

**SOFTWARE ACCESS AND SERVICE
AGREEMENT**

by and between

SBTech Malta Limited

and

The State of Oregon, acting by and through its

Oregon State Lottery Commission

SOFTWARE ACCESS AND SERVICE AGREEMENT

This Software Access and Service Agreement (hereinafter the “**Access and Service Agreement**”) is made and entered into as of May 22, 2019 (the “**Effective Date**”) by and between **SBTech Malta Limited** (including its affiliates, hereinafter “**SBTech**”) a company incorporated under the laws of Malta with its principal office at The Hub - Suite W301, Triq Snat'Andrija, San Gwann SGN 1612, Malta, and the State of Oregon, acting by and through its **Oregon State Lottery Commission**, an instrumentality of the State of Oregon existing pursuant to 2017 ORS 461.100, with its principal office at 500 Airport Road SE, Salem, OR 97301 (hereinafter “**Lottery**”). SBTech and Lottery shall be hereinafter collectively referred to as “**Parties**” and separately as “**Party**.”

RECITALS

- Whereas** SBTech is a leading provider of retail and omni-channel sports betting solutions in regulated markets globally, and is the owner of the rights in and to the Software (as defined hereunder); and
- Whereas** Lottery is an instrumentality of the State of Oregon existing pursuant to 2017 ORS 461.100; and
- Whereas** Lottery wishes to obtain SBTech’s Services (as defined hereunder) and the right to access SBTech’s sports betting Software (as defined hereunder) under Lottery’s own brand name(s) via a Customized Branded Interface (as defined hereunder) to be provided by SBTech; and
- Whereas** SBTech agrees to provide Lottery with the Services and the right to access the Software as a service, pursuant to the terms of the Agreement (as defined hereunder), which will enable Lottery to offer individuals the ability and opportunity to play certain Oregon Lottery Games.

NOW THEREFORE, in consideration of the mutual representations, warranties, promises and covenants contained herein, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, and pronouncing that the above preamble and recitals and the Schedules and Annexes attached hereto form an integral part of the Agreement, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS; AGREEMENT FRAMEWORK

- 1.1 Definitions.** Capitalized terms used in this the Agreement which are not otherwise defined elsewhere in the Agreement, shall have the respective meanings set forth in **Schedule 1**.
- 1.2 Interpretation.**
- (a) the words “including”, “include”, “for example”, “in particular” and words of similar effect shall not be construed to limit the general effect of the words which precede them and “including”, “include” and “for example” shall be

construed to have the words “but not limited to” or “without limitation” following them; and

- (b) the words “will” and “shall” shall be construed as actions that are expressions of obligation and command, not merely expressions of future intent or expectation.

1.3 Agreement Framework.

1.3.1 Access and Services Agreement. The Access and Services Agreement establishes a contractual framework for SBTech’s provision of Services to the Lottery.

1.3.2 Schedules. Within the body of the Access and Services Agreement, reference is made to various Schedules, which Schedules may include any Annexes, schedules, appendices, attachments or other documents referenced therein and all of which apply to and govern the entirety of the Services provided under the Agreement and hereby are incorporated into the Agreement by this reference. The Parties agree to comply with their respective duties and obligations under each such Schedule. The following Schedules are part of, and are hereby incorporated into, the Agreement:

Schedule 1 Definitions

Schedule 2 Scope of Software and Services

Schedule 3 Service Level Agreement

Schedule 4 Fees and Payments

1.3.3 Statements of Work. The Parties may enter into one or more statements of work that are separately executed by the Parties and that incorporate the terms of the Agreement therein for purposes of describing the Services and Third Party Products, where applicable, that SBTech will provide to Lottery (each, a “**Statement of Work**” or “**SOW**”). Statements of Work shall be identified by order of signature (*e.g.*, Statement of Work A, Statement of Work B, etc.). With respect to each such Statement of Work, (a) all terms of the Agreement shall apply with respect to such Statement of Work, except to the extent certain provisions are expressly excluded in such Statement of Work, and (b) the provisions of such Statement of Work shall only apply with respect to such Statement of Work, and shall not apply to other Statement of Works unless an applicable provision expressly states otherwise.

1.3.4 Order of Precedence. In the event of a conflict between the terms of this Access and Services Agreement (minus the Schedules and any SOWs), its Schedules, and any SOW, the order of precedence will be as follows (items with a lower number having priority over, and controlling in the event of a conflict with, items having a higher number): (1) the Access and Services Agreement, including Schedule 1; (2) the remaining Schedules to the Agreement; and (3) any SOWs entered into under the Agreement.

2. GRANT OF ACCESS, PROMOTION AND DISTRIBUTION LICENSE

- 2.1. Grant of Access.** During the Term and subject to Lottery's payment of the Fees, SBTech hereby grants Lottery a non-exclusive, non-transferable, non-sublicensable, right to access and use the Software in the Territory, for the purpose of: (a) enabling its End Users to access the Software via the Custom Branded Interface (or "CBI") in the Territory, and (b) advertising, marketing and promoting the Software by means of the CBI in the Territory in accordance with the terms and conditions hereof ((a) and (b), collectively, "Access").
- 2.2. SBTech Properties License Grant.** SBTech hereby grants to Lottery or shall secure on Lottery's behalf royalty-free, fully paid-up, non-exclusive, non-transferable, non-sublicensable, licenses to use, reproduce, distribute copies of, perform and display all names, images (including characters, fonts, and associated artwork) and sound effects associated with the Software and the Services (jointly, "SBTech Properties"), if any, solely for Lottery's marketing materials and activities, including advertising, design, development, production, promotion and advertisement of the offerings available through the Software and offered to End Users via the CBI (hereafter referred to as "Games"), for the duration of the Term; provided, however, Lottery shall first submit all proposed uses of SBTech Properties for the purposes described in this Section to SBTech for SBTech's approval prior to Lottery's use. SBTech shall either approve or reject Lottery's proposed uses in writing within fourteen (14) days following Lottery's submission of proposed uses to SBTech for approval; provided, that if SBTech does not either reject or approve the use during such fourteen (14) day period, Lottery's proposed use shall be deemed approved. SBTech reserves the right to reject any proposed use of SBTech Properties for any reason, which SBTech shall specify in the written notice of rejection to Lottery. If, upon review of any such submission by Lottery, SBTech determines that any third party consents are required for such use of the SBTech Properties by Lottery as set forth in this Section, SBTech will notify Lottery, and Lottery shall not use any SBTech Properties until such consents are obtained by SBTech in writing. SBTech shall use reasonable efforts to pursue and secure such consents. All use of SBTech Properties or derivatives thereof as described in this Section shall inure to the sole benefit of SBTech.
- 2.3. No SBTech Exclusivity.** Nothing in the Agreement prohibits SBTech from granting Access to the Software (including any component and/or element comprising thereof) to any other third parties.
- 2.4. Lottery Properties License Grant.** During the Term, Lottery hereby grants SBTech a royalty-free, fully-paid up and non-exclusive license to use, reproduce, distribute copies of, perform and display Lottery's name(s), images (including characters, fonts, and associated artwork) trademarks, including Lottery's logos and/or trade names (collectively, the "Lottery Properties") for the purposes of (a) creating and providing the CBI; and (b) marketing and promoting the Software, creating press releases or other types of public announcement related to the Agreement and/or the transactions contemplated

hereby, provided always that SBTech may only use such Lottery Properties in accordance with the Brand Book and only after receiving the prior written approval of Lottery, which approval Lottery may withhold for any reason. Lottery reserves all rights in all Lottery Properties it may have, whether common law, federal, or otherwise, and Lottery does not grant SBTech a license to use the same unless otherwise expressly provided in the Agreement. Notwithstanding anything to the contrary in this **Section 2.4 (Lottery Properties License Grant)**, Lottery has pre-approved SBTech's use of Lottery's name and logo in SBTech's lists and narratives indicating that Lottery is or has been SBTech's customer.

3. PROVISION OF SOFTWARE AND SERVICES

Subject to Lottery's compliance with the terms and conditions of the Agreement, SBTech shall provide the Access and Services to Lottery, as outlined below:

- 3.1. Access.** SBTech shall provide Lottery with Access to the Software, including the Back Office, with such functionality as detailed in **Schedule 2 (Scope of Software and Services)** and set forth in one or more SOWs. SBTech shall configure and implement Lottery's instance of the Software in accordance with the scope and timelines as mutually agreed upon by both Parties and set forth in an SOW.
- 3.2. Services.** SBTech shall provide Lottery with the Services described in **Schedule 2 (Scope of Software and Services)** as set forth in one or more SOWs. Such Services include Managed Services, as well as the maintenance and support services set forth in **Schedule 3 (Service Level Agreement)**, and those integration services set forth in one or more SOWs.
- 3.3. Customization.** SBTech shall provide Lottery with a CBI customized to have a "look and feel" according to Lottery's Brand Book (which Lottery will provide to SBTech, including any updates to same made during the Term) and within SBTech's guidelines, which is attached to **Schedule 2 (Scope of Software and Services)** as **Annex A**, and may be updated by SBTech from time to time.
- 3.4. Hosting Location.** The Software will reside, be managed and hosted on a server at a location facility in compliance with Applicable Law and as specified in an SOW.
- 3.5. Go-Live.** SBTech agrees to have the Software ready for a Commercial Launch Date ("Go-Live"), as specified in the applicable SOW, contingent upon Lottery, and any applicable Third Party Providers (but not SBTech Third Party Providers) and other Lottery subcontractors, providing full cooperation and commitment of resources to facilitate Go-Live and all necessary integrations, all as set forth in more detail in an SOW.
- 3.6. Delays.** SBTech shall not be liable for any failure to provide the Access or Services in accordance with the schedule set forth in an SOW to the extent that such failure is caused by: (a) a delay on the part of Lottery to perform its obligations pursuant to the Agreement; (b) a delay on the part of any applicable

Third Party Providers (but not SBTech Third Party Providers) or other Lottery subcontractors; or (c) an event of Force Majeure. In the event of a delay as described in subsections (a) through (c), the Parties shall, in accordance with the change control procedures set forth in **Section 9 (Amendments and Change Control)**, mutually agree to an adjustment in the applicable schedule, including any additional costs and expenses incurred by SBTech and payable by Lottery due to any such delay.

- 3.7. Events and Bets.** The Events and Bets available through the CBI, including any deduction, addition, or change (or any combination of the foregoing) of Events or Bets or Bets Rules, shall be determined by Lottery in compliance with Applicable Law, and in consultation with SBTech. For clarity, and notwithstanding anything else in the Agreement to the contrary, Lottery, and not SBTech, is solely responsible for ensuring that the Events, Bets, and Bets Rules are in compliance with Applicable Law. SBTech shall provide Lottery with a written list of available Events and Bets, then Lottery shall provide to SBTech a written list detailing the specific Events and Bets that Lottery wishes to make available through the CBI that are permitted under with Applicable Law. Lottery shall provide SBTech reasonable prior notice in writing of any known or anticipated changes in Applicable Law or otherwise that would require changes to the Events or Bets available through the CBI.

4. THIRD PARTY PROVIDERS

- 4.1. General.** SBTech may obtain certain elements to be integrated or used with the Software under license from third party providers (each, the “**Third Party Providers**”), including payment gateways, affiliate systems, data providers, scoreboards, visualization, statistics and any additional products (the “**Third Party Products**”). Access to such Third Party Products shall be provided to Lottery subject to and in accordance with the terms and conditions prescribed to SBTech by such Third Party Providers, as shall apply from time to time (the “**Third Party Products T&Cs**”). SBTech will disclose to Lottery such Third Party Products T&Cs, subject to any obligations of confidentiality or non-disclosure required by any such Third Party Provider.
- 4.2.** Lottery acknowledges that it may be required to go through a due diligence process with the Third Party Providers and provide needed corporate documentations to obtain these Third Party Products. The Third Party Providers may have the right, as part of their due diligence process, to not grant Lottery the right to use their Third Party Products. SBTech may at any time reduce, adjust or withdraw the offering of any Third Party Product, or upon the expiration or termination for any reason of SBTech’s rights in relation to any Third Party Product, cease providing such Third Party Product to Lottery upon at least seven (7) days’ prior written notice, unless a shorter notice period is required by Applicable Law. In the event SBTech ceases to provide a Third Party Product necessary for the operation of the Software in accordance with this Section, SBTech shall procure and obtain a substitute product of similar functionality from an alternate Third Party Provider.

- 4.3. SBTech shall not be responsible or liable for any acts and omissions of Third Party Providers unless such are designated as an SBTech Third Party Provider in an SOW. SBTech shall extend to Lottery the full extent of, and assist Lottery in the enforcement of, any warranties provided to SBTech under an agreement with a Third Party Provider; provided, however, Lottery acknowledges and agrees that SBTech shall have no liability, and Lottery shall have no recourse against SBTech, with respect to any claims or losses arising out of or related to any such acts or omissions of a Third Party Provider that is not also a SBTech Third Party Provider.
- 4.4. Unless otherwise expressly agreed, Lottery may in all respects contact SBTech regarding deliveries from Third Party Providers.
- 4.5. Lottery acknowledges that certain Third Party Products are subject to additional costs which are described in **Schedules 2 (Scope of Software and Services)** and **4 (Fees and Payments)**, or which may be later added by the Parties' mutual agreement.

5. **OBLIGATIONS OF LOTTERY**

- 5.1. Lottery shall Access and use the Software and Services in full compliance with Applicable Law, including all applicable federal laws. Such compliance shall be at Lottery's sole expense.
- 5.2. Lottery shall reflect the Parties' co-operation under the Agreement on the Website(s) and the CBI, as shall be mutually agreed upon by the Parties, in compliance with the Brand Book, and as permitted by Applicable Law.
- 5.3. Lottery shall be responsible for marketing and promoting the Software to potential End Users and its own customer database via such means as Lottery considers commercially desirable. Lottery shall ensure that all such marketing or promotions are in full compliance with Applicable Law, and do not violate the terms of any SBTech licenses of which SBTech makes Lottery aware.
- 5.4. Lottery shall comply at its own expense with all Applicable Laws in connection with the Lottery's offering of the Games and its performance under the Agreement. Lottery is solely responsible for ensuring that at all times during the Term it follows all Applicable Law in relation to its offerings in the Territory.
- 5.5. Except for those Services and activities to be provided and performed by SBTech as specifically set forth in Schedules, Annexes, and SOWs, Lottery is responsible for the day to day operational activities of the sports betting offering (e.g., the Games), including the full range of the relationship between Lottery and its End Users.
- 5.6. Lottery will make the Bets Rules configured within the Software by SBTech available to End Users including any change and update thereto, and shall clearly and visibly display the Bets Rules either by a hyperlink or by any other method as deemed appropriate by Lottery.
- 5.7. The process for the collection and return of funds from and to End Users, including Verified Bets, Winnings, Bonuses, and refunds due to End Users in

case of any Bet cancellations, shall be mutually agreed by the Parties and set forth in an SOW entered into under the Agreement.

- 5.8. Lottery shall comply with Applicable Law regarding money laundering, fraud and other similarly corrupt or collusive activities. Upon SBTech's reasonable suspicion of fraud, money laundering, or other corrupt or collusive activities, SBTech shall promptly notify Lottery and SBTech may, at its sole discretion and without limiting any of its other rights herein, suspend any End User from using the Software and cancel any Bets, provided that following Lottery's receipt of such written notice regarding said suspicion Lottery does not promptly take any reasonable steps to verify said suspicion upon receipt of notice. In addition, if agreed by the Parties in an SOW, SBTech shall provide certain anti-money laundering and fraud monitoring Management Services described in **Schedule 2 (Scope of Software and Services)**. Regardless of whether Lottery and SBTech agree in an SOW that SBTech shall provide certain anti-money laundering and fraud Managed Services, SBTech shall, at Lottery's sole expense, cooperate with Lottery in the investigation of such activity and any reporting of such activity required by Applicable Law.
- 5.9. Lottery shall provide SBTech and any applicable Third Party Providers with all information required to enable the Software or Third Party Product, as applicable, to prevent any access and use of the Software or Services by any third party, including End Users which are prohibited under Applicable Law from accessing the Games.
- 5.10. Lottery shall be responsible for and shall bear all costs and expenses with respect to obtaining and retaining for the duration of the Term, all necessary requisite permits, licenses, certifications, consents or other authorizations required under any Applicable Law for Lottery to perform its obligations under the Agreement, Access the Software, and receive the Services and provide the Games within the Territory. The Parties shall cooperate and provide assistance to each other to the extent reasonably required or necessary for either Party to obtain and retain any required permits, licenses, certifications, consents or other authorizations.
- 5.11. Lottery shall be responsible for procuring and servicing the hardware required for its retail sports book operations at its sole expense, in consultation with SBTech, unless otherwise specifically agreed to in writing by the Parties. SBTech shall consult with Lottery and provide recommendations for appropriate hardware to be used in the retailer sports book operations.
- 5.12. Lottery shall pay SBTech all Fees as stated in **Schedule 4 (Fees and Payments)**.

6. **OBLIGATIONS OF SBTECH**

- 6.1. SBTech shall provide Access to Software and Services for all agreed upon product verticals (as set forth in an SOW) and platform functionality that is similar to others in the market including content, payment methods, platform functionality, devices supported, and front end functionality.

- 6.2. SBTech shall comply with all Applicable Law relevant to it in the operation of its business as a provider of the Software and Services. Without limiting the generality of the foregoing, SBTech shall comply with (a) the Oregon Lottery Act (ORS chapter 461) and (b) Lottery's Administrative Rules (OAR chapter 177).
- 6.3. Subject to **Section 17.5 (Adverse Action)**, SBTech shall implement all necessary changes to the Software and Services required by Applicable Law. SBTech may submit a Change Order in accordance with the change control provisions of **Section 9 (Amendments and Change Control)** that documents any such necessary changes and the additional Fees and costs payable by Lottery related to such changes, if any. Such implementation shall be performed by SBTech within the timeframe specified in the applicable Change Order. Any changes to the scope of Software and Services may be subject to additional Fees and costs which shall be mutually agreed upon by both Parties in accordance with the change control provisions set forth in **Section 9 (Amendments and Change Control)**. For clarity, SBTech is not required to submit a Change Order where any such change: (a) is initiated by SBTech; (b) does not directly impact Lottery's or its End User's use of the Software or Services; and (c) does not require Lottery to pay additional Fees.
- 6.4. SBTech, shall upon reasonable written request by Lottery, provide Lottery with copies of applicable certifications of the Software and Services which SBTech is required to have under Applicable Law.
- 6.5. **Legal Holds**
- (a) Lottery will promptly inform SBTech in writing when an actual or potential legal action relating to Lottery occurs for which Lottery will require SBTech's assistance to comply with litigation holds or electronic discovery.
 - (b) Subject to Applicable Law, and as expressly and reasonably directed by Lottery in writing (which direction will include the furnishing of detailed instructions contained in any legal request), SBTech will exclude from deletion activity under its control the data described in Lottery's instructions that is subject to the litigation hold and will maintain and preserve such data until written authorization is received from Lottery releasing the data from the litigation hold. Upon receipt of written authorization releasing data under a litigation hold, SBTech will apply normal archiving and deletion activities to such data.
 - (c) SBTech will maintain and preserve the data placed under litigation hold in accordance with this **Section 6.5 (Legal Holds)** at no additional cost to Lottery only if such assistance can be provided by SBTech: (a) using its then-existing resources used to provide the Services without adversely affecting SBTech's ability to provide the Services in accordance with the Agreement and any applicable SOWs; and (b) at no additional cost or

expense to SBTech. But if such support requires additional resources beyond those used to provide the Services under the Agreement, or if using such existing resources would adversely affect SBTech's ability to provide the Services in accordance with the Agreement and such SOWs or require SBTech to incur any additional costs or expenses, SBTech may engage in the change control process set forth in **Section 9 (Amendments and Change Control)** to address the cost of such additional resources.

7. SBTECH PERSONNEL

7.1. Key Personnel. Within fifteen (15) days following the Effective Date, SBTech shall deliver to Lottery notice of all lead personnel responsible for providing the Software and Services to Lottery under the Agreement ("**Key Personnel**"). In addition, Lottery and SBTech may also agree to designate certain SBTech personnel as Key Personnel for purposes of a particular SOW, in which case SBTech's obligations and Lottery's rights with respect to such Key Personnel designated in an SOW shall be as set forth in this Section. SBTech, in the reasonable exercise of its sole discretion and upon notice to Lottery identifying the specific changes, may replace or supplement Key Personnel, subject to any background investigation requirements pursuant to **Section 7.2**. SBTech shall notify Lottery as soon as reasonably possible any time Key Personnel are removed, intended to be replaced or intended to be added, and anytime a designated contact person changes. If Lottery believes that any Key Personnel are not performing their duties and functions as necessary to provide the Services and Software hereunder, Lottery shall provide SBTech with written notice detailing Lottery's concerns with respect to any such Key Personnel. Following SBTech's receipt of such notice from Lottery, SBTech will, if appropriate, propose a remediation plan to address Lottery's reasonable concerns.

7.2. Background Investigations; Continuing Disclosure Obligations; Effect of Background Investigation Results.

(a) **Background Investigations.** SBTech, Key Personnel, any control person as defined in ORS 461.410(a)(i), or any employee or Subcontractor of SBTech that Lottery determines may have access to Lottery's Confidential Information (subject to **Section 7.4 (Subcontractors)** below), (each a "**Subject Person**"), are subject to a background investigation performed by Lottery's security section and may be subject to additional background investigations throughout the Term. SBTech has completed and returned a major procurement vendor disclosure form and shall require that each Subject Person identified by Lottery promptly completes and returns a personal disclosure form. Lottery will provide copies of these forms to SBTech as requested. To the extent permitted under Applicable Law, Lottery may at any time require a Subject Person to submit fingerprints for criminal background investigation. If any Subject Person is currently approved by Lottery as of the Effective Date because of a prior

background investigation performed by Lottery's security section, such Subject Person is not subject to an initial background investigation for purposes of the Agreement but may be subject to additional background investigations throughout the Term, as determined by Lottery.

(b) **Continuing Disclosure Obligations.** SBTech shall comply with the continuing disclosure requirement under OAR 177-037-0030(3). To the extent permitted by Applicable Law, SBTech shall report, and shall cause all Subject Persons to report, any change in, addition to, or deletion from, the information disclosed to Lottery for purposes of any background investigation conducted by Lottery's security section that directly relates to SBTech's, or the Subject Person's (as applicable) business qualifications, financial stability, and integrity as those terms are described in OAR 177-037-0070(2). SBTech shall deliver, and shall cause all Subject Persons to deliver, such report in the form of a letter addressed to Lottery and to the attention of Lottery's Assistant Director of Security within thirty (30) days following the effective date of the material change, addition, or deletion. In particular, SBTech shall report the involvement of any Subject Person or of SBTech's employees performing Services in connection with the Agreement in any known material criminal arrest (exclusive of minor violations such as traffic violations) or investigation. Lottery may provide, and SBTech and each Subject Person shall complete and return to Lottery, additional forms that Lottery, through its security section, may require for ongoing background investigations and information updates.

(c) **Effect of Background Investigation Results.**

- i. **SBTech's Background Investigation.** If at any time Lottery obtains information about SBTech that Lottery suspects may adversely affect Lottery's fairness, integrity, security or honesty, Lottery shall immediately notify SBTech in writing of Lottery's receipt of such information and intent to investigate same. If after thoroughly investigating and verifying the accuracy of such information, Lottery concludes that Lottery's fairness, integrity, security or honesty is adversely affected due to the substance of the information, Lottery shall then notify SBTech in writing of such conclusion (which notice shall include details of the related investigation and verification undertaken by Lottery). SBTech shall, within seventy-two (72) hours of receiving Lottery's written notice, deliver to Lottery in writing a proposed cure or remedy to cure the factual basis for Lottery's conclusion, including a timeline to implement such cure. Lottery may either (A) accept such cure and timeline, in which case SBTech shall proceed as described in its written cure proposal, or (B) immediately terminate the Agreement if Lottery still determines termination is necessary to protect its fairness, integrity, security or honesty. Lottery will notify SBTech whether it will accept the proposed cure or terminate the Agreement within seventy-two (72) hours of its receipt of

SBTech's proposed cure. If Lottery accepts the proposed cure, but SBTech fails to implement the cure within the timeline accepted by Lottery (which may be modified upon written agreement of the Parties), then Lottery may terminate the Agreement immediately by providing written notice to SBTech without obligation to pay the Termination Fee. Any other termination of the Agreement under this Section by Lottery is subject to the payment of the Termination Fee set forth in **Schedule 4 (Fees and Payments)**; provided, however, if Lottery's thorough and verified investigation establishes that the information about SBTech obtained by Lottery demonstrates that SBTech has engaged in any Prohibited Activity, Lottery shall not be required to pay the Termination Fee. In the event Lottery terminates the Agreement under this Section, SBTech shall not be required to perform the Continuation Services and Transition Services described in **Section 21 (Transition Services)** below.

- ii. **Subject Person Background Investigation.** If at any time Lottery obtains information about any Subject Person that Lottery suspects may adversely affect Lottery's fairness, integrity, security or honesty, Lottery shall immediately notify SBTech in writing of Lottery's receipt of such information and intent to investigate same. If after thoroughly investigating and verifying the accuracy of such information, concludes that Lottery's fairness, integrity, security or honesty is adversely affected due to the substance of the information, Lottery shall then notify SBTech in writing of such conclusion (which notice shall include details of the related investigation and verification undertaken by Lottery). SBTech shall, within seventy-two (72) hours of receiving Lottery's written notice, deliver to Lottery in writing a proposed cure or remedy to cure the factual basis for Lottery's conclusion, including a timeline to implement such cure. Lottery may either (A) accept such cure and timeline, in which case SBTech shall proceed as described in its written cure proposal, or (B) immediately terminate the Agreement if Lottery still determines termination is necessary to protect its fairness, integrity, security or honesty. Lottery will notify SBTech whether it will accept the proposed cure or terminate the Agreement within seventy-two (72) hours of its receipt of SBTech's proposed cure. If Lottery accepts the proposed cure, but SBTech fails to implement the cure within the timeline accepted by Lottery (which timeline may be adjusted upon the written agreement of the Parties), then Lottery may terminate the Agreement immediately by providing written notice to SBTech without obligation to pay the Termination Fee. Any other termination of the Agreement under this Section by Lottery is subject to the payment of the Termination Fee set forth in **Schedule 4 (Fees and Payments)**; provided, however, if Lottery's thorough and verified investigation establishes that the information about either a control person (as defined at ORS 461.410(a)(i)) or Key Personnel obtained by Lottery demonstrates that

the control person or Key Personnel has engaged in any Prohibited Activity, Lottery shall not be required to pay the Termination Fee. In such case, Lottery must notify SBTech in writing if Lottery's investigation established that a third party (e.g., a subcontractor as defined in ORS 461.410(i)(a)(H)) engaged in any Prohibited Activity. SBTech or Lottery may propose that SBTech terminate its contractual agreement with such third party, and provide a substitute third party to provide similar services. Such termination of the third party agreement and provision of a substitute third party shall be deemed a cure acceptable to Lottery, and Lottery will not proceed to terminate the Agreement. In the event Lottery terminates the Agreement under this Section, SBTech shall not be required to perform the Continuation Services and Transition Services described in **Section 21 (Transition Services)** below.

7.3. Gaming Prohibition at Retail Locations.

- (a) **Gaming Prohibition.** SBTech shall require that SBTech's employees, whether permanent or temporary, and SBTech's Subcontractors (altogether, "**SBTech Personnel**"), who are providing Services to Lottery in the State of Oregon, do not purchase or play Lottery Games from any Retail Location at which SBTech Personnel are physically performing Services for Lottery. This subsection (i) does not apply to SBTech Personnel who do not perform Services at Retail Locations, and (ii) does not prohibit SBTech Personnel from purchasing or playing Lottery Games from any Retail Location at which such SBTech Personnel are not performing Services. "**Retail Location**" means any business or other establishment or location that makes Lottery Games available for purchase or play. SBTech shall periodically notify all SBTech personnel of this prohibition. For clarity, notwithstanding the foregoing, SBTech personnel are not restricted in any way from purchasing other Lottery offerings at any Retail Location.
- (b) **Annual Certification.** No later than January 31 of each year of the Term, SBTech shall certify in writing to Lottery that SBTech continues to satisfy the requirements of **Section 7.3(a) (Gaming Prohibition)**. SBTech shall include in each written certification a description of SBTech's actions to monitor and enforce this prohibition. If SBTech cannot provide the required certification, SBTech shall instead provide a detailed written explanation of the circumstances causing SBTech's inability to certify as required.
- (c) **Amicable Resolution.** The Parties shall work together in good faith to resolve any issues arising under this **Section 7.3 (Gaming Prohibition at Service Locations)**. If the Parties are unable to resolve the issue within a reasonable period of time, the aggrieved Party shall may initiate informal dispute procedures as described in **Section 23.2.1 (Informal Dispute**

Resolution) below.

- (d) **Agreement Termination.** If at any time Lottery obtains information that SBTech or its personnel have failed to comply with this **Section 7.3 (Gaming Prohibition at Service Locations)**, Lottery shall immediately notify SBTech in writing of Lottery's receipt of such information and intent to investigate same. If Lottery determines after conducting a thorough investigation and verifying that SBTech's failure to comply, or the failure of any SBTech personnel to comply, with this **Section 7.3 (Gaming Prohibition at Service Locations)** is likely to materially impact the fairness, integrity, security or honesty of Lottery, then Lottery shall notify SBTech in writing of such conclusion (which notice shall include details of the related investigation and verification undertaken by Lottery). SBTech shall, within seventy-two (72) hours of receiving Lottery's written notice, deliver to Lottery in writing a proposed cure or remedy to cure the factual basis for Lottery's conclusion, including a timeline to implement such cure. Lottery may either (A) accept such cure and timeline, in which case SBTech shall proceed as described in its written cure proposal, or (B) immediately terminate the Agreement if Lottery still determines termination is still necessary to protect its fairness, integrity, security or honesty. Lottery will notify SBTech whether it will accept the proposed cure or terminate the Agreement within seventy-two (72) hours of its receipt of SBTech's proposed cure. If Lottery accepts the proposed cure, but SBTech fails to implement the cure within the timeline accepted by Lottery (which may be modified by written agreement by the Parties), then Lottery may terminate the Agreement immediately by providing written notice to SBTech without obligation to pay the Termination Fee. Any other termination of the Agreement under this Section by Lottery is subject to the payment of the Termination Fee set forth in **Schedule 4 (Fees and Payments)**; provided, however, if Lottery's thorough and verified investigation establishes that SBTech, any control person (as defined at ORS 461.410(a)(i)) or Key Personnel have engaged in any Prohibited Activity in connection with SBTech's failure to comply with this **Section 7.3 (Gaming Prohibition at Service Locations)**, Lottery shall not be required to pay the Termination Fee. In such case, Lottery must notify SBTech in writing if Lottery's investigation established that a third party (e.g., a subcontractor as defined in ORS 461.410(i)(a)(H)) engaged in any Prohibited Activity. SBTech or Lottery may propose that SBTech terminate its contractual agreement with such third party, and provide a substitute third party to provide similar services. Such termination of the third party agreement and provision of a substitute third party shall be deemed a cure acceptable to Lottery, and Lottery will not proceed to terminate the Agreement. In the event Lottery terminates the Agreement under this Section, SBTech shall not be required to perform the Continuation Services and Transition Services described in **Section 21 (Transition Services)** below.

7.4. Subcontractors.

- 7.4.1. Prior to SBTech's use of any subcontractor to perform a substantial portion of the Services (a "**Subcontractor**"), SBTech shall provide notice to Lottery specifically identifying the Subcontractor or Subcontractors SBTech proposes to use in fulfilling a substantial portion of its obligations under the Agreement. Upon receipt of such notice from SBTech, and provided that SBTech provides notice before the execution of any SOW requiring the services of a Subcontractor, prior to the execution of any SOW requiring the services of a Subcontractor, Lottery shall promptly advise SBTech in writing whether such vendor shall be considered a Subcontractor as defined in this Section. All such Subcontractors shall be subject to the requirements of **Section 7.2 (Background Investigations; Continuing Disclosure Obligations)** in accordance with ORS 461.410(1)(a)(H). For clarity, "Subcontractor" shall not include Third Party Providers.
- 7.4.2. SBTech's use of any Subcontractor is subject to Lottery's prior consent, which will not be unreasonably withheld. Any Subcontractor identified in an SOW shall be deemed approved by Lottery unless the SOW explicitly makes such approval subject to Lottery completing a background investigation of the Subcontractor personnel in accordance with **Section 7.2 (Background Investigations; Continuing Disclosure Obligations)**.
- 7.4.3. In addition, where Lottery selects or otherwise proposes to SBTech a Subcontractor to perform services under the Agreement, Lottery shall be responsible for ensuring such Subcontractor complies with the obligations of this Section.
- 7.4.4. SBTech shall have the right to reject any Subcontractor proposed by Lottery if SBTech reasonably determines in its sole discretion that such Subcontractor may be unsuitable or otherwise may adversely impact SBTech's licensures, brand or commercial credibility and provides Lottery with a written explanation for such determination.

8. FEES AND REQUIRED PAYMENTS

- 8.1. In consideration for providing the Access and Services and performing its other obligations under the Agreement, Lottery shall pay to SBTech the Fees as detailed in **Schedule 4 (Fees and Payments)** and the applicable SOW.
- 8.2. **Taxes.** Each Party shall be responsible for the payment of taxes that are applicable to it under Applicable Law. All Fees in the Agreement exclude any taxes, duties, fees, excises or tariffs imposed on any of Lottery's activities in connection with the Agreement. Neither Party is responsible for payment of any federal, state, or local taxes that become payable by the other Party, its subcontractors, or its agents, officers, or employees by reason of the Agreement. In addition to the foregoing, SBTech is not responsible for any tax imposed upon Lottery by the federal government or the State of Oregon. SBTech is also

not responsible for the payment of the amusement device tax imposed under ORS chapter 320 or any other tax that may be imposed on Lottery retailers pursuant to ORS 461.560(2). Unless required by an order or decree of a Regulator or a final judgment of a court of competent jurisdiction (which is not appealable or with respect to which the time for appeal therefrom has expired and no appeal has been perfected), or lien, all payments to be made by Lottery to SBTech hereunder shall be made free and clear of and without deduction for or on account of any present or future taxes (including withholding and value added taxes) imposed or levied by any jurisdiction from or through which such payment is made by Lottery or any authority therein or thereof having power to tax in connection with the performance by Lottery of its obligations under the Agreement.

- 8.3. Federal tax identification number.** SBTech's United States federal tax identification number is 997683902.
- 8.4. Invoices; Disputed Amounts.** After the end of each calendar month, SBTech shall issue to Lottery an invoice setting out the Fees and any other amounts due pursuant to the terms of the Agreement and all amounts set forth in such invoice shall be paid by Lottery to SBTech within thirty (30) days from the date of the invoice by a bank transfer to a bank account appointed by SBTech. If such payment is not made within (30) days, the outstanding amounts due shall collect interest for delinquent payments in accordance with ORS 293.462, and SBTech may invoke the informal dispute resolution process set forth in **Section 23.2.1 (Informal Dispute Resolution)**. In the event Lottery fails to pay SBTech any and all outstanding amounts due by the conclusion of the informal dispute resolution process, SBT has the right to suspend the provision of the Software and the Services or terminate the Agreement, subject to the payment of the Termination Fee set forth in **Schedule 4 (Fees and Payments)**.
- 8.5. Access to Records.** Each Party shall maintain its fiscal records relating to the subject matter of the Agreement and its performance hereunder according to applicable accounting standards in governance at the time of record creation and maintenance. In addition, each Party shall maintain all other records pertinent to the Agreement in such a manner as to clearly document each Party's performance of its obligations under the Agreement. All such records shall be maintained by the respective Party for a period of six (6) years following the expiration and non-renewal or termination for the Agreement, or such longer period as may be required by Applicable Law (the "**Retention Period**"). SBTech shall make these records available to Lottery, the Oregon Secretary of State's Office, the Oregon Department of Revenue, the Oregon Department of Justice, and their duly authorized representatives (excluding any competitor of SBTech) upon thirty (30) days' written notice to SBTech as follows: (a) during SBTech's regular business hours upon thirty (30) days' written notice to SBTech during the first calendar year following the termination or non-renewal of the Agreement; and (b) by providing Lottery an electronic copy of such records during the remainder for the Retention Period. Lottery shall make these

records available to SBTech and its duly authorized representatives upon thirty days' written notice to Lottery as follows: (y) during Lottery's regular business hours during the first calendar year following the termination or non-renewal of the Agreement, and (z) by providing SBTech an electronic copy of such records during the remainder of the Retention Period.

9. AMENDMENTS AND CHANGE CONTROL

9.1. Change Control. Amendments to the Agreement, including to a Statement of Work or any Schedule or Annex, and related charges may be managed through SBTech's change control process set forth in **Annex A to Schedule 2 (Scope of Software and Services)** that reflects at least the processes described in this Section. Notwithstanding the foregoing, any other amendment to the Agreement, including the Schedules and any SOW that does not utilize the change control process, shall be in writing and mutually agreed by the Parties. Either Lottery or SBTech may request a change by submitting a written proposal describing the requested change to the other Party. Lottery and SBTech will review the written change request and either mutually approve it for further analysis or reject it.

9.2. Analysis of Change Requests; Change Orders. The Parties will analyze each change request (that has not been rejected) to determine the effect that the implementation of the change will have on the terms of the Agreement, any Statement of Work or schedule, and related charges. If SBTech requests to make changes in its design or implementation of the Software to enable the System to meet the specifications set forth in the Agreement, including any SOW, and subject to **Section 17.5 (Adverse Action)**, SBTech shall make such changes at no cost to Lottery, unless the changes are required because: (a) Lottery or its agents fail to perform their responsibilities in a timely manner, (b) Lottery requests such change, or (c) the Parties otherwise agree in writing. If the change request is mutually approved, the requesting Party will prepare a written change order, detailing all modifications to the Agreement, a Statement of Work or any Schedule, and related costs (the "**Change Order**"). A Change Order at a minimum must contain:

- (a) The effective date of the Change Order;
- (b) A detailed description of the Services to be performed under the Change Order;
- (c) The particular specification or matter in the Agreement which will be altered, and the precise scope of that alteration; and
- (d) Any change in the Fees for the Services to be performed pursuant to the Change Order, including reasonable documentation to demonstrate the additional charges.

9.3. Scope and Effective Date of Change Order. A Change Order will alter only that portion of the Agreement, Statement of Work or Schedule, and related

charges to which it expressly relates and will not otherwise affect the terms and conditions of the Agreement, unless otherwise expressly stated in the Change Order. Services described in the Change Order shall be incorporated into the Agreement by execution of such Change Order. No Services may be performed pursuant to the Change Order and no payment will be made on account of the Change Order until the amendment related to the Change Order is fully executed and all required State of Oregon approvals are received.

9.4. Payments. Subject to the foregoing provisions of this Section, Lottery will pay for Services performed pursuant to a Change Order according to the payment procedures set forth in the Agreement, including in any SOW.

10. THE PARTIES' REPRESENTATIONS AND WARRANTIES

10.1. General. Each Party makes the following representations and warranties, as applicable, each of which shall be true and correct on the Effective Date and at all relevant times thereafter during the Term:

10.1.1. Authority; Binding Agreement. (a) The signatory for each Party has requisite power and authority to sign this Access and Services Agreement (and any SOWs executed hereunder) and bind its respective organization hereto; (b) the Agreement constitutes the valid, legal and binding agreement of the Party, enforceable against the Party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency and other laws affecting creditors' rights generally; (c) the execution, delivery, and performance of the Agreement does not and will not conflict with or violate any agreements between the Party and any other party.

10.1.2. Licenses and Permits. Each Party shall, at its sole cost and expense, obtain and maintain in good standing at all times during the Term, and upon the other Party's written request submit to the other Party copies of, all applicable licenses and permits required by Applicable Law to perform its obligations under the terms and conditions of the Agreement.

10.1.3. Taxes. Each Party shall be solely responsible for the collection and/or remission to the appropriate governmental entities of all taxes and assessments applicable to such Party under the Agreement.

10.1.4. Data Protection. The Parties warrant that they will abide by the terms and conditions related to privacy and information security set forth in **Section 13 (Data; Information Security)**.

10.2. SBTech's Additional Warranties. SBTech warrants to Lottery that:

- (a) SBTech is not knowingly in arrears in payment of any monies due and owing Oregon, or any department or agency of Oregon, including payment of taxes and employee benefits;
- (b) As of the Effective Date, neither SBTech, nor any officer or director of SBTech, nor any owner of 15% or more of the equity ownership in SBTech, has been convicted of

- i. any gambling-related offense; or
 - ii. any other crime, in any jurisdiction that materially and adversely affects SBTech's ability to perform its obligations under the Agreement;
- (c) Upon delivery, the Services, Software and deliverables substantially conform to the Documentation and other specifications set forth in the applicable SOW, where applicable;
- (d) With respect to the Services, SBTech has the skill and knowledge possessed by well-informed members of SBTech's industry and SBTech will apply that skill and knowledge with care and diligence so SBTech and its employees and any authorized subcontractors perform under the Agreement according to the standards prevalent in SBTech's industry;
- (e) SBTech is qualified to do business in Oregon; and
- (f) As of the Effective Date, to the best of SBTech's knowledge the Software does not contain any Trojan horses, viruses, worms, back doors, or other any programming of any kind whose knowing or intended purpose is to damage or interfere with the operation of the Software or allow unauthorized access to the Software ("**Malicious Code**"). During the Term SBTech shall take commercially reasonable actions to prevent the introduction of any Malicious Code into the Software.

10.3. Lottery's Additional Representations and Warranties. As of the Effective Date, Lottery represents that:

- (a) The Software, all deliverables, and Services are allowable and appropriate for purchase by Lottery and are eligible for the funding proposed for payment authorized by the Agreement;
- (b) Lottery's use of the Software and Services under the Agreement is lawful under all Applicable Laws; and
- (c) There are no claims, actions or other proceedings challenging Lottery's authority or ability to conduct the activities described in the Agreement or the validity of the Agreement.
- (d) Lottery represents and warrants that during the Term Lottery shall ensure that (i) End Users affirmatively agree to an end user license agreement that complies with Applicable Law as part of the End User's registration process that includes clear and unambiguous consent from all End Users allowing such End User's personal data to be processed, transferred, used and stored in the manner and at the locations agreed upon by the Parties; (ii) End Users affirmatively accept Lottery's privacy policy that complies with Applicable Law and permits the disclosure by Lottery to SBTech of all End User data and information (including such End User's personal data) necessary

for SBTech to provide the Services and perform its obligations under the Agreement; (iii) personal data has been and will continue to be collected, processed and transferred by Lottery in accordance with Applicable Law (including all relevant data protection laws and regulations); and (iv) processing instructions given by Lottery to SBTech have been and will be in accordance with Applicable Law.

10.4. Disclaimer of Warranties. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH HEREIN, SBTECH PROVIDES THE SOFTWARE AND SERVICES "AS IS" AND DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY AND ALL OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, DATA ACCURACY, INTEROPERABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

11. SUITABILITY AND REGULATORY COMPLIANCE

11.1. SBTech agrees to cooperate with Lottery with respect to any due diligence reasonably necessary for Lottery to comply with Applicable Laws.

11.2. Lottery agrees to fully comply with all existing and future Applicable Law, including all state and federal laws governing its operations. SBTech shall have the right to refuse to provide, or immediately cease providing, access to the Software and Services in the event a judicial, governmental or regulatory body indicates that such operations may be in violation of Applicable Law, or if SBTech determines that its provision of the Software and Services may be in violation of Applicable Law.

12. AUDITS

12.1. Upon Lottery's written request, SBTech will provide company audited financial statements to Lottery annually during the Term, as they are available.

12.2. Lottery may, at its own cost and subject to the terms contained herein, and no more frequently than once annually during the Term, conduct a financial audit to confirm SBTech's fulfilment of obligations under the Agreement. SBTech shall cooperate in good faith with audit requests by providing access to relevant knowledgeable personnel and documentation.

12.3. Audits must be made following ten (10) Business Days' written notice and shall take place in such manner and form which minimize any interruption to SBTech's business operation.

12.4. Any auditor performing such audit shall not be affiliated with any competitor of SBTech and shall be required to execute a confidentiality undertaking towards SBTech which shall be at least as protective as the confidentiality obligations contained herein. Notwithstanding the foregoing, Lottery shall be liable for any act or omission of any such auditor.

12.5. During the Term and for a period of eighteen (18) months thereafter, SBTech shall be entitled to appoint at its own cost an independent external auditor no

more than once per annum (unless SBTech reasonably believes that Lottery is not in compliance with its obligations under the Agreement) to examine the accounting records of Lottery in order to confirm the calculation and payment of the Fees and any other fees payable to SBTech hereunder. Lottery shall fully cooperate with the auditor and the audit shall take place at Lottery's principal place of business. SBTech shall conduct any audits under this Section subject to Lottery's reasonable policies and procedures governing the security of its physical premises and information systems, which shall be communicated to SBTech in writing, and without material interruption of Lottery's operations. The results of the audit shall be binding on the Parties provided that SBTech provides to Lottery a copy of the audit, and Lottery does not dispute the results within a reasonable time following receipt of a copy of the audit. Any such dispute shall be subject to the dispute resolution procedures set forth in the Agreement. Lottery shall promptly pay SBTech any underpayment amount revealed by the audit, and, if applicable, SBTech shall promptly refund any amount revealed by the audit to have been overpaid to SBTech, as well as any interest due to SBTech as calculated in accordance with ORS 293.462.

13. DATA; INFORMATION SECURITY

- 13.1.** Lottery shall be the owner of the Lottery Data (which includes the database of names and contact information of its End Users). Lottery hereby grants SBTech a non-exclusive, fully paid-up, royalty-free and world-wide license to access, use, copy, maintain, perform, display, distribute, transmit, prepare derivative works of Lottery Data (with the right to grant sublicenses) in order to perform the Services and provide Access under the Agreement during the Term, subject to SBTech's confidentiality obligations under the Agreement.
- 13.2.** In addition, Lottery hereby grants to SBTech a non-exclusive, fully paid-up, royalty-free, assignable, perpetual and world-wide license to access, use, copy, maintain, perform, display, distribute, transmit, and prepare derivative works of Lottery Data (with the right to grant sublicenses) to improve the performance of the Software and the Services and for SBT's internal statistical and business analysis purposes, subject to SBTech's confidentiality obligations under the Agreement. SBTech shall de-identify and anonymize any Lottery Data used by SBTech in accordance with this Section and as required by Applicable Law. SBTech may not use non-anonymized or identifiable Lottery Data to directly market the Software or its Services, other than as set forth in an SOW entered into under the Agreement. In addition, SBTech shall not sell or license Lottery Data to any third party without Lottery's prior written consent.
- 13.3.** Lottery shall be fully responsible for obtaining any and all required consents from End Users by requiring End Users to agree to terms of use to use the CBI that include such required consents and, if required, from the applicable governmental authorities. Lottery shall provide SBTech with Lottery's privacy policy and data retention policy, no later than fourteen (14) days following the Effective Date.

- 13.4.** SBTech shall process End User personal data in accordance with written instructions given by Lottery. SBTech shall provide Lottery access to all Lottery Data stored, processed or used by the Software during the Term.
- 13.5.** In the event that the relevant governmental authorities request information from SBTech concerning the processing of End User personal data on behalf of Lottery, SBTech shall refer such request to Lottery first. If no response is received from Lottery within five (5) days (or otherwise any shorter period as dictated by Applicable Law) SBTech shall be entitled to provide such information to the relevant governmental authorities.
- 13.6.** Subject to **Section 15.3 (Return of Confidential Information)**, upon the termination of the Agreement, SBTech shall return Lottery Data to Lottery in accordance with **Section 17.10(e)**, and shall provide Lottery with access to Lottery Data as agreed by the Parties in accordance with the Transition Plan (as defined hereunder).

13.7. Information Security.

13.7.1. Information Security Standards. At locations where SBTech provides Services, SBTech shall implement administrative, physical, environmental and technical safeguards designed to protect Lottery Data that are no less rigorous than the International Organization for Standardization's standards: ISO/IEC 27001:2005 – Information Security Management Systems – Requirements, and ISO-IEC 27002:2005 – Code of Practice for International Security Management, and shall require that all such safeguards, including the manner in which Lottery Data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with Lottery's directions, which shall be in accordance with Applicable Law. SBTech shall notify Lottery of any material change in its procedures related to information security. If and to the extent applicable, SBTech will comply with all the rules and regulations established by Lottery and provided to SBTech in writing for access to and activities in and around premises controlled by Lottery.

13.7.2. Compliance; Gap Analysis. No less than annually, SBTech shall deliver to Lottery either (a) a third party attestation of SBTech's compliance with the security standards set forth in **Section 13.7.1**, or (b) a gap analysis that describes any deviation of SBTech's information security practices from the standards set forth in **Section 13.7.1**, and the schedule for addressing any such deviations.

13.8. If and to the extent applicable, SBTech will, and will require each member of the SBTech staff to, comply with the information security standards set forth in **Section 13.7.1**.

13.9. Hosting Standards. Unless otherwise mutually agreed by the Parties, SBTech may only use third party hosting services in its provision of the Software and Services that have been authorized for use by agencies of the United States by the Federal Risk and Authorization Management Program (i.e., that are

“**FEDRAMP Authorized**”). SBTech shall provide to Lottery documentation demonstrating such authorization upon request.

13.10. Data Security Practices.

13.10.1. Lottery may, through an industry-recognized and reputable third party, conduct penetration testing and vulnerability scanning and testing of the Software at Lottery’s sole expense; however, SBTech reserves the right to reject such third party in its reasonable discretion (e.g., in the event such third party is a competitor of SBTech), and require Lottery to select an alternate third party provider. Lottery will conduct such testing only after giving SBTech no less than thirty (30) days prior written notice (which notice shall provide the name of the third party selected by Lottery to perform the testing described in this Section), and will conduct such testing in accordance with reasonable instructions provided by SBTech for purposes of minimizing the disruption to the Services and SBTech’s operations. Lottery may conduct the testing and scanning as described in this Section no more frequently than once in any twelve (12) month period; provided that Lottery may conduct such scanning or testing as described in this Section following the unauthorized access to or disclosure of Lottery Data through the Software regardless of the date of the most recent scanning and testing conducted under this Section.

13.10.2. SBTech shall maintain throughout the term and provide to Lottery upon Lottery’s request security logs with respect to the Services and Software. SBTech shall maintain such logs for the duration of the Term plus one (1) year following the termination of the Agreement.

13.11. SSAE 18 SOC 1 Type Reports. SBTech, at its own expense, shall contract with an independent certified accounting firm approved by Lottery (which approval shall not be unreasonably withheld) to conduct an annual SSAE 18 SOC 1 Type audit of SBTech’s internal controls related to the Services. Starting with the period ending June 30, 2020, the audit shall cover the period beginning July 1 and ending June 30 each year and SBTech shall deliver a copy of the annual audit to Lottery no later than August 1 following the period covered by the audit or by any other later date required by Lottery’s external auditors, provided Lottery notifies SBTech of that date in writing. SBTech shall provide to Lottery the audit objectives that the independent certified accounting firm shall examine and the time frames for the independent certified accounting firm’s performance of this audit work for review. Such audit objectives shall meet the requirements of Lottery’s financial auditors that are utilized during the annual financial audit conducted by Oregon’s Secretary of State; provided that Lottery provides SBTech with written notice of such requirements as soon as they become available so that SBTech has sufficient time to prepare such audit objectives. SBTech shall use reasonable efforts to ensure Lottery’s ability to attend entrance and exit conferences with the independent certified accounting firm and shall forward a copy of the final report promptly following SBTech’s receipt of same. For

clarity, any reports generated by any such audit is SBTech's Confidential Information.

13.12. Notification of Breach. SBTech must promptly disclose to Lottery logical or physical security breaches (e.g., data breach, ransomware, business email compromise, intellectual property theft, credential theft, burglary, etc.) that actually result in, or SBTech has knowledge of, and reasonably believes will likely result in, any unauthorized disclosure of any Lottery Confidential Information, whether criminal or accidental in nature. For clarity, such disclosure does not constitute a breach of SBTech's obligations under the Agreement. SBTech will provide, and will use commercially reasonable efforts to have its Subcontractors provide, detailed information as to the nature and extent of the event, including mitigation and remediation efforts, and allow Lottery access to any/all mitigation/remediation reports associated with the incident. If Lottery determines that the breach requires notification of Lottery End Users or employees, or other notification required by Applicable Law, Lottery will have sole control over the notification content, timing, and method, subject to SBTech's obligations under Applicable Law.

14. INTELLECTUAL PROPERTY RIGHTS

14.1. Existing Intellectual Property. The Parties remain the sole and exclusive owners and rights holders of all intellectual property rights, including copyright (including source code and design materials and database rights), trademarks, design rights, patents and patentable inventions and all other rights in and to all materials held by the Parties at the date hereof and thereafter developed by each Party during the Term. Nothing in the Agreement shall constitute or be deemed to constitute an assignment or transfer of such rights unless herein expressly stated.

14.2. SBTech's Intellectual Property. The Software, Services, CBI and Documentation, SBTech's intellectual property rights comprised therein and all proprietary information, techniques, algorithms, methods and processes contained in such intellectual property, in whole or in part, in any form, including any component, modification, extraction and development thereof made by SBTech or any third party (excluding those made by Lottery) are and shall remain at all times under the exclusive ownership of SBTech. As set forth in **Section 2.4**, Lottery has limited, non-exclusive access with respect to SBTech's intellectual property rights as used in the Software, CBI and Documentation delivered for the duration of the Agreement.

14.3. Lottery Owned Work Product. Upon mutual agreement, Lottery and SBTech may specify certain deliverables (e.g., marketing collateral) described in an SOW and created by SBTech as "Lottery Owned Work Product." Deliverables that are to be Lottery Owned Work Product shall be expressly designated and identified as "Lottery Owned Work Product" in the applicable SOW. With respect to any such Lottery Owned Work Product, SBTech and Lottery agree that Lottery shall be the owner of all right, title and interest, including in intellectual property rights, of any Lottery Owned Work Product, as a "work

made for hire,” as that term is used in the United States Copyright Act. If any Lottery Owned Work Product is not “work made for hire” within the meaning of that term as defined in the United States Copyright Act, then SBTech hereby assigns to Lottery all right, title and interest, including in intellectual property rights, in such Lottery Owned Work Product. For clarity, all worldwide right, title and interest in and to all deliverables provided by SBTech that are not explicitly identified as “Lottery Owned Work Product” in an SOW are owned exclusively by SBTech, and “Lottery Owned Work Product” shall not include any SBTech intellectual property (including the Software or any portion thereof), including any processes, methodologies, techniques used by SBTech to create such Lottery Owned Work Product. Further, Lottery hereby grants to SBTech a worldwide, non-exclusive, fully paid-up license to access, use, copy, maintain, perform and display, with the right to grant sublicenses (including to third parties), any such Lottery Owned Work Product required for SBTech to provide the Software or perform the Services under the Agreement during the Term.

- 14.4. Rights to Software.** Following agreement between the Parties on prominence and location, Lottery may not remove or change in any way any SBTech or other Third Party Product copyright or trademark notices that appear on the Software and Services.

Except as expressly permitted by the Agreement, or specifically authorized in writing and in advance by SBTech, Lottery shall not, nor permit others to use, copy, modify, create derivative works from or distribute the Software, Services, CBI and Documentation, or any part thereof, or any copy, adaptation, transcription, or merged portion of it, decode, reverse engineer, disassemble, decompile or otherwise translate or convert the Software, Services, CBI and Documentation or any part thereof or remove any copyright, proprietary or similar notices from the Software (or any copies of it), Services, CBI and Documentation or combine the Software, Services, CBI and Documentation with any unauthorized third party software (except for the translation thereof into different languages). Notwithstanding the foregoing, this **Section 14.4** shall not limit Lottery’s right to distribute the CBI to End Users through online application stores (e.g., the Google Play Store or Apple App Store).

- 14.5. Copyright and Ownership Regarding Visual Representation of CBI.** Lottery maintains and acquires all ownership rights to the visual representation of the CBI solely to the extent the visual representation of the CBI incorporates elements of Lottery’s brand as set forth in Lottery’s Brand Book. For clarity, Lottery shall not acquire any ownership rights in the Software, CBI, Documentation or any other intellectual property of SBTech, including any derivative works, improvements or modifications thereof.

- 14.6. General Know-How.** SBTech retains all rights, title and ownership of all methodologies, processes, techniques, ideas, trade secrets and the general know-how acquired in connection with the delivery of the Software and the

performance of the Services (including the creation of any deliverables or Lottery Owned Work Product) under the Agreement.

- 14.7. Additional Documents.** Upon a Party's reasonable request, the other Party shall execute, and cause its staff, contractors and agents, to execute such further documents and instruments required to transfer, convey and assign all rights, title and interest in and to any intellectual property rights of a Party pursuant to the Agreement.

15. CONFIDENTIALITY; PRESS RELEASES

- 15.1.** The Parties hereby acknowledge and agree that during the Term, each Party may have access to or become acquainted with various trade secrets and other confidential and proprietary information of the other Party, including any and all technical, non-technical and proprietary information such as: software programs, software source documents, products, billing information, affiliate information, personnel, business and contractual relationships, business plans and strategies and all reports and summaries which contain or otherwise reflect or are generated from any of the foregoing (all of the foregoing is hereinafter referred to as the "**Confidential Information**"). In addition, "Confidential Information" includes Lottery Data. Both Lottery and SBTech shall protect each other's Confidential Information from improper disclosure using at least the same degree of care to safeguard and to prevent disclosing to third parties the Confidential Information of the other Party as it employs to avoid unauthorized disclosure, publication, dissemination, destruction, loss or alteration of its own information (or information of its customers) of a similar nature, but not less than reasonable care, and will not, during or after the Term or thereafter, directly or indirectly, use or disclose any such Confidential Information to any person, firm or corporation for any reason or purpose whatsoever, nor shall either Party, for itself or in any representative or other capacity, utilize any such Confidential Information in any manner for its own account or the account of others, except in connection with its performance under the Agreement.
- 15.2.** The foregoing restrictions shall not apply to any Confidential Information (excluding, in each case, personal data) which the receiving Party is able to demonstrate, through clear and convincing evidence: (a) is or becomes generally available to the public through no action by the receiving Party; (b) is or becomes available to it from a source, who is not bound to a confidentiality agreement or similar restriction; or (c) must be disclosed by the receiving Party pursuant to applicable federal, state or local laws or regulations or pursuant to subpoena or judicial order; *provided, however*, that the receiving Party, unless prohibited by Applicable Law, notifies the disclosing Party in writing of such regulation, subpoena or judicial order prior to such disclosure and provides the disclosing Party with adequate time to respond before it makes such disclosure.
- 15.3.** The receiving Party may disclose Confidential Information to receiving Party's employees, agents or contractors only as permitted by the terms of the Agreement and only on a "need-to-know" basis where (a) such employees, agents or contractors are already bound by obligations of confidentiality

consistent with the provisions of the Agreement, or (b) if not already bound by obligations of confidentiality as described in (a), after such third Parties have entered into a non-disclosure agreement with, and in a form acceptable to, the disclosing Party. Except as expressly provided otherwise in the Agreement, no ownership or license rights are granted in any Confidential Information.

- 15.4. Injunctive Relief.** Each Party acknowledges that the disclosure of any Confidential Information of the disclosing Party, except Confidential Information disclosed as specifically authorized by the Agreement, will immediately result in continuing irreparable injury to the disclosing Party and others that is inadequately compensable in damages at law. Accordingly, and without prejudice to any other remedy available to the disclosing Party, the disclosing Party has the right to seek injunctive relief without the requirement of posting a bond.
- 15.5. Return of Confidential Information.** Upon the termination of the Agreement, and subject to receipt of a written request from the disclosing Party, the receiving Party shall immediately return all Confidential Information to the disclosing Party without retaining any copies thereof, except copies retained for (a) the receiving Party's archival purposes, and (b) demonstration of compliance with a Party's internal controls or Applicable Law, or must certify to the destruction of the same upon the disclosing Party's written request. Any Confidential Information of a Party retained by the receiving Party shall at all times remain subject to the terms of this **Section 15 (Confidentiality; Press Releases)**.
- 15.6. Public Records and Retention Laws.** Notwithstanding anything herein to the contrary, Lottery's disclosure and destruction obligations under the Agreement are subject to Oregon's record retention and Public Records Laws, including ORS 192.005 through 192.170 and 192.311 through 192.478 ("**Oregon Public Records Law**"), which may prohibit Lottery's destruction of, or other disposition of, Confidential Information. Non-disclosure of documents or any portion of a document submitted by SBTech to Lottery may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law. If Lottery receives a request from a third party under the Oregon Public Records Law for the disclosure of the Agreement or any documents relating to the Agreement or the underlying procurement, then Lottery shall notify SBTech within a reasonable period of time of the request and permit SBTech the opportunity to suggest redactions and take any other actions to protect SBTech's Confidential Information consistent with the Oregon Public Records Law to any such documents sought by a third party under the Oregon Public Records Law before Lottery responds to any such request. Lottery will only disclose such documents consistent with and to the extent permitted under law.
- 15.7. Third-Party Nondisclosure Obligations.** In connection with the subject matter of the Agreement, and to enable SBTech to fully perform its obligations hereunder, certain of Lottery's third party contractors ("**Lottery's Designees**") may provide their Confidential Information to SBTech. Accordingly, if

requested by Lottery's Designee, SBTech shall execute a nondisclosure Agreement negotiated in good faith with the Lottery's Designee in form and substance reasonably satisfactory to SBTech and Lottery's Designee before taking possession of the Confidential Information of Lottery's Designee.

15.8. Disclosure to Lottery Designees. If Lottery determines that certain SBTech Confidential Information should be disclosed to one or more of Lottery's Designees (excluding SBTech's competitors) to allow Lottery to exercise any right or take any other action contemplated by and in accordance with the Agreement, including performing any quality assurance testing described in an SOW, Lottery agrees that it will first notify SBTech of such intended disclosure or delivery. Upon receipt of such notice from Lottery, SBTech shall have the right to, within a reasonable time, enter into a nondisclosure Agreement in a form acceptable to SBTech with Lottery's Designee concerning SBTech's Confidential Information ("**SBTech-Lottery's Designee NDA**"). Once a SBTech-Lottery's Designee NDA has been executed, SBTech agrees that the applicable SBTech Confidential Information may be disclosed by either Lottery or SBTech to Lottery's Designee.

15.9. Press Releases. Each Party may issue press releases or other announcements with respect to the Agreement and the transactions contemplated hereby, subject to the written consent of the other Party. If any such press release or other announcement is required by law, such consent shall not be required; however, the disclosing Party agrees to give the non-disclosing Party prior notice and an opportunity to comment on the proposed disclosure.

15.10. Joint Press Release. Without limiting the foregoing, the Parties shall, within fourteen (14) days of Commercial Launch Date (or within a longer period as shall be agreed by both Parties) mutually and amicably agree on a press release to be issued jointly by Parties in relation to the Agreement and the engagement between the Parties.

16. EXCLUSIVITY

16.1. Lottery agrees that during the Term, SBTech shall be the sole and exclusive provider of real-money mobile and retail sports betting products and services to Lottery.

17. TERM AND TERMINATION

17.1. Term. The initial term of this Access and Services Agreement shall be five (5) years, from the later of the Effective Date or the first Commercial Launch Date (the "**Initial Term**"). Upon expiration of the Initial Term, this Access and Services Agreement will automatically renew for additional periods of three (3) years each (each a "**Renewal Term**", and together with the Initial Term, the "**Term**"), unless a Party notifies the other Party of its intention not to renew at least one hundred-eighty (180) days prior to the expiration of the then-current Term, subject to SBTech's obligation to provide Transition Services pursuant to **Section 21 (Transition Services)**.

- 17.2. Termination Due To Material Breach.** Either Party may terminate the Agreement if the other Party fails to perform or comply with any material provision of the Agreement, and such breach is not remedied within thirty (30) days as of the receipt of a written notice from the first Party detailing the nature of the breach. In the event SBTech exercises its right to terminate the Agreement under this Section, Lottery shall pay to SBTech, the Termination Fee set forth in **Schedule 4 (Fees and Payments)**.
- 17.3. Termination For Failure to Pay.** SBTech shall have the right to discontinue the Services provided under the Agreement and terminate the Agreement immediately upon written notice to Lottery in the event Lottery fails to pay any outstanding amounts due to SBTech following either the resolution of or failure to resolve any disputes over such payments in accordance with the process described in **Section 8.4 (Invoices; Disputed Amounts)**. In the event SBTech exercises its right to terminate the Agreement under this Section, Lottery shall pay to SBTech, as SBTech's sole and exclusive remedy any unpaid Fees earned prior to the date of termination and the Termination Fee set forth in **Schedule 4 (Fees and Payments)**.
- 17.4. Termination For Legal Reasons.** If in SBTech's opinion, Applicable Law prohibits the offering of the Software in the Territory, SBTech may terminate the Agreement in part, or in its entirety. SBTech reserves the right to withdraw the Service if any perceived, implied or real legal threat would impact SBTech's brand or commercial credibility as a result of any legal definitions that may consider SBTech to be facilitators, administrators or accomplice in illegal activities.
- 17.5. Adverse Action.** If SBTech reasonably believes an Adverse Action is likely to or has occurred, SBTech shall notify Lottery of such Adverse Action in writing. Within ten (10) days of receipt of such notice from SBTech, the Parties shall engage in good faith discussions to address the impact of the Adverse Action on SBTech's operations and mutually agree, in accordance with the change control procedures set forth in **Section 9 (Amendments and Change Control)**, upon any required changes to the Software or Services (or manner of delivery or operation thereof), or equitable adjustment to the Fees, or both. In the event the Parties cannot mutually agree upon such changes or equitable adjustment, SBTech, in its sole discretion, may terminate the Agreement immediately upon written notice. A termination of the Agreement under this Section shall be subject to the payment of the Termination Fee set forth in **Schedule 4 (Fees and Payments)**, which shall be SBTech's sole and exclusive remedy for termination under this Section.
- 17.6.** Either Party's rights of termination under the Agreement shall remain without prejudice to the payment by Lottery of any outstanding Fees due to SBTech under the Agreement as well as any other remedies available to SBTech for the recovery of any damages.

17.7. Additional Rights of Termination by Lottery. In addition to the termination rights provided elsewhere in the Agreement, Lottery may terminate the Agreement if one or more of the following events occur:

- (a) Lottery discovers that, in order to facilitate the award of the Agreement to SBTech, gratuities, in the form of entertainment, gifts or otherwise were offered or given by SBTech or any agent or representative of SBTech to an officer or employee of Lottery or the State of Oregon in violation of applicable policy or law (subject to Lottery's obligation to thoroughly investigate and verify the accuracy of information leading to such discovery);
- (b) Any license or certificate required by Applicable Law to be held by SBTech to provide the Services under the Agreement is denied, revoked or not renewed for any reason, and SBTech fails to demonstrate that it has obtained or renewed (or is in the process of obtaining or renewing) the license or certificate within thirty (30) days of the date of denial, revocation or non-renewal;
- (c) SBTech files a petition for bankruptcy, and the petition is not dismissed within sixty (60) days of the filing date; or
- (d) SBTech fails to deliver any performance bond or security by the required delivery date.

Lottery may terminate the Agreement pursuant to **Section 17.7(a)** in accordance with the following process. Lottery shall provide SBTech with written notice of Lottery's receipt of information in connection with the conduct described in **Section 17.7(a)** and its intent to investigate same. If Lottery determines after conducting a thorough investigation and verifying the conduct described in **Section 17.7(a)**, desires to terminate the Agreement, Lottery shall provide SBTech written notice of its intent to terminate the Agreement pursuant to that Section (which notice shall include details of the related investigation and verification undertaken by Lottery), and shall provide SBTech seventy-two (72) hours following SBTech's receipt of Lottery's written notice to deliver to Lottery in writing a proposed cure or remedy to cure the factual basis for Lottery's conclusion, including a timeline for implement such cure. Lottery may either (i) accept such cure and timeline, in which case SBTech shall proceed as described in its written cure proposal, or (ii) immediately terminate the Agreement if Lottery still determines termination is necessary to protect its fairness, integrity, security or honesty. Lottery will notify SBTech whether it will accept the proposed cure or terminate the Agreement seventy-two (72) hours of its receipt of SBTech's proposed cure. If Lottery accepts the proposed cure, but SBTech fails to implement the cure within the timeline accepted by Lottery, then Lottery may terminate the Agreement immediately by providing written notice to SBTech without obligation to pay the Termination Fee. Any

other termination of the Agreement under this Section by Lottery is subject to the payment of the Termination Fee set forth in **Schedule 4 (Fees and Payments)**; provided, however, if Lottery's thorough and verified investigation demonstrates that SBTech, a control person (as defined at ORS 461.410(a)(i)), or Key Personnel has engaged in any Prohibited Activity in connection with its failure to comply with **Section 17.7(a)**, Lottery shall not be required to pay the Termination Fee. In the event Lottery terminates the Agreement under this Section, SBTech shall not be required to perform the Continuation Services and Transition Services described in **Section 21 (Transition Services)** below.

17.8. Termination Upon Transfer Of Controlling Interest. Subject to SBTech's right to cure (including Lottery's payment of the Termination Fee, if applicable) described below, Lottery may terminate the Agreement without penalty, obligation for future payments (except for deliverables that Lottery has accepted, use of the Software and Services that SBTech has rendered up to the effective date of termination), damages or liability whatsoever, against Oregon, Lottery, or any of their directors, officers, agents or employees, upon written notice to SBTech in the event any change in SBTech's ownership or management as contemplated by ORS 461.410 (i.e., 15% interest in publicly held stock) results in the ownership or management of SBTech by a Subject Person or entity that is unsuitable (i.e., an individual or entity that has been denied or is disqualified from eligibility for any license, permit or approval under Applicable Law required to provide the Software and Services under the Agreement). Lottery shall notify SBTech in writing of any finding of unsuitability as described above, which shall include details of the related investigation and verification undertaken by Lottery, then SBTech shall, within seventy-two (72) hours of receiving Lottery's written notice, deliver to Lottery in writing a proposed cure or remedy to cure the factual basis for Lottery's conclusion, including a timeline for implement such cure. Lottery may either (a) accept such cure and timeline, in which case SBTech shall proceed as described in its written cure proposal, or (b) notify SBTech of termination of the Agreement. Lottery will notify SBTech whether it will accept the proposed cure or terminate the Agreement within seventy-two (72) hours days of its receipt of SBTech's proposed cure. If Lottery accepts the proposed cure, but SBTech fails to implement the cure within the timeline accepted by Lottery, then Lottery may terminate the Agreement immediately by providing written notice to SBTech without obligation to pay the Termination Fee. Any other termination of the Agreement under this Section by Lottery is subject to the payment of the Termination Fee set forth in **Schedule 4 (Fees and Payments)**; provided, however, if Lottery's thorough and verified investigation establishes that the entity subject to the background check (or such entity's control persons as defined in ORS 461.410(a)(i)) under this Section, in its failure to comply with this **Section 17.8**, has engaged in any Prohibited Activity, Lottery shall not be required to pay the Termination Fee. In the event Lottery terminates the Agreement under this Section, SBTech shall not be required to perform the

Continuation Services and Transition Services described in **Section 21 (Transition Services)** below.

17.9. Termination Due To Change in Law, Lottery Funding Or Court Determination. Subject to Lottery's payment to SBTech of the Termination Fees set forth in **Schedule 4 (Fees and Payments)**, as SBTech's sole and exclusive remedy for termination under this Section, as well as any Fees or additional amounts due and owing to SBTech under the Agreement, Lottery may immediately terminate the Agreement, upon written notice to SBTech, under any of the following circumstances:

- (a) If Applicable Laws are modified, changed or interpreted in such a way that:
 - i. The Software or Services are no longer allowable or appropriate for purchase by Lottery or are no longer eligible for the funding proposed for payment authorized by the Agreement; or
 - ii. Lottery's authority or ability to conduct the Games is removed or diminished or Lottery is no longer authorized or able to conduct the activities described in the Agreement.

For example, Lottery may terminate the Agreement under this **Section 17.9(a)(ii)** if Lottery cannot offer sports betting because available payment processing capabilities are not consistent with Applicable Law;

- (b) If a court of competent jurisdiction issues a final non-appealable judgment that Lottery is not authorized or able to conduct the activities described in the Agreement; or
- (c) If a court of competent jurisdiction issues a final non-appealable judgment that the Agreement is null, void or invalid.

17.10. Effects of Termination. Subject to **Section 21.1 (Continuation Services)** and the provisions of a mutually agreed upon Transition Plan, upon the termination of the Agreement, for whatever reason, Lottery's right to use the Software and receive the Services under the Agreement shall immediately end, and:

- (a) SBTech will promptly shut down the operation of the Software on the Website(s).
- (b) Subject to Lottery's right to retain documents and information as set forth elsewhere in the Agreement, Lottery shall destroy any and all copies of the Software and Documentation which for any reason cannot be returned to SBTech.
- (c) All outstanding sums payable to SBTech shall immediately become due and payable in accordance with the payment provisions set forth in

Section 8 (Fees and Required Payments).

- (d) An officer of Lottery shall confirm in writing to SBTech that all proprietary material relating to the Software, Services and Documentation has been delivered to SBTech or destroyed.
- (e) Subject to **Section 15.3 (Return of Confidential Information)**, SBTech shall on Lottery's written request, destroy or return all Lottery Data at no additional charge, except as otherwise agreed by the Parties in writing. Lottery may demand a declaration from SBTech stating that all Lottery Data has been returned to Lottery, or deleted and/or destroyed so as to ensure that such Lottery Data cannot be restored, as applicable.

17.11. Termination Notices. In the event a Party elects to terminate the Agreement or any SOWs thereunder, or both, such notice shall be in writing and shall refer to the specific Section under which the terminating Party is exercising its right to terminate the Agreement, as well as the effective date of such termination.

18. LIMITATION OF LIABILITY; INDEMNIFICATION; SERVICE LEVELS.

18.1. Limitation on Non-Direct Damages. Except as otherwise provided herein, neither Party (nor any of either Party's agents, members, shareholders, directors, officers, employees, or representatives (together, the "**Representatives**")) shall be liable for any incidental, special, indirect, consequential, punitive or exemplary damages, or damages for lost profits or savings arising from any claim or action hereunder based on contract, tort, equity or other legal theory, even if previously advised of the possibility of such damages.

18.2. Cap on Liability.

18.2.1. Standard Cap. The maximum aggregate cumulative liability of SBTech and its parent company, affiliates and subsidiaries for any and all Claims, Losses, events or occurrences arising under or in connection with the Agreement, howsoever arising, including by way of contract, statute and/or under an indemnity and/or in tort (including negligence or any other theory of law), shall be limited to \$5,000,000.

18.2.2. Enhanced Cap. Notwithstanding **Section 18.2.1**, the maximum aggregate cumulative liability of SBTech and its parent company, affiliates and subsidiaries for any and all Claims and Losses in connection with (a) SBTech's indemnification obligations under **Sections 18** and **25.3**, and (b) SBTech's breach of its obligations under **Sections 13.4, 13.7, 13.12, or 15**, is limited to \$10,000,000.

18.3. SBTech's IP Indemnity.

18.3.1. SBTech will defend at its own expense and indemnify Lottery against any liability finally imposed by a court of competent jurisdiction or agreed to in a settlement approved by SBTech arising out of any Claim brought against Lottery by a third party to the extent that such Claim is based on a claim or allegation that the Software or the permitted use thereof by Lottery infringe such third party's intellectual property rights. This provision shall not apply to any Third Party Products or other third party software.

18.3.2. SBTech will not indemnify or defend Lottery with respect to any third party infringement Claim if Lottery, or anyone acting on its behalf, alters Software, Services or deliverables or uses any Software, Services or deliverables outside the scope of the permitted use or if Lottery uses a version of the Software, Services or deliverables which has been superseded. SBTech will not indemnify Lottery to the extent that a claim is based upon any information, design, specification, instruction, software or data, as applicable, not furnished by SBTech or a third party authorized by SBTech in writing. Furthermore, SBTech will not indemnify Lottery to the extent that an infringement Claim is based upon the combination of the Software with any products, hardware or services not provided or authorized for use with the Software in writing by SBTech, if such claim would not have arisen but for such combination or use. SBTech's indemnification obligations shall not apply to the extent that the Claim results from Lottery's negligence or willful misconduct.

18.3.3. This Section states the entire liability of SBTech with respect to any third party Claims for infringement of third-party intellectual property rights, and SBTech shall have no further liability under contract, tort, warranty or any other legal theory with respect to any alleged or proven infringement. SBTech expressly disclaims any responsibility or liability for any and all losses or damages incurred by Lottery, its End Users, or any third party, resulting from any Third Party Products or services, including, data, information, hardware, software or human errors caused by or attributable to any Third Party Providers.

18.4. Other Remedies. Should Lottery become the subject of a third party Claim for infringement of any such third party's intellectual property right in relation to the Software, or if SBTech or Lottery reasonably believes that Lottery may become the subject of such a Claim, SBTech may, at its own discretion on the basis of reasonable commercial considerations, select one of the following three (3) remedies:

- (a) procure for Lottery at no additional cost to Lottery the right to continue using the allegedly infringing portion of the Software on terms reasonably similar to the terms set out in the Agreement; or

- (b) replace or modify the allegedly infringing portion of the Software in a manner which makes the use thereof non-infringing without materially compromising the functionality or performance of the Software; or
- (c) remove the allegedly infringing portion of the Software without materially compromising the functionality or performance of the Software.

18.5. SBTech's General Indemnity. SBTech shall defend, indemnify, and hold harmless the state of Oregon, the Oregon State Lottery Commission, Lottery, and their agents, officials and employees from any and all Claims, in each case brought by a third party, which may be brought or made against the State of Oregon, the Oregon State Lottery Commission, Lottery, or their agents, officials and employees in connection with the loss or damage to any personal property or for injuries to or the death of any person, caused by, or arising out of, to the extent contributed to in whole or in part, by SBTech's gross negligence, willful misconduct or fraud in connection with SBTech's performance under the Agreement. SBTech's obligations under this **Section 18.5 (SBTech's General Indemnity)** shall not extend to any Claims to the extent such Claim is caused by or arises out of:

- (a) Negligence of the State of Oregon, the Oregon State Lottery Commission, Lottery, or their agents, officials or employees;
- (b) SBTech's actions or omissions were attributable to a written request, direction or written requirement of the State of Oregon, the Oregon State Lottery Commission or Lottery; or
- (c) Any act or omission of any third party (including Third Party Providers).

18.6. Lottery's Indemnity Obligations. Lottery shall defend, indemnify and hold SBTech, its affiliates and related entities, and each of their respective directors, officers, employees, and any of its representatives harmless from and against any Claims arising out of or related to (a) any act or failure to act of SBTech, its employees or Subcontractors where such act or failure to act was performed in accordance with instructions provided by Lottery; (b) any third party Claim alleging infringement of such party's intellectual property rights arising from or related to (i) the Website(s), (ii) any content or domain name in connection therewith, (iii) any of Lottery's marketing activities or (iv) any content or materials provided to SBTech by Lottery or on behalf of Lottery for use in the performance of its obligations under the Agreement (e.g., any content set forth in the Brand Book); (c) any action taken by any regulator or state or federal governmental entity against SBTech based on or arising out of any act or omission of Lottery or anyone acting on its behalf; (d) any Claim brought against SBTech by a Third Party Provider as a result of Lottery's failure to comply with the terms of any Third Party Products T&Cs provided to Lottery by SBTech; (e) any Claim brought against SBTech by any End User(s); or (f)

any change or alteration made by Lottery or on its behalf to the Software, Services, deliverables or Third Party Products, unless such change or alteration was authorized or directed in writing by SBTech; (f) any breach or violation of Lottery's obligations under **Section 10.3 (b) and (d)** and; (h) any introduction by Lottery or its personnel, Third Party Providers or subcontractors of Malicious Code into the Software, to the extent such introduction arises from acts, errors or omissions of Lottery, its personnel, Third Party Providers or subcontractors.

18.7. Indemnification Procedures. The obligations of each Party (the "**Indemnifying Party**") set forth above in **Sections 18.3 through 18.6** are conditioned upon the Party seeking indemnification (the "**Indemnified Party**") complies with the following obligations:

- (a) promptly notifies the Indemnifying Party in writing of any claim or allegation that could invoke the obligations of the Indemnifying Party set forth in **Sections 18.3 through 18.6** above, as applicable; provided, however, any failure to provide such notice will not relieve the Indemnifying Party of its respective obligations, except to the extent the Indemnifying Party is materially prejudiced by such delay;
- (b) takes reasonable action (including assisting the Indemnifying Party), at the cost of Indemnifying Party, to mitigate the effect or quantum of such claim or allegation;
- (c) subject to **Section 18.9 (Control of Defense of Claims)** below, grants the Indemnifying Party the sole authority to direct and control the defense of such claim or allegation and make all decisions in any subsequent proceedings and conduct negotiations for agreement or settlement; provided however, the Indemnifying Party shall not, without consent of the Indemnified Party, effect any settlement or discharge or consent to the entry of any judgment, unless such settlement or judgment includes as an unconditional term thereof the giving by the claimant or plaintiff to the Indemnified Party of a general release from all liability in respect of all applicable Claims and imposes no restrictions or obligations on the Indemnified Party.

18.8. Mitigation. Nothing in the Agreement shall be construed in any way as reducing or affecting a Party's general duty to reasonably mitigate its damages or losses.

18.9. Control of Defense of Claims. Subject to this Section, each Party shall assume the defense of, and pay the costs and expenses arising from any Claim for which it has an obligation to defend under this **Section 18**, including reasonable attorney's fees, except for those instances when SBTech, the State of Oregon or Lottery takes on its own defense at its sole expense. Neither SBTech nor any attorney engaged by SBTech shall defend the claim in the name of the State of Oregon or any Lottery of the State of Oregon, nor purport

to act as legal representative of the State of Oregon or any of its agencies, without the prior Written consent of the Oregon Attorney General. Each Party may, at its election and expense, assume its own defense and settlement if the Indemnified Party determines that the Indemnifying Party is prohibited from defending the Indemnified Party, is not adequately defending the Indemnified Party's interests, or if the Indemnified Party otherwise desires to assume its own defense.

18.10. Remedies Cumulative. Except where stated otherwise in the Agreement, the remedies set forth in this **Section 18** are in addition to, and not in lieu of, any other remedies provided hereunder or by law.

18.11. Service Levels. SBTech will perform the Services set forth in each SOW in accordance with the Service Levels set forth in **Schedule 3 (Service Level Agreement)**, or as agreed by the Parties in any SOW.

18.12. Service Level Credits.

(a) The methodology for the calculation of Service Level Credits is set forth in **Schedule 3 (Service Level Agreement)**.

(b) Service Level Credits set forth in **Schedule 3 (Service Level Agreement)** shall be Lottery's sole and exclusive remedy, and SBT's sole and exclusive liability, for SBT's failure to achieve the applicable Service Level during any Measurement Period.

19. INSURANCE.

19.1. Generally. SBTech shall obtain at SBTech's expense the insurance policies specified in this Section within thirty (30) days of the Effective Date (unless SBTech notifies Lottery in writing that it requires additional time to secure any such policies, upon which notice the Parties shall mutually agree upon an extension in writing), and shall maintain it in full force and at its own expense throughout the duration of the Agreement, and as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. SBTech shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to Lottery. Coverage must be primary and non-contributory with any other insurance and self-insurance. SBTech shall pay for all deductibles, self-insured retention and self-insurance, if any.

19.2. Workers' Compensation Insurance. All employers, including SBTech, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). SBTech shall require and ensure that each of its subcontractors

complies with these requirements. If SBTech is a subject employer, as defined in ORS 656.023, SBTech shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If SBTech is an employer subject to any other state's workers' compensation law, SBTech shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and require and ensure that each of its out-of-state subcontractors complies with these requirements.

- 19.3. Professional Liability.** Technology Errors & Omissions insurance in an amount of not less than \$10,000,000 per claim covering SBTech's liability arising from acts, errors or omissions in rendering or failing to render computer or information technology services, including the failure of technology products to perform the intended function or serve the intended purpose as set forth in the Agreement. Coverage for violation of intellectual property rights including trademark and software copyright, privacy liability, the failure of computer or network security to prevent a computer or network attack, misrepresentations, and unauthorized access or use of computer system or networks must be included. There must also be coverage for unauthorized disclosure, access or use of Lottery Data (which may include Personally Identifiable Information ("PII") and Payment Card Data, to the extent that SBTech has access to or possession of Payment Card Data). Coverage must extend to and independent contractors providing Services on behalf of or at the direction of SBTech. A primary policy or combination of a primary policy and excess policy will be acceptable in order to meet the limits requirement.
- 19.4. Commercial General Liability Insurance.** SBTech shall provide Commercial General Liability Insurance covering bodily injury, and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage, in each case arising out of SBTech's negligence, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$5,000,000 per occurrence and \$10,000,000 aggregate.
- 19.5. Excess/Umbrella Insurance.** A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
- 19.6. Additional Insured.** The Commercial General Liability, and Automobile Liability insurance required under the Agreement must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations but only with respect to SBTech's activities under the Agreement. The Additional

Insured endorsement with respect to liability arising out of SBTech's ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 04 13 or equivalent.

- 19.7. Tail Coverage.** If any of the required insurance is on a claims-made basis and does not include an extended reporting period of at least 24 (twenty-four) months, SBTech shall maintain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of the Agreement, for a minimum of 24 (twenty-four) months following the later of (i) SBTech's completion and Lottery's acceptance of all Services required under the Agreement, or, (ii) The expiration of all Warranty Periods provided under the Agreement.
- 19.8. Certificate(s) and Proof of Insurance.** SBTech shall provide to Lottery Certificate(s) of Insurance for all required insurance before delivering any goods or performing any Services required under the Agreement. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured as specified in this **Section 19 (Insurance)**. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Lottery has the right to request copies of insurance policies and endorsements relating to the insurance requirements in the Agreement.
- 19.9. Notice of Change or Cancellation.** SBTech or its insurer must endeavor to provide at least 30 (thirty) days' written notice to Lottery before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).
- 19.10. Insurance Requirement Review.** SBTech agrees to periodic review of insurance requirements by Lottery under the Agreement and to meet updated requirements as agreed upon by SBTech and Lottery.
- 20. PERFORMANCE SECURITY AND FIDELITY BONDS**
- 20.1. Performance Bond Amount and Delivery.** No later than thirty (30) days following the Effective Date (unless SBTech notifies Lottery in writing that it requires additional time to secure any bond or form of security, upon which notice the Parties shall mutually agree upon an extension in writing), SBTech shall deliver to Lottery and maintain in effect for the Term either a performance bond or such other form of security in a form approved by Lottery in favor of Lottery as obligee, in the amount of one million dollars (\$1,000,000). SBTech shall deliver to Lottery a copy of the performance bond or such other form of security renewal or continuation document, if applicable, within thirty (30) Business Days following the effective date of the renewal or continuation. For purposes of clarity, Lottery shall return or release (as applicable) the

performance bond or other form of security within sixty (60) days following the earlier of the expiration or termination of the Agreement, and SBTech shall be no longer be obligated to maintain any such performance bond or other form of security.

20.2. Fidelity Bond Amount and Delivery. No later than thirty (30) days following the Effective Date (unless SBTech notifies Lottery in writing that it requires additional time to secure any bond or insurance, upon which notice the Parties shall mutually agree upon an extension in writing), SBTech shall deliver to Lottery and maintain in effect for the Term, a fidelity bond or evidence of crime insurance in the amount of two million dollars (\$2,000,000) covering any loss to Lottery due to any fraudulent or dishonest act on the part of SBTech or its officer, employees, agents or subcontractors. For purposes of clarity, an “occurrence based” employee dishonesty coverage insurance policy shall be deemed acceptable by Lottery and in compliance with this **Section 20.2**.

20.3. Performance Security/Bond Form and Surety. The performance bond or other form of security or fidelity bonds/crime insurance required to be obtained by SBTech must be in a form approved by Lottery, and must be written by a company that is rated A- or better and is licensed to do business in Oregon.

20.4. Claims Against Performance Bond or Security. In addition to any other conditions expressly set forth in the performance bond or other form of security under which Lottery is authorized to make claims against such performance bond or other form of security, Lottery may make one or more claims against the performance bond or other form of security if SBTech fails to comply with its obligation to indemnify Lottery under **Section 18.3** through **Section 18.5**. Notwithstanding the foregoing, Lottery shall provide written notice to SBTech of its intention to make a claim or draw down on the performance bond or other form of security, and shall provide SBTech within fourteen (14) days thereafter to pay to Lottery an amount equivalent to the amount proposed to be claimed or drawn by Lottery from the performance bond or other form of security, failing which Lottery may proceed with said claim or draw down upon the instrument.

21. TRANSITION SERVICES

21.1. Continuation Services. At Lottery’s written request given at least thirty (30) days before the termination of the Agreement, unless the Agreement was terminated by SBTech in accordance with **Sections 17.2, 17.3, 17.4, and 17.5** above or SBTech otherwise determines that continued performance would expose SBTech to other legal or compliance risks (e.g., SBTech’s continued performance may violate Applicable Law), SBTech shall continue to provide Software to Lottery and its End Users under the same terms and conditions of the Agreement for up to six (6) months following the expiration date or termination date (the “**Continuation Services**”). During such six (6) month period, Lottery shall continue to pay SBTech at the rates then in effect under the

Agreement until the earlier of the expiration of such six (6) month period or such time as Lottery's implementation of a replacement system or software is completed in accordance with the time frame set forth in the Transition Plan (as defined below).

The terms and conditions of the Agreement shall continue full force and effect during the provision of Continuation Services and Termination Services. For clarity, SBTech shall not be obligated to provide any Continuation Services or Transition Services under this **Section 21 (Transition Services)** in the event Lottery terminates the Agreement under any of the following Sections: **7.2(c)(i); 7.2(c)(ii); 7.3(d); 17.7(a); 17.8 or 17.9.**

21.2. Transition Services Generally. In addition to its obligations under **Section 21.1**, SBTech shall provide transition services to support a transition of Services and Lottery Data to another service provider or to Lottery ("**Transition Services**") in accordance with this **Section 21 (Transition Services)**.

21.3. Performance of Transition Services. Upon receipt of written notice from Lottery at least thirty (30) days prior to the termination of the Agreement, except where SBT terminated the Agreement in accordance with **Sections 17.2, 17.3, 17.4, and 17.5** above or SBTech otherwise determines that continued performance would expose SBTech to liability or other compliance risks (e.g., continued performance may violate Applicable Law), SBTech shall provide Transition Services as described in the Transition Plan (defined below) for a reasonable period of time as agreed upon and set forth in the Transition Plan (the "**Transition Period**"), on the following conditions:

- (a) Lottery is up-to-date with its undisputed payment obligations at the commencement of the Transition Period; and
- (b) Lottery pays all invoices during the Transition Period in accordance with its obligations referenced in **Section 8 (Fees and Required Payments)**.

21.4. Noncompliance During Transition Period. If during the Transition Period SBTech believes Lottery is not in compliance with the foregoing conditions, SBTech shall give Lottery written notice of such noncompliance and Lottery will have fifteen (15) days, or such longer period to which SBTech may agree, to correct the noncompliance.

21.5. Transition Plan. After receipt of written notice from Lottery as set forth in **Section 21.3** above, SBTech and Lottery will mutually agree upon a Transition Plan. SBTech shall deliver a detailed Transition Plan within fourteen (14) days of Lottery's written notice as set forth in **Section 21.3** above, or otherwise within a timeframe agreed upon by the Parties, for Lottery's review. The Transition Plan will not be effective until it is approved by the Oregon Department of Justice ("**DOJ**"). The Transition Plan will determine the nature

and extent of the Transition Services and detail the transfer of Lottery Data. The Transition Period will commence on the date set in the DOJ-approved Transition Plan; provided, however, if SBTech does not deliver an acceptable Transition Plan on or before the Agreement termination date, then the Parties will abide by a draft of an alternate transition plan promulgated by Lottery and mutually agreed upon by the Parties until the Transition Plan is approved by DOJ. The Transition Plan must address at least:

- (a) The respective tasks and deliverables to be completed by each Party during the Transition Period,
- (b) A schedule pursuant to which such tasks and deliverables will be completed, and
- (c) A schedule identifying which Party is responsible for paying the costs (if any) related to each task and deliverable. Any new or additional tasks or deliverables required after the commencement of the Transition Period shall be subject to the change control procedure set forth in **Section 9 (Amendments and Change Control)**.

21.6. Cooperation. The Parties shall cooperate in good faith with each other in connection with their obligations under this **Section 21 (Transition Services)** and shall perform their respective obligations under the Transition Plan. If the Transition Period extends beyond the Term, the provisions of the Agreement will remain in effect for the duration of the Transition Period.

21.7. Transition to Another Provider. SBTech shall complete the transition of Lottery Data from SBTech and its Subcontractors to Lottery and to any providers that Lottery designates, without causing any material interruption of or adverse impact on the Services. For clarity, SBTech's obligations under this **Section 21 (Transition Services)** is limited to the transfer of Lottery Data; no provider designated by Lottery shall have access to the Software or SBTech's Confidential Information (including SBTech's intellectual property and other proprietary information).

21.8. Specific Obligations to Complete and Perform Transition Plan. Subject to the limitations of **Section 21.7 (Transition to Another Provider)**, SBTech shall:

- (a) Cooperate with Lottery and any Lottery-designated provider by promptly taking all reasonable steps required to assist Lottery in completing the Transition Plan.
- (b) Provide Lottery and any Lottery-designated provider with all necessary information regarding the Lottery Data required to complete the Transition

Period. Such information may include data conversions, data access or transfers, and interface specifications.

- (c) Promptly and orderly conclude all Services in accordance with the Transition Plan. This includes the return of Confidential Information under **Section 15 (Confidentiality; Press Releases)**.

22. NOTICES

22.1. Any and all notices or demands provided for, permitted or required to be given in connection with the Agreement shall be in writing and be conclusively deemed to have been given if (a) personally delivered to the Party entitled to receive the same; or (b) within five (5) days after depositing it in a United States mailbox either by certified or registered mail, postage prepaid, in a sealed envelope addressed to the name and address of the Party entitled to receive the same; or (c) within one (1) day if sent by first class overnight, nationally recognized delivery or courier service, prepaid in a sealed envelope or package addressed to the name and address of the Party entitled to receive the same.

22.2. Any notice to SBTech shall be sent to the following address:

David Yatom Hai, Adv.
General Counsel
Phone: 972.3.9525507
Email: david.y@sbtech.com
Alon Tower 2, 25th Floor
Yigal Alon 94
Tel Aviv, Israel

With copies to:

Richard Carter
Chief Executive Officer
Email: richard.carter@sbtech.com

Melissa Riahei
Email: melissa.riahei@sbtech.com

22.3. Any notice to Lottery shall be sent to the following address:

Contract Administrator:

Kerry Hemphill
Phone: 503-540-1036
Email: Kerry.Hemphill@lottery.state.or.us
500 Airport Rd. SE
Salem, OR 97301
PO Box 12649
Salem, OR 97309-0649

With a copy to:

James Webb, Contract Administration Program Manager
Phone: 503-540-1357
Email: James.R.Webb@lottery.state.or.us
500 Airport Rd. SE
Salem, OR 97301
PO Box 12649
Salem, OR 97309-0649

The address for notice set forth herein may be changed at any time by giving ten (10) days' prior written notice to the other Party in the manner described in this Section.

23. GOVERNING LAW; VENUE; DISPUTE RESOLUTION

23.1. Governing Law. The Agreement shall be governed by, construed in and enforced exclusively in accordance with the laws of the State of Oregon, without regard to its conflict of law provisions or the residence of the Parties.

23.2. Dispute Resolution Process.

23.2.1. Informal Dispute Resolution. In the event of any dispute or claim arising from or relating to the Agreement (including a breach thereof) or the relationship of the Parties (each, a “**Dispute**”), the Parties shall first attempt to resolve the Dispute pursuant to the informal dispute resolution process described in this **Section 23.2.1 (Informal Dispute Resolution)**. A Party may initiate the informal dispute resolution process described in this Section by sending written notice to the other Party outlining the nature of the dispute and the proposed remedy. The Party’s authorized representatives which, for Lottery is Lottery’s Chief Gaming Operations Officer, and for SBTech is SBTech’s Chief Product officer or Chief Strategy Officer (or his or her designee), shall meet and engage in good faith discussions to resolve the dispute within five (5) days of receipt of a notice of dispute. If discussions between the authorized representatives are unsuccessful after fourteen (14) days, one of the Parties may then request the Dispute be escalated to: (a) for SBTech, the President of SBTech’s U.S. operations, and (b) for Lottery, its Director, for resolution. If after a period of twenty-eight (28) days, following good faith discussions the SBTech President of U.S. operations and the Lottery’s Director are unable to resolve the Dispute, and those individuals jointly determine in writing that a negotiated resolution is not practical, either Party may then agree to settle the Dispute in accordance with **Section 23.2.2 (Mediation)**.

23.2.2. Mediation. If the Parties are unable to resolve a Dispute in accordance with the informal Dispute resolution process set forth above, the Parties may agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to litigation. The

mediation shall be conducted by one (1) mediator in Salem, Oregon for a period of not more than ninety (90) days following the filing of a request for mediation. In the event the Parties are unable to resolve the Dispute after mediation, a Party may then initiate litigation in accordance with **Section 23.2.3 (Mediation)** below. If the Parties agree to mediation pursuant to this Section, the Parties covenant that they shall participate in the mediation in good faith. Each Party shall bear its own costs incurred in such mediation, including the fees and expenses of its attorneys, and the Parties shall share equally the other costs of the mediation, including mediators' fees and expenses and fees charged by the mediation organization. All offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the Parties, their agents, employees, experts and attorneys, and by the mediator(s), are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either Party may refuse to enter mediation at its sole discretion.

23.2.3. Venue; Jurisdiction; Litigation. Subject to **Sections 23.2.1** and **23.2.2** above, any Dispute between Lottery (or any other agency or department of the State of Oregon) and SBTech must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. SBTECH BY EXECUTION OF THIS ACCESS AND SERVICES AGREEMENT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE COURTS REFERENCED IN **THIS SECTION 23.2.3 (Venue; Jurisdiction; Litigation)**. Except as provided in Chapter 30 of the Revised Oregon Statutes, nothing in this Section or any other term of the Agreement shall be construed as a waiver by the State of Oregon of any other form of defense or immunity available to it, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise.

24. FORCE MAJEURE

24.1. Neither Party hereto shall be deemed in default hereunder or liable for any loss or damage resulting from delays in performance or from failure to perform or comply with the terms of the Agreement due to any causes beyond its reasonable control to the extent that such delay or non-performance is due to reasons which include acts of God or the public enemy; riots and civil unrest, terrorism, war, earthquakes, floods, public general power shortages, malfunctions or failures in general public telecommunication or general public IT services or the breakdown of other public infrastructures, and acts of military authorities (each, a "**Force Majeure Event**"). Nothing contained herein shall

excuse Lottery from paying SBTech any fees due to SBTech under the Agreement (for clarity, no fees will be due to SBTech for any Services that SBTech cannot perform due to a Force Majeure Event).

24.2. If a Force Majeure Event in question prevails for a continuous period in excess of three (3) months, either Party may terminate the Agreement immediately upon written notice to the other Party. Without limiting the foregoing, in the event that the Parties wish to continue their engagement, the Parties shall enter into bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable.

25. MISCELLANEOUS

25.1. Entire Agreement. Upon execution by both Parties, this Access and Services Agreement and the Schedules, Annexes, SOWs and other exhibits hereto shall constitute the entire agreement between the Parties with respect to the subject matter hereof and merges all prior and contemporaneous communications. The Agreement shall not be modified except by a written agreement signed on behalf of Lottery and SBTech by their respective duly authorized representatives.

25.2. Relationship of the Parties. The Parties shall perform any obligation under the Agreement as independent contractors and the Agreement does not create and shall not be considered or construed as creating, directly or indirectly, employment relations between the Parties, including between a Party and any third party on behalf of or employed by the counter Party, or both. The Agreement shall not be construed as creating a partnership, joint venture or agency relationship or as granting a franchise.

25.3. Independent Contractor. Although Lottery reserves the right to monitor and evaluate the quality of SBTech's performance under the Agreement, Lottery will not control the means or manner of SBTech's performance. SBTECH shall determine the appropriate means and manner for performing the Services. SBTech acknowledges and agrees that SBTech is not an officer, employee, or agent of Lottery (or any other agency, office, or department of Oregon), as those terms are used in ORS 30.265, and further agrees that it will not make representations to third Parties to the contrary. Neither Party is authorized to make any statement, representation, or commitment of any kind, or to take any action binding on the other, except as provided in the Agreement or authorized in writing by the Party to be bound.

SBTech agrees that its employees do not have any right to participate in Lottery's employee benefit plans or to receive statutory employment benefits from Lottery. SBTech and its employees are not contributing members of the public employees' retirement system and are responsible for any federal and state taxes applicable to any compensation or payments paid to SBTech under the Agreement. SBTech acknowledges that Lottery is not responsible for the tax

or other withholding of any SBTech employee, and that no employee, agent, or supplier of SBTech is covered by the state of Oregon's health, life, or disability insurance, worker's compensation insurance, or other such insurance. SBTech shall carry its own insurance and withhold any relevant taxes with regard to SBTech employees. SBTech shall defend, indemnify and hold Lottery harmless from any and all third party claims arising out of or related to with SBTech's failure to pay such taxes or carry such insurance. SBTech's indemnity obligation under this **Section 25.3 (Independent Contractor)** includes any and all losses, damages, liabilities, fines, settlements, judgments, costs, fees, and reasonable attorneys' fees.

25.4. Severability. If any provision of the Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions as applicable shall remain in full force and effect.

25.5. Waiver. No waiver of any breach of any provision of the Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

25.6. Assignment; Joinder.

25.6.1. Assignment. The Parties may not assign the Agreement and any rights and obligations hereunder to any third party, in whole or in part, without the written consent of the other Party, such consent not to be unreasonably withheld. Notwithstanding the foregoing, Lottery's consent shall not be required for any assignment of the Agreement, in whole or in part, in connection with any of the following, subject to the assignee's compliance with, and satisfaction of, Lottery's background check requirements described in **Sections 7.2(a)** and **(b)** above prior to the effective date of the assignment: (a) SBTech's merger with another entity, regardless of whether SBTech is the surviving entity; (b) the sale or transfer of all or substantially all of SBTech's assets; and (c) SBTech's assignment of the Agreement, in whole or in part, to SBTech's parent company, or any affiliate or subsidiary of SBTech (e.g., SBTech US Inc.). If SBTech assigns the Agreement without Lottery's prior consent, unless otherwise permitted under this Section, then Lottery may terminate the Agreement immediately upon notice to SBTech. The Agreement is binding upon, enforceable by, and inures to the benefit of, the Parties and their respective successors and permitted assignees. All permitted and approved assignees will be subject to the same disclosure requirements and security and financial investigation requirements as those applicable to the other Party.

25.6.2. Joinder. The Parties acknowledge and agree that SBTech may at any time during the Term add its parent company, any affiliate or subsidiary as a party to the Agreement, subject to such added party's compliance with Lottery's background check requirements described in **Sections 7.2(a)** and **(b)** above. Each and every party so joined and SBTech shall be jointly and severally liable for each of SBTech's obligations

hereunder, and Lottery may pursue any rights and remedies it may have under the Agreement against SBTech or any party so joined.

- 25.7. Survival.** Sections 8 (Fees and Required Payments), 12 (Audits), 14 (Intellectual Property Rights), 15.1-15.6, 18.1 – 18.9, 23 (Governing Law; Venue; Dispute Resolution); 25 (Miscellaneous), Schedule 4 (Fees and Payments) and any other section that by its nature is meant to survive termination, shall survive termination and expiration of the Agreement irrespective of the cause for termination.
- 25.8. Interpretation.** The Agreement is to be deemed to have been prepared jointly by the Parties hereto, and if any inconsistency or ambiguity exists herein, it shall not be interpreted against either Party, but according to the application of rules of the interpretation of contracts. Each Party has had the availability of legal counsel with respect to its execution of the Agreement, and the Parties agree neither of them shall be deemed drafter of the Agreement. Neither the Agreement in general nor any term, warranty or condition contained herein shall be construed to be in favor of any third party, including any End Users.
- 25.9. Counterparts and Admissibility of Electronic Copies.** This Access and Services Agreement and any SOW may be executed in multiple counterparts, which together shall constitute a complete document. Unless otherwise prohibited by any Applicable Law, this Access and Services Agreement and any SOW may be signed electronically, and such electronic signature shall be deemed, and shall have the same legal force and effect as, an original signature. An electronic copy thereof shall be deemed, and shall have the same legal force and effect as, an original document.
- 25.10. Intended Beneficiaries.** Lottery and SBTech are the only Parties to the Agreement and are the only Parties entitled to enforce its terms. Nothing in the Agreement gives, is intended to give, or will be construed to give, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the Agreement.
- 25.11. Funds Available and Authorized Payments.** SBTech understands that pursuant to Article XV, Section 4(4)(d) of the Oregon Constitution, Lottery is a self-supporting, revenue-raising Lottery and that no appropriations, loans, or other transfers of state funds shall be made to it. Accordingly, all amounts payable by Lottery under the Agreement are the sole responsibility of Lottery, and not the State, and are payable only from: (a) revenues received by Lottery from Lottery games; and (b) other miscellaneous revenues generated by Lottery. Lottery certifies that, as of the Effective Date, sufficient funds are available and authorized for expenditure to finance the costs of the Agreement in Lottery's current financial plan. Notwithstanding this certification, Lottery's payments under the Agreement, together with all of Lottery's other obligations incurred under ORS 461.510(4), are limited by Article XV, Section 4(4)(d) of the Oregon Constitution and ORS 461.500(2). If Lottery's authority or ability to

conduct Lottery games is removed or diminished, or if Lottery reasonably determines that expending the amounts payable by Lottery under the Agreement would be in violation of the 16% limitation under ORS 461.500(2), Lottery may terminate the Agreement by sending notice to SBTech.

25.12. Certification of compliance with tax laws. By signature on the Agreement for SBTech, the undersigned certifies under penalty of perjury that the undersigned is authorized to act on behalf of SBTech and that SBTech is, to the best of the undersigned's knowledge, not in violation of any Oregon tax laws. For purposes of this certification, "Oregon tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the department of revenue under ORS 305.620.

[Signature Page Follows]

IN WITNESS WHEREOF, this Access and Services Agreement is effective as of the Effective Date.

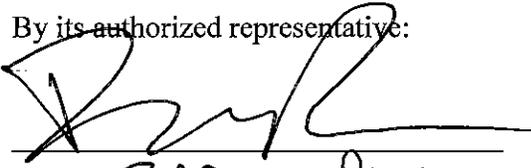
SBTECH MALTA LIMITED

**THE STATE OF OREGON, ACTING
THROUGH ITS OREGON STATE
LOTTERY COMMISSION**

By its authorized representative:

By its authorized representative:

Name: _____



Name: BARRY PARK

Title: _____

Title: DIRECTOR

Date: _____

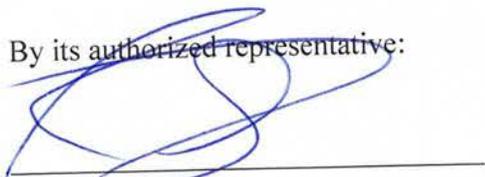
Date: 5/23/19

IN WITNESS WHEREOF, this Access and Services Agreement is effective as of the Effective Date.

SBTECH MALTA LIMITED

**THE STATE OF OREGON, ACTING
THROUGH ITS OREGON STATE
LOTTERY COMMISSION**

By its authorized representative:



Name: RICHARD CARTER

Title: GROUP CEO

Date: 5/22/19

By its authorized representative:

Name: _____

Title: _____

Date: _____

SCHEDULE 1: DEFINITIONS

<p>“Adverse Action” means any affirmative act or any failure to act by the federal government, the State of Oregon, Lottery or any Regulator, which SBTech reasonably believes may result in an increase to SBTech’s operating expenses in providing the Software and Services, or a decrease in Fees. An Adverse Action includes (i) a change in the Applicable Law or interpretation of Applicable Law that may impact the provision or manner of provision of the Software and Services; (ii) imposition of new taxes applicable to the delivery or receipt of the Software or Services under the Agreement; or (iii) or any interpretation, amendment, agreement, or decision, including with respect to tribal compacts or tribal laws, that would permit tribal casinos in Oregon to offer i-gaming or internet/mobile sports betting to individuals located outside of tribal reservations.</p>
<p>“Agreement” means the Access and Services Agreement, all Schedules thereto, and all Annexes, appendices, exhibits, SOWs and any other documents incorporated herein or therein by reference, all as may amended from time-to-time.</p>
<p>“Applicable Law” means all federal, state, local, tribal and other laws, rules and regulations, as the same are promulgated, supplemented or amended from time to time.</p>
<p>“API” means the set of documented access and integration methods and routines via which the Software shall be made available. Such access and integration methods and routines may include, authentication data, financial data, events, network communications, programming languages and function calls and library routines, provided as part of the Software</p>
<p>“Back Office” means the online application provided as part of the Software, as stipulated in Schedule 2.</p>
<p>“Bets Rules” means the bets rules applicable to the Events made available to End Users, and which will be defined by Lottery in compliance with Applicable Law.</p>
<p>“Bets” means wagers placed by an End User on the outcome of an Event through the Software.</p>
<p>“Brand Book” means the brand identity guidelines (i.e., the “2019 Branding & Style Guidelines”) published by Lottery and provided to SBTech.</p>
<p>“Business Days” are Monday through Friday means Monday through Friday, excluding New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.</p>
<p>“Claim” means any civil, criminal, administrative or investigative claim, demand, proceeding, suit, action or proceeding.</p>
<p>“Commercial Launch Date” means the date when the Software is made available on Lottery’s Website in the Territory, and has its first bet played for real money by an End User.</p>

<p>Criminal Activity means any felony conviction related to:</p> <ol style="list-style-type: none"> 1. violation of any United States law prohibiting business or financial relationships with any specific countries, individuals or entities. 2. operating or participating in the operation of illegal gambling activities in any jurisdiction; 3. fraud; 4. money laundering or other financial crimes; 5. Any Class 1 or 2 Felony under Federal Law or Class A or B felony under Oregon Law; 6. embezzlement; or 7. breach of fiduciary duty imposed by law.
<p>“Customized Branded Interface” or “CBI” means the customized End User interface of the Software provided as part of the Software, as stipulated in Schedule 2.</p>
<p>“Documentation” means the reference manuals that explain the use and operation of the Software and any other documentation provided by SBTech to Lottery in relation to Software and/or Services to be provided under the Agreement, whether in printed or electronic form, and shall include any revisions thereof.</p>
<p>“End Users” means any person, who registers with and fully accepts the terms of the Website(s) and may access and/or use the Software and/or Services via the Website(s).</p>
<p>“Events” means any event or game, the outcome or result of which is available for the End User to wager on.</p>
<p>“Fees” means those amounts payable to SBTech by Lottery as set forth in Schedule 4 and the applicable SOW.</p>
<p>“Lottery Data” means information entered into the Software by Lottery or End Users through the Software, including personal information of Lottery or End Users.</p>
<p>“Losses” means settlements, judgments, awards, fines, penalties, sanctions, interest, liabilities, losses, costs, damages and expenses, and reasonable attorneys’ fees.</p>
<p>“Managed Services” means those Services specified in Section 5 of Schedule 2 that SBTech offers in conjunction with the Software. The Managed Services that SBTech will provide to Lottery will be specified in one or more SOWs.</p>
<p>“Prohibited Activity” means with respect to SBTech or any legal entity subject to background checks under this Access and Services Agreement, any Criminal Activity directly related to or arising out of gambling activities. With respect to any control person (as defined in ORS 461.410.461(a)(i)) or Key Personnel, Prohibited Activity means any Criminal Activity.</p>
<p>“Regulator” means any federal, state or local legislative, executive, judicial or other regulatory or governmental authority, agency, department, commission, court or other body (including the State of Oregon, acting in its governmental capacity other than as a party to the Agreement), or any official thereof, having jurisdiction in any way over the Agreement or relating to any aspect of the performance of the Agreement.</p>
<p>“SBTech Third Party Providers” means those Third Party Providers mutually agreed by</p>

the Parties and identified in an SOW as SBTech's Third Party Providers.
"Services" means the services described in Schedule 2 and in SOWs entered into by the Parties.
"Sports Betting Solution" means the software developed by SBTech directly for the purpose offering betting and live betting services on sports to Lottery and End Users, including the CBI and Documentation and explicitly excluding any Third Party Products, related services and/or content.
"Software" means the Sports Betting Solution, including the stand-alone sports betting turnkey solution, and any related proprietary software applications of SBTech, including but not limited to the CBI, the Back Office, and the API. For clarity, Software does not include Third Party Products.
"Territory" means the State of Oregon.
"Term" has the meaning set forth in Section 17.1.
"Verified Bets" means Bets by End Users that have been accepted by the Software and which are designated unique identifier bet numbers by the Software.
"Verified and Graded Bets" means Verified Bets which have been graded as win, draw, lost or voided by the Software in accordance with the results of the relevant Event.
"Website(s)" means website(s) operated and/or serviced by Lottery as detailed in Schedule 2.
"Winnings" means the funds or prizes won by the End User as a result of Bet(s) placed by the End User being graded as a winning bet by the Software in accordance with the results of the relevant Event.

SCHEDULE 2: SCOPE OF SOFTWARE AND SERVICES

1. GENERAL

This **Schedule 2 (Scope of Software and Services)** sets forth the scope of Software and Services that SBTech may provide to Lottery as set forth in an SOW.

2. ANNEXES

The following Annexes are a part of, and are hereby incorporated into, **this Schedule 2 (Scope of Software and Services)**:

- 2.1. Annex A SBTech Change Management Program
- 2.2. Annex B Chameleon User Manual
- 2.3. Annex C SBTech Retail Operations Guide USA
- 2.4. Annex D SBTech Sports Offerings
- 2.5. Annex E SBTech Guidelines

3. SOFTWARE

3.1. **PAM Gaming Platform.** The provision of the Software to Lottery includes the PAM Gaming Platform, which is required to support the Sports Betting Solution. In addition to details set forth in the Documentation, the platform includes the following elements:

- 3.1.1. Chameleon 360 iGaming Platform
- 3.1.2. Standard back office
- 3.1.3. Content Management System (CMS)
- 3.1.4. Integration of Sports Betting Solution vertical (or other Lottery product as described in Section 6 below).

3.2. **Sports Betting Solution.** The Sports Betting Solution provides player account management functionality, a risk control center, and a customer service platform, among other features described in this **Schedule 2 (Scope of Software and Services)** and the Documentation. The Sports Betting Solution includes the following services and features:

- 3.2.1. Managed Trading. Throughout an Event, SBTech will adjust the odds of an offer and suspend the relevant markets in accordance with Lottery's direction.
- 3.2.2. Training. SBTech will conduct both online and on-site "train the trainer" training for Lottery. The amount of training time shall be set forth in an SOW.
- 3.2.3. Technical Support. SBTech will provide technical support for the Software as described in Schedule 3 (Service Levels).
- 3.2.4. Account Manager. SBTech will assign an Account Manager to work with Lottery during the term of each SOW. The Account Manager will be responsible for tracking open issues and shall serve as the initial escalation point for any issues that arise in connection with the Software or the Services.
- 3.2.5. Responsible Gaming Controls
- 3.2.6. Optional Integrations. The Software includes services necessary to integrate optional features listed below in **Sections 3.5** and **3.6**. Additional fees may apply where (a) Lottery requests additional integrations for certain Third Party Products not otherwise routinely performed for other SBTech customers, or (b) Lottery requests a number of integrations exceeding the customary number of integrations provided to other SBTech customers.
- 3.2.7. Bonuses. Includes the following features to permit Lottery to enable bonus offerings for its End Users:
 - a. Engine – bonus engine that works across sports
 - b. Automatic triggers
 - c. Filters

- d. Freebets
- 3.2.8. Additional Features. Additional features include the following:
- a. Cash-out
 - b. Enhanced combos
 - c. Free HTML blocks to create custom content and functionality
 - d. Three-step registration process for web and mobile use
 - e. Smart SEO – full HTML rendering to allow Google to read all the information on the site
 - f. Web analytics tools to understand End User behaviour
 - g. Custom tags used to tailor content for End Users
 - h. Scoreboards and visualizations for soccer and basketball
 - i. Responsive mobile site
 - j. Search
 - k. Personalized content
 - l. Proact Live Chat for customer support
- 3.3. **Hosting**. SBTech hosts the Software using a mixture of cloud-based and on-premise solutions. The following are hosted on the cloud-based platform: (a) content delivery network (CDN); (b) web application firewall (WAF); and (c) distributed denial of service (DDoS) mitigation.
- 3.4. **Back Office Software**.
- 3.4.1. Chameleon360 – A back-office tool to report and analyze business performance, providing full view of the operation and performance breakdown by location, channel and sport.
 - 3.4.2. Cashier Application – Enables employees to view, accept and manage bets. Provides visibility of content that can be bet on with the latest odds. Generates printed ticket once bet is placed and accepted. Patron can also redeem cash for settled bets or vouchers via the cashier application with the employee.
 - 3.4.3. Kiosk/Terminal Application – Self-service software for patrons to place bets and collect winnings (as a voucher). Enables patrons to browse content on offer, and place bets for pre-match and live across available bet-types. This is offered via hardware procured by Lottery. *Depending on the hardware, the software allows bet receipt printing, voucher printing, bill accepting, voucher scanning, and loyalty card integrations.
 - 3.4.4. Retail Back-Office – Application for retail functions such as cashflow management, till management, end of day reports, asset management and operational reports.
 - 3.4.5. TV Screen Management – Web screens for display of events and odds, managed via PC or smart TV with an application to determine which sports and events should be displayed.
- 3.5. **Third Party Products (Included with the Software)**.
- 3.5.1. Betradar. The basic standard Betradar data feed shall be provided to Lottery at no additional cost.
- 3.6. **Third Party Products (Pass-Through Expenses)**. In the event Lottery requests SBTech to procure on Lottery's behalf any of the Third Party Products listed in the categories below, such Third Party Product(s) shall be billed to Lottery as a Pass-Through Expense. For clarity, not all of the Third Party Products listed are required for use of the Software; the list provided below is an as example of the types of Third Party Products currently integrated with the Software.
- 3.6.1. Marketing and CRM
 - a. Eloqua
 - b. Silverpop
 - c. Optimove
 - d. Emarsys
 - e. MMG

- f. Urban Airship (Mobile)
- g. Xtreme Push (Mobile)
- h. Kochava (Mobile)
- i. Accengage (Mobile)
- j. One Signal (Mobile)
- k. Zendesk – Customer Support

3.6.2. KYC/Verification

- a. JUMIO
- b. Hello Soda
- c. Lexis Nexis (US approved)

3.6.3. Geo Location

- a. GeoComply

3.6.4. Mobile App

- a. Accengage
- b. AppManago
- c. Crashlytic
- d. Fabric
- e. Emarsys
- f. Kochava
- g. OneSignal
- h. Apptentive
- i. Appsflyer
- j. UrbanAirShip
- k. XtremePush
- l. Tools from Firebase console can also be added

3.6.5. Sports Data/Content

- a. Betradar – statistics, visualization, live data, streaming
- b. IMG
- c. Perform – scoreboards and streaming

3.6.6. Payments.

- a. Wordpay\Vantiv – Credit\Debit cards processing
- b. PayWithMyBank – ACH (online Check)
- c. Pay Near Me – Cash via retail shops
- d. Sightline – Prepaid cards + Wallet
- e. PayPal
- f. Skrill
- g. Neteller
- h. Apple Pay

4. RETAIL SERVICES.

SBTech will provide software to facilitate retail betting via a cashier system (over the counter betting) and self-service kiosks where users can place bets themselves via the SBTech interface, integrated into the hardware vendor of choice. SBTech is responsible for ensuring the Software works on the relevant hardware, and if the hardware procured is not built to the specifications recommended by SBTech, additional costs may apply to support such non-conforming hardware.

SBTech will provide a branded interface for Lottery's customers to play the Games at land-based locations. Lottery's customers will receive tickets with bet details to redeem in a retail location.

5. MANAGED SERVICES

SBTech Managed Services Team will provide with customer-facing Services comprising of Customer Service Management, Gaming Finance Management, Compliance and Acquisition and Retention Marketing Services. The Service will be fulfilled by the SBTech Managed Services Team based in Las Vegas, Nevada and will ensure that all activities and services are provided in a compliant, legal and ethical manner, while meeting its business goals.

5.1. An escalation process will be detailed and amended (as the need arise) to ensure the flow of information from the **SBTech Managed Services Team** are sent to agreed parties:

Escalation:

- Platform & Sport/trading escalations to SBTech US NOC
- Patron KYC, Payment Processing to Service Provider via Gaming Finance
- Responsible Gaming to Service Provider via Risk and Fraud team
- Patron Complaint escalations to Management via Customer Support Team
- Promotion escalation to Marketing team via Customer Support Team

5.2. Customer Service Management

SBTech Managed Services Team will provide 24/7 Customer Service for OSL's consumer facing brand. The staff will be located in Las Vegas, Nevada using appropriate SBTech tools and ensure all contacts are noted in the system.

Customer Service team will be front-line team to troubleshoot any customer query through available channels and escalate where necessary to appropriate teams.

Service:

- Telephone Support:
 - o Dedicated Phone Line for customer queries
 - o Phone support available 10am – 11:59 pm Pacific Time, 365 days
- Email Support:
 - o Dedicated customer support email
 - o Standard 24-hour response time (except in the event of any email server outages)
 - o Available 24/7/365
- Live chat:
 - o Dedicated customer Live Chat support
 - o Available 24/7/365
- Reporting Items shared with Client Compliance:
 - o Bi-weekly KPI reporting
 - o Potential Oregon Lottery complaint escalations

5.3. Gaming Finance Management

SBTech Managed Services Team will provide Gaming Finance service for OSL's consumer facing brand. The staff will be located in Las Vegas Nevada using appropriate tools and ensure all account reviews and contacts are noted in the system. Service includes:

- Player verification (KYC) and enhanced due diligence (EDD) where necessary
- Payment processing (deposit & withdrawal)
 - o Notify SBTech of any connection issues and time out notifications
- Wire transfer management
- Daily third-party payment processor reconciliation (system vs provider).
- Anti-money laundering and fraud monitoring and reporting
- Credit card chargeback representment

- Stop payment collections
- SAR filing
- Large win review (applicable thresholds to be determined by mutual agreement of the Parties)
- Manual check management and monetary instrument log (MIL) management
- Reporting items shared with Client compliance:
 - o Monetary instrument log reporting (threshold to be determined by Service Provider)
 - o Periodic account adjustments including but not limited to:
 - Chargeback account adjustments
 - Manual dormant account adjustment
 - Fraudulent winnings adjustment
 - Self-exclusion adjustments

Compliance requirements will be negotiated on a case-by-case basis. Items included but not limited to:

- o Weekly PPG report
- o Weekly comp audit

5.4. Responsible Gaming Management

SBTech Managed Services Team will adhere to regulatory mandatory annual training for Responsible Gaming for customer facing teams. Service Provider will implement a Responsible Gaming Escalation Process whereby patron activity is escalated for Responsible Gaming Team review and actioned where appropriate. These escalations will be shared with OSL via the weekly PPG Report.

5.5. Compliance Management

SBTech Managed Services Team will ensure that all services are provided and delivered in compliance with state and federal regulations and laws. The Service Provider will implement regular employee education on the latest regulations and processes and will prepare the OSL with a monthly compliance audit report.

5.6. Management of Marketing Budget: Acquisition & Conversion

SBTech Managed Services Team will provide acquisition and conversion marketing services for the OSL consumer facing brand and will help develop and manage marketing budgets in conjunction with OSL. The staff will be located in Las Vegas Nevada and will work with the OSL marketing department to establish the primary brand messaging and then the implementation of a multi-faceted marketing and player acquisition strategy across both offline and online channels, which will be continuously tested to optimize the most efficient channel on an ongoing basis so as to maximize returns on marketing investment. Service:

- Offline Marketing Services:
 - o Dedicated Marketing agency management
 - o Media agency management
 - o Responsible for offline direct response media spend reconciliations and billing/invoicing
 - o Manage offline advertising agencies to drive channel performance and ensure smooth and accurate campaign execution
 - o Managing Relationship with TV and radios in coordination with OSL marketing teams
- SEO Marketing Services:
 - o Website and App structure management to facilitate SEO
 - o Metatags, links, onsite and offsite content management
 - o Keywords strategy to optimize search site ranking and CPA
 - o Campaign analysis
- SEO Social Marketing Services:
 - o Distributing content through all social networks
 - o Organic posts and stories
 - o Paid posts and campaigns management
 - o Unpaid posts and campaigns management
- Creative Design Services:
 - o Creation of marketing and advertising materials across various media channels

5.7. Management of Marketing Budget: Retention

SBTech Managed Services Team will provide retention marketing services to OSL to help maximize player life time values and reduce player churn rates. The staff will be located in Las Vegas, Nevada and will work closely with the marketing acquisition team using a combination of offline and online CRM strategies. Service:

- Database Player Segmentation:
 - o Player profiling according to their betting behaviors
 - o Content creation & optimization, quality assurance,
 - o Multivariate testing and analytics
- Player Retention cycle analysis
 - o Creation of retention cycles for each player segment based on pre-defined parameters to increase players activity and generates higher revenue per player
 - o Communication medium: Emails, SMS and Push notification channel optimization
- Reporting:
 - o Analysis of CRM ROI to business stakeholders, business units and marketing team owners

5.8. Fail Over Service Contingency:

In the case fail over support is required, SBTech Managed Services Team will provide prompt notice. Fail over support will include:

- Diverting customer facing phone line(s) to voicemail
- Live chats to be picked up by remote support
- If fail over support is required for longer than 24 hours, email will be picked up by remote support.
- Gaming finance fail over service includes: (requires VPN remote access to back office)
 - o KYC authorizations
 - o Daily anti-money laundering review
 - o Withdrawal processing

Fail Over Contingency Plan

- SBTech Managed Services Team to provide SBTech NOC personnel information handling contacts during fail over
- Have SBTech NOC create profiles for authorized remote personnel for applications
- SBTech Managed Services Team to authorize comp limits for remote personnel
- Once fail over is no longer required, SBTech NOC are notified to revoke remote personnel access to applications

6. OTHER PLATFORM USES

At Lottery's request, SBTech may make the PAM Gaming Platform available to Lottery for use in connection with other Lottery products for the additional fees set forth in **Schedule 4**. Additional terms of such use shall be agreed upon by the Parties in an SOW under the Agreement.

7. DOCUMENTATION

- 7.1. For purposes of the Agreement, "Documentation" means written or electronic documentation that describes the functionalities of the Software and Services, which may be updated by SBTech from time to time during the Term. Documentation may include, but is not limited to, user manuals, guides, and tutorials.
- 7.2. The Documentation for the Software and Services as of the Effective Date is attached hereto in Annexes A through H.

8. REPORTS

All reports described in the Documentation are included as part of the Software.

Annex A: SBTech Change Management Program



Annex A - SR

Legalsportsreport.com

Annex B: Chameleon User Manual



Annex B - Char

Legalsportsreport.com

Annex C: SBTech Retail Operations Guide USA



Annex C - SE

Legalsportsreport.com

Annex D: SBTech Sports Offerings



Annex D - SBTech
Sports Offerings.pdf

Legalsportsreport.com

Annex E: SBTech Guidelines



Annex E - SB

Legalsportsreport.com

SCHEDULE 3: SERVICE LEVEL AGREEMENT

- 1. Definitions.** The following terms shall have the meanings given below. Capitalized terms used herein but not specifically defined herein shall have the meanings attributed to such terms in the Agreement to which this Service Level Agreement is attached.

Availability and Available	means the total amount of time (expressed as a percentage as described in Section 3.1 (Calculation of Availability) below) in a Measurement Period during which the Software is functional in all material respects (e.g., the Software is not experiencing a Critical Incident or Emergency Maintenance).
Business Hours	means Monday to Sunday, 8 a.m. – 6 p.m. United States Pacific local time.
Critical Incident	means a system-wide incident that has rendered the Software totally non-functional (including Back Office and Lottery’s business processes that are integrated with the Software via the connection provided and maintained by SBTech as specified in an SOW (“ Integrations ”)). .
	Critical Incident fulfils all of the following criteria:
	<ul style="list-style-type: none"> • The Software is completely unavailable. • Widespread failure of End Users to log in, register, navigate the CBI on any device, place any wagers and deposit or cash out (i.e., withdrawal). • Complete failure of the Integrations.
Downtime	means the any time the Software is not Available due to the occurrence of a Critical Incident or Emergency Maintenance.
Emergency Maintenance	means downtime of the Software due to the application of urgent patches or fixes, or other urgent maintenance.
Incident	means a Critical Incident, Major Incident or Minor Incident.

Initial Response	means the logging and prioritization of an Incident by a Support Specialist (as defined below) that does not necessarily include a Solution for the Incident.
Major Incident	<p>means an incident that has rendered the Software (including Back Office and Integrations) partially non-functioning.</p> <p>Major Incident fulfills at least one of the following criteria:</p> <ul style="list-style-type: none">• Back Office and Integrations features and functionalities are not operational (e.g., search for player is not working, search for tickets is not working, financial transaction approval functionality is not working);• Errors or malfunctions of the Software which have a direct impact on End Users' gaming experience such as:<ul style="list-style-type: none">○ Operational failure of the match tracker, scoreboard, or statistics (when such are offered in respect of a game); and○ odds not updating through push mechanism.
Measurement Period	means the period during which SBTech shall measure and report on Availability. Except as otherwise specified in an SOW, the Measurement Period for each Service Level is a calendar month.
Minor Incident	means any incident that has minimal impact on the functionality of the Software (or Back Office or Integrations).
Off-Peak Hours	means from 11:00 p.m. to 9:00 a.m. United States Pacific local time.
SLA	means this Service Level Agreement.

Solution means actions and procedures, which circumvent or overcome the impact of the Incident. Solutions may not provide a final and full solution to the Incident.

Support Services means support services to be provided under this SLA.

Total Time means the total minutes in a Measurement Period.

2. Support Services

2.1 SBTech shall supply the Support Services to Lottery described in **Section 4** below.

3. Service Level – Availability

3.1 Calculation of Availability

Availability shall be calculated during each Measurement Period in accordance with the following formula:

$$\text{Availability} = \frac{(\text{Total Time} - \text{Downtime})}{\text{Total Time}} \times 100\%$$

For example, if the Total Time during the Measurement Period is based on a thirty (30) day month, and the total Downtime during such Measurement Period totaled four (4) hours, the calculation would be:

$$\text{Availability} = \frac{(43,200 \text{ minutes} - 240 \text{ minutes})}{43,200 \text{ minutes}} \times 100\% = 99.4\%$$

3.2 Service Level Credits.

In the event Availability falls below 99.7% during any Measurement Period, Lottery shall receive a Service Level Credit in accordance with the chart below:

Availability Range	Service Level Credit Percentage
Less than 99.7%, but greater than or equal to 99.5%	2%

Less than 99.5%, but greater than or equal to 99.0%	5%
Less than 99.0%, but greater than or equal to 98.1%	10%
Less than 98.1%, but greater than or equal to 97.6%	15%
Less than 97.6%	20%

The Service Level Credit due to Lottery shall be calculated by multiplying the “Service Level Credit Percentage” in the table above by the Access Fees (e.g., excluding Managed Services Fees) received by SBTech for the impacted channel during the same Measurement Period in which the Availability percentage fell within the corresponding “Availability Range.”

For example, if the Downtime that triggered a Service Level Credit affected use of the Software only with respect to the retail channels, the Fees attributable to the on-line channel would not be included in the calculation of the Service Level Credit. Any Service Level Credits due to Lottery shall be credited on the following month’s invoice.

3.3 Downtime Exclusions. For clarity, the following shall not be considered Downtime and shall not be included in the calculation of Availability:

- a) Scheduled Downtime as defined in **Section 3.4 (Scheduled Downtime)** below;
- b) Unavailability of the Software caused by an act or omission of Lottery or any third party acting on Lottery’s behalf (including but not limited to, Third Party Providers other than SBTech Third Party Providers and Lottery’s agents, subcontractors, vendors or affiliates);
- c) Unavailability of the Software resulting from a Force Majeure Event;
- d) Denial of service attacks at the hosting facility or any other SBTech, Lottery or third party facilities directly or indirectly involved in the support, maintenance or operation of the Software;
- e) Interruptions caused by third party system failure (e.g., a Third Party Product other than an SBTech Third Party Product) where the Software is integrated for log-in authorization, fund transfer, or other activities rely on the third party system for their normal operations; and

- f) Any unavailability of the Software resulting due to regulatory concerns (e.g., where directed by a Regulator or Applicable Law).

3.4 Scheduled Downtime. SBTech shall be entitled to conduct scheduled maintenance requiring downtime for any portion of the Software and its operation (referred to as “**Scheduled Downtime**”). SBTech shall use reasonable efforts to notify Lottery of any Scheduled Downtime at least seven (7) days in advance. Such Scheduled Downtime shall occur during Off-Peak Hours. SBTech shall use reasonable efforts to limit Scheduled Downtime to eight (8) hours per Measurement Period.

3.5 Emergency Maintenance. SBTech shall use commercially reasonable efforts to conduct Emergency Maintenance requiring Downtime for the Software during Off-Peak Hours upon providing Lottery with reasonable prior notice by email, if feasible, to one of the following contacts:

- (i) [_____];
 (ii) [_____]; or
 (iii) [_____].

4. Support Availability and Contacts

4.1 While SBTech is providing Customer Service Management services to Lottery, SBTech shall provide End Users with level 1 (basic) support as described in **Section 5 (Managed Services)** of **Schedule 2 (Scope of Software and Services)** to Lottery.

4.2 SBTech’s service center will operate as a help-desk to receive all Incident reports and service calls. There will at all times be an appropriately qualified support specialist (each, a “**Support Specialist**”) on call to provide Support Services for Critical and Major Incidents 24 hours per day, 365 days per year. All other Support services will be available during Business Hours only. The service center may be contacted by telephone or by e-mail, as follows:

- a) 1st tier contact – office hours Monday to Friday 8 a.m. - 6 p.m. (Pacific time):
 Telephone: +646-933-0916
 Email address: support@sbtech.com
 Skype sbtech.support1
- b) 2nd tier contact – outside the office hours set out above:
 On call: senior support technician
 Mobile: +46-933-0916

Email address: support@sbtech.com
Skype sbtech.support1
Always contact through 24/7 support.

4.3 The service center shall have the following roles and responsibilities:

- a) Act as the single point of contact for all issues concerning Support Services.
- b) Be responsible for providing status reports of open service tickets and for following up on open issues.
- c) In case the Support Specialist manning the help-desk cannot provide the required information or assistance, he/she will designate another person from SBTech to provide the necessary information or assistance.

5. Invoking Support Services

- 5.1** Upon detection of any Incident, Lottery shall contact the service center by e-mail, or any other agreed communication format notified in advance by Lottery, using the contact details set out in **Section 4.2** of this **Schedule 3 (Service Level Agreement)**. The Incident report shall include, in addition to all the details set out in **Section 5.2** of this **Schedule 3 (Service Level Agreement)**, the name of the Lottery representative who shall function as SBTech's single point of contact for the Incident reported and who shall work with the Support Specialist and provide all cooperation and assistance reasonably required in order to enable SBTech to resolve the Incident quickly and efficiently.
- 5.2** Lottery shall provide the service desk with a report of the Incident, including its recommendation as to whether it should be classified as a Critical, Major, or Minor and any additional information available to Lottery and reasonably requested by the Support Specialist, including, without limitation, the circumstances in which the Incident arose and the time Lottery became aware of it.
- 5.3** Upon receipt of such report, the Support Specialist shall then assign to the report one of the categories specified in the table in **Section 6.2** of this **Schedule 3 (Service Level Agreement)**. For clarity, SBTech shall be entitled to change the Incident Category upon notification to Lottery and considering the then current circumstances of the Incident allows for such change. In the event Lottery disagrees with SBTech's assignment of an Incident Category, Lottery shall notify SBTech in writing, and the Parties shall use good faith efforts to discuss re-categorization, if appropriate.

6. Incident Resolution

- 6.1** No Incident shall be considered closed unless Lottery and SBTech have reasonably agreed that it is solved.
- 6.2** The following Solution and resolution times shall apply:

Incident Category	Initial Response	Solution
Critical	Within fifteen (15) minutes	Constant work until a Solution is available and implemented in the production environment so that the respective part of the Software is Available
Major	Within thirty (30) minutes	Constant work until a Solution is available, which SBTech shall deploy into the production environment on a schedule mutually agreed by the Parties.
Minor	Two (2) Business Days	Final resolution upon release of a subsequent version, based on prioritization.

- 7. SLA Reporting.** SBTech shall provide Lottery with the following reports upon Lottery's reasonable request:
- 7.1 Availability Report.** Contains Software Availability statistics (e.g., number and duration of Critical Incidents, Emergency Maintenance occurrences and Scheduled Downtimes).
- 7.2 Incident Report.** Contains information on Incidents related to the Software for the prior month and for the current year to date.
- 7.3 Additional Reports.** If a Regulator requires Lottery to provide any additional report(s), the Parties shall mutually agree in writing upon the form and timing for any such additional report(s).

EXHIBIT 4: FEES AND PAYMENTS**1. GENERAL**

This **Schedule 4 (Fees and Payments)** describes all Fees, Pass-Through Expenses (as defined below) and other costs payable to SBTech by Lottery under the Agreement.

2. DEFINITIONS

As used in this **Schedule 4 (Fees and Payments)**, the following terms have the meanings set forth below. Other capitalized terms not otherwise defined in this **Schedule 4 (Fees and Payments)** have the respective definitions assigned to them in other parts of the Agreement.

- 2.1 “Bonus Cost”** means the total amount of promotional incentives granted to and actually spent by End-Users, including, without limitation, sign-up bonuses, retention bonuses, promotional tournament prizes (cash and bonuses), redeemable vouchers, cash credits, tournament dollars, guaranteed tournament prizes in excess of the actual tournament pool.
- 2.2 “Gross Gaming Revenues”** (or “**GGR**”) means the sum of gross stakes of all the Verified and Graded Bets placed within a calendar month, less all Winnings distributed or to be distributed to End Users with respect to such Verified and Graded Bets. For the avoidance of doubt, Gross Gaming Revenue shall be calculated according to any and all of the Verified and Graded Bets, without consideration as to whether such amounts were collected from the End Users.
- 2.3 “Net Gaming Revenues”** means Gross Gaming Revenues less (a) seventeen and one-half percent (17.5%) of GGR for costs related to payment processing, chargebacks, KYC, and geolocation or other costs to be agreed by the Parties; and (b) an amount not to exceed twelve percent (12%) of GGR for (i) actual Bonus Costs (to be calculated and capped separately for retail and mobile channels), and (ii) any federal excise taxes (if due and payable) ((a) and (b), collectively, “**Deductions**”). Commencing the second year of the Term (i.e., starting with the thirteenth (13th) month following Go Live), the total amount to be deducted from the Gross Gaming Revenues as described in (a) and (b) above shall not exceed twenty-eight percent (28%) of GGR for such month. For clarity, Lottery may determine how to allocate the one and one half percent (1.5%) reduction in the amount of allowable Deductions as between (a) and (b) above, but Lottery shall not otherwise shift Deductions attributable to (b) to (a).

3. ACCESS FEES**3.1 Access Fees for Years 1 through 3.**

Lottery shall pay SBTech an amount equal to the percentage of Lottery’s monthly Net Gaming Revenue in accordance with the below chart during each month of the first thirty six (36) months of the Term following Go-Live:

Amount of Net Gaming Revenue	Access Fee Payable to SBTech
\$0.00 - \$1,999,999.99	11% of Net Gaming Revenue
\$2,000,000.00 - \$3,999,999.99	10% of Net Gaming Revenue
\$4,000,000.00 and above	9% of Net Gaming Revenue

3.2 Access Fees for Years 4 and Thereafter.

Lottery shall pay SBTech an amount equal to twelve percent (12%) of Lottery's monthly Net Gaming Revenue during each month of the Term, starting in the thirty-seventh (37th) month following Go-Live.

3.3 Lottery Responsible for Retail Hardware.

The Access Fees in **Sections 3.1** and **3.2** above are based on the Lottery directly procuring (at its own cost), maintaining and retaining responsibility for all hardware necessary to conduct Retail Sports Betting.

3.4 Included Components.

The Access Fees in **Sections 3.1** and **3.2** above include the procurement and provision by SBTech of a standard sports data feed package (e.g., BetRadar) at no additional charge to Lottery. In the event Lottery wishes to obtain additional features offered by the provider of the sports data feed, Lottery may elect to procure such additional features at Lottery's sole cost and expense.

4. MANAGED SERVICES FEES

Lottery shall pay SBTech the Managed Services Fees as set forth below each month during the Term, in addition to the Access Fees set forth above. If after the Initial Term, Lottery elects not to have SBTech provide the Managed Services during any Renewal Term(s), Lottery shall provide written notice to SBTech no later than one hundred and eighty (180) days prior to the end of the Initial Term or then-current Renewal Term, as applicable.

4.1. Managed Services Fees for Years 1 through 3.

Subject to the monthly minimums set forth in **Sections 4.1.1** and **4.1.2** below, Lottery shall pay SBTech an amount equal to sixteen percent (16%) of Lottery's total monthly Net Gaming Revenue during each month of the first thirty-six (36) months of the Term following Go-Live, for SBTech's provision of the Managed Services as described in **Section 5 (Managed Services)** of **Schedule 2 (Scope of Software and Services)**.

4.1.1 Monthly Minimums. During the first six (6) months following Go-Live, the minimum Managed Services Fee payable to SBTech shall be \$300,000.00 per month (the "**Minimum Managed Services Fee Payment**"). Beginning in

month seven (7) following Go-Live, the Minimum Managed Services Fee Payment shall be \$350,000.00 per month.

4.1.2 Reimbursement of Overpayments.

- (a) In the event that the Minimum Managed Services Fee Payment exceeds the actual Managed Services Fees payable to SBTech during such month (i.e., sixteen percent (16%) of Lottery's total monthly Net Gaming Revenue during the Initial Term, and seventeen percent (17%) thereafter), SBTech shall reimburse Lottery for any overpayments commencing in the first month that the Managed Services Fees payable to SBTech are equal to or in excess of \$400,000 per month.
- (b) Such overpayments shall be calculated in accordance with the following formula: (i) the total Minimum Managed Services Fee Payments paid to SBTech in accordance with **Section 4.1.1** above, less (ii) the actual amount of Managed Services Fees payable to SBTech (i.e., sixteen percent (16%), or seventeen percent (17%), as applicable) of the Net Gaming Revenue) for the months in which the Minimum Managed Services Fee Payments exceeded the actual amount of Managed Services Fees payable to SBTech (the "**Overpayment**").
- (c) The Overpayment shall be prorated equally among the remaining months in the Term (each prorated amount, the "**Monthly Repayment**"), and the Monthly Repayment shall be deducted from SBTech's Managed Services Fee each month, so long as the actual Managed Services Fees payable to SBTech during the month are equal to or in excess of \$400,000.00.
- (d) In the event the calculated Managed Services Fees are less than \$400,000 in any subsequent month, SBTech shall not be required to remit the Monthly Repayment in such month, and the Parties shall re-calculate the Monthly Repayment amount in accordance with subsection (c) of this **Section 4.1.2**. After each month in which an Overpayment has occurred (as described in subsection (b) of this **Section 4.1.2**), the Parties shall re-calculate the Overpayment and Monthly Repayment amount in accordance with subsections (b) and (c) of this **Section 4.1.2**.
- (e) SBTech shall be relieved of its obligation to reimburse Lottery for any outstanding Overpayments and remaining Monthly Repayments effective upon any early termination of the Agreement.

4.2 Managed Services Fees for Year 4 and Thereafter.

Lottery shall pay SBTech an amount equal to seventeen percent (17%) of Lottery's total monthly Net Gaming Revenue during each month of the Term and any Renewal Term, starting in the thirty-seventh (37th) month following Go-Live, for SBTech's provision of the Managed Services described in **Section 5 (Managed Services)** of **Schedule 2 (Scope of Software and Services)**.

4.3 Delay in Go Live.

In the event that Lottery fails to launch mobile sports betting within one week of the Go-Live date mutually agreed upon by the Parties as set forth in an SOW, and SBTech demonstrates that it has satisfied all conditions for Go Live for which it is solely responsible as set forth in an SOW, then Lottery shall pay SBTech for each day of delay in Go-Live, pro-rated at the rate of \$350,000.00 per month (“**Delay Payment**”). Delay Payments shall not be refundable and cannot be applied towards any future payments owed to SBTech.

5. FEE ASSUMPTIONS.

The Access Fees and Managed Services Fees set forth in **Sections 3 (Access Fees) and 4 (Managed Services Fees)** of this **Schedule 4 (Fees and Payments)** are based and conditioned upon the following assumptions agreed upon by the Parties. In the event any of the assumptions below are no longer accurate or viable, such shall be considered an Adverse Action subject to **Section 17.5 (Adverse Action)** of the Agreement, and the Fees shall be subject to renegotiation at SBTech’s request:

5.1 Timely Retail Launch.

The Fees are based upon the assumption that Lottery, with input from SBTech, shall create a deployment plan for the launch of retail sports betting using the Software based on research and analytics, and shall achieve substantial completion of the deployment of retail sports betting as contemplated by such deployment plan within eighteen (18) months of the Effective Date.

5.2 Lottery Sole Operator of State-Wide Mobile Sports Betting.

The Fees are based upon the assumption that Lottery will be the sole operator of on-line sports betting and on-line gaming across the state of Oregon, with the exception of gaming that may be offered exclusively within the borders of tribal reservations and limited to wagers placed by individuals physically located on tribal lands.

5.3 Managed Services and Exclusivity During the Entire Term.

The Fees are based upon the assumption and Lottery’s assurances that SBTech shall (a) provide Managed Services to Lottery during the entire Initial Term of the Agreement (i.e., the first five (5) years following Go-Live); and (b) be the exclusive provider of real money sports betting software and services to Lottery during the Term.

6. PASS-THROUGH EXPENSES

6.1 General.

All actual costs and expenses for which SBTech is contractually responsible to pay to individuals or entities providing the categories of products and Services detailed below (collectively, the “**Pass-Through Expenses**”) shall be reimbursed to SBTech by Lottery. Such Pass-Through Expenses shall be listed on each monthly invoice provided to

Lottery, and Lottery shall pay such invoice in accordance with **Section 8.4** of the Agreement.

6.2 Third Party Products.

The costs and expenses associated with the Third Party Products set forth in a SOW shall be considered Pass-Through Expenses. For clarity, the only Third Party Product provided by SBTech at no additional cost to Lottery is a standard sports data feed package (e.g., Betradar).

6.3 Additional Pass-Through Expenses.

The Parties may mutually agree in writing upon additional products and services that SBTech may procure on the Lottery's behalf that will be categorized as Pass-Through Expenses.

7. PROJECT COSTS

Where a SOW or Change Order requires SBTech to perform additional Services, Lottery shall pay SBTech such additional amounts as required to perform the additional Services as mutually agreed upon in an SOW or Change Order, which amount shall be no less than \$850.00 per person for each day (not to exceed 8 hours).

8. PLATFORM FEES

In the event Lottery desires to utilize the PAM Gaming Platform (as described in **Section 3 (PAM Gaming Platform)** of **Schedule 2 (Scope of Software and Services)** for use with any other Lottery offerings (e.g., iGaming), the following fees shall apply:

Amount of Net Gaming Revenue ¹	Platform Fee Payable to SBTech
\$0.00 - \$999,999.99	5% of Net Gaming Revenue
\$1,000,000.00 - \$2,999,999.99	4% of Net Gaming Revenue
\$3,000,000.00 and above	3% of Net Gaming Revenue

9. TERMINATION FEE

9.1 Where expressly stated in the Agreement, in addition to all outstanding Fees and other amounts due and owing to SBTech through the date of termination, Lottery shall pay SBTech a termination fee (the "**Termination Fee**") within thirty (30) days from the date of termination in accordance with the formula below:

¹ Depending on the use of the PAM Gaming Platform, the Parties shall mutually agree upon appropriate revisions to the definition of "Net Gaming Revenue" applicable to such additional use.

$$(A \times B) + (C) = \text{Termination Fee}$$

A = The greater of: (a) the average amount of Fees paid and payable to SBTech each month based on the twelve (12) months preceding the date of termination, or (b) \$300,000.00. For clarity, in the event of a termination before the first twelve (12) months of the Term following Go-Live, the calculation in (a) shall be based on average amount of Fees paid and payable to SBTech by Lottery during each month from Go-Live through the date of termination.

B = The lesser of: (a) 24 months or (b) the remaining months of the Term.

C = Wind Down Costs

9.2 For purposes of this Section, “**Wind Down Costs**” means actual direct costs incurred by SBTech as a direct result of the early termination of the Agreement, including:

- (a) with respect to any agreements SBTech entered into for purposes of providing the Software and Services to Lottery, including agreements for (i) Third Party Products; (ii) hardware and equipment; (iii) property leases; and (iv) other Subcontractors (which shall include agreements between SBTech and any of its affiliates for the provision of Services, including Managed Services, or lease of property or equipment, unless such affiliate is later added as a party to the Agreement), the Wind Down Costs shall consist of (A) any termination or cancellation fees that SBTech is contractually required to pay in connection with the early termination of any license, lease or contract, and (B) any non-cancellable charges that SBTech is contractually required to pay during the remaining term of such license, lease, or contract;
- (b) with respect to any employees of SBTech, any applicable severance payments, unpaid vacation and sick time and or other compensation; and
- (c) with respect to hardware and equipment owned by SBTech and used by SBTech primarily to provide the Software and Services, the Wind Down Costs shall consist of SBTech’s net book value for such hardware and equipment.

9.3 If Lottery terminates the Agreement on a date that is earlier than thirty (30) days prior to the Go Live date set forth in a SOW, the calculation of the Termination Fee shall be as follows: $(\$1,000,000.00) + (\text{Wind Down Costs}) = \text{Termination Fee}$.

9.4 SBTech shall use reasonable efforts to avoid incurring Wind Down Costs, minimize the Wind Down Costs, and/or recover amounts paid in advance for services and products.