at the NCEL's sole discretion, to sell Tickets at one or more of its Retailer Business Locations upon the Retailer applicants meeting all of the following conditions as specified in the Lottery Act:
  - The Retailer applicant cannot be engaged exclusively in the business of selling Lottery tickets or shares or operating electronic computer terminals or other devices solely for entertainment.
  - The Retailer applicant can only sell tickets from a location that has been issued a Certificate of Authority from the NCEL. A Certificate of Authority is required for each location owned and operated by a Lottery Game Retailer. The Certificate of Authority must be conspicuously displayed at each location.
  - The NCEL prohibits contracting with a natural person under 21 years of age to be a Lottery Game Retailer.
  - In addition, the NCEL prohibits contracting with a person who is not current in filing all applicable tax returns to the State, excluding items under formal appeal under applicable status.
  - A Lottery Game Retailer cannot reside in the same household as a member of the Commission, the Executive Director or any other employee of the NCEL.
4. As part of the contracting process, the Retailer is required by law to pass a tax check and submit to a criminal background check. A credit report will also be requested. A non-refundable processing fee will be charged for these required financial and criminal background checks. The applicant, including all proprietors, partners, corporate officers or shareholders holding more than ten percent (10%) of the ownership interest, either: meets an acceptable level of creditworthiness as assessed through an independent credit agency and has an acceptable level of creditworthiness, in the NCEL's sole discretion, based upon the current or prior payment history with the NCEL; or must provide a financial security deposit or other credit enhancement as requested by the NCEL.
5. The Applicant must submit the required application fee for each Retailer Business Location.

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6. The Applicant must establish a separate bank account in the name of the Retailer entitled, "In Trust For The North Carolina Education Lottery" for Lottery proceeds and provide the banking information to the NCEL which enables collection of the net Lottery proceeds by way of electronic Funds Transfer (EFT). Such bank account shall be a dedicated account for the exclusive use of the NCEL to withdraw and deposit funds associated with the Lottery operations of the Retailer.
7. The Applicant must have one (1) or more individuals from each Retailer Business Location attend and successfully complete the training program prescribed by the NCEL.
8. After a visit to each proposed Retailer Business Location by a Lottery Sales Representative, the NCEL will determine whether all information provided by the Retailer appears accurate and that each such retail establishment sells products other than Lottery Tickets, provides services other than those prohibited herein and is not a mobile or residential location.
9. Retailer must sign a Retailer Contract(s), in form and content satisfactory to the NCEL, which list all proposed Retailer Business Locations.
10. If an Applicant, including all proprietors, partners, corporate officers or shareholders holding more than ten percent (10%) of the ownership interest, or that has ever held a like position or ownership interest in any NCEL Retailer, has an outstanding unpaid balance owing to the NCEL, the Applicant must first satisfy in full any such balance and may be required, in the NCEL's sole discretion, to provide a financial security deposit or other credit enhancement acceptable to the NCEL.
11. The foregoing notwithstanding, the NCEL may deny a Retailer Contract to any Retailer applicant in accordance with "Termination, Cancellation, Suspension and Revocation of the Retailer Contract" Section of the Retailer Rules and Regulations.
12. In addition to the foregoing, a Retailer will be eligible to be authorized by NCEL, in NCEL's sole discretion, to sell Tickets for On-Line games at one or more of its Retailer Business Locations if:
  - a. the Retailer is already authorized by the NCEL to sell Tickets for Instant Games;
  - b. the Retailer has complied with the installation requirements for an On-Line Games Lottery Terminal at each such Retailer Business Location;
  - c. the Retailer has had one or more employees from each such Retailer Business Location attend On-Line Games training;
  - d. the Retailer has not been delinquent with EFT transactions within the previous ninety (90) days; and
  - e. the Retailer has demonstrated adherence to all NCEL Rules and Regulations, including but not limited to, payment of prizes to Lottery players as demonstrated by the NCEL's record of Retailer validations and sales.

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13. All Retailer applicants will be informed within reasonable time periods of their failure to comply with any of the provisions in the Act, Retailer Contract and/or these Rules and Regulation, including specific details of the non-compliance. The NCEL will assist the Retailer applicant on a “best efforts” basis to resolve any outstanding issue.
14. Notwithstanding the criteria in these Rules and Regulations, the NCEL, in its sole discretion, may authorize exceptions to the listed criteria and authorize a Retailer to sell Tickets for Instant Games or On-Line Games when the Retailer does not meet all the criteria. The intent of this provision is to allow the NCEL to ensure that: (1) Instant Games, On-Line Games and Lottery Terminals are available in all geographic areas of the State, are represented in a variety of trade styles, are accessible to Retailers which are “minority businesses,” as defined by the Act and are available to support marketing initiatives with specific Retailers; and (2) administrative difficulties for Retailer applicants are avoided (e.g., consent forms would not necessarily need to be required from all corporate officers in a large multi-state conglomerate).
15. By signing a Retailer Contract, the Retailer shall be subject to the Act and Rules and Regulations, and, in particular, those Rules and Regulations governing the specific Lottery games which the NCEL has authorized the Retailer to sell.

#### **E. APPLICATION, SERVICE AND RENEWAL FEES**

1. Applications submitted to the NCEL for each Retailer Business Location, including applications for a change of ownership of an existing Retailer Business Location must be accompanied by a cashier’s check, money order, business check or personal check, in the amount of \$75.00, plus \$10.00 for each additional Retailer Business Location established under the authority of the North Carolina State Lottery Act.
2. A Retailer shall pay a service fee of \$15.00 per week for each installed On-Line Lottery Terminal. This fee shall be included automatically in the settlement process and collected by EFT. This service fee may be waived in the discretion of the NCEL in accordance with uniform minimum sales criteria and other criteria which may be developed and established by the NCEL from time to time.
3. Effective August 1, 2007, Lottery Retailer Contracts will remain in effect for three (3) years unless sooner cancelled, terminated, suspended or revoked, at the discretion of the NCEL. Retailer Contracts executed prior to August 1, 2007 will remain in effect for two (2) years, and upon renewal, such contract shall extend for a period of three (3) years, unless sooner cancelled, terminated, suspended or revoked, at the discretion of the NCEL. The NCEL at its discretion may charge a renewal fee applicable to all Retailers.

#### **F. TERMINATION, CANCELLATION, SUSPENSION AND REVOCATION OF THE RETAILER CONTRACT**

1. The Retailer Contract may be canceled by the Retailer at any time upon thirty (30) calendar days prior written notice to the NCEL.

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2. If the Executive Director or designee(s) determine, in their sole discretion, that cancellation, denial, revocation, suspension or termination of the Retailer Contract is in the best interest of the NCEL, the State of North Carolina and/or the public welfare, the Executive Director or designee(s) may at any time cancel, deny, revoke, suspend or terminate the Retailer Contract upon written notice to Retailer in accordance with the Act; provided, however, Retailer may be entitled to dispute such cancellation, denial, revocation, suspension or termination in accordance with Chapter 8.02 of these Rules and Regulations. The Executive Director or designee(s) may temporarily suspend Retailer's rights under the Retailer Contract without prior notice, pending resolution of any dispute.
3. Notwithstanding the "Termination, Cancellation, Suspension and Revocation of the Retailer Contract" Section, the NCEL may immediately cancel, deny, revoke, suspend, terminate, or refuse to renew a Retailer Contract if the Retailer or any of its owners:
  - a. violates a provision of the Act, the Retailer Contract and/or these Rules and Regulations;
  - b. is or has been or retains an employee involved in the sale of Lottery Tickets who is or has been, convicted of a criminal offense related to the security or integrity of the NCEL or a lottery in any other jurisdiction;
  - c. is or has been or retains an employee involved in the sale of Lottery Tickets who is or has been, convicted of a gambling-related offense, false statements, false swearing or perjury in this or any other jurisdiction or a crime punishable by more than one (1) year of imprisonment or a fine of more than \$1,000.00 or both unless their civil rights have been restored and at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described above;
  - d. commits fraud, misrepresentation or deceit;
  - e. provides false or misleading information to the NCEL;
  - f. acts in a manner prejudicial to the security or integrity, or the public confidence in the security or integrity, of the NCEL;
  - g. is delinquent in the payment of any federal, state or local taxes owed by it;
  - h. changes any Retailer Business Location for which NCEL has issued a Certificate of Authority under the Retailer Contract without proper notification to the NCEL in accordance with these Rules and Regulations;
  - i. fails to accurately or timely account for proceeds or prizes from the sale of Lottery Tickets;
  - j. fails to accurately or timely account for Lottery Tickets received from the NCEL;

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- k. fails to maintain a minimum level of sales, as established by the NCEL from time to time;
- l. files for or is placed in bankruptcy, receivership, insolvency or similar proceedings or fails to pay its debts as they become due;
- m. contracts with any other person or entity for lottery goods or services without the prior written approval of the NCEL;
- n. fails to meet any of the objective criteria established by the NCEL pursuant to the Act; or
- o. is subjected to any material change, as determined to be material in the sole discretion of the NCEL, in any matter considered by the NCEL in entering this Retailer Contract; and/or
- p. fails to maintain the dedicated bank account from which Electronic Funds Transfers (EFT) payments are to be made, withdraws the authorization for the NCEL to initiate EFT transactions to and from such designated account or fails to have sufficient funds available in such dedicated account on the dates specified by the NCEL.

#### **G. PRIZE PAYMENT POLICY**

- A. The determination of whether the claimant is a winner is subject to the game-play rules and the winner validation procedures and confidential validations tests established by the Commission for the particular Lottery game involved.
- B. All instant game prizes must be claimed within ninety (90) calendar days of the announced end of game. If the 90<sup>th</sup> calendar day falls on a day in which the NCEL is not open for business, the ticket must be claimed on the next business day. An instant ticket that is mailed must be received at NCEL headquarters or any NCEL district office within ninety (90) calendar days of the announced end of game. Postmarks shall not constitute satisfaction of the ninety (90) day requirement.
- C. All online game prizes must be claimed within one hundred eight (180) days of the drawing. If the 180<sup>th</sup> calendar day falls on a day in which the NCEL is not open for business the ticket must be claimed on the next business day. An online ticket that is mailed must be received at NCEL headquarters or any NCEL district office within one hundred eighty (180) calendar days of the drawing. Postmarks shall not constitute satisfaction of the one hundred eighty (180) day requirement.
- D. Prizes under \$600 may be claimed at any NCEL Lottery game retailer. Prizes between \$600 and \$99,999.99 must be claimed at any NCEL regional office or by mail using an NCEL prize claim form. Prizes of \$100,000 or more must be claimed in person at NCEL Headquarters.
- E. The NCEL may not pay prizes to any claimant who purchases a ticket from an unauthorized retailer.

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- F. Under no circumstances will the NCEL pay a prize or share of a prize without the original ticket being presented to the NCEL.
- G. No prize shall be paid for a Lottery ticket or share that is stolen, counterfeit, altered, fraudulent, un-issued, produced or issued in error, unreadable, not received or recorded by the Commission by the applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the Lottery game involved, or not in compliance with any specific rules and public or confidential evaluation and security tests appropriate to the particular game involved.
- H. No valid claim for a prize in any Lottery game shall be paid more than once. The NCEL and the State shall be discharged of all liability upon payment of a prize.
- I. No prizes shall be paid to a person under the age of 18.
- J. No ticket or share in a Lottery game shall be purchased by, and no prize shall be paid to, a member of the Commission, the Director, or employee of the Commission, or to any spouse, parent, or child living in the same household.
- K. The NCEL, its Lottery game retailers, and/or advertising agency may use a winners name and photograph for the purpose of promoting and advertising the NCEL unless a prize winner submits to the NCEL a copy of a protective order without attachments, if any, issued to that person under N.C.G.S. 50B-3 or a lawful order of any court of competent jurisdiction restricting the access or contract of one or more persons with that prize winner, or presents a current and valid Address Confidentiality Program authorization card issued pursuant to the provisions of Chapter 15C of the North Carolina General Statutes. That prize winner's identifying information shall be treated as confidential information under N.C.G.S. 132-1.2 as long as the protective order remains in effect or the prize winner's identifying information shall be available for inspection by a law enforcement agency or by a person identified in a court order if inspection of the address by that person is directed by that court order.
- L. All prizes are subject to federal and state income tax.
- M. Persons who are entitled to prize payment of \$600.00 or more and owe at least \$50.00 to a registered creditor are subject to debt set-off of that prize pursuant to N.C.G.S. 18C-134.

#### **H. POINT OF SALE MATERIALS AND LOTTERY EQUIPMENT**

- 1. Unless the NCEL agrees otherwise in writing, each Retailer shall offer to its customer all available Lottery games and Tickets which the NCEL has authorized the Retailer to sell at any given Retailer Business Location. The Retailer shall use the Lottery Ticket dispensers and/or vending machines provided by the NCEL for the sale of Instant and/or On-Line Tickets. The Retailer shall place such dispensers, vending machines and any Lottery Terminals provided by the NCEL in a prominent location in the Retailer's establishment near the cash register or check-out area for easy access and monitoring for purposes of security and purchases made by Minors.

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2. Each Retailer shall prominently display, in an area visible to the Retailer's customers at each Retailer Business Location authorized by NCEL, the Certificate of Authority for such Retailer Business Location issued to it by the NCEL. Retailer shall return each such Certificate of Authority to the NCEL immediately upon any termination, denial, cancellation, suspension, revocation or non-renewal of the Retailer Contract.
3. In accordance with instructions issued from time to time by the NCEL, the Retailer shall:
  - a. maintain displays, notices and materials supplied by, or on behalf of, the NCEL;
  - b. prominently display and maintain such signage and point-of-sale materials as may be supplied by, or on behalf of, the NCEL to be used in conjunction with Lottery Ticket sales, including door decals, game posters, display Tickets, danglers, change mats, lighted interior signs, banners, odds of winning and any other items provided by the NCEL;
  - c. utilize and properly maintain Instant Ticket dispensers, vending machines, Lottery Terminals and such other Lottery-related equipment that may be provided by, or on behalf of, the NCEL;
  - d. make available to potential Lottery customers player brochures supplied by the NCEL from time to time and to explain Lottery game rules;
  - e. abide by any and all promotional guidelines established by the NCEL; and
  - f. provide adequate supplies of Winner Claim Forms, entry envelopes and Play Slips and provide adequate space for a play station.

#### **I. SETTLEMENT AND RETAILER INVOICING**

1. The accounting period for purposes of preparing Retailer invoices shall be one week from Sunday at 5:00 a.m. through Sunday at 2:00 a.m.
2. All Packs of Instant Tickets settled in an accounting period and all sales of On-Line Games lottery products occurring within the accounting period will be invoiced to the Retailer. The Retailer invoice will be available through the NCEL Lottery Terminal after 5:00 a.m. on the Sunday immediately following the end of the accounting period.
3. For Instant Games, all Ticket Packs settled between Sunday at 5:00 a.m. and Sunday at 2:00 a.m. in an accounting period will be included in the Retailer invoice for that accounting period. As a general rule, a Pack of Instant Tickets will settle (*i.e.* become a Settled Pack) twenty-one (21) days after activation. However, the predetermined formula or schedule for determining the time of settlement of Packs of Tickets may be modified at the discretion of the NCEL in accordance with uniform criteria established by the NCEL from time to time.
4. The Retailer invoice will provide a calculation of the proceeds due the NCEL during the accounting period. The proceeds will be equal to the retail value of Settled Packs of Instant

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Game Tickets, plus the retail value of On-Line Game Ticket sales, less applicable sales Commissions and bonuses, if any, less any validations of winning Tickets by the Retailer, plus service fees, plus or minus any adjustments to the Retailer account as calculated by the NCEL.

5. For purposes of calculating the Retailer invoice, free Ticket prizes validated by the Retailer shall have the same value as the applicable retail value of a free Ticket provided to the Claimant.
6. If a winning Ticket that is validated by a Retailer and credited to the Retailer's account has not been defaced by the Retailer and is later presented to the NCEL for payment, the NCEL may pay the prize and adjust the Retailer's account for the value of the prize payment.

#### **J. BANKING, DEPOSITS AND PAYMENT REQUIREMENTS**

1. These conditions and guidelines described below detail the responsibilities of the Lottery Game Retailer in order to ensure fair and equitable handling of all financial circumstances with regards to Lottery Game Retailer accounts. Any deviation from these guidelines will be at the discretion of the Executive Director.
2. Each retail outlet must be approved by the NCEL prior to obtaining a contract to dispense Lottery products. A portion of this approval process includes a background check verifying the financial status of the Retailer applicant by obtaining personal and business credit history. A report containing questionable or unresolved credit issues may cause the Applicant to be subject to a conditional status, requiring that a security deposit or security bond be posted in an amount determined by the NCEL based on anticipated or current sales. Questionable items may include debts sent to a collection agency marked as "unpaid," unresolved judgments and personal or business bankruptcy. These guidelines are intended to be applied fairly to all Applicants for a Lottery contract.
3. In addition, personal credit reports on all owners, officers and/or directors, may be run annually or as often as deemed necessary to update the status of active retailers. Decisions based on the results of new information may include the requirement of a security deposit or security bond according to guidelines.
4. Payment for Lottery tickets is to be made weekly via electronic funds transfer (EFT), or more frequently as determined by the NCEL, from the Lottery Game Retailer's dedicated bank account to the NCEL receiving account. It is the responsibility of the Lottery Game Retailer to deposit all Lottery proceeds on a daily basis into a dedicated bank account set up as "In Trust for the North Carolina Education Lottery".
5. On the first occasion (Step 1) of an "insufficient funds" EFT, the following will apply:
  - The Lottery Game Retailer will be charged a \$25.00 NSF fee.
  - The NCEL will attempt to contact the Lottery Game Retailer via telephone, as well as notified in writing by the NCEL regarding the insufficient funds.
    - If the total invoice owed by the Retailer is less than \$5,000, NCEL Retail Accounting will provide the average of the instant sales per week over the prior 13 weeks to the Sales Division to enter as a liability cap for any subsequent ordering packs of tickets.

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- If the total invoice owed by the Retailer is \$5,000 or greater, NCEL Retail Accounting will request the Sales Division to dispatch a Sales Representative to the Retailer to inventory the remaining Instant Tickets.
    - The Sales Representative shall then contact Retail Accounting regarding the inventory. Based upon the outstanding liabilities to be owed by the Retailer, Retail Accounting may decide to have the Sales Representative settle a portion or all of the Retailer's Instant Tickets and retrieve any unsold tickets. If such is the case, the Retailer will be given the opportunity to pay for the settled tickets on the following week's invoice.
    - If the outstanding liabilities are within reasonable limits based upon Retail Accounting's discretion, which is approximately the average instant sales per week over the prior 13 weeks, the tickets shall remain with the Retailer.
    - Retail Accounting will provide the average sales number to the Sales Division to enter as a liability cap for any subsequent ordering packs of tickets.
  - The Retailer must deliver a cashiers check or money order for the uncollected balance to NCEL Headquarters or an NCEL regional office within 24 hours. At the sole discretion of the Executive Director or designee, a business check may be accepted for payment depending on the circumstances.
  - If payment is not received within 24 hours, the Lottery terminal will be disabled and instant ticket deliveries will cease until such time the amount due is settled. If payment is not received or payment arrangements are not made within forty-eight (48) hours, the NCEL shall notify the Retailer in writing regarding termination of the Contract and shall retrieve the Lottery equipment and any instant ticket not sold by the Retailer, if not already done so.
  - If payment is received within the specified period, instant tickets will be issued to the Retailer on the limited basis for a minimum of 6 months. After such time and if the Retailer does not incur any other NSF's during the 6 month period, the Sales Division will evaluate the Retailer's inventory status to determine the appropriate level of instant tickets to be issued to the Retailer based on the Retailer's expected sales.
6. On the second occasion (Step 2) of an "insufficient funds" EFT occurring within a rolling six (6) month period, the following will apply:
- The Lottery Game Retailer will be charged a \$75.00 NSF fee.
  - The NCEL will attempt to contact the Lottery Game Retailer via telephone, as well as in writing regarding the insufficient funds and the Lottery terminal will be immediately disabled.
    - Regardless of the invoiced amount, Retail Accounting will request the Sales Division to dispatch a Sales Representative to the Retailer to inventory the remaining Instant Tickets.
    - The Sales Representative shall then contact Retail Accounting regarding the inventory. Based upon the outstanding liabilities to be owed by the Retailer, Retail Accounting and the Sales Division may decide to have the Sales Representative settle a portion or all of the Retailer's Instant Tickets and retrieve any unsold tickets. If such is the case, the Retailer will be given the opportunity to pay for the settled tickets on the following week's invoice.
    - If the outstanding liabilities are within reasonable limits based upon Retail Accounting's discretion, which is approximately the average instant sales per week over the prior 13 weeks, the tickets shall remain with the Retailer.

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- The Retailer must deliver a cashiers check or money order for the uncollected balance plus \$75.00 to NCEL Headquarters or an NCEL regional office within 24 hours. At the sole discretion of the Executive Director or designee, a business check may be accepted for payment depending on the circumstances. The Lottery terminal will remain disabled and instant ticket deliveries will cease until such time the amount due is settled. If payment is not received or payment arrangements are not made within forty-eight (48) hours, the NCEL will notify the Retailer in writing regarding termination of the Contract and will retrieve the Lottery equipment and any instant tickets not sold by the Retailer.
  - If the invoice amount is less than \$5,000 and the payment is received within the specified period, the Lottery terminal will be enabled and instant tickets will be issued to the Retailer based upon the Retailer's liability limit.
  - If the invoice amount is \$5,000 or greater and the payment is received within the specified period of time, the Lottery terminal will be enabled and instant tickets will be issued to the Retailer based upon the Retailer's liability limit. The Retailer may also be required to submit within thirty (30) days an Irrevocable Standby Letter of Credit or Surety Bond with a minimum amount of \$10,000 in order to maintain the Retailer in active selling status.
  - Instant tickets will be issued to the Retailer on a limited basis for a minimum of 6 months. After such time and if the Retailer does not incur any other NSF's during the 6 month period, the Sales Division will evaluate the Retailer's inventory status to determine the appropriate level of instant tickets to be issued to the Retailer based on the Retailer's expected sales.
  - If the applicable Irrevocable Standby Letter of Credit or Surety Bond is not provided within 30 days of the NCEL's notice regarding the additional financial requirement, the NCEL will notify the Retailer in writing regarding termination of the Contract and will retrieve the Lottery equipment and any instant tickets not sold by the Retailer, if not already done so.
- 7. On the third occurrence or any subsequent (Step 3) "insufficient funds" events within six (6) months of the second occurrence, the following will apply:
  - A \$100.00 NSF fee, automatic disabling of the Lottery terminal for up to 30 days, ceasing of instant ticket deliveries and the settlement and retrieval of all instant tickets in the possession of the Lottery Game Retailer.
  - The NCEL will attempt to contact the Lottery Game Retailer via telephone, as well as in writing regarding the insufficient funds. The Retailer must deliver a cashiers check or money order for the uncollected balance plus \$100.00 to NCEL Headquarters or an NCEL regional office within 24 hours.
  - An Irrevocable Standby Letter of Credit or Surety Bond will be required to restore the Lottery Contract.
  - If payment is received within the specified period and the required Irrevocable Standby Letter of Credit or Surety Bond has been posted within 30 days of the NCEL's notice regarding the additional financial requirement, the Lottery Contract will be restored, the Lottery terminal will be enabled and instant tickets will be issued to the Retailer on a limited basis for a minimum of 1 year. After such time, the Sales Division will evaluate the Retailer's inventory status to determine the appropriate level of instant tickets to be issued to the Retailer based on the Retailer's expected sales.

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8. In addition, any Lottery Game Retailer with two (2) or more “insufficient funds” payments during a rolling six (6) month period will be ineligible for any incentive programs that may apply to the periods of unsuccessful sweep attempts.
9. Any Lottery Game Retailer may regain “good financial standing” with the completion of six (6) consecutive months of successful EFT sweeps. “Good financial standing” allows a Retailer to participate in incentive programs that may be in effect.
10. In the event that a Lottery Game Retailer defaults on payment, depending upon the business structure of the Retailer, individuals listed as having a financial interest in the business (those individuals listed in the retailer application) may be considered financially liable for any outstanding balance owed to the NCEL at the time of default, as well as all instant tickets and equipment not returned to the NCEL.
11. In the event payment is not forthcoming after a period of 90 days from the date of default, depending upon the business structure of the Retailer, the names of the responsible individuals may be forwarded to a collection agency for the purpose of collection the debt. Depending upon the business structure of the Retailer, an unpaid debt may result in a listing on the personal credit history file of each individual financially associated with the defaulting Lottery Game Retailer.

#### **K. IRREVOCABLE STANDBY LETTER OF CREDIT OR SURETY BOND GUIDELINES**

1. If a Retailer applicant does not meet the Minimum Requirements of Creditworthiness, the applicant may be required to post an Irrevocable Standby Letter of Credit or Surety Bond.
2. If an Applicant has an Insufficient Credit Rating, they will be given the opportunity to submit additional information to assist in the credit evaluation, including but not limited to, information regarding the Retailer’s trade experience with current vendors and suppliers, banking relationship, current ownership equity, previous ownership experience and financial condition.
3. The minimum Irrevocable Standby Letter of Credit or Surety Bond, if required, is \$2,000 per location.
4. The NCEL reserves the right to require additional security or to waive some or all of the required Irrevocable Standby Letter of Credit or Surety Bond depending on the Applicant’s sales potential and credit evaluation.
5. Deposits will be held for a minimum of thirty-six (36) months, after which a new credit evaluation will be conducted.
6. If a retailer has three (3) instances of NSF within a rolling 180-day period, an immediate credit evaluation will be conducted to consider whether a new or additional Irrevocable Standby Letter of Credit or Surety Bond is required.

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7. The credit evaluation will take into account, among other considerations, the Retailer's general credit history and the Retailer's sales and credit history with the NCEL, including the number, amount and reason for NSF returns.
8. Provided that the Retailer has paid all funds due and owing to the NCEL at the conclusion of the Retailer's Contract, the Irrevocable Standby Letter of Credit will be returned to the Retailer or the Surety Bond will be released.