

**SPECIAL CONDITIONS OF CONTRACT  
(DRAFT NCEMS CONTRACT)**

**BETWEEN**

**THE NATIONAL GAMBLING BOARD**

[a juristic person established in terms of the repealed National Gambling Act, 1996 (Act No 33 of 1996) and retained by the National Gambling Act, 2004 (Act No. 7 of 2004), it is also a schedule 3A Public Entity in terms of the Public Finance Management Act 1 of 1991]

**and**

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**"NCEMS -OPERATOR"**

[A juristic person duly incorporated in accordance with the Companies Act, 2008 (Act 71 of 2008)]

Under the terms and conditions set in the Government Procurement general conditions (GCC) as much as they apply to the NCEMS Project, are consistent with and supplements the Special Conditions of Contract set out hereunder:

Signed at:	
-	
Date: -	_____
For and on behalf of <b>The National Gambling Board</b>	
Signature	_____
Full Name	_____ and Identity Number
Office	_____
By signing this contract, I warrant have been duly authorised to sign half of the National Gambling Board, Africa this Contract	

Signed at: -	
_____	
Date: -	_____
For and on behalf of <b>Name of NCEMS -operator</b>	
Signature	_____
Full Name	_____ and Identity Number
Office	_____
By signing this contract, I warrant that I have been duly authorised .to sign on behalf of (Name of Company and Registration number)	

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**Preamble**

**WHEREAS** sections 21 of the National Gambling Act 7 of 2004 ("the Act") obliges the Board to establish and maintain a national registry which contain specified registers including a register of every gambling machine or gambling device manufactured within or imported in the Republic..

**AND WHEREAS** section 27 of the Act obliges the Board to establish and maintain a National Central Electronic Monitoring System (NCEMS) capable of detecting and monitoring significant events associated with any LPMs that are made available for play in the Republic;

**AND WHEREAS** the NCEMS should analyse and report the data in accordance with the prescribed requirements;

**AND WHEREAS** the Board may contract with any person to supply any or all the products or services required to meet the obligations set out in the preceding paragraphs;

**AND WHEREAS** the Minister may, in consultation with the Council and by regulation made in accordance with Section 87 of the Act, prescribe standards for -

- The operation of the NCEMS and;
- The collection and analysis of data through the system;
- The frequency and nature of reports to be produced by the Board in respect of the operation of the system; and
- Other matters relating to the functioning of the National Electronic Monitoring System;

**AND WHEREAS** every Limited-Payout- Machine (LPM) that is made available for play must, in terms of section 21(1) of the Act, be electronically linked to the National Electronic Monitoring System and the licensee of that machine must pay the prescribed monitoring fees in relation to that machine;

**AND WHEREAS** the National Central Electronic Monitoring System must allow:

- The Provincial Licensing Authorities ("PLAs") of each Province access to all data on the system that originated in that Province without charge by the Board;
- The Licensee of each LPM that is linked to the system to have access to prescribed data on the system.

**AND WHEREAS** the Board is authorised in terms of section 65 of the Act to

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advise the Minister on matters of national policy related to casinos, racing, gambling and wagering, and on the determination of national norms and standards that shall apply generally throughout the Republic of South Africa ("the Republic") and in all provinces and recommend changes to bring about uniformity in legislation relating to gambling in force in the Republic;

**AND WHEREAS** the Board has determined that the NCEMS promotes the oversight function of the Board, particularly the maintenance of a National Registry of Gambling and realises the achievement of uniform norms and standards created by the Act, and that such realisation shall, by conforming to the guiding principles below, achieve high levels of data integrity and security as well as providing accessibility of gambling information to PLAs.

**NOW THEREFORE** the parties agree as follows:

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**Guiding Principles**

In fulfilling the functions of the NCEMS, the NCEMS-operator shall at all times act in accordance with the spirit of the following guiding principles: -

- i. The NCEMS shall have the functionality that shall allow the Board and PLAs to enable or disable any LPM.
- ii. The NCEMS-operator shall provide a service on behalf of the Board .
- iii. The LPM data shall be sourced directly from the Site- operator of LPMs with the consent of the Board and in the prescribed manner and form in terms of section 21 of the Act, have direct and unhindered access to this LPM data.
- iv. There will be uniformity and consistency of technical frameworks in the transmission of data from the NCEMS to the Board and the PLAs..  
The NCEMS-operator shall ensure the continuation and sustainability of the NCEMS to ensure that the NGB performs its oversight functions and promotes the uniform norms and standards in gambling throughout the Republic.
- v. The NCEMS-operator shall ensure that the solution is capable of being implemented in all Provinces on a simultaneous basis.
- vi. The NCEMS-operator shall ensure that unnecessary costs are avoided and economies of scale are obtained wherever possible.
- vii. The NCEMS-operator shall collect monitoring fees from the Route Operators and Independent Site Operators and not the Site Operator on behalf of the Board and pay such collected fees directly to the Board.

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- viii. The NCMES-operator will implement and operate the NCEMS in a cost-effective manner, observing the provisions of the Act , relevant government policies, license requirements legal and contractual requirements applicable to financial accounting, management,, administration and governance.

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## Part 1

### 1. Interpretation

- 1.1 In this contract, headings to clauses are for convenience only and are not to be used in the interpretation of this Contract.
- 1.2 The terms contained in this contract contain special conditions of NCEMS contract and must be read with the GCC and the NCEMS RFP preceding this contract.
- 1.3 Unless the context indicates, a contrary intention an expression which denotes: -
  - 1.3.1 any gender includes the other gender;
  - 1.3.2 a natural person includes a juristic person and vice versa;
  - 1.3.3 the singular includes the plural and vice versa;
- 1.4 Words or expressions used in this contract shall have the same meaning as in the Act. provided that such words or expressions shall not be given a meaning inconsistent with the aims and objectives as set out in the Preamble and the Guiding Principles hereto.

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### 2. Acronyms and meanings

- 1.1 In this contract the following expressions have the meanings assigned to them and derivative expressions shall have a corresponding meaning:
  - 2.1.1 **"Broad-Based Black Economic Empowerment Entities"** means any entity in which previously disadvantaged persons, or other broad-based black empowerment entities, exercise ownership empowerment and equity in the economy as described in the gazetted B-BBEE Codes of Good Practice of 2008, as amended. "Ownership" is as defined in the Broad-Based Economic Empowerment Act, 2003 (Act No 53 of 2003);
  - 1.1.2 **"Bureau"** means a department set up by the NCEMS-operator to facilitate, implement, monitor and support the implementation of the ISO throughout all provinces;
  - 1.1.3 **"NCEMS Technology"** means the technology, technical information and know-how provided by the NCEMS-operator and utilised in the NCEMS system for the monitoring of LPMs within the Republic of South Africa, as provided for by the NCEMS-operator in terms of this contract which shall



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include, but not limited to ,all patents granted, patents applications, copyrights, trade secrets, confidential information and other intellectual or intangible property of all kinds which are associated therewith, including the items set out in the knowledge base, in terms of the provisions of this contract;

- 1.1.4 **“National Central Electronic Monitoring System” (“the NCEMS”)** means the National Central Electronic Monitoring System referred to in section 27 of the Act (to be) established and maintained for detecting and monitoring significant events associated with any limited-payout -machine (LPMs) that is made available for play in the Republic; and for analysing and reporting the detected data in accordance with the requirements of the Act ;
- 1.1.5 **"Change Management Procedures"** means the Change Management Procedures as referred to in Part 2 and 3 of this Contract;
- 1.1.6 **“Critical Service Level”** means the services that may prevent the collection, capturing, updating and processing of operational data and the control of gaming equipment within the NCEMS environment;
- 1.1.7 **"Data"** means all data collected, processed and stored by the NCEMS-operator in respect of LPMs run by Operators;
- 1.1.8 **"Default"** means a failure by either party to comply with its obligations in terms of this contract or any negligent or intentional misconduct or misstatement of either party or its personnel;
- 1.1.9 **"Effective Date"** means the date of connection of the first LPM by the NCEMS-operator.;
- 1.1.10 **"financial interest"** without limiting the generality of the term "financial interest" this expression shall include reference to the holding of any office, any form of employment, the activities of an agent, broker or contractor, sole or co-ownership, the holding of shares or any other interest or investment, the activities of an advisor or consultant, the procuring or giving of financial assistance or the giving of any surety-ship or other kind of guarantee and shall be attributed to a stakeholder of any financial interest on the part of;

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- 1.1.10.1 any person or his spouse his associates or his descendants;
- 1.1.10.2 any trust for the benefit, whether directly or indirectly, solely or mainly of such a person, his spouse, his associates or his descendants;
- 1.1.10.3 any company in which a person, his spouse, his associates or his descendants or any of his family trust mentioned in clause 2.1.10.2 is for time being financially interested, whether directly or indirectly;
- 1.1.10.4 any company referred to in clause 2.1.10.3 is for the time being financially interested, directly or indirectly.
- 1.1.11 **"Independent Site- operator"** (ISO) means a Site- Operator, who is not linked to a Route-operator, and is licensed to own and operate Limited Payout Machines on a single Site and who is responsible for maintaining the machines and effecting the collection of monies and paying the Provincial Taxes and Levies to the Provincial Licensing Authorities;
- 1.1.12 **"Limited Payout Machine"** (LPM) 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 regulations;
- 1.1.13 **"Management Committee"** means a committee constituted in accordance with the provisions of clause 37.3, which shall be responsible for managing the provision of services by the NCEMS-operator in terms of this contract;
- 1.1.14 **"Minister"** means the Minister of Trade and Industry;  
**"OLAP Tools"** means a category of software tools that provides analysis of data stored in a database and may be changed from time to time by agreement of both parties;
- 1.1.15 **"Operational Date"** means the date upon which the NCEMS-operator installs the first LPM and commences the monitoring of the LPMs in terms of this Contract;
- 1.1.16 **"Operators"** means collectively, Route Operators, Site Operators and Independent Site Operators, Manufacturers, Service Providers and persons representing Testing Laboratories;
- 1.1.17 **"Personnel"** means licensed employees of the NCEMS-operators

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well as the employees of sub-contractors directly involved with the implementation and/or day to day operation of the NCEMS on behalf of the Board;

- 1.1.18 **"Player"** means any person who partakes or participates in a game on a Limited Payout Machine;
- 1.1.19 **"Previously Disadvantaged Person"** means any South African citizen who falls within a population group that had no franchise in national elections prior to the Republic of South Africa Constitution Act, (Act No 108 of 1996);
- 1.1.20 "Provincial Licensing Authority (PLA)" means a body established by provincial laws to regulate casinos, racing, gambling or wagering;
- 1.1.21 **"Route -operator (RO)"** means a company registered in terms of the Companies Act, 2008 (Act No. 71 of 2008) as amended, which is -
  - 1.1.21.1 licensed to own and/or operate Limited Payout Machines;
  - 1.1.21.2 responsible for maintaining Limited Payout Machines (LPMs); and
  - 1.1.21.3 responsible for effecting the collection of money and paying the provincial taxes and levies in respect of any LPMs. in terms of its licences;
- 1.1.22 **"Service Provider"** means a person licensed or registered to maintain, repair, distribute and move licensed gaming equipment and peripheral devices.  
**"Services"** means the services to be provided by the NCEMS-operator on behalf of the Board in respect of LPMs as stipulated in this contract, as more fully set out in Part 2 of this contract;
- 1.1.23 **"Site Data Logger"(SDL)** means industrial computer and all peripheral devices connected to the gaming machines on a single Site to monitor, record and transmit all prescribed data and where it does not affect the outcome of a gambling, or gaming activity it shall not be construed as a gambling or gaming device;
- 1.1.24 **"Site Operator (SO)"** means a person who is licensed to operate a site in terms of applicable provincial laws contemplated in Section

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18 of the Act

- 1.1.25 "**SMME**" means any firm or distinct business entity, as defined in the National Small Business Act, 1996 (Act 102 of 1996).
- 1.1.26 "**Stakeholder**" means any person or association, whether natural or juristic, corporate or unincorporated, Operators, industry bodies and the like who has a financial interest in LPMs and includes, the Board and PLAs, but excludes players;
- 1.1.27 "**Technical Information**" means the information, technical documentation, and/or technical specifications, computer programmes and systems utilised by the NCEMS-operator in the NCEMS which shall include technical documentation and designs pertaining to the equipment and/or electronic machines, computers and/or computer systems, including the items set out in the knowledge base, clause 41 to this contract;
- 1.1.28 "**Turnkey Solution**" means a type of a system that can be readily implemented into current business processes as articulated in the RFP and in this contract.
- 1.1.29 "**The Act**" means the National Gambling Act, 2004 (Act No. 7 of 2004) including Regulations made there under;
- 1.1.30 "**The Board**" means the National Gambling Board contemplated in Section 64(1) of the Act;
- 1.1.31 "**Contract**" means this provisional Service Level Contract;
- 1.1.32 "share" shall have the same meaning as is defined by the Companies Act No 71 of 2008.

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**2 Appointment**

- 2.1 The Board hereby appoints the NCEMS-operators a Service Provider to develop, design, implement and maintain a NCEMS for LPMs on behalf of the Board and to further provide the services on the terms and conditions set out in this provisional Contract.
- 2.2 The NCEMS-operator hereby accepts the appointment referred to in clause 3.1 above.
- 2.3 The NCEMS-operators appointed subject to a positive finding and the passing of a probity investigation conducted by the Board.

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**3 Duration**

- 3.1 The contract shall commence on the date of signature thereof. and shall

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subsists for a period of **8 (eight) years** whereafter it shall automatically lapse. The Board has the right to renew this contract by giving the NCEMS-operator notice in writing, 180 days prior to the lapsing of the contract.

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**4 Broad-Based Black Economic Empowerment ("B-BBEE")**

4.1 *Minimum B-BBEE requirements:* It is an express term of this Contract that:

4.1.1 The NCEMS-operator shall be a level 2 B-BBEE contributor at the time of appointment.

4.1.2 B-BBEE entities or previously disadvantaged persons must hold more than 50% (fifty percent) of ordinary voting shares in the NCEMS-operator.

4.1.3 The B-BBEE shareholders shall enjoy voting rights in respect of their shares not less favourable than any other class of shareholders, and the conditions of issue of all classes of shareholders shall be the same..

4.1.4 There shall be B-BBEE voting representation on the Board of the NCEMS-operator commensurate with the percentage of shareholding in the NCEMS- operator.

4.2 The Board of Directors and Executive Management of the NCEMS-operator shall be appointed as follows: -

4.2.1 The majority of Directors and the Chairperson shall be appointed by B-BBEE entities;

4.2.2 The B-BBEE Entity must Occupy either the Chief Executive Officers or the Chief Financial Officers positions.

4.3 The NCEMS-operator undertakes that in providing the services to the Board in terms of this contract, it concurrently undertakes to promote the empowerment of previously disadvantaged persons, females, persons with disabilities and SMMEs: -

4.3.1 Preference shall be given to service providers , contractors or sub-contractors and specialists within black empowerment entities, except that where none of the preferred persons exist to provide the services, it may require sub-contractors to involve previously disadvantaged persons, females or persons with disabilities to ensure that a transfer of skills and knowledge Occurs during the

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subsistence of this contract;

4.3.2 From the effective date at least 50% (fifty percent) of the persons acting at the senior management and operational levels within the NCEMS-operator shall be previously disadvantaged persons, females or persons with disabilities.

4.4 The NCEMS-operator shall, at the end of each 3 (three) months' period from the effective date, provide to the Board, a report in respect of each of the undertakings stipulated in this clause, including, without limitation, the names and nature of businesses, type of goods and services provided and the aggregate cost of the goods and services procured from previously disadvantaged persons.

4.5 The NCEMS-operator shall act in good faith in fulfilling its obligations in terms of this contract.

4.6 The NCEMS-operator shall establish and set up a staff incentive Share Trust Fund for the benefit of its staff in accordance with its operating licence conditions.

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**5 Payment**

5.1 Payment by the NCEMS -operator

5.1.1 In consideration for the granting of the SLC by the Board, the NCEMS-operator shall on the date hereof, pay a once-off fee of R4 000 000 (Four Million Rand) to the Board.

5.1.2 In addition, the NCEMS-operator shall on a monthly basis deliver payments of all monitoring fees collected from the defined users (Route- operators and Independent Site -operators) to the Board .

5.1.3 The amounts due by the NCEMS-operator in terms of this contract shall be paid by way of an Electronic Bank Transfer (EFT) into the NGB bank account.

5.2 Payment to the NCEMS Operator

5.2.1 The Board shall pay the NCEMS -operator an agreed fee for services rendered.

5.3 The NCEMS-operator may, with the prior written approval of the Board, generate additional revenue by charging a fee for the following additional services:

5.3.1 Skills Development;

5.3.2 Development of Smart Cards (if applicable);

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5.3.3 Monitoring and control hardware (similar to SDL) and

5.3.4 any other approved services.

- 5.4 The fees in respect of additional services may only be charged from Independent Site- operators and Route-operators but shall not be charged on Site Operators.

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### 6 The Services

- 6.1 In providing the services, the NCEMS-operator and the personnel employed by it are required to be licensed in terms of the relevant legislation.

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### 7 Service Levels

- 7.1 **Undertaking to achieve service levels:** The NCEMS-operator undertakes that in providing the services, it shall achieve the service levels set out in Part 2 and Part 3 of this contract.
- 7.2 **Penalties:** Without detracting from any rights or remedies which the Board may have under this contract, the NCEMS-operator agrees to pay penalties as stipulated in the contract, for failure to achieve any of the service levels stipulated therein.
- 7.3 **Obligations upon failure to meet service levels:** Should the NCEMS-operator at any time fail to meet the stipulated service levels, the NCEMS-operator shall, without prejudice to the Board's rights and remedies: -
- 7.3.1 pay for the actual costs incurred by the Board in respect of the NCEMS Operator's failure to fulfil its obligations;
- 7.3.2 rectify its failure to perform by providing additional resources as may be necessary to perform the services in accordance with this contract at no additional charge to the Board;
- 7.3.3 The NCEMS-operator shall promptly remedy any default; or
- 7.4 **Consequences of recurrent or excessive failure to meet Service Levels:** In addition to any penalties laid down in clause 45 hereto, should the NCEMS-operator fail to achieve (due to factors within its direct control): -
- 7.4.1 a critical Service Level of over 48 (forty eight) hours for data path 1 and 96 hours for data path 2 on more than 3 (three) Occasions in any 6 (six) month period; (this clause must be read together with clause 45.3 and 45.5);

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- 7.4.2 a Service Level by a margin in excess of **20% (twenty percent)**;
- 7.4.3 at least 95% (ninety five percent) of all Service Levels on 2 (two) Occasions in any 12 (twelve) month period;
- 7.4.4 such failure shall constitute a material breach of this contract as contemplated in clause 26 of this contract and without prejudice to any of the Board's rights in terms of this contract or in law, the Board may, in its discretion, terminate: -
  - 7.4.4.1 the services affected, or alternatively,
  - 7.4.4.2 this contract.

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### 8 The System

- 8.1 The NCEMS-operator warrants that the NCEMS complies with and shall during the period of this contract, continue to comply with the functional specifications set out in clause 44 (and all legislative requirements, laws and policies applicable to the NCEMS ), as amended by the parties from time to time.
- 8.2 It is essential that the NCEMS-operator utilises the most current, advanced and broadly used technology available in providing the services, taking into consideration all commercial aspects and that of the manufacturers that serve the Limited Payout Machines market,
- 8.3 The NCEMS-operator shall review and evaluate the system on a continuous basis with the aim of maintaining the quality, precision and reliability of services and shall report to the Board on any significant findings that may alter its operations.
- 8.4 To this extent, the NCEMS-operator shall maintain a comprehensive NCEMS review strategy that articulates plans to keep the system abreast with technological advancements,
- 8.5 The NCEMS-operator shall on written notice by the Board to that effect , and on a **biennial** basis submit to the Board an independent Technical and Security Audit to assess the effectiveness of the system.

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### 9 Relationship with PLAs and operators

- 9.1 **Separate contracts with operators:** Pursuant to this contract, the NCEMS-operator shall enter into separate contracts, which shall be approved by the Board, with all the operators for the provision of services contemplated in this contract; provided that such contracts are not



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contrary to the terms and conditions hereof.

9.2 **Provision of services to Operators and PLAs.** The NCEMS-operator shall, amongst others, provide certain services to, PLAs and Operators, as set out in Part 2 and Part 3 of this contract. In this regard, the NCEMS-operator shall: -

9.2.1 be liable for loss, harm or damage suffered by the Board arising out of the negligence, fraud, intentional or negligent act or omission by the NCEMS-operator in providing the services pursuant to this Contract;

9.2.2 Collect fees on behalf of the Board in accordance with the scale of tariffs determined in accordance with clause 14.

9.3 **Resolution of Disputes:** Should any dispute arise between the parties, the parties shall endeavour to resolve such a dispute, within a period of five working days, by means of negotiations, mediation, conciliation or any other alternative methods appropriate for the resolution of such a dispute.

9.4 Should the parties be unable to resolve the dispute through the methods specified in paragraph 10.3, the dispute will finally be resolved in terms of Arbitration Act (42 of 1969) by the parties jointly appointing an arbitrator within 10 days of either party in writing declaring "failure to resolve the dispute", failing which either party will have the right to request an arbitrator be appointed for the parties by the Arbitration Foundation of Southern Africa (AFSA), The decision of the arbitrator shall be binding on the parties.

9.5 Should any dispute arise between the parties NCEMS-operator and the PLAs and/or the Operators such dispute shall be referred to the Board for resolution. The Board's decision on the matter shall be binding and final.

9.6 **Indemnity:** The NCEMS-operator hereby indemnifies the Board against all claims from all Operators or PLAs or any other third party for any loss, harm or damage arising out of any act or omission of the NCEMS-operator or any failure by it to provide the services or to comply with the provisions of this contract.

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## 10 Performance Guarantee

10.1 The NCEMS-operator must provide performance guarantee: The NCEMS-operator shall provide the Board with a "pro rated" irrevocable performance guarantee as per the table on 11.2 below and on such terms

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as are acceptable to the Board, which guarantee shall be provided by a South African Bank, as assurance for the performance of the NCEMS Operator's obligations in terms of this contract.

10.2 The NCEMS-operator shall furnish the performance guarantee to the Board based on the following principles:

10.2.1 A performance guarantee applicable as articulated in the table on clause 11.2.2 below shall be furnished to the Board not less than 3 (three) working days prior to the operational date and within 5 working days the after the prescribed number of LPMs is reached in the respective categories.

10.2.2 Thereafter, the NCEMS-operator shall furnish to the Board further performance guarantees as set out in the table below :

<b>Number of LPMs Installed</b>		<b>Guarantee</b>
<b>From</b>	<b>To</b>	<b>Amount</b>
0	10000	R6.5m
10001	15000	Increase to R8,5m
15001	20000	Increase to R10.5m
20001	25000	Increase to R12.5m
25001	30000	Increase to R14.5m
30001	35000	Increase to R16.5m
35001	40000	Increase to R18.5m
40001	45000	Increase to R20.5.5m
45001	50000	Increase to R22.5m

10.3 **Performance guarantee not in lieu of the Board's rights:** The performance guarantee shall not be in lieu of the rights of the Board under this Contract, but shall be in addition to, supplementary to and without prejudice to such rights.

10.4 **Costs of performance guarantee to be borne by the NCEMS Operator:** Both initial and periodic costs incurred by the NCEMS-operator in the acquisition, provision and maintenance of such guarantee shall be borne by the NCEMS Operator.

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**11 Service Standards (Internal Control Procedures)**

11.1 **NCEMS-operator to develop enquiry and complaint guidelines:** The

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NCEMS-operator must develop, publish and enforce guidelines for use by its personnel when handling inquiries and complaints from users to whom it supplies services pursuant to this Contract.

- 11.2 **Guidelines to be incorporated into Operator contracts:** The guidelines relating to enquiries and complaints shall be incorporated into the service contract entered into between the NCEMS-operator and the Board.
- 11.3 **Content of guidelines:** The guidelines are to address the following areas of the provision of services: -
- 11.3.1 the NCEMS Operator's procedures for the handling of user complaints;
  - 11.3.2 the time frame for handling complaints through this procedure;
  - 11.3.3 further recourse available to a user who is dissatisfied with the NCEMS Operator's complaints handling procedure;
  - 11.3.4 procedures adopted by the NCEMS-operator to assist Operators in disaster situations;
  - 11.3.5 availability to Operators of quality information relating to the Operator's LPMs.
- 11.4 **NCEMS-operator to maintain statistics on behalf of the NGB:** The NCEMS-operator must keep and maintain statistics on complaints made to the NCEMS-operator by users and must make available the said statistics to the Board.
- 11.5 **NCEMS-operator to submit statistics:** The NCEMS-operator shall provide the statistics kept in terms of this clause to the Board on a monthly basis, within 7 (seven) days of the end of the month to which the statistics relate. The Board may publish the statistics kept in terms of this clause.

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## 12 Stakeholder Satisfaction Survey

- 12.1 **Board may request reviews:** The NCEMS-operator acknowledges that the Board may conduct stakeholder satisfaction surveys as a quality assurance measure, during the term of this contract, provided that the Board shall give the NCEMS-operator not less than 60 (sixty) days notice prior to the conducting of such survey.
- 12.2 The results of such surveys are for information purposes only and shall not constitute any breach of this contract. Any relevant changes as a result of such surveys shall be implemented in terms of this contract.

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**13 Tariffs and Fees (The tariff to be inclusive of Value Added Tax)**

- 13.1 **Tariffs and fees to be lodged:** The tariffs and fees payable by Operators in terms of this contract shall be as provided for in this contract.
- 13.2 **Format of notice of tariffs and fees:** In relation to each kind of service that the NCEMS-operator proposes to offer, the notice of tariffs and fees (or amendment thereof) must be on an annual basis based on: -
- 13.2.1 a description of the service; and
  - 13.2.2 details of the nature and amounts of charges payable for the service.

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**14 Contract Governance and Review**

- 14.1 **Management committee:** In order to facilitate the effective management of the relationship, a management committee shall be constituted in accordance with the provisions of clause 37.3, as amended from time to time and shall report to the Board on any contractual failures.
- 14.2 **Review of the Contract:** This contract and the manner in and extent to which the NCEMS-operator is providing the services shall be reviewed by the Board: -
- 14.2.1 within 12 (twelve) months of the operational date;
  - 14.2.2 annually thereafter on the anniversary of the operational date;
  - and
  - 14.2.3 to consider performance in terms of this contract.

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**15 NCEMS Operator's Warranties**

- 15.1 **The NCEMS-operator warrants that it shall at all times: -**
- 15.1.1 acquire, use knowledge and sufficient expertise, together with all manuals, specifications, diagnostic aids, testing devices, specialised tools and equipment necessary to enable it to provide the services;
  - 15.1.2 use and adopt reasonable professional techniques and standards and provide the services with due care, skill and diligence.
- 15.2 The NCEMS-operator acknowledges that its application submitted in response to the Board's *Request for Proposal for a Central Electronic Monitoring System for Limited Payout Machines*, contains material statements of fact upon which the Board relied in granting this contract to the NCEMS Operator. The NCEMS-operator warrants that all material

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statements of fact contained in such application were true and correct and remain true and correct as at the application date and for the subsistence of this contract.

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### 16 Obligations of NCEMS Operator

- 16.1 **Security, back-up and disaster recovery:** The NCEMS-operator shall comply with the security, back-up and disaster recovery requirements set out in this contract.
- 16.2 Items required for the services: The NCEMS-operator shall, at its expense, supply all items required for the provision of services.
- 16.3 NCEMS-operator **reporting requirements:** The NCEMS-operator shall record and maintain a written log of all activities within the locality of the NCEMS that are unusual, irregular and suspicious. The NCEMS-operator shall on a monthly basis, report in writing to the Board and the PLAs in whose jurisdiction such activity had Occurred. Unlawful activities uncovered must be reported in writing to the Board.
- 16.4 **Access to the NCEMS hosted environment:** The NCEMS-operator shall ensure that access to the NCEMS hosted locality is restricted to authorised employees, which employees shall include the employees of the Board.

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### 17 Personnel and Employment Equity

- 17.1 **Liability for criminal acts of Personnel:** The NCEMS-operator shall be liable to the Board and the PLAs for any loss that the Board and/or the PLA may suffer as a result of any theft, fraud or other criminal act of any personnel of the NCEMS-operator or any person subject to the supervision or control of the NCEMS-operator arising out of or associated with the provision of services.
- 17.2 **Suitably qualified Personnel:** The NCEMS-operator shall employ suitably qualified and trained personnel to provide the services to the Board in terms of this contract; provided that the NCEMS-operator shall be entitled, in its discretion, to allocate personnel resources in accordance with the technical skills and knowledge required, and provided further that any exercise of such discretion by the NCEMS-operator shall not negatively impact upon the provision of services by the NCEMS-operator to the Board.

- 17.3 **Standards in respect of Personnel:** Without derogating from the foregoing, it is specifically recorded that due to the nature of the services, the NCEMS-operators required to employ personnel who meet with the requirements of the Board and are fit and proper, who display the highest standards of integrity and honesty and who have not been convicted of any crime involving dishonesty, bribery or corruption.
- 17.4 In order to ensure compliance with the provisions of this clause, the NCEMS-operator shall :-
- 17.4.1 register key employees with the Board and the PLAs prior to the date of employment with the NCEMS Operator;
  - 17.4.2 register all personnel with the Board and the PLAs and provide a probity report in respect of such person from a probity agency approved by the Board.
  - 17.4.3 acquire all permissions necessary from such personnel to enable the Board to conduct probity investigations, if so required;
  - 17.4.4 indemnify the Board against any claim arising out of the NCEMS Operator's failure to acquire the permissions contemplated in this clause;
  - 17.4.5 make all appropriate personnel records available to the Board on reasonable notice to enable the Board to monitor compliance by the NCEMS-operator with the provisions of this clause; and
  - 17.4.6 Register and/or license the key and other gaming employees with the Board prior to giving/allowing them access to the NCEMS.
- 17.5 **Code of Good Practice:** The NCEMS-operator shall, within 60 (sixty) days of the effective date, submit to the Board a code of good practice.
- 17.6 **Contractors to comply with code of good practice:** The NCEMS-operator shall ensure that consultants, contractors and subcontractors operating the NCEMS strictly apply the code of good practice contemplated in this clause to any appointments made after the date of entering into an agreement with the NCEMS Operator, and such agreement shall include a provision for sanctions in the event of non-compliance.
- 17.7 **Employment equity:** The NCEMS-operator shall be required to set out measurable actions and programmes for black economic empowerment, employment equity and representation, training and skills development

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against defined timetables and dates and shall be held to these measurable objectives in terms of this contract. The Board shall monitor progress against the given timetables and shall require an annual progress report describing the outcome of planned actions and commitments.

- 17.8 **Costs:** The NCEMS-operator shall bear all costs associated with compliance with the provisions of this clause, and all applicable laws, both prior to the effective date and at any time thereafter when costs are incurred in the fulfilment thereof.

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## 18 Data

### 18.1 Ownership of data-

- 18.1.1 Data received by the NCEMS-operator from the Board, the PLAs or Operators and all data which the NCEMS-operator is required to generate or supply (other than data relating to the NCEMS Operator's own business), including all copies thereof; and
- 18.1.2 Data generated or collected or any database created by the NCEMS- operator (whether as a free-standing database or a modification or addition to an existing database) pursuant to this Contract shall be and remain the property of the Board and the relevant PLA and the NCEMS-operator shall not obtain any rights therein. The NCEMS-operator shall not use such data or databases for any purpose other than the provision of the services.

- 18.2 **Access to data:** Notwithstanding the provisions of clause 19.1, the operators and the PLAs shall, subject to the provisions set out below, be allowed access to any data which is within their operational sphere. Data represents confidential information, subject to the following limited rights of access: -

- 18.2.1 The PLAs shall have unrestricted access only to data relating to the LPMs and Operators within their particular area of jurisdiction and no PLA shall have access to or sight of the data relevant to any other PLA. In addition, the PLAs shall have the restricted right to submit, and amend data relating to particulars of Operators only (as opposed to data generated by LPMs), falling within their area of jurisdiction;

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- 18.2.2 Route Operators shall have unrestricted access only to data relevant to the LPMs and Site Operators under their control;
  - 18.2.3 The NCEMS provider helpdesk shall have access on behalf of Independent Site -operators to data relating to their LPMs;
  - 18.2.4 Provided that at all times, save in the restricted circumstances contemplated in this clause 19.2, such access shall be read-only access and under no circumstances whatsoever shall any party, including the NCEMS Operator, have the right to alter, amend or delete any data without the prior approval of the Board.
- 18.3 **Loss of data:** The NCEMS-operator shall take reasonable precautions to preserve the integrity of the Board's data and to prevent any corruption or loss of the Board's data, including, without limitation and adhering to the provisions of this clause.
- 18.4 **Restoration of lost or corrupted data:** Should the data be corrupted or lost as a result of any default by the NCEMS Operator, the Board may, without prejudice to any other remedies it may have, require the NCEMS-operator at its own expense to restore or procure the restoration of the data.
- 18.5 **Promotion of self interest:** The NCEMS-operator shall not be permitted to promote or sell LPM enhancement for the LPM market because of the privileged position they hold.

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## 19 Inspection and Review

- 19.1 **NCEMS-operator to maintain full set of records:** The NCEMS-operator shall ensure that a full and accurate set of records is kept of all functions and activities performed in terms of this contract during the subsistence of this contract.
- 19.2 In addition the NCEMS-operator shall, in order to enable the Board to determine whether the provisions of this contract are being complied with:
- 19.2.1 provide the Board and the relevant PLA with such information as it may require;
  - 19.2.2 allow the Board and the relevant PLA, with prior notification and agreement of the Board and the NCEMS Operator, to inspect and take copies of relevant documents of the NCEMS Operator, including: -
    - 19.2.2.1 all data, information, software, procedures, event logs,



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transaction logs, audit trails, financial records, books, records, contracts and correspondence;

19.2.2.2 any other items which the Board considers necessary;

19.2.2.3 to conduct interviews with any of the NCEMS Operator's employees on reasonable notice.

20.3 **NCEMS-operator to provide reasonable assistance:** Where any information required for the purpose of the review in terms of this clause, is kept by means of a computer, the NCEMS-operator shall, at no cost to the Board, give the Board any assistance it requires to facilitate inspection and the taking of copies of the information in a format as required by the Board or to inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the keeping of the information.

19.3 **NCEMS-operator must allow access to premises:** Pursuant to this contract, the NCEMS-operator is required to allow the Board access to any premises, where components of the NCEMS are located, or make the necessary arrangements for such access for the purpose of inspection or to take copies of any item of any description as is necessary.

19.4 **The Board's rights in case of suspected unlawful activity by NCEMS-operator:** Notwithstanding the aforementioned, should the Board reasonably suspect any fraudulent or other unlawful activity on the part of the NCEMS-operator or its personnel, the Board shall have immediate right to enter the NCEMS location and access all the records and sites pertaining to the services provided by the NCEMS-operator in terms of this contract.

19.5 **No limitation of rights:** Nothing contained in this clause shall be construed as in any way limiting the rights of the Board under the Act or any other law.

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**20 Internal Controls**

20.1 The NCEMS-operator shall establish an adequate system of internal controls over financial and operational areas to provide assurance of: -

20.1.1 effective, efficient and economic operation;

20.1.2 protection of assets against unauthorised use, acquisition and disposal;

20.1.3 reliable financial information and reporting; and

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- 20.1.4 compliance with the provisions of this Contract and any other provisions imposed by or under the Act.
- 20.2 The internal control system (ICS's) shall be approved and reviewed by the Board from time to time, and any changes thereto shall be requested in writing and approved by the Board prior to taking effect.
- 20.3 **Auditors' duties:** The NCEMS-operator shall ensure that the auditors are approved by the Board. Such approval and appointment shall not be unreasonably withheld, on terms which require them to: -
  - 20.3.1 report to the Board within three months of the end of each financial year, stating whether the NCEMS-operator has kept a proper set of books and records and operated an adequate system of internal control as is mentioned in clause 21 above; and
  - 20.3.2 inform the Board whether during their audit, the Board became aware of any irregularities, fraud, failure to comply with any provisions imposed by or under any statute, breach of this contract or misconduct by the NCEMS-operator or its contractors, officers or employees.
- 20.4 **NCEMS-operator to supply copies:** On annual basis or whenever requested by the Board, the NCEMS-operator shall provide the Board with a copy of: -
  - 20.4.1 the NCEMS Operator's Annual report;
  - 20.4.2 NCEMS Operator's Audit reports;
  - 20.4.3 NCEMS Operator's IT Audit reports; and
  - 20.4.4 Results of any reviews of the NCEMS Operator's operations.

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**21 Confidentiality and Non-disclosure**

- 21.1 **Confidentiality obligation:** Each party ("the receiving party") must treat and hold as confidential all information which they may receive from the other party ("the disclosing party") or which becomes known to them during the currency of this Contract.
- 21.2 **Nature of the confidential information:** The confidential information of the disclosing party shall, without limitation include: -
  - 21.2.1 all software and associated material and documentation, including information contained therein;
  - 21.2.2 the Board's data;

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21.2.3 all information relating to: -

21.2.3.1 the disclosing party's past, present and future research and development;

21.2.3.2 the disclosing party's business activities, products, services, customers and clients, as well as its technical knowledge and trade secrets.

### **21.3 The receiving party's obligations with regard to confidential**

**information:** The receiving party agrees that in order to protect the proprietary interests of the disclosing party in its confidential information: -

21.3.1 it shall only make the confidential information available to those of its personnel and advisors who are actively involved in the execution of its obligations under this contract and then only on a "need to know" basis;

21.3.2 it shall initiate internal security procedures reasonably acceptable to the disclosing party to prevent unauthorised disclosure and shall take all practical steps to direct upon those personnel who need to be given access to confidential information, the secret and confidential nature thereof;

21.3.3 subject to the right to make the confidential information available to their personnel under clause 22 above, they shall not at any time, whether during this contract or thereafter, either use any confidential information of the disclosing party or directly or indirectly disclose any confidential information of the disclosing party to third parties;

21.3.4 all written instructions, drawings, notes, memoranda and records of whatever nature relating to the confidential information of the NGB and the disclosing party which have or shall come into the possession of the receiving party and its personnel, shall be, and shall at all times remain, the sole and absolute property of the NGB and shall be promptly handed over to the NGB when no longer required for the purposes of this Contract.

### **21.4 Obligations in respect of confidential information upon termination:**

Upon termination or expiry of this contract, the parties shall deliver to each other a written instruction to destroy all originals and copies of confidential information in their possession.

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**21.5 Information, which shall not constitute confidential information:** The aforementioned obligations shall not apply to any information which: -

21.5.1 is lawfully in the public domain at the time of disclosure;

21.5.2 subsequently and lawfully becomes part of the public domain by publication or otherwise;

21.5.3 subsequently becomes available to the receiving party from a source other than the disclosing party, which source is lawfully entitled without any restriction on disclosure to disclose such confidential information; or

21.5.4 is disclosed pursuant to a requirement or request by operation of law, regulation or court order.

**21.6 Indemnity in respect of confidential information:** The receiving party hereby indemnifies the disclosing party against any loss or damage that the disclosing party may suffer as a result of a breach of this clause by the receiving party or its personnel.

21.7 Both during the term of this contract and at all times after its termination, the NCEMS-operator shall observe strict confidentiality with regard to the NCEMS technology and the technical information and shall not disclose the same to any third person or permit such information or knowledge to be used by a third person without the written consent of the Board first being obtained prior to such disclosure or use; provided that such consent shall not be unreasonably withheld.

21.8 The Board shall, during the term of this contract, have the right to request the NCEMS-operator to disclose the NCEMS technology and the technical information to a person or entity designated by the Board and the NCEMS-operator undertakes to comply with such a request from the Board, provided that the receiver of such information shall abide by this confidentiality clause.

21.9 The Board shall at all times have the right to disclose the NCEMS technology and the technical information to such persons and entities insofar as it is necessary for the Board to fulfil its regulatory functions, provided that the receiver of such information shall abide by this confidentiality clause.

21.10 **Survival of Provisions:** The confidentiality and non-disclosure clause is severable from the rest of this Contract and shall remain valid and binding

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on the parties, notwithstanding any termination of this Contract, for a period of 5 (five) years from the date of termination.

- 22 Survival of Claims** : Termination of this agreement will not relieve either party of any claims against it that arise under this contract before the contract is terminated.

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### **23 Disclaimer of Liability on the part of the Board**

- 23.1 Approval does not constitute warranty:** Notwithstanding any tests carried out or approvals or acceptances given by the Board, such tests, approvals or acceptances shall not constitute a warranty by the Board that any system or services of equipment used in the operation of the NCEMS is of the required quality and it is fit for its purpose. Accordingly, the NCEMS-operator shall assure itself that all equipment, systems, services are suitable for the operation of the NCEMS.
- 23.2 Board disclaims liability:** The Board accepts no liability for any loss or damage suffered by the NCEMS-operator in placing reliance on such acceptance or approval or otherwise arising out of such acceptance or approval, whether or not resulting from any negligent or wrongful act or omission by or on behalf of the Board.
- 23.3 No liability arising out of contents of RFP:** The NCEMS-operator agrees that the Board, the Minister and the government or any of its advisors or consultants shall not be liable for any facts, information, opinion or conclusion contained or expressed in the Request for Proposal (RFP) issued in respect of this Contract.

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### **24 Force Majeure**

- 24.1 No liability for failure to fulfil a party's obligations:** Neither party shall be liable for any failure to fulfil its obligations under this contract if such failure is caused by any circumstances beyond its reasonable control, including , fire, flood, war, hurricane, lawful industrial action, government restrictions or an act of God.
- 24.2 Right to cancel the Contract:** Should either party be unable to fulfil a material part of its obligations under this contract within a period of 180 (one hundred and eighty) days due to circumstances as stated in clause 24.1, except in the case of the lawful industrial action, the other party may cancel this contract forthwith by written notice.

24.3 Party affected to notify other party: Should any event of force majeure arise, the affected party shall notify the other party without delay and the parties shall meet within 7 (seven) calendar days of the notice to negotiate in good faith alternative methods of fulfilling its obligations under this contract.

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**25 NCEMS-operator not to withhold operations**

25.1 Notwithstanding any dispute that may arise between the Board and the NCEMS-operator or any other matter that may arise, under no circumstances whatsoever and howsoever arising, may the NCEMS-operator withhold any service due to be performed on behalf of the Board in terms of this contract.

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**26 Breach**

- 26.1 **Material breach of Contract.** Should the NCEMS-operator commits a material breach of this, including, without limitation : -
- 26.1.1 committing a material failure to provide the services;
  - 26.1.2 bringing the name of the Board or any PLAs into disrepute;
  - 26.1.3 failing to adhere to the standards of probity required of it;
  - 26.1.4 committing recurrent failures to meet critical services levels; and
  - 26.1.5 depending upon the nature of the breach, failure to remedy such breach or conduct within the period stipulated by the Board.
- 26.2 The Board may, in addition to any other rights and remedies that it may have, including the right to recover damages, terminate this contract, within a reasonable period to be determined by the Board, should the NCEMS Operator: -
- 26.2.1 effect or attempt to effect a compromise or composition with its creditors; or
  - 26.2.2 be provisionally or finally liquidated or be placed under judicial management, whether provisionally or final; or
  - 26.2.3 cease or threaten to cease to carry on its normal line of business in the Republic of South Africa or default or threaten to default in the payment of its liabilities generally, or commit any act or omission which would, in the case of an individual, be an act of insolvency in terms of the Insolvency Act, 1936 (Act No 24 of 1936); or
  - 26.2.4 dispose of 5% (five percent) or more of its undertaking or assets

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without the Boards prior consent;

26.3 The Board may terminate this contract without the NCEMS Operators' prior consent, on written notice to the NCEMS-operator without prejudice to any claim that it may have for damages.

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**27 Handover Management**

27.1 Upon termination of this contract for any reason whatsoever and howsoever arising, in order to ensure the smooth and uninterrupted transition of the services from the NCEMS-operator to the Board, or its nominated Service Provider, the NCEMS-operator shall comply with the handover management provisions in terms of clause 40.

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**28 Notices and Domicile**

28.1 The parties select as their respective *domicilia citandi et executandi* the following physical addresses, and for the purposes of giving or sending any notice provided for or required hereunder, the following: -

<b>PARTY</b>	<b>PHYSICAL ADDRESS</b>	<b>POSTAL ADDRESS</b>	<b>TELEPHONE &amp; FAX NUMBERS</b>
The Board Attention: The CEO , National Gambling Board	420 Witch-hazel Avenue Eco Glades 2, Block C Eco Park, Centurion, 0144	Private Bag X27 Hatfield 0028	Tel 0100033475 Fax 0866185729
NCEMS-operator Attention:	to be provided after appointment		

or such other address or fax number as may be substituted by notice or within 3 (three) days given as herein required.

28.2 Any notice addressed to a party at its physical or postal address shall be sent by pre-paid registered post, or delivered by hand, or sent by fax.

28.3 Any notice shall be deemed to have been given: -

- 28.3.1 if posted by prepaid registered post, 14 (fourteen) days after the date of posting thereof,
- 28.3.2 if hand delivered, on the day of delivery,
- 28.3.3 if sent by fax, on the date and time of sending of such fax, as evidenced by a fax confirmation printout.

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**29 Intellectual Property Rights**

**29.1 No aspect of the services to infringe third party intellectual property rights.** The NCEMS-operator warrants that no aspect of the services or any deliverable provided in terms thereof shall infringe any patent, design, copyright, trade secret or other proprietary right of any third party ("**third party proprietary rights**"), and the NCEMS-operator indemnifies the Board against any claim that the services infringes any such third party proprietary rights, provided that the Board gives prompt notice to the NCEMS-operator of such a claim. The NCEMS-operator may defend such action on its terms or it shall pay all costs, damages and attorney fees, on an attorney and client scale, if any, finally awarded against the Board in any action which is attributable to such a claim and shall reimburse the Board with all costs reasonably incurred by the Board in connection with any such action.

**29.2 NCEMS-operator's obligations in the event of infringement of third party rights.** In the event that any third party succeeds in its claim for the infringement of any proprietary rights, the NCEMS-operator shall within 30 (thirty) days of having been found to infringe: -

29.2.1 endeavour to obtain from the licensed owner the right to continue using the subject of infringement or the parts thereof which constitute the infringement; or

29.2.2 replace the subject of infringement or the parts thereof which constitute the infringement with another product or service which does not infringe and which is materially similar to the subject of infringement; or

29.2.3 alter the subject of infringement in such a way as to render it non-infringing while still in all respects operating in substantially the same manner as the subject of infringement; or

29.2.4 withdraw the subject of infringement and refund to the Board all fees paid by the Board in respect of such infringement.

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**30 Protection of Intellectual Property**

**30.1** The NCEMS-operator shall, immediately upon being aware thereof, deliver written notice to the Board of any unauthorised use or infringement of the NCEMS technology and/or the technical information by any third party.



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- 30.2 Upon receipt of each written notification referred to in clause 30.1, the NCEMS-operator shall institute, defend or settle any legal action in connection with such unauthorised use or infringement referred to in clause 30.1 if so requested by the Board.
- 30.3 The NCEMS-operator shall immediately notify the Board in writing of all details if any third party shall assert any challenge, claim or action against the NCEMS-operator for infringement on account of or relating to the NCEMS-operator's use of the NCEMS technology or technical information.
- 30.4 Immediately after receipt by the Board of the written notice referred to in 30.3 the NCEMS-operator shall, at its expense, undertake and control the defence or settlement of such a challenge, claim or action referred to in clause 30.3.

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### 31 Relationship of the parties and duty of good faith

- 31.1 **No partnership nor temporary employment** . Nothing in this Contract shall be construed as creating a partnership between the parties nor a temporary employment service and neither party shall have any authority to incur any liability on behalf of the other without a written authority from the other party or to pledge the credit of the other party.
- Good faith.** The parties shall at all times owe each other a duty of good faith and shall, in all dealings with each other and in respect of the services observe the highest standard of good faith.
- 31.2 **Maintenance of the Board's reputation.** The NCEMS-operator shall take all reasonable steps to: -
- 31.2.1 preserve the reputation and good name of the Board in providing the services and shall do nothing which would or might bring the reputation or good name of the Board into disrepute;
  - 31.2.2 act in such a manner as to promote the relevant principles stipulated in the relevant section of the Act;
  - 31.2.3 not omit to do anything which would be reasonable for it, having regard to its obligations under this Contract.
- 31.3 In providing the services the NCEMS-operator shall not express any fact, opinion or thought as being the fact, opinion or thought of the Board, unless specifically authorised by the Board in writing.

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**32 No financial interest in Operator**

- 32.1 The NCEMS-operator and/or any person or entity that has a direct or indirect financial interest in the NCEMS-operator shall not have any financial interest in a licensed Route- operator or an Independent Site Operator or a Site -operator, nor be a licensed gambling entity.
- 32.2 The NCEMS-operator must disclose and secure the Board's approval in respect of any direct or indirect financial interest, or changes thereto; it may have from time to time, in a manufacturer, supplier or distributor of gaming machines.

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**33 Assignment and Sub-contracting**

- 33.1 **No assignment.** This contract shall not be transferable save with the prior written consent of the Board, subject to such conditions as the Board may prescribe.
- 33.2 **Sub-contracting.** The NCEMS-operator may only sub-contract its obligations under this Contract with the prior written consent of the Board, subject to such conditions the Board may prescribe, any and all sub-contractors may be required to be licensed or certified by the PLAs.

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**34 Public Announcement**

- 34.1 Neither party will make nor issue any formal or informal announcement, briefing or statement to the media briefing in connection with this contract , without the prior written consent of the other party.
- 34.2 The NCEMS -operator shall not issue any formal or informal public announcement , media briefing nor statement on behalf of the Board without the Board's prior consent in writing.

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**35 General**

- 35.1 **Whole agreement.** This Contract constitutes the entire agreement between the parties in respect of the subject matter hereof and neither party shall be bound by any undertakings, representations, warranties or promises not recorded in this Contract without .
- 35.2 **No variation.** No variation, cancellation or addition to this Contract shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorised representatives.
- 35.3 **Waiver.** No waiver of any of the terms and conditions of this Contract shall be binding or effectual for any purpose unless expressed in writing and

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signed by the party hereto giving the same, and any such waiver shall be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any party to further exercise any right, power or privilege.

- 35.4 **Severability.** Should any of the terms and conditions of this Contract be held to be invalid, unlawful or unenforceable, such terms and conditions shall be severable from the remaining terms and conditions that shall continue to be valid and enforceable. If any term or condition held to be invalid is capable of amendment to render it valid, the parties agree to negotiate an amendment to remove the invalidity.
- 35.5 **Applicable law.** This Contract shall be governed by and construed in accordance with the law of the Republic of South Africa and all disputes, actions and other matters relating thereto shall be determined in accordance with such law.
- 35.6 **Jurisdiction.** The parties hereby consent and submit to the jurisdiction of the High Court of the Republic of South Africa, in any dispute arising from / or in connection with this contract.
- 35.7 Any consent, approval, agreement, determination, nomination or notification required to be given by the Board or NCEMS-operator in terms of this Contract, shall be effective only if given in writing.
- 35.8 Nothing in this Contract shall in any way limit or prejudice the effect of or any obligation of the NCEMS-operator to comply with any laws.

### Part 2 Technical Scope

This part of the Contract defines specific functions and services to be provided by the NCEMS Operator.

The subject matter of this part is variable and subject to change and it is essential that it is regularly reviewed and re-evaluated.

Notwithstanding the above, it is essential that in making any amendments to this part of the Contract, the parties adhere to clause 15.

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### 36 Scope of Systems

- 36.1 The NCEMS-operator is to deliver four major components namely: -
- 36.1.1 Data Collection Management and Monitoring System (DCMM)
  - 36.1.2 The DCMM collates, prepares and introduces data into the

Management and Monitoring System;

36.1.3 Management and Monitoring System (MMS)

The MMS is that component of the system which produces the appropriate reports for the Board and the PLAs;

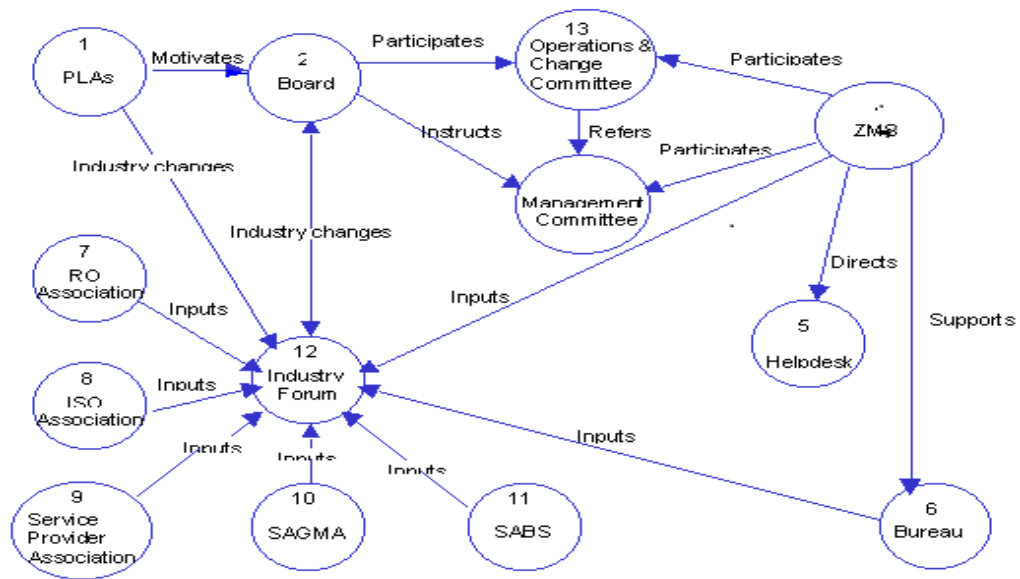
36.1.4 Management Information System (MIS)

The MIS refers to that component of the system that provides managers with information and tools for organising data; and Value Added Services

36.1.5 Value Added Services (VAS)

Value Added Services refers to the services provided for, in terms of clause 44 and approved by the Board.

**37 Governance Structures and Processes**



**Figure 1 Management Structures and relationships**

This contract is governed by the management structure as detailed below.

**37.1 There shall exist several bodies and / or committees being: -**

- 37.1.1 NCEMS project Task team The Board
- 37.1.2 NCEMS Management Committee
- 37.1.3 NCEMS Operations & Changes Committee
- 37.1.4 NCEMS Transitional Committee
- LPM Industry Forum

**37.2 The role players, their interactions and their relationships to these**

**entities are outlined below. The recognised role players being: -**

- 37.2.1 The NCEMS Project Task Team / Board
- 37.2.2 NCEMS-operator
- 37.2.3 PLAs
- 37.2.4 LPM Industry Forum (if any)
- 37.2.5 SAGMA (if any)
- 37.2.6 LPMASA, if any
- 37.2.7 RO Association, if any
- 37.2.8 ISO Association, (if any)
- 37.2.9 NCEMS Management Committee
- 37.2.10 NCEMS Operations & Changes Committee

**37.3 Components of the governance structure**

**37.3.1 NCEMS Project Task Team (NCPTT)**

**37.3.1.1 Composition**

Consists of the entire Board members of the NGB in terms of section 67 of the Act.

The Chairperson of the Board shall be the chairperson of the NCPTT.

The Chairperson of the NCPTT shall have the authority

to represent the Board in connection with all aspects of the NCEMS and in relation to this contract.

The Chairperson of the NCPTT may at her/his discretion, delegate her authority or allocate specific roles and functions to the members of the NCPTT.

The Chairperson may also at her/his discretion appoint any person to advice on matters related to the NCEMS or perform certain tasks on behalf of the NCPTT.

Membership of the NCPTT shall terminate on the expiry of the member's appointment as a member of the Board.

- 37.3.1.1.1 Role and functions
- 37.3.1.1.2 Represents the interests of shareholder
- 37.3.1.1.3 (Minister) and the National Gambling Board.
- 37.3.1.1.4 Oversees the management of the NCEMS Project
  - Makes decisions in all matters pertaining to the establishment, maintenance and components of the NCEMS in line with sections 27 and 65 of the Act, regulations passed in terms of Act and the statutory functions of the Board.
  - Provide strategic direction of the effect of the NCEMS and its impact on the Board's oversight and monitoring functions in line with sect 27 and 65 of the Act .
  - Review reports and recommendations received from the NCEMS Operations and Change management Committee and make decisions, issue directives and provide feedback to the (CPCMC)
  - Review the effect and impact of the NCEMS on a quarterly basis and on an annual basis and thereafter provide advice or recommendations to the shareholder (i.e. the Minister and to the National Gambling Policy Council ).
  - Decides on disputes relating to management and operations of the NCEMS, referred to it by the NCEMS management committee.
  - Approves tariffs and rates on recommendations of the NCEMS Operations and Change management Committee.
  - Approves any changes relating to business functionality, management processes, physical configuration and technological aspects of the NCEMS on recommendation of the NCEMS

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- Operations and Change Management Committee(COCCMC).
- 37.3.1.2 Meetings and reporting  
The meetings of the NCEMS Project Task Team will be held on the same day as the ordinary Board meetings.
- 37.3.2 NCEMS Operations and change management Committee (COCCMC)
- 37.3.2.1 Composition
- 37.3.2.1.1 The NNCPTT and the Representative of the NCEMS -operator shall each appoint a team, consisting of not more than three persons each, from their establishment and employment to represent the NNCPTT and the Board in matters relating to performance under this contract.
- 37.3.2.2 Appointments as COCCMC member shall be in writing and shall take place immediately and not later than two weeks after the launch of the (new) NCEMS by the Board.
- 37.3.2.3 The written appointment letters as COCCMC members shall include the duties, powers and extent/limitation of authority provided to a member in relation to the functions of the COCCMC.
- 37.3.2.4 Role and functions
- 37.3.2.4.1 Provide advice to the NNCPTT
- 37.3.2.4.2 manages and implement the NCEMS project including its daily operations, administration and activities and reports directly to the NNCPTT.
- 37.3.2.4.3 Determine rates and tariffs and recommend same to the NNCPTT for approval .
- 37.3.2.4.4 Undertakes cost analysis, risk management and investigation of queries and unlawful activities related to NCEMS.
- 37.3.2.4.5 identify needs and recommend changes in the

- business functionality, physical and technical configuration, and the technology associated with the NCEMS.
- 37.3.2.4.6 Endeavour to resolve queries, complaints, problems and disputes associated with the NCEMS and notify the NNCPTT of any substantial queries, complaints, problems and disputes and when necessary (if the disputes are unresolved) refer the determination of such disputes to the NNCPTT.
- 37.3.2.4.7 Continuously monitor, assess and evaluate the performance, cost-effectiveness, impact of the NCEMS make recommendations to the NNCPTT.
- 37.3.2.4.8 Identify training, skills development and skills transfer needs , design or identify training programmes and present training, skills development and skills transfer plans to the NNCPTT and Board for approval .
- 37.3.2.4.9 Report on results and impact of training, skills development and skills transfer.
- 37.3.2.4.10 Implement the relevant and specified activities associated with the industrial Policy Action Plan (IPAP).
- 37.3.2.4.11 Maintain historical records and intellectual memory of the NCEMS on behalf of the NNCPTT.
- 37.3.2.4.12 Ensure the NCEMS -operator help desk and service Bureau performs their functions according to specifications including recording of all call logs , operational problems and changes effected .
- 37.3.2.4.13 Liaise with NNCPTT and provide advice regularly on matters affecting NCEMS.
- 37.3.2.4.14 Represents the NNCPTT in any gambling industry forum including LPM industry forum and report to the NNCPTT.
- 37.3.2.4.15 provide monthly, quarterly and annual reports



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- regarding performance, cost-effectiveness and impact of the NCEMS .
- 37.3.2.4.16 Implements the resolutions, decisions and directives of the NNCPTT.
- 37.3.2.4.17 Directs and manage the transfer and transition and replacement , (if necessary) of the NCEMS - operation and facilitate and incorporate the NCEMS replacement specifications.
- 37.3.2.4.18 Ensures that all plans, including a NCEMS continuity and sustainability plans as well as business plans are implemented by the NCEMS - operator.
- 37.3.2.4.19 Analyse all reports provided by NCEMS -operator and make recommendations to the NNCPTT.
- 37.3.2.4.20 Conducts quality assurance, random inspections, and ensures that the operations of the NCEMS comply with the requirements of the law.

Performs any other function related to the management , operation and implementation of the NCEMS Project not necessarily specified herein and /or as delegated by the NNCPTT on behalf of the Board.

- 37.3.2.4.21 meetings
- 37.3.2.4.22 The COCMC shall hold meetings monthly in terms of clause of the schedule and when operational requirements demands of such a meeting.

42.3.2.5 Appointment as a member of the NCEMS

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**38 COCMC Change Mechanism Procedures**

- 38.1.1 Changes resulting form Queries, Complaints and problems
- 38.1.1.1 The NCEMS -operator must, through its help desk, log all queries, complaints and problems related with the NCEMS functionality after receipt thereof from the LPM Industry , the Board or any other stakeholder thereafter submit details and a records of such

queries, complaints and problems to the COCMC for resolution and record keeping. Changes that are legislative or regulatory driven

38.1.1.2 Changes that are LPM Industry Forum driven

38.1.1.3 Any formal submissions for changes in the functionality of the NCEMS received by the NCEMS -operator from the LPM Forum, PLAs, or any other relevant forum must be tabled with the COCMC for deliberation. The NCPTT may approve the changes on behalf of the Board on recommendations of the COCMC. Changes that are NCEMS-operator driven

In the case of the NCEMS-operator identifying any changes that may have an effect on the business functionality of the NCEMS, those changes shall be logged at the NCEMS-operator Help Desk. Following the logging, the NCEMS-operator shall propose a resolution to be considered by the COCMC. The COCMC shall, where appropriate, (and if the changes would not have any risk, policy, legislation or financial implications), instructs the NCEMS-operator to implement a suitable resolution to the identified changes. The COCMC is to report back to the NCPTT and the Board in these instances.

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## **39 Implementation Plan**

### **39.1 The implementation plan consists of two aspects: -**

39.1.1 Technical implementation; and

39.1.2 Business Implementation

### **39.2 Technical Implementation**

The technical implementation plan consists of all aspects of the system relating to the actual design and usage of the system, including the NCEMS environment, the networking infrastructure and the client environment.

**Implementers:** NCEMS Operator, Approved Sub-contractor(s).

**Stakeholders:** Parliament, the National Gambling Policy

Council, government, the Minister, The National Gambling Board, PLAs, ROs, ISOs, South African gambling Industry, All Committees of the NCEMS project and the NRCS.

**Tasks:** As per the schedule in clause 46.

### **39.3 Business Implementation**

39.3.1 The business implementation plan consists of the establishment of business functions and controlling bodies to enable facilitation of the effective usage of the technical solution.

39.3.2 This plan must be implemented in conjunction and in parallel to the technical implementation plan to ensure business continuity and as per schedule in clause 46 and 47.

### **39.4 Commissioning**

This is deemed to be the operational system as it is to be used in the rollout phase of the industry subject to the SABS certification process.

### **39.5 Certification**

The NRCS is to provide certification of compliance to the Standard SANS 1718.

### **39.6 Acceptance of Delivery**

At the discretion of the Board, the NCEMS is to be accepted and become operational. Only on the basis that the system is commissioned and SABS certified, together with all the appropriate documentation, manuals, support structures and services, (subject to audit), shall the Board consider the acceptance of the system. This is to include a complete inventory and asset register as per clause 48.

### **39.7 Standard configurations**

The NCEMS-operator is to provide detailed standard configurations for User Access Method 1 and User Access Method 2. The methods and details shall be included in the knowledge base.

### **39.8 Governance of implementation**

39.8.1 Structures and Procedures

This phase is governed as detailed in clause 37.

39.8.2 Auditing

39.8.2.1 The implementation phase shall be subject to an IT audit prior to acceptance of delivery.

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**40 Operations and rollout of the LPM Monitoring System**

**40.1 Scope of Operations**

The NCEMS-operator is to operate the infrastructure and applications in accordance to the requirements in SANS 1718 and the documented procedures as accepted by the Board during the phase of acceptance of delivery by the Board. The NCEMS-operator is to operate the system following best practices. These practices are to be modified by the Board via the Management Committee from time to time.

**40.2 Performance of Operations**

40.2.1 General performance of the system is to be conducted in alignment with criteria as outlined in the proposal and this contract.

40.2.2 The Board, on the basis of consultation with the LPM industry, shall determine additional performance guidelines from time to time. The NCEMS-operator is to be aware that the Board, prior to the completion of the acceptance phase shall conduct a review of the performance characteristics of the NCEMS.

**40.3 Governance of Operations and Rollout**

The NCEMS Project Task Team ,NCEMS Operations and Change Management Committee must ensure good governance and comply with the law and government policies when performing their functions ..

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**41 Possibility of Transition of NCEMS to alternate NCEMS Operator**

**41.1 Scope of Transition and Handover**

41.1.1 Should it be necessary to transfer the NCEMS from one location to another or to seek a handover from one NCEMS -operator to another at the commencement and later at the termination of this contract , the NCEMS -operator must with the assistance of the NCPTT , the Board and the COCMC do the following : .

41.1.1.1 Submit a transfer plan to the Board A

41.1.1.2 Immediately conduct orientation, induction and training regarding the management, administration , implementation and operation of the NCEMS in terms of the training, skills development and skills transfer plan/s.

41.1.1.3 Obtain from the Board , at the commencement of the contract and providing at the termination of this contract

full operation and change management history created during the contract period.

- 41.1.1.4 Endeavour to acquire the contemporary version of the national NCEMS 'A' protocol at fair market value;
- 41.1.1.5 Endeavour to acquire during handover, if any, with the assistance of the Board, at the commencement of this contract and provide to the Board, at termination of this contract, ' all the historical records and data of the NCEMS help desk;;
- 41.1.1.6 Provide to the Board a catalogue of all software to be used to provide the services, subject to non-infringement of any Intellectual Property;;
- 41.1.1.7 Endeavour to acquire during handover, if any all archive and data copies together with a means of interpreting the data and ensuring that the production copy of the data is permanently erased;
- 41.1.1.8 Subject to this contract the participation of the NCEMS - operator in the transition and handover if any, shall be conducted with regard to the functions of the NCPTT and COCMC

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## **42 Knowledge Management**

- 42.1 The NCEMS-operator shall ensure the detailed production and maintenance of the NCEMS knowledge base which must incorporate all aspects of the NCEMS and the LPMs..
- 42.2 Included in the knowledge base shall be: -
  - 42.2.1 An enterprise business architecture indicating all business processes and procedures, business data models and data flows;
  - 42.2.2 An enterprise technical architecture indicating all technical processes and procedures, technical data models and data flows;
  - 42.2.3 An integration model of all NCEMS components;
  - 42.2.4 A functional overview of all NCEMS components;
  - 42.2.5 A complete infrastructure model end-to-end, (including host, telecommunications, sites, Board and PLAs, the NCEMS-operator Head office, ROs and ISOs);

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- 42.2.6 A control and management model of the system demonstrating the checks and balances;
  - 42.2.7 Detailed inventory of all components, hardware, software including applications and databases, and protocols;
  - 42.2.8 Network topology (data and telecommunications);
  - 42.2.9 The detailed planned and tested Disaster Recovery Plan;
  - 42.2.10 All training, skills development , skills transfer and operational guidelines, manuals , checklists, and materials.
- 42.3 The above knowledge base shall be placed in a repository that is easily accessible to the Board, the NCPTT and the COCMC. The knowledge base shall be audited on a regular basis as part of the IT Audit process.
- 

### 43 Training

#### 43.1 General

- 43.1.1 The NCEMS-operator is to provide training, skills development, skills transfer specific to the NCEMS environment during the subsistence of the contract to all stakeholders in terms of the Transition plan and other relevant plans .
- 43.1.2 The NCEMS-operator shall provide for formal and computer based training (CBT) tailored for the target and identified people..
- 43.1.3 The NCEMS-operator shall ensure that training guides and manuals are regularly updated and are commensurate with existing the NCEMS environment;
- 43.1.4 All training shall be provided to regulators at no cost.

#### 43.2 Affected Parties and Training focus

- 43.2.1 The Board and the NNCPTT  
Comprehensive training pertaining to the following: -
  - 43.2.1.1 Overview of the industry;
  - 43.2.1.2 The role of all NCEMS users;
  - 43.2.1.3 Site procedures including licensing, installations, movements and operations;
  - 43.2.1.4 NCEMS overview and usage;
  - 43.2.1.5 System tool usage;
  - 43.2.1.6 MIS usage;
  - 43.2.1.7 Effective data analysis; and
  - 43.2.1.8 Policing, inspection, quality assurance mechanisms and

reports (Inspectorate).

43.2.1.9 NCEMS oversight, monitoring and management

43.2.1.10 NCEMS operational processes

**43.2.2 PLAs**

Comprehensive training pertaining to the following: -

43.2.2.1 Overview of the industry;

43.2.2.2 The role of all NCEMS users;

43.2.2.3 Site procedures including licensing, installations,  
movements and operations;

43.2.2.4 NCEMS overview and usage;

43.2.2.5 System tool usage;

43.2.2.6 MIS usage;

43.2.2.7 Effective data analysis; and

43.2.2.8 regulatory mechanisms and reporting (Inspectorate).

**43.2.3 ROs**

Comprehensive training pertaining to the following: -

43.2.3.1 Overview of the industry;

43.2.3.2 The role of all NCEMS users;

43.2.3.3 Site procedures including licensing, installations,  
movements and operations;

43.2.3.4 NCEMS overview and usage;

43.2.3.5 System tool usage;

43.2.3.6 MIS usage;

43.2.3.7 Effective data analysis; and

43.2.3.8 SDL installation and functionality.

**43.2.4 ISOs**

Comprehensive training pertaining to the following: -

43.2.4.1 Overview of the industry;

43.2.4.2 The role and services of the Bureau;

43.2.4.3 Provincial Rules and Regulations;

43.2.4.4 Site procedures including licensing, installations,  
movements and operations;

43.2.4.5 Security options;

43.2.4.6 Machine types and Manufacturers;

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- 43.2.4.7 NCEMS overview and usage if required; and
- 43.2.4.8 Dealing with problem gambling and the National Responsible Gambling Program

**43.2.5 Service Providers**

Comprehensive training pertaining to the following: -

- 43.2.5.1 Overview of the industry, if required;
- 43.2.5.2 Site procedures including licensing, installations, movements and operations;
- 43.2.5.3 SDL installation and functionality;
- 43.2.5.4 Maintenance process.

**43.2.6 Game Manufacturers**

Comprehensive training pertaining to the following: -

- 43.2.6.1 Overview of the industry;
- 43.2.6.2 Site procedures including licensing, installations, movements and operations;
- 43.2.6.3 SDL installation and functionality;
- 43.2.6.4 Game enrolment;
- 43.2.6.5 Network Protocols.

**43.3 Training Courses**

- 43.3.1 The NCEMS-operator shall provide the training courses as per clause 54.

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**44 Helpdesk**

**The NCEMS-operator shall maintain a Helpdesk, which shall service the Board, PLAs and designated personnel of ROs, Bureau, SPs and the manufacturers which help desk shall keep details of all users and shall be available twenty four hours daily (24/7).**

**44.1 Location and Contact Information**

- 44.1.1 The NCEMS-operator Helpdesk shall be maintained at the NCEMS-operator Head office.
- 44.1.2 All contact information for the various helpdesk is as per the respective users.

**44.2 Scope of Responsibility**

The Scope of Helpdesk responsibility shall include: -



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- 44.2.1 Recording, tracking, resolution management and reporting on ;
- 44.2.2 Recording, tracking, resolution management and reporting on changes;
- 44.2.3 Recording, tracking, monitoring and reporting on Service levels;
- 44.2.4 Provide advice and guidance in all aspects of the NCEMS with users of the NCEMS;
- 44.2.5 Provide assistance in interpreting user manuals and procedural documentation;
- 44.2.6 Provide information on the optimal use of the NCEMS;
- 44.2.7 Distribute information such as proposed changes to the system, procedures or standards;
- 44.2.8 Inform users and co-ordinate potential downtime for maintenance when required;
- 44.2.9 Facilitate all password and user ID administration functions;
- 44.2.10 Liaise with management;
- 44.2.11 Interfacing and dispatching to other support groups;
- 44.2.12 Hardware break/fix maintenance requests;
- 44.2.13 Manage service level targets;
- 44.2.14 Provide periodic management information regarding performance against this Contract to the Board; and
- 44.2.15 Record and track all remote access software support calls.

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## 45 Services and support

### 45.1 Stakeholders

The NCEMS-operator shall supply standard services on behalf of the Board to the identified stakeholders as detailed below: -

- 45.1.1 Board and PLAs
  - 45.1.1.1 Comprehensive NCEMS, OLAP and MIS training;
  - 45.1.1.2 Helpdesk facilities;
  - 45.1.1.3 On-line reports;
  - 45.1.1.4 Comprehensive System review facilities and access;
  - 45.1.1.5 Initial site inspection assistance;
  - 45.1.1.6 Implementation of the NCEMS environment;
  - 45.1.1.7 Management and support of the NCEMS as per agreed service levels;
  - 45.1.1.8

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45.1.1.9 Liaise with the Board for the investigation, analysis, and costing of change requirements;

45.1.1.10 Implementation of approved changes;

45.1.1.11 Perform daily data collection of LPMs;

45.1.1.12 Record LPM life cycle management information;

45.1.1.13 Facilitate Board access to all data at National and Provincial levels;

45.1.1.14 Facilitate the immediate escalation of high severity Occurrences to the Inspectorate.

**45.1.2 ROs**

45.1.2.1 Comprehensive NCEMS, system tools and MIS training;

45.1.2.2 Helpdesk facilities;

45.1.2.3 Regular reports;

45.1.2.4 RO restricted system review facilities and access;

45.1.2.5 Site Support as stipulated in the contract between the NCEMS-operator and the RO;

45.1.2.6 Supply of SDLs; and

45.1.2.7 Business and technical consulting.

**45.1.3 ISOs**

45.1.3.1 Helpdesk facilities;

45.1.3.2 Bureau support services;

45.1.3.3 Regular reports;

45.1.3.4 ISO restricted System review services;

45.1.3.5 Initial site assessment assistance;

45.1.3.6 Site preparation guidance; and

45.1.3.7 Assist with licensing.

**45.1.4 Game Manufacturers**

45.1.4.1 Comprehensive NCEMS, SDL and protocol training;

45.1.4.2 Helpdesk facilities;

45.1.4.3 Provision of NCEMS test environment;

45.1.4.4 Provision of testing software for protocol implementation;

45.1.4.5 Provision of protocol standards;

45.1.4.6 Advise on protocol implementation and usage; and

45.1.4.7 Supply of SDLs.

45.1.4.8

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- 45.1.5 Service Providers
  - 45.1.5.1 Comprehensive NCEMS, SDL Implementation training;
  - 45.1.5.2 Helpdesk facilities; and
  - 45.1.5.3 Supply of SDLs.
- 45.1.6 NRCS and Testing Laboratories.
  - 45.1.6.1 Comprehensive NCEMS training;
  - 45.1.6.2 Helpdesk facilities;
  - 45.1.6.3 Provision of NCEMS test environment;
  - 45.1.6.4 Provision of testing tools for protocol testing;
  - 45.1.6.5 Provision of protocol standards;
  - 45.1.6.6 Advise on protocol testing and usage; and
  - 45.1.6.7 Supply of SDLs.

**45.2 Helpdesk Services**

The NCEMS-operator shall provide a Bureau service or similar service for the management and control of ISOs, as and when required by the PLAs, providing for the following conditions: -

- 45.2.1 Availability
  - The Helpdesk services shall be available between 08:00 and 18:00 from Monday to Sunday for the express purposes of servicing the ISOs.
- 45.2.2 Scope of Responsibility
  - 45.2.2.1 Query and complaint management;
  - 45.2.2.2 Problem and change logging;
  - 45.2.2.3 ISO training;
  - 45.2.2.4 Financing Advice;
  - 45.2.2.5 Weekly and Monthly ISO Reports and Analysis;
  - 45.2.2.6 Site preparation and Implementation guidance and Assistance;
  - 45.2.2.7 ISO Performance Monitoring;
  - 45.2.2.8 ISO exception monitoring and escalation;
  - 45.2.2.9 Reporting on PLAs; and
  - 45.2.2.10 Service call monitoring.

**45.3 Reporting**

- 45.3.1 The NCEMS-operator shall provide additional report formats free of charge to the Board through the change management

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procedures. This is to include all standard and ad-hoc reports.

The NCEMS-operators to supply reports in terms of this contract.

### 45.4 Site Data Logger (SDL) Support Services

The NCEMS-operator is responsible for physical procurement, distribution, repair and maintenance of the SDLs. The support to the industry is on a return or exchange basis.

### 45.5 Data Collection

- 45.5.1 Site data collection shall be performed in such a fashion so as to minimise the impact to the ROs, SOs and ISOs;
- 45.5.2 Daily collections must be completed between the hours of 00H00 and 09H00;
- 45.5.3 Weekly collections completed on Sundays via dial-up on existing shared telephone lines until SOs, ISOs and ROs obtain (if necessary) dedicated telephone lines to the Site data loggers;
- 45.5.4 All data transmitted shall include a minimum 128-bit encryption;
- 45.5.5 The system shall ensure complete transmission with retry option for incomplete transmission; and
- 45.5.6 Reportable / security events shall result in the site controllers dialling into the system and reporting the event. This information shall be reported to the relevant stakeholders for action.

### 45.6 Inspectorate Management System

- 45.6.1 National Gambling Board
  - 45.6.1.1 Records all Board Inspectorate and quality assurance teams;
  - 45.6.1.2 Issues Inspectorate , monitors, NNCPTT and COCMC with smart card and PIN for site identification;
  - 45.6.1.3 Generates a random weighted inspection list by Province and area;
  - 45.6.1.4 Records and date/time stamp visits;
  - 45.6.1.5 Records visit history.
- 45.6.2 Provincial Licensing Authority
  - 45.6.2.1 Provincial Inspectorate Management System
  - 45.6.2.2 Records all PLA inspectorate staff;
  - 45.6.2.3 Issues NCEMS inspectorate, monitors, COCMC,

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NNCPTT with smart card and PIN for site identification;

45.6.2.4 Generates a randomly weighted inspection list by are

45.6.2.5 Records and date/time stamp visits;

45.6.2.6 Records visit history.

### 45.7 Gambling Licences Management System

45.7.1 Provides a full National and Provincial register of all licenses and types of licenses issued to all users;

45.7.2 It records holding and company details, site licenses and employee licenses or registrations;

45.7.3 It also issues reminders and allows review of payments;

45.7.4 Licensing details are also recorded; and

45.7.5 Automatically disable the user where user's licence is revoked.

### 45.8 LPM Lifecycle Monitoring System

45.8.1 Full lifecycle monitoring and information system is provided, and it continues to be provided to the Board and to the PLAs as the machine changes ownership within the industry.

### 45.9 Remote Management of Games

45.9.1 The system enables and disables games on the same machine.

### 45.10 Updates to peripheral devices

45.10.1 LPMs with serial connections to coin acceptance devices, note acceptors, coinless and cashless devices can use this link to upgrade the software version.

### 45.11 Disaster Recovery Plan

45.11.1 As part of the NCEMS Operator's business continuity and sustainability plan, the NCEMS Operator is to submit the disaster recovery plan prior to the operational date;

45.11.2 The disaster recovery plan must be tested after 90 (ninety) days from the operational date and shall be re-tested once annually;

45.11.3 The Board shall approve this plan prior to the acceptance of the disaster recovery plan; and

45.11.4 The disaster recovery plan must address matters of redundancy durability and strength of the NCEMS and provide report containing corrective measures . to the Board.

45.11.5 The NCEMS-operator must test the practicability and the robustness of the disaster recovery plan I on a regular basis .

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### 45.12 Data Security and Back-up

45.12.1 The NCEMS-operator must provide the regular back-up of all data and ensure data security. The NCEMS-operator must employ appropriate procedures, following best practises, to ensure the security and retrieval of lost data.

### 45.13 Testing Laboratories (TL)

45.13.1 The NCEMS-operator shall provide a testing laboratory environment, which must be approved by the Board and NRCS, within twelve months from the operational date.

45.13.2 The testing laboratory environment must provide facilities to the game manufacturers or equipment manufacturers for the purpose of development testing.

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## 46 Penalties

46.1 The two critical situations, Data path 1 and Data path 2, where penalties would be levied are detailed below.

46.2 Data path 1, refer to **diagram in 49** (specifically indicated by 'Data Collection, Events & Instructions'), is determined to be the data path of the LPM data as generated by the LPM unit that is transported up to and including the NCEMS environment where the data has been secured and backed-up.

46.3 Data path 1 is allowed a maximum break in service of 48 hours.

46.4 Data path 2, refer to diagram in 49 (specifically indicated by 'Data Presentation & Security'), is determined to be the data path of the LPM on-line reporting as generated by the NCEMS from which it is transported up to the Board, PLA or RO.

46.5 Data path 2 is allowed a maximum break in service of 96 hours.

46.6 The NCEMS-operator shall pay penalties when the performance of the NCEMS is deemed not satisfactory as a result of factors within its direct control.

46.7 The penalties are, but not limited to the following:

46.7.1 Data path 1: the value as determined by the Board, plus any claims instituted by the Board, and any claims of loss of income instituted by the ROs and / or ISOs should the data not be collected and the LPMs and / or SDLs become shut down due to

failure of data collection; and

- 46.7.2 For data path 2: the value as determined by the Board, plus any claims instituted by the Board and for the failure or inability of the Board to obtain to suitable monitoring whereupon an incident has Occurred and the consequence is the loss of income, and any claims of loss of income instituted by the ROs and / or ISOs should the reporting not be available whereby the LPMs and / or SDLs become shut down due to failure of data collection or a significant event.

### **Part 3 Schedules**

#### **47 Technical Implementation (Project Plan)**

##### **47.1 NCEMS implementation project**

The NCEMS implementation project plan of the NCEMS-operator shall at a minimum include the following tasks:

- i. NCEMS Implementation Project Schedule
- ii. Training Sub-project
- iii. Internal Training (Train the Trainers)
- iv. External Training (Train the Trainers – Ongoing)
- v. NGB and PLA Administrators
- vi. Route Operator Administrators
- vii. Service Provider Administrators
- viii. NCEMS-operator Start-up Sub-project
- ix. NCEMS Implementation Project Schedule
- x. Training Sub-project
- xi. NCEMS Implementation Project Schedule
- xii. NCEMS-operator Start-up Sub-project
- xiii. Training Sub-project
- xiv. Internal Training (Train the Trainers)
- xv. External Training (Train the Trainers – Ongoing)
- xvi. NGB and PLA Administrators
- xvii. Route- Operator Administrators
- xviii. NRCS Administrators
- xix. Manufacturer Administrators

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- xx. Service Provider Administrators
- xxi. Networks & Hosting Sub-project
- xxii. Procure Production & Development H/W & S/W
- xxiii. Implementation of Production Infrastructure in IBM Bunker
- xxiv. Implementation of Development Infrastructure in IBM Park
- xxv. Implementation & Configuration of NCEMS Application
- xxvi. Implementation of AT & T Network Infrastructure
- xxvii. Develop Disaster Recovery Plan
- xxviii. NCEMS Host Operations & Support Documentation
- xxix. Commissioning of NCEMS Application Complete
- xxx. NCEMS Testing & Optimisation Sub-project
- xxxi. NCEMS Optimisation Phase
- xxxii. Testing Phase
- xxxiii. Secure Socket Layer Encryption Implementation & Unit
- xxxiv. Function Testing
- xxxv. Integration and System Testing Phase
- xxxvi. Business Cycle Testing Phase
- xxxvii. Installation Testing Phase
- xxxviii. Ethical Hacker” Testing Phase
- xxxix. Testing for Malicious Code Phase
  - xl. Load, Stress, Volume & Configuration Testing Phase
  - xli. Fail over & Recovery Testing Phase
  - xlii. SABS Certification Sub-project
  - xliii. SABS Certification Phase
  - xliv. Signing of Contract between NCEMS-operator & GGS-SA
  - xlv. Control & Tracking
  - xlvi. SABS Phase I
  - xlvii. SABS Phase II – Communications, System & Integration
  - xlviii. Testing
  - xlix. SDL Hardware & Safety Testing
    - I. Phase III – Final Integration Testing

**The tasks referred to in the following plan are based on the assumption that this Contract is effective on 20 June 2015.**

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### 48 Business Implementation

The NCEMS-operator must develop a business implementation plan as



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articulated in Clause 38.3. This business implementation plan shall be based on the assumption that this contract is effective on 20 June 2015.

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**49 Inventory and Asset Register**

The applicant must develop an inventory and asset register and indicate such in an architectural topology.

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**50 SCHEDULE OF GOVERNANCE AND MANAGEMENT REPRESENTATION OF THE NCEMS**

50.1 NNCPTT Members

Position	Party	Contact details
Chairperson NGB	Board	
Representatives Board members	Board	

50.2 NNCPTT Meeting Schedule

Location	Frequency	Time	Chairperson
Board / NNCPTT	Monthly	TBA	Board

50.3 NNCPTT Report to Minister

Chairperson	Frequency
Board	Quarterly and/or as required in terms of the Shareholder Compact

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**51 Operations and Change Management Control (COCMC) Committee**

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51.1 Operation And Change Management Control Committee (COCMC) Members

Role	Party	Contact details
Representatives	Board	
Representatives	NCEMS-operator	

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Representatives	PLAs (when required per invitation )	
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51.2 COCMC Meeting Schedule

Location	Frequency	Time	Chairperson
Board / NCEMS Operator	Monthly & as required	Monthly	NCEMS Operator

51.3 COCMC Report Back to NNCPTT and the Board

Chairperson	Frequency
Representative of the Board and NCEMS Operator	Monthly & as required

**52 NCEMS -Operator**

52.1 Responsible for Reporting

Role	Party	Contact details
Director	NCEMS Operator	
Operations Manager	NCEMS Operator	
Technical Manager	NCEMS Operator	

52.2 PC Meeting Schedule

Location	Frequency	Time	Chairperson
NGB COCMC representatives / NCEMS OPERATOR	Weekly	TBA	NCEMS Operator

52.3 PC Report Back to CEOs

Chairperson	Frequency
NCEMS Operator	Weekly

**53 COCMC Transitional Committee**

53.1 Establishment and dissolution of the TC

Milestone	Date	Chairperson
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Establishment	Within 30 days after the contract is awarded to the new Board designee (New NCEMS Operator)	Board
Dissolution	Upon successful handover to new Board designee (New NCEMS Operator)	Board

**53.2 COCMC TC Members**

Name	Role	Party	Contact details
TBA		Board	
TBA		Board	
TBA		NCEMS OPERATOR	
TBA		NCEMS OPERATOR	

**53.3 COCMC -TC Meeting Schedule**

Location	Frequency	Time	Chairperson
TBA			
TBA			

**53.4 TC Report Back to COCMC**

Chairperson	Frequency
TBA	TBA
TBA	TBA

**54 Transitional Plan**

**Transition Plan (This plan is tentative, to be used in case of transition of the NCEMS) To be submitted within 30 days after the establishment of the Transitional Committee .**

**55 Training, Skills development and skills transfer**

55.1 List of courses offered ( This list is not conclusive and the complete list will be drawn in conjunction with the successful Bidder's training , skills development and skills transfer plan)

Item	Course Description
1	Central Electronic Monitoring System (NCEMS) Overview for the Board

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2	Central Electronic Monitoring System (NCEMS) Overview for the Provincial Licensing Authorities
3	Central Electronic Monitoring System (NCEMS) Overview for the Route Operators
4	Central Electronic Monitoring System (NCEMS) Overview for the ISO's
5	Central Electronic Monitoring System (NCEMS) Overview for the Bureau
6	Central Electronic Monitoring System (NCEMS) Overview for certification bodies, manufacturers and distributors
7	Training for Engineers and Technicians of the Route Operators, certification bodies, manufacturers and distributors
8	Training of Engineers and Technicians for the ISO's
9	Training of Engineers and Technicians for the Service Providers
10	Training for Account Managers of the Route Operators
11	Training for Financial Accountants of the Route Operators
12	Training for Service Managers and Service Secretaries of the Route Operators
13	Training for Provincial Managers of the Route Operators

55.2 Training Courses, Locations and Frequency

55.2.1 Objectives:

55.2.1.1 Primarily aimed at training the trainer.

55.2.1.2 To provide the stakeholders with the skills which are key to a successful and smooth operation of the industry. The training shall be provided on a train-the-trainer basis for the following stakeholders to minimise the training costs to the industry:

- i) Route Operators
- ii) Independent Site Operators
- iii) Service Providers
- iv) Manufacturers
- v) Testing Laboratories

55.3 The preferred location for training shall be the seat of NCEMS. offices. However, the NCEMS-operator may provide training at any other places. locations if prior arrangements are made and agreed to by both parties.

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Course	Target Persons	Location	Frequency
LPM Monitoring & Control System –NGB	NCPTT,COCMC NGB Personnel	NCEMS Operators ' offices	Every six (6) months
LPM Monitoring & Control System –PLA	NGB Monitors , inspectors, PLA Personnel	NCEMS Operators ' offices	Every six (6) months
LPM Monitoring & Control System –Ros	NGB Personnel ROs Training Personnel	NCEMS Operators ' offices	Quarterly/ As & when required
LPM Monitoring & Control System –ISOs	NGB Personnel ISOs Training Personnel	NCEMS Operators ' offices	Quarterly / As & when required
LPM Monitoring & Control System –Bureau	NGB Personnel Bureau Personnel *	NCEMS Operators ' offices	Quarterly / As & when required
LPM Monitoring & Control System –Manufacturers	NGB Personnel Manufacturer Training Personnel	NCEMS Operators ' offices	Quarterly / As & when required
LPM Monitoring & Control System – Testing Laboratories	NGB Personnel Test Lab Personnel	NCEMS Operators ' offices	Quarterly / As & when required
LPM Monitoring & Control System – Service Providers	NGB Personnel SP Training Personnel	NCEMS Operators ' offices	Quarterly / As & when required
NCEMS Controllers – ROs	NGB Personnel ROs Training Personnel	NCEMS Operators ' offices	Quarterly / As & when required
NCEMS Controllers – ISOs	NGB Personnel ISOs Training Personnel	NCEMS Operators ' offices	Quarterly / As & when required
NCEMS Controllers – Bureau	NGB Personnel Bureau Personnel*	NCEMS Operators ' offices	Quarterly / As & when required

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NCEMS Controllers – Manufacturers	NGB Personnel Manufacturer Training Personnel	NCEMS Operators ' offices	Quarterly / As & when required
NCEMS Controllers – Testing Laboratories	NGB Personnel Test Lab Personnel	NCEMS Operators ' offices	Quarterly / As & when required
Protocol Implementation – Manufacturers	NGB Personnel Manufacturers Training Personnel	NCEMS Operators ' offices	Quarterly / As & when required
Use of OLAP Tools	NGB personnel , PLA, RO & Bureau	NCEMS Operators ' offices	Quarterly / As & when required
Use of Reports	NGB, PLA, RO & Bureau	NCEMS Operators ' offices	Quarterly / As & when required
Exporting Information to Excel Sheets	NGB, PLA, RO & Bureau	NCEMS Operators ' offices	As & when required
Extract file for Import into the Accounting System	NGB, PLA, RO & Bureau	NCEMS Operators ' offices	As & when required

\* This is in-house training for NCEMS-operator and NGB staff.

55.3.1 In addition to these courses, NCEMS-operator shall train individual employees if so required. This training shall be for the following target roles:

- (i) Provincial Managers
- (ii) Financial Accountants
- (iii) Services Managers
- (iv) Machine Movement Managers
- (v) Service Secretaries
- (vi) Account Managers
- (vii) Systems Managers
- (viii) Engineers / Technicians

55.3.2 Each of the above-mentioned additional training courses has been specifically designed to be completed in 8 (eight) hours.

Certificates must be awarded and must be approved by SETA or any other recognised institution, within a reasonable period after the commencement of the training by the NCEMS Operator.

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**56 Reporting**

56.1 Amongst the reports that are to provided are: -

56.1.1 MMS Reports – Management Monitoring System

- (i) Total Revenue Generated by LPMS Reports
- (ii) Total Bets Placed Reports
- (iii) Industry Gross and Net Revenue Reports
- (iv) Return to Player Percentage by Route Operator Reports
- (v) Return to Player Percentage by Game Reports
- (vi) Calculation of Route Operator Deductions Reports
- (vii) Calculation of Site Deductions Reports
- (viii) Certified Models Reports

56.1.2 MIS Reports – Management Information System

56.1.2.1 NCEMS-operator Reports

- (i) Account Extracts Reports
- (ii) User Access Rights Reports

56.1.2.2 Stock Reports

- (i) Stock Machines Not Installed by Manager Reports
- (ii) Stock Machines Not Installed by Owner Reports

56.1.2.3 Site Reports

- (i) Site Machine Income Reports
- (ii) Site Machine VTP Reports
- (iii) Site Analysis Reports

56.1.2.4 Collections Reports

- (i) Significant Events Record Report
- (ii) Site Collection Record Report
- (iii) Machine Collection Record Report

56.1.2.5 National Reports

- (i) NGB Service Reports
- (ii) NGB Overview Reports

56.1.2.6 Licensing Authority Reports

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- (i) Account Extracts Reports
- (ii) Licensing Authority Deduction by Operator Reports
- (iii) Gaming Service Reports by Operator
- (iv) Machine Income by Model Reports
- (v) Licensing Authority Managers Reports
- (vi) Machine Gross Gaming Revenue by Operator and Site Reports
- (vii) Machine VTP by Operator and Site Reports

56.1.2.7 Route Operator Reports

- (i) Account Extracts Reports
- (ii) Machine Income by Model and Estate Reports
- (iii) Machine Downtime by Model and Estate Reports
- (iv) Machine Income by Model for Operator Reports
- (v) Estate Analysis VTP Reports
- (vi) Machine Income by Site and Estate Reports
- (vii) Service Calls by Estate
- (viii) Provincial Managers Reports

56.1.2.8 Bureau Reports

- (i) Machine Income by Site and Estate
- (ii) Service Calls by Estate Reports
- (iii) Net income by Site and Estate Reports
- (iv) Machine Downtime by Model and Estate Reports
- (v) Machine Income by Model for Operator Reports
- (vi) Estate Analysis VTP Reports
- (vii) Provincial Managers Reports

56.1.2.9 Other Reports

- (i) Site Inspection List
- (ii) User Access Rights

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**57 Tariffs and Fees Schedule**

57.1 The fees and tariffs to be charged by the NCEMS-operator shall be in accordance with those set out in the table below, exclusive of VAT.

The table below indicate the current tariffs and fees as approved by the Board.



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<b>Description</b>	<b>Fees and Tariffs</b>
<b>SDL</b>	
Selling Price	To be determined by NCEMS Operator
Increase per annum	To be determined by NCEMS-operator
<b>NCEMS Monitoring Fees (based on Gross Gaming Revenue (GGR))</b>	
Up to 15000 Installed LPM's	6%
Up to 20000 Installed LPM's	5.61%
Up to 25000 Installed LPM's	5.21%
Up to 35000 Installed LPM's	4.42%
Up to 42000 Installed LPM's	3.87%
More than 42000 Installed LPM's	3.24%
<b>Additional Cost (based on GGR)</b>	
Bureau fees	To be determined by NCEMS -operator
ISO (maximum of 5 LPM's per site)	2.46%
ISO (maximum of 40 LPM's per site)	2%
<b>Training</b>	
Training and instruction and testing	To be determined by NCEMS Operator
Testing Laboratory Annual fee	To be determined by NCEMS Operator
Testing tool I	To be determined by NCEMS Operator
Testing tool II	To be determined by NCEMS Operator
<b>NCEMS Licensing fees for Manufacturers and Service Providers</b>	
Registration	To be determined by NCEMS Operator
Monthly fee	To be determined by NCEMS Operator
<b>Other Costs</b>	To be determined by NCEMS Operator
Smart card fee	To be determined by NCEMS Operator
Additional optional communications cost (install, remove, collect outside normal daily collection)	To be determined by NCEMS Operator

Note: All prices to be determined by the NCEMS-operator shall be subject to approval by the Board.

57.2 The number of LPMs used in calculating the NCEMS Monitoring Fees described in clause 57.1 shall be determined at the end of each gambling tax collection period applicable in a province, and any change in NCEMS

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Monitoring Fees shall take effect in the subsequent gambling tax collection period for that province.

57.3 The NCEMS-operator shall prepare smart cards, which shall be used inter alia for identification purposes, and distribute them to the Board and PLAs from where the cards would be issued to the relevant stakeholders.

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**-End of Contract-**

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