NORTH CAROLINA EDUCATION LOTTERY
RETAILER CONTRACT

This Contract is made by and between the North Carolina Education Lottery ("NCEL") and the undersigned Retailer (collectively referred to as "Parties").

For and in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. Term. Unless sooner terminated in accordance with the provisions of this Contract, the term of this Contract shall commence upon installation of the lottery terminal and continue for a period of three (3) years.

2. Compensation. The NCEL shall pay Retailer seven percent (7%) of the retail price of tickets or shares sold by Retailer for each lottery game.

3. Duties and Responsibilities of the NCEL. The NCEL and/or its Gaming Vendor(s) will be responsible for the following:

a. Installing and maintaining the lottery terminal and other lottery equipment;

b. Providing adequate lottery supplies including, but not limited to, paper stock, play slips, pencils, and how-to-play brochures;

c. Training Retailer employees at a NCEL designated facility;

d. Providing a toll-free Retailer support hotline for equipment repair service and Customer Service;

e. Providing marketing and customer assistance to Retailer;

f. Bearing the cost of all normal maintenance associated with NCEL-owned equipment, other than costs incurred because of theft, neglect or abuse, whether by the Retailer or a third party, which costs shall be borne by the Retailer; and

g. Providing weekly invoices to Retailer that reflect the balance due by the Retailer to the NCEL for the prior week's sales and initiating an EFT from the Retailer's dedicated bank account in satisfaction of said balance via the lottery gaming terminal.

4. Duties and conditions of Retailer. The Retailer shall be responsible for the following:

a. Offer all available NCEL games for sale to the public during the Retailer's normal business hours.

b. Make NCEL claim forms available to players and provide for the redemption and immediate payment of winning tickets up to five hundred ninety-nine dollars ($599), during Retailer's normal business hours and subject to NCEL validation hours.

c. Make the purchase and redemption of tickets convenient and readily accessible to the public.

d. Pay the full prize value of the ticket; or if above $599, instruct the player to claim at one of the NCEL office.

e. Conspicuously display the certificate of authority to sell NCEL tickets. Such certificate is not assignable or transferable.

f. Prominently display NCEL issued point-of-sale materials and display ticket dispensers in a prominent location near the cash register, service counter, or checkout; and make every effort to display NCEL-supplied exterior signage in compliance with local ordinances.

g. Establish a separate bank account dedicated for lottery net proceeds which shall be held "In Trust for the NCEL," in institutions insured by the Federal Deposit Insurance Corporation (FDIC). The dedicated lottery bank account shall be kept separate and apart and not commingled with any other funds or assets.

h. Make full financial settlement with the NCEL every week via an electronic funds transfer ("EFT") or other recorded financial instrument as authorized by the NCEL (full financial settlement may occur more than once a week, as determined by the NCEL). Ensure that proper funds are timely deposited in the designated lottery trust account for the scheduled EFT transfer. At the time of sale, lottery proceeds minus retailer commission shall be deemed to be the property of the NCEL.

i. Pay a weekly communication charge of fifteen dollars ($15) per licensed location.

j. Pay all assessed fee(s) for any occurrence of insufficient funds ("NSF").

k. Any security deposit(s) submitted for one or more NCEL licensed locations shall apply to all NCEL licensed locations under the same tax identification number. Therefore, the NCEL may utilize the security deposit(s) for any NCEL licensed locations under the same tax identification number that have an outstanding debt owed to the NCEL. Any irrevocable standby letter of credit and/or Surety Bonds submitted shall include this requirement on the document.

l. Comply with all provisions of the North Carolina State Lottery Act, N.C.G.S. 18C-101 et seq. ("Act")., including, without limitation:

   i) Not selling a lottery ticket or share or paying a lottery prize to any person under the age of eighteen (18) years;

   ii) Not selling or re-selling a lottery ticket or share for more than the retail sales price established by the NCEL;

   (iii) Not residing in the same household as a member of the NCEL Commission, the Executive Director, or any employee of the NCEL;

   (iv) Not engaging exclusively in the business of selling lottery tickets or shares or in operating electronic computer terminals or other devices solely for entertainment;

   (v) Be current in filing all applicable tax returns to the State of North Carolina and in payment of all taxes, interest, and penalties owed to the State, excluding items under formal appeal under applicable statutes; and

   (vi) Not paying, giving or making any economic opportunity, gift, special discount, favor, hospitality, or service to the Executive Director, to any employee of the NCEL, or to any member of the immediate family residing in the same household as one of these individuals.

m. Comply with all applicable policies, procedures, rules and regulations adopted from time to time by NCEL under the Act, and all other applicable federal, state and local laws, rules, regulations, ordinances or executive orders, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 1201 et seq. ("ADA"), and all other labor, employment and anti-discrimination laws, and all provisions required thereby to be included herein, are hereby incorporated by reference.

n. Work in conjunction with the NCEL Sales staff and other employees, vendors, subcontractors, agents and consultants to establish promotional plans, training schedules, and timetables for terminal installation and ticket deliveries.

o. Provide an adequate power source(s) to operate any and all gaming terminal(s) and/or associated equipment.

p. Sell lottery tickets or shares in exchange for only cash, check, debit/check card (as permitted by the issuer), money order or gift card, and not allow the purchase of lottery tickets or shares by credit card (as prohibited by the issuer), food stamps or electronic benefit transfer (EBT) cards.

q. Not condition the sale of lottery tickets or share upon the purchase of other goods or services or charge any player a fee for the service of validating lottery tickets or paying lottery prizes.

r. Not discount the value of any game ticket prize by paying less than the full value of the prize or not directing the player to claim a prize greater than $599 at a NCEL office.

s. Maintain minimum weekly sales averages, as determined by the NCEL, and communicated to Retailer.

t. Keep a complete and current set of records accounting for all of its sales of lottery products and provide it for inspection upon request by the NCEL.

u. Provide NCEL-approved security for all tickets, equipment and NCEL property and immediately report any lost, missing in transit, stolen, damaged, or altered status of the same to the NCEL. Report any stolen tickets or equipment to local law enforcement officials and provide a copy of such report to the NCEL within the time period as established by the NCEL.

v. Not transferring instant tickets between locations owned by the same retailer nor purchasing tickets from another retailer and reselling the tickets at the retailer location(s) (packs of tickets are assigned to a particular retailer for security and tracking purposes).

w. Acquire and maintain sufficient property insurance to cover the cost and replacement of any equipment and/or materials provided by the NCEL.

x. Cooperate fully with any and all inspections and/or investigations conducted by the NCEL as it relates to NCEL business.

y. Provide the NCEL with at least thirty (30) days advance notice of any change in location, financial status, or ownership structure (any change in ownership interest of 25% or greater ("Substantive Ownership") will require a new NCEL application and associated fees).

z. NCEL Issued Equipment – Retailer Responsibilities:

i) The NCEL grants Retailer the right to utilize any and all future equipment issued by the NCEL and/or its authorized vendor(s) (collectively, "Issued Equipment").

ii) Before installation of any Issued Equipment, the Retailer shall provide the appropriate counter, floor and/or wall space (as applicable to the Issued Equipment) in compliance with NCEL requirements.

iii) The NCEL or its authorized vendor(s) shall pay all costs necessary to deliver, install and maintain the Issued Equipment, except that Retailer may be responsible for the replacement cost of lost/stolen/damaged/destroyed Issued Equipment.

iv) The Retailer agrees that the Issued Equipment shall only be used for its intended purpose. Any violation of this provision shall subject the Retailer to removal of the affected Issued Equipment.

v) The Retailer shall be responsible for contacting the NCEL or the service maintenance provider designated by the NCEL for any necessary maintenance to the Issued Equipment.

vi) The NCEL and/or its authorized vendor(s) will conduct periodic inspections of the Issued Equipment to monitor placement, sales, inventory control and maintenance and the Retailer shall permit such access.

vii) The Retailer agrees to indemnify and hold the NCEL harmless from any and all damages, losses, and expenses, including reasonable attorney's fees, incurred by the NCEL as a result of the Retailer's use of the Issued Equipment in a manner inconsistent with its intended purpose. The Retailer will not be responsible for any and all damage to person or property, including reasonable attorney's fees, incurred by Retailer as a result of Retailer's use of the Issued Equipment or arising from defects of the Issued Equipment, provided that such damages do not arise from Retailer's negligence or gross misconduct.

viii) If the Retailer is in breach of any provision of this Retailer Contract, NCEL rules and regulations, and/or the North Carolina State Lottery Act, the NCEL may terminate the Retailer Contract and/or immediately remove any one or more Issued Equipment from the Retailer's premises without notice or hearing. Additionally, the NCEL may terminate the Retailer Contract and/or remove any one or more Issued Equipment from the Retailer's premises without notice or hearing if the NCEL's agreement with the applicable Issued Equipment vendor(s) is/are terminated or amended.

Retailer may not sell, subcontract or otherwise assign its duties or obligations under this Contract in whole or in part, without the prior written consent of NCEL. Any attempted assignment not in accordance herewith shall be null and void and of no force and effect.

5. Intellectual Property. Retailer has a limited non-exclusive license for the sole purpose of using, reproducing, distributing, transmitting and publicly displaying NCEL logos subject to the following limitations:

   a. Retailer will not use NCEL's name, logos or images as a part of or in connection with any commercial advertising or signage not provided by the NCEL without the prior written consent of the Executive Director or his/her designee(s) in each instance.

   b. Retailer is strictly prohibited from utilizing any licensed property as printed on tickets, point-of-sale materials, advertising, etc., other than those provided by the NCEL for those purposes.

6. Representations and Warranties. Retailer hereby represents and warrants to NCEL as follows:

   a. Retailer is duly organized, validly existing and in good standing under the laws of North Carolina, and shall, at all times throughout the term of the Contract, remain qualified to do business in North Carolina and current in the payment of applicable North Carolina income taxes.

   b. Retailer is responsible for notifying the NCEL of any state or federal law, whether misdemeanor or felony, including any offense relating to gambling activities.

   c. Retailer has the full power, authority, ability and legal right to execute this Contract and to perform its obligations hereunder, and the execution of this Contract and the performance of its obligations hereunder have been duly authorized by all necessary action of Retailer. In addition, the designated representative who signed this Contract has the authority to sign any and all documents as required by the NCEL and shall bind the Retailer to the terms thereof.

   d. The sale of the lottery tickets or shares shall constitute a trust fund until paid to the NCEL either directly or through the NCEL's authorized collection representative. Retailer and any officers of Retailer's business shall have a fiduciary duty to preserve and account for lottery net proceeds and may be deemed personally liable for all proceeds. Proceeds shall include unsold instant tickets received by Retailer and cash proceeds of the sale of any NCEL products, net of allowable sales commissions and credit for lottery prizes paid to winners.

e. Only NCEL-supplied or NCEL-approved products will be affixed to or loaded into dispensers or placed on equipment. The NCEL my remove and/or replace the equipment, products, and supplies at any time, with or without cause.

f. Retailer is an independent contractor licensed by the NCEL strictly to sell approved lottery game tickets. As such, the Retailer's action and/or inaction associated with its business shall not be imputed on the NCEL, the State of North Carolina, or their Commissioners, officers, employees, vendors and agents.

7. Termination.

a. Notwithstanding anything herein to the contrary, NCEL may immediately suspend, cancel, or terminate this Contract if Retailer:

i) Violates any provision of the Act or other governing laws, including, without limitation, repeated sales to minors or noncompliance with the ADA;

ii) Breaches any provision of this Contract, including, without limitation, repeated NSFs or a change in Substantive Ownership;

iii) Breaches any provision of the NCEL's policies, procedures, rules and regulations as may be adopted and amended from time to time;

iv) Is convicted of any state or federal law, whether misdemeanor or felony, including any offense relating to gambling activities; and/or

v) Fails to notify the NCEL in writing of any arrest, charge, and/or any state or federal law, whether misdemeanor or felony, including any offense relating to gambling activities within ten (10) business days of arrest, charge, or conviction.

b. Upon cancellation of the Retailer's license and/or termination of this Contract, the Retailer shall permit the NCEL representative(s) and/or Vendor to retrieve and remove any and all equipment and/or materials issued by the NCEL.

8. Indemnification. Retailer agrees to indemnify, defend and hold harmless the NCEL, the State of North Carolina, or their Commissioners, Executive Directors, officers, employees, vendors and agents ("Indemnitees"), against any and all suits, damages, expenses (including, without limitation, court costs, attorneys' fees and other damages), losses, liabilities and claims of any kind, caused by or resulting from any breach of this Contract or any other act or omission of Retailer or any of its agents or employees, whether the same may be the result of negligence, responsibility under strict liability standards, any other substandard conduct or otherwise. Retailer also agrees to indemnify, defend and hold harmless the Indemnitees for any claim(s) for lost profit or revenue, regardless of the reason for any interruption, suspension, failure of, or defects in the operation or design of the NCEL games, equipment, products or systems.

9. Conflict Resolution Procedures. Prior to bringing any judicial enforcement action with respect to any claims or controversies arising in connection with the performance of this Contract, Retailer shall pursue and exhaust any and all remedies available to it in accordance with the dispute resolution procedures adopted by NCEL, as amended from time to time.

10. Notices. All notices and statements provided for or required by this Contract shall be in writing, and shall be personally delivered or mailed by certified or registered mail, return receipt requested, or delivered by a recognized national overnight courier service as follows:

North Carolina Education Lottery
2100 Yonkers Road
Raleigh, North Carolina 27604
Attn: Retailer Contracts Department

11. Miscellaneous.

a. Retailer's status as a licensed NCEL Retailer shall be subject to the approval of the NCEL and the completion of all background investigations required by the Act and the rules and regulations of the NCEL.

b. The execution, delivery and performance of this Contract will not cause or result in a breach of or default under any other agreement, contract or understanding to which Retailer is a party.

c. This Contract shall be governed by and construed in accordance with the laws of the State of North Carolina, and any cause of action arising hereunder must be brought in a state court located in Wake County, North Carolina.

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

This Contract contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. No waiver, termination or discharge of this Contract, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. This Contract may not be modified or amended, except by a writing executed by both parties hereto. No waiver by either party hereto of any term or provision of this Contract or of any default hereunder shall affect such party's rights thereafter to enforce such term or provision or to exercise any right or remedy in the event of any other default, whether or not similar.

Signature page accepting terms and conditions of this Retailer Contract is located on page 4 of the Retailer Application