

PROFESSIONAL SERVICES AGREEMENT

This Agreement ("Agreement") is entered into as of January 30, 2012 ("Effective Date") and will end on January 30, 2015 by and between the STATE OF DELAWARE, DELAWARE STATE LOTTERY, ("Delaware"), and SCIENTIFIC GAMES INTERNATIONAL, INC., a Delaware corporation, with offices at 1500 Bluegrass Lakes Parkway, Alpharetta, GA 30004 ("Scientific Games").

WHEREAS, Delaware desires to obtain certain services from Scientific Games; and

WHEREAS, Scientific Games desires to provide such services to Delaware on the terms set forth below;

WHEREAS, Delaware and Scientific Games represent and warrant that each party has full right, power and authority to enter into and perform under this Agreement;

FOR AND IN CONSIDERATION OF the premises and mutual agreements herein, Delaware and Scientific Games agree as follows:

1. Services.

1.1 Scientific Games shall perform for Delaware the services specified in the Appendices to this Agreement, attached hereto and made a part hereof.

1.2 The Contract between the Lottery and the Successful Vendor shall include as integral parts thereof:

- a. the executed Agreement;
- b. Delaware's request for proposals for Instant Game Tickets and Related Services, DSL 2011-1 ("RFP"), attached hereto and incorporated herein as Appendix A;
- c. any Clarifications and Addenda to the RFP;
- d. Scientific Games' response to the RFP, including the pricing proposal, ("Proposal"), attached hereto and incorporated herein as Appendix B;
- e. The pricing and payment schedule modifying the pricing proposal, attached to and incorporated herein as Appendix C;
- f. The negotiable options attached to and incorporated herein as Appendix D;
- g. any modifications to the Proposal, if properly submitted and any Proposal Clarifications; and
- h. Purchase Order.

Any conflict or inconsistency between the provisions of the following documents shall

be resolved by giving precedence to such documents in the following order: (a) this Agreement (including any amendments or modifications thereto); (b) the RFP; (c) any clarifications and addend to the RFP; (d) the Proposal; (e) any modifications to the Proposal; and (f) purchase order. The aforementioned documents are specifically incorporated into this Agreement and made a part hereof.

1.3 Delaware may, at any time, by written order, make changes in the scope of this Agreement and in the services or work to be performed. No services for which additional compensation may be charged by Scientific Games shall be furnished without the written authorization of Delaware. When Delaware desires any addition or deletion to the deliverables or a change in the Services to be provided under this Agreement, it shall notify Scientific Games, who may be required by Delaware to submit to Delaware a "Change Order" for approval authorizing said change. The Change Order shall state whether the change shall cause an alteration in the price or the time required by Scientific Games for any aspect of its performance under this Agreement. Pricing of changes shall be consistent with those established within this Agreement.

1.4 Scientific Games will not be required to make changes to its scope of work that result in Scientific Games' costs exceeding the current unencumbered budgeted appropriations for the services. Any claim of either party for an adjustment under Section 1 shall be asserted in the manner specified in the writing that authorizes the adjustment.

2. Term and Extensions

2.1 The Agreement shall be in effect from the effective date, including an implementation period and three (3) years of production operations, plus such time as is necessary to finish out Delaware's business week in progress. (Delaware's current business week runs from Monday through Sunday but is subject to change by the Delaware upon providing Scientific Games with written notice.) Delaware shall provide Scientific Games with written notice of the completion of the implementation period. The Agreement term may run a shorter period, as determined by Delaware, due to causes such as termination or loss of statutory authority by Delaware. Further, Delaware reserves the right to renew the Agreement at its sole discretion up to a maximum of three (3) one (1) year renewals, provided that each single option to renew is exercised by Delaware at least ninety (90) days prior to the end of the initial contract period, or the prior renewal period thereof, or at a time mutually agreed upon by both parties.

2.2 Delaware reserves the right to reactivate or further extend the Agreement, or any renewal thereof, at the rates and upon the terms and conditions then in effect on thirty (30) days' notice for one (1) or more thirty (30) day periods if a different vendor is chosen for a subsequent contract and the subsequent vendor does not meet the requirements of Delaware. Exercising these rights shall not be construed as obligating Delaware to repeat the procurement process for any subsequent contract or conferring any right or expectation for the Scientific Games to continue providing instant tickets and related services after the expiration of any such ninety (90) day period.

3. Payment for Services and Expenses.

3.1 Delaware is obligated to compensate Scientific Games only as a result of sales conducted through a weekly retailer settlement process set forth in Appendix B as modified by agreement of the Parties in Appendix C. The submitted invoices will be confirmed by Delaware based on management and accounting reports. Confirmed invoices will be paid within thirty (30) days of receipt. The State of Delaware fiscal year is July first (1st) through June thirtieth (30th). Payments to Scientific Games from Delaware during any given fiscal year are contingent upon enactment of appropriation legislation. Delaware will pay Scientific Games for the performance of services described in Appendix B. The fee will be paid in accordance with the payment schedule attached hereto as part of Appendix C.

3.2 Appendix C, in part, sets forth the agreed upon options exercised by Delaware and the applicable rate of compensation to be paid to Scientific Games. It is understood by the Parties that Scientific Games shall produce all tickets to be compatible with its proprietary FailSafe® validation system and shall use best efforts to provide the corresponding validation software for testing by Delaware in the general software release scheduled for April 30, 2012. However, no penalty shall apply and no liability shall be incurred by Scientific Games in the event such date is not met and Scientific Games shall provide such software as soon as practicable thereafter. Upon receipt of such software, Delaware shall have up to thirty (30) days to conduct its acceptance testing procedures, notifying Scientific Games in writing of any defects discovered. Scientific Games shall cure all such defects and resubmit for acceptance testing. Upon successful completion of acceptance testing, Scientific Games shall receive the additional compensation as set forth in Appendix C and the software shall be placed into operation.

3.2 Scientific Games shall submit weekly invoices to Delaware in sufficient detail to support the services provided during the previous month. Delaware agrees to pay those invoices within thirty (30) days of receipt. In the event Delaware disputes a portion of an invoice, Delaware agrees to pay the undisputed portion of the invoice within thirty (30) days of receipt and to provide Scientific Games a detailed statement of Delaware's position on the disputed portion of the invoice within thirty (30) days of receipt. Delaware's failure to pay any amount of an invoice that is not the subject of a good-faith dispute within thirty (30) days of receipt shall entitle Scientific Games to charge interest on the overdue portion at the lower of 1.0% per month. All payments shall be made by wire transfer in accordance with the banking instructions provided to Delaware by Scientific Games.

3.3 Unless provided otherwise in an Appendix, all expenses incurred in the performance of the services are to be paid by Scientific Games. If an Appendix specifically provides for expense reimbursement, Scientific Games shall be reimbursed only for reasonable expenses incurred by Scientific Games in the performance of the services, including, but not necessarily limited to, travel and lodging expenses, communications charges, and computer time and supplies.

3.4 Delaware is a sovereign entity, and shall not be liable for the payment of federal, state and local sales, use and excise taxes, including any interest and penalties

from any related deficiency, which may become due and payable as a consequence of this Agreement.

4. Responsibilities of Scientific Games.

4.1 Scientific Games has sole responsibility and liability for delivery, installation and maintenance of all equipment, software and support services offered in its Proposal and for the provision of all other goods and services offered in or acquired by its Proposal, and will directly make such representations and warranties to Delaware to which Delaware and Scientific Games may agree, whether or not Scientific Games is the manufacturer, producer or direct provider of the equipment, software or services. Scientific Games may have subcontractors; however, Scientific Games must accept full responsibility for and will be strictly liable to Delaware for any such subcontractor's performance. Delaware will consider Scientific Games to be the sole point of contact with regard to all contractual matters.

4.2 It shall be the duty of the Scientific Games to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations.

4.3 Permitted or required approval by Delaware of any products or services furnished by Scientific Games shall not in any way relieve Scientific Games of responsibility for the technical accuracy and adequacy of its work. Delaware's review, approval, acceptance, or payment for any of Scientific Games' services herein shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Scientific Games shall be and remain liable in accordance with the terms of this Agreement and applicable law for all damages to Delaware caused by Scientific Games' negligent or intentionally dishonest performance or failure to perform under this Agreement.

4.4 Scientific Games agrees that its officers and employees will cooperate with Delaware in the performance of services under this Agreement and will be available for consultation with Delaware at such reasonable times with advance notice as to not conflict with their other responsibilities.

4.5 Scientific Games has or will retain such employees as it may need to perform the services required by this Agreement. Such employees shall not be employed by Delaware or any other political subdivision of Delaware as of the date of this Agreement or at any time during the term.

4.6 Scientific Games will not use Delaware's name, either express or implied, in any of its advertising or sales materials without Delaware's express written consent. Delaware hereby consents to Scientific Games' use of images of products and services supplied by Scientific Games under this Agreement in connection with efforts by Scientific Games or its affiliated companies to sell its products and services to other legally-authorized lotteries through competitive bidding procedures or other procurements allowed by applicable law.

4.7 The rights and remedies of Delaware provided for in this Agreement are in addition to any other rights and remedies provided by law.

4.8 Scientific Games is obligated to meet high standards for ethics and integrity under this Agreement. Scientific Games and its employees:

a. Shall accept no pay, remuneration, or gratuity of any value for performance on or information derived from this project from any party other than Delaware as described in this Agreement, or from any party under contract to Delaware or seeking to contract with Delaware with respect to this project.

b. Shall not offer or give any gift, gratuity, favor, entertainment, loan or any other thing of material monetary value to any Lottery employee, or to any individual with the intent of unduly influencing the outcome of this project.

c. Shall not disclose any business sensitive or confidential information gained by virtue of this Agreement to any party without the consent of Delaware.

d. Shall take no action in the performance of this Agreement to create an unfair, unethical or illegal competitive advantage for itself or others.

e. Shall not have any financial or personal interests relating to this project (other than the Agreement itself) without the explicit written consent of Delaware.

For violation of provisions of Section 4.8, Delaware may terminate the Agreement, receive restitution from, receive liquidated damages, or take any other appropriate actions against Scientific Games.

5. Delaware's Responsibilities.

5.1 In connection with Scientific Games' provision of services under this Agreement, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices in a timely and complete manner.

5.2 Delaware agrees that its officers and employees will cooperate with Scientific Games in the performance of services under this Agreement and will be available for consultation with Scientific Games at such reasonable times with advance notice as to not conflict with their other responsibilities.

5.3 The services performed by Scientific Games under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform Scientific Games by written notice before the effective date of each such delegation.

5.4 The review comments of Delaware's designated representatives may be

reported in writing as requested by Scientific Games. It is understood by the parties that Delaware's representatives' review comments do not relieve Scientific Games from the responsibility for the technical accuracy of all work delivered under this Agreement.

5.5 Delaware shall, without charge, furnish to or make available for examination or use by Scientific Games as it may request, any data which Delaware has available, including as examples only and not as a limitation:

- a. Copies of reports, surveys, records, and other pertinent documents;
- b. Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations, other document, and information related to the services specified by this Agreement.

Scientific Games shall return any original data provided by Delaware.

5.6 Delaware shall assist Scientific Games in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.

5.7 Scientific Games will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.

5.8 Delaware agrees not to use Scientific Games' name, either express or implied, in any of its advertising or sales materials. Scientific Games reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

6. Ownership of Material

6.1 Ownership of all data, documentary material and operating reports originated and prepared by Scientific Games exclusively for Delaware pursuant to the Agreement shall belong to Delaware. Scientific Games shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware.

6.2 Scientific Games grants to Delaware a non-exclusive, non-transferable, non-assignable license to use the Intellectual Property Rights embodied in the instant game system in the State of Delaware in connection with the sale of instant game tickets by Delaware, with no right to sublicense, for the term of the Agreement and any amendments thereto or extensions thereof. Scientific Games retains ownership to all Intellectual Property Rights in and to the instant games system and all enhancements, modifications, changes, upgrades and derivative works related thereto. Upon termination of the Agreement for any reason, Delaware shall return to Scientific Games the instant games system and any other materials containing any Intellectual Property Rights related thereto.

6.3 In no event shall Scientific Games be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, Scientific Games shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.

6.4 Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by Scientific Games prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of Scientific Games even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.

6.5 If, for any reason other than a breach of the Agreement by Delaware, Scientific Games loses the ability or refuses to comply with the Agreement, Delaware shall retain the right to use the equipment, source program instructions and documentation for those items owned by Scientific Games and which are necessary to provide the contractual services. Said right shall be limited to the right of Delaware to possess and make use of such items solely for the use and benefit of Delaware in maintaining, altering and improving the operational characteristics of the programs and systems being used under the Agreement. In such an event, all software programs, documentation, operating instructions, hardware, and the like, including modifications or alterations thereof, shall be kept in confidence, except to the extent that they are public records under Delaware law, and shall be returned to Scientific Games when their use according to this paragraph has been fulfilled. If there has been a determination, in the sole discretion of Delaware, that a discontinuity of Scientific Games' operations may be anticipated and this provision may be exercised, Scientific Games shall provide training to Delaware in the operation of the System, at Delaware's request.

6.6 To the extent that Scientific Games utilizes or relies upon the Intellectual Property Rights of a third party in fulfilling its obligations under the Agreement, Scientific Games will provide Delaware with all copies of licenses and other agreements as requested. In addition, in the event of failure to perform or breach of Agreement Scientific Games must ensure continued right of use of licensed intellectual property by Delaware. While Delaware and Scientific Games agree that Intellectual Property associated with any product or service provided by (or developed solely by) Scientific Games during the term of this Agreement and used by Delaware will remain the property of Scientific Games, Scientific Games will grant a license to Delaware to make use of any such Intellectual Property on an indefinite basis with respect to Lottery conduct of games. There shall be no additional charge for this right of Delaware. Intellectual Property fees for third-party products, logos, trademarks, brands or labels that Scientific Games deploys in the System under the Agreement shall be negotiable. Scientific Games may not separately charge Delaware an Intellectual Property fee for any items owned by Scientific Games.

7. Confidential Information.

To the extent permissible under 29 *Del. C.* § 10001, et seq., the parties to this Agreement shall preserve in strict confidence any information, reports or documents obtained, assembled or prepared in connection with the performance of this Agreement.

8. Warranty.

8.1 Scientific Games warrants that its services will be performed in a good and workmanlike manner. Scientific Games agrees to re-perform any work not in compliance with this warranty brought to its attention within a reasonable time after that work is performed.

8.2 Third-party products within the scope of this Agreement are warranted solely under the terms and conditions of the licenses or other agreements by which such products are governed. With respect to all third-party products and services purchased by Scientific Games for Delaware in connection with the provision of the Services, Scientific Games shall pass through or assign to Delaware the rights Scientific Games obtains from the manufacturers and/or vendors of such products and services (including warranty and indemnification rights), all to the extent that such rights are assignable.

9. Exclusive Use of the Transaction Processing Systems

Use of Scientific Games' hardware and software configuration that processes transactions for the Lottery must be exclusive to Delaware. Transactions from other sources shall not be commingled with the wager transactions of Delaware.

10. Attachment of Third-Party Systems, Terminals or Products

Delaware reserves the right to attach to the Instant Games System or otherwise install: products or systems other than those required by this RFP. Scientific Games shall be required to supply to Delaware, interface specifications to permit other products to carry out all functions and capabilities desired by Delaware. Scientific Games shall provide support to Delaware in conducting future procurements for such additional products including providing facilities and support to allow other Delaware contractors to attach or install and test products during the evaluation process. Delaware will monitor progress to ensure full cooperation. Should Delaware propose to add terminals, products, systems, or services not supplied by Scientific Games for this RFP, but for which Scientific Games would gain responsibility, appropriate remuneration of Scientific Games shall be negotiated.

11. Indemnification; Limitation of Liability.

11.1 Scientific Games shall indemnify and hold harmless Delaware, the State of Delaware, and their respective agents, directors and employees, from any and all liability, suits, actions or claims, together with all reasonable costs and expenses (including attorneys' fees and court costs) which are incurred, suffered, or required in whole or in part by Delaware directly due to an actual or alleged act or omission of:

- a. Scientific Games; or,
- b. A subcontractor of Scientific Games; or,
- c. Any person directly or indirectly employed by or in an agency relationship with Scientific Games or a subcontractor, or which may arise out of or be related to this Agreement or its or any of its subcontractor's performance or failure to perform under any related contract.

11.2 Scientific Games shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware or Delaware, Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

11.3 If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- a. Procure the right for Delaware to continue using the Product(s);
- b. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- c. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the contract, or only alters the Product(s) to a degree that Delaware agrees to and accepts in writing.

11.4 All obligations of indemnification shall survive the termination of the Agreement.

11.5 In no event shall Scientific Games be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought, and even if Scientific Games has been advised of the likelihood of such damages.

12. Employees/Subcontractors.

12.1 The Lottery reserves the right to review and if perceived necessary, reject any employee of the Successful Vendor or any employee of any subcontractor who is assigned to the Lottery Contract, either at Contract inception or during the term or any extension thereof. In addition, the Lottery will require the Successful Vendor to provide minimum levels of staffing or service to meet the performance requirements as set out in the Contract. Within ninety (90) days after notification from the Lottery that the Successful Vendor has failed to provide minimum levels of staffing or service to meet the performance requirements as set out in the Contract, the Successful Vendor shall employ such additional resources as are necessary to meet the performance standards. If the Successful Vendor does not provide minimum levels of staffing or service to meet the performance standards as set out in the Contract, the Lottery, at the end of such ninety (90) day period, may terminate the Contract.

12.2 Any proposed subcontracts shall be subject to the prior written approval of Delaware. Subcontractors are subject to background checks of personnel and principals as described in the RFP.

12.3 Approval by Delaware of Scientific Games' request to subcontract or acceptance of or payment for subcontracted work by Delaware shall not in any way relieve Scientific Games of responsibility for the professional and technical accuracy and adequacy of the work. All subcontractors shall adhere to all applicable provisions of this Agreement.

12.4 Scientific Games shall be and remain liable for all damages to Delaware caused by negligent performance or non-performance of work under this Agreement by Scientific Games, its subcontractor or its sub-subcontractor.

12.5 Except as the other party expressly authorizes in writing in advance, neither party shall solicit, offer work to, employ, or contract with, whether as a partner, employee or independent contractor, directly or indirectly, any of the other party's Personnel during their participation in the services or during the twelve (12) months thereafter. For purposes of this Section 12.5, "Personnel" includes any individual or company a party employs as a partner, employee or independent contractor and with which a party comes into direct contact in the course of the services.

13. Ticket Purchase and Payment Restrictions

Restrictions apply to the purchase of tickets and payment of prizes regarding individuals related to Scientific Games or Scientific Games' significant subcontractors. No officer, employee, or immediate supervisor of such employee, or relative living in the same household as these individuals shall purchase a DSL instant ticket, or be paid winnings from any DSL instant ticket, if (i) they conduct duties directly pursuant to the Agreement; or (ii) they have access to information made Confidential by Delaware. Scientific Games shall ensure that this requirement is made known to each affected individual.

14. Independent Contractor.

14.1 It is understood that in the performance of the services herein provided for, Scientific Games shall be, and is, an independent contractor, and is not an agent or

employee of Delaware and shall furnish such services in its own manner and method except as required by this Agreement. Scientific Games shall be solely responsible for, and shall indemnify, defend and save Delaware harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.

14.2 Scientific Games acknowledges that Scientific Games and any subcontractors, agents or employees employed by Scientific Games shall not, under any circumstances, be considered employees of Delaware, and that they shall not be entitled to any of the benefits or rights afforded employees of Delaware, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits. Delaware will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of Delaware or any of its officers, employees or other agents.

14.3 Scientific Games shall be responsible for providing liability insurance for its personnel.

14.4 As an independent contractor, Scientific Games has no authority to bind or commit Delaware. Nothing herein shall be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the parties for any purpose.

15. Suspension.

15.1 Delaware may suspend performance by Scientific Games under this Agreement for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Scientific Games at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Scientific Games its compensation, based on the percentage of the project completed or otherwise earned until the effective date of suspension, less all previous payments. Scientific Games shall not perform further work under this Agreement after the effective date of suspension. Scientific Games shall not perform further work under this Agreement after the effective date of suspension until receipt of written notice from Delaware to resume performance.

15.2 In the event Delaware suspends performance by Scientific Games for any cause other than the error or omission of the Scientific Games, for an aggregate period in excess of 30 days, Scientific Games shall be entitled to an equitable adjustment of the compensation payable to Scientific Games under this Agreement to reimburse Scientific Games for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

16. Termination.

16.1 Delaware may immediately terminate any contract issued as a result of this RFP for any of the following reasons by providing written notice to Scientific Games:

- a. If Scientific Games furnished any statement, representation, warranty, or certification in connection with this Agreement which is materially false, incorrect, or incomplete.
- b. If Scientific Games fails to perform any material requirement of the Agreement or is in violation of a specific provision.
- c. If Scientific Games or a subcontractor commits a fraudulent act or other criminal act in its contractual performance of this Agreement or any other contract with Delaware or another State agency during the terms of this Agreement.
- d. If any officer or employee of Scientific Games or of any subcontractor purchases a Delaware instant game ticket and/or attempts to collect winnings from a Delaware instant game ticket.
- e. If Scientific Games suffers a material change of financial condition as outlined in Section 1.32 of the RFP.

The State of Delaware and Delaware will not be liable for any costs incurred if termination is for any of the causes stated above. In the cases above Delaware may cancel the Agreement immediately and procure the articles and/or services from other sources and hold Scientific Games responsible for any excess costs or lost revenue occasioned thereby. If after termination for cause of Scientific Games to fulfill contractual obligations, it is determined that Scientific Games has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.

16.3 Termination without Cause or For Convenience

This Agreement shall be terminable by Delaware without cause, at the sole discretion of Delaware, upon thirty (30) days written notice to Scientific Games. When it has been determined that the Agreement shall be terminated without cause or for the convenience of Delaware, Delaware shall be authorized to negotiate a settlement with Scientific Games. Compensation to Scientific Games for termination of the Agreement without cause for the convenience of Delaware shall be limited to reasonable expenses for products, materials, and supplies, and for services rendered, and not yet, or not fully compensated. Delaware will make no payments for furnished work, work in progress, or raw materials acquired unnecessarily in advance or in excess of Lottery's delivery requirements. Upon written notification, the Agreement shall be null and void as of that date, and each party shall be relieved of any obligation or liability to the other, except with respect to any clauses specifically stated in the contract to survive termination.

16.4 Default

Delaware reserves the right to cancel the Agreement and to pursue any and all legal remedies provided at law, in equity, in this RFP or in the Agreement for breach or nonperformance of the Agreement or other infractions, whether or not such default results in the cancellation of the Agreement. In addition to the remedy of cancellation and all other remedies available to Delaware hereunder, in the Agreement, at law or in equity, Delaware may in its sole discretion accept partial, incomplete or otherwise non-complying performance, and may deduct from the price to be paid under the Agreement a sum which in Delaware's determination reasonably reflects the difference in value between the contract as it was to have been performed and as it was actually performed. Delaware shall be entitled to collect costs incurred as the result of any breach, including court costs and reasonable attorneys' fees.

16.5 The rights and remedies of Delaware and Scientific Games provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

16.6 Termination for Payment of Gratuities.

a. Delaware may, by written notice to Scientific Games, terminate this Agreement if it is found after notice and hearing by Delaware that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Scientific Games or any agent or representative of Scientific Games to any officer or employee of Delaware with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Agreement.

b. In the event this Agreement is terminated as provided in 13.6(a) hereof, Delaware shall be entitled to pursue the same remedies against Scientific Games it could pursue in the event of a breach of this Agreement by Scientific Games.

c. The rights and remedies of Delaware provided in Section 15.6 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

17. Equal Opportunity and Non-Discrimination

17.1 During the performance of the awarded contract, Scientific Games agrees as follows:

a. Scientific Games will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin. Scientific Games will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to their race, creed, color, sex, age, or national origin. Such action shall include, but not be limited to the following: advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including

apprenticeships. Scientific Games agrees to post in conspicuous places, notices to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.

b. In the performance of the Agreement, such Scientific Games will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Scientific Games that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Delaware. Scientific Games further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Scientific Games that such disability prevents performance of the work involved. Scientific Games will, in all solicitations or advertisements for employees placed by or on behalf of Scientific Games, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, age, or national origin.

c. It is the policy of Delaware to contribute to the establishment, preservation and strengthening of small businesses and businesses owned by women and minorities in our procurement activities. Toward that end, Delaware encourages Scientific Games to provide for the participation of small businesses and businesses owned by women and minorities in Delaware through partnerships, joint ventures, subcontracts, and other contractual opportunities.

17.2 Scientific Games warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, or a percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies retained by Scientific Games for the purpose of securing business. For breach or violation of this warranty, Delaware shall have the right to terminate the Agreement in accordance with the termination clause, and in its sole discretion, to deduct from any payment to Scientific Games or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

18. Security Program under the Agreement

18.1 Prior to operations under the Agreement, Scientific Games shall establish a physical and software security program for the entire Instant Games System and instant game tickets, subject to the prior written approval of Delaware. This program must be updated, reviewed, and approved annually by Delaware. As part of this Scientific Games must maintain an approved Operations Security Plan.

18.2 Delaware may initiate investigations into the backgrounds of any officers, principals, investors, owners, subcontractors, employees, or any other associates of such Scientific Games it deems appropriate. Background investigations may include fingerprint identification by the Delaware State Police and the Federal Bureau of Investigation. Delaware reserves the right to remove any and all employees of such Scientific Games from any responsibility in the performance of services as provided for under this RFP, based upon the results of background checks, or if Delaware finds that any such employee is not performing in the best interest of Delaware. Delaware may extend this requirement to include any officers and employees of Scientific Games and any subcontractors involved in any way in the implementation, installation and operation of the System. Delaware may also extend this requirement to include investors and owners (with a five percent or greater interest). Upon award of the Agreement, Scientific Games shall submit and allow, at a minimum, the following security elements:

- a. A list of the names, addresses, dates of birth and Social Security numbers of all employees and subcontractors assigned to and associated with this Agreement.
- b. Authorizations signed by the employees and subcontractors to allow law enforcement agencies to release relevant background information. This may be extended to include officers, investors, owners, and associates.
- c. Assurance to Delaware that, as changes are processed throughout the Agreement and any extension thereof for the aforementioned types of personnel, any changes in this requested data and authorization shall be reported to Delaware within one (1) calendar month.
- d. Notification in writing to Delaware within ten (10) business days if an person, group of persons, partnership, corporation, associate group of investors, limited liability company or other legal entity acquires directly or indirectly the beneficial ownership (as defined by Securities and Exchange Commission Regulation §240.13d-3) in the amount of five percent (5%) or more of the ownership interest in, or any class of equity securities of, Scientific Games or the parent company of Scientific Games. Background investigation and licensing may be required for these new owners and if the investigations are unsatisfactory, Delaware may, at its option, terminate the Agreement, after providing thirty (30) days written notice to Scientific Games.
- e. Unfettered and unannounced access, inspection and evaluation privileges for all phases of performance and for all facilities and premises used by Scientific Games in fulfillment of this Agreement and any extension thereof.
- f. Immediate notification in writing to Delaware of all terminations and resignations of employees and staff assigned to and associated with this Agreement.

18.3 Scientific Games shall immediately report any security procedural violation, violation of law (e.g., theft), or disappearance of any instant game tickets, log or validation files, or other equipment, software or material used or to be used in the performance of this Agreement. Failure to report may lead to liquidated damages as defined in RFP Section 2.14.

18.4 Scientific Games shall report any change in, addition to, or deletion from, the information disclosed to Delaware. The report shall be in the form of a letter addressed to Delaware and shall be delivered to Delaware within thirty (30) days of the effective date of the change, addition, or deletion. In particular, Scientific Games must report the involvement of any of Scientific Games' employees, owners, or agents in any known criminal arrest (exclusive of minor traffic violations), indictment or investigation, or any such action or event reasonably related to the security, integrity, or image of the DSL. Failure to report may lead to liquidated damages as defined in this RFP Section 2.14.

19. Production-Ready Acceptance Test Following Agreement Award

Delaware will conduct a series of acceptance tests of Scientific Games' installation, in accordance with the specifications of the Agreement, and working papers developed jointly by Scientific Games and Delaware during the implementation project. Scientific Games' assistance in arranging these tests is obligatory. Delaware will not consider the Instant Games System components ready for Lottery acceptance testing while still under development by Scientific Games, or still subject to Quality Assurance verification by Scientific Games. Delaware may establish reasonable standards for readiness of the Instant Games System for acceptance testing, known as "entry criteria." All defects discovered during acceptance testing must be corrected and re-tested by Scientific Games in a timely manner. If the software is shown to contain such number of defects as to render the Instant Games System un-testable in a practical sense and their remedy is untimely, Delaware reserves the right to halt acceptance testing until the Instant Games System is corrected and testable in a practical sense once again. Acceptance testing halts may lead to delays in System delivery and liquidated damage assessments for Scientific Games. Delaware, at its sole discretion, will determine whether performance against the acceptance tests is adequate, and whether conversion can proceed to production as scheduled.

Passing an acceptance test in no way removes the obligation of Scientific Games to meet and to continue to meet, all requirements of the Agreement throughout the Agreement term and all its extensions.

20. End of Agreement Conversion

It is contemplated that, prior to the expiration of the Agreement resulting from this RFP, Delaware will award a new Agreement for Instant Game Tickets and Related Services. The parties understand and agree that Delaware may utilize part of the last year of the Agreement resulting from this RFP or any renewal or extension thereof for conversion to the replacement instant games system. Scientific Games shall cooperate fully and in good faith in the conversion.

21. Equipment and Software Corrections and Upgrades

21.1 Scientific Games is responsible for corrections to all Instant Games System software and hardware errors and design defects; and improved versions of the hardware and software to sustain performance or correct performance problems, to otherwise meet or continue to meet Agreement defined requirements for the entire term of the Agreement including any options.

21.2 Scientific Games is responsible for maintaining the Instant Games System hardware and software elements with "supported releases" from Scientific Games and suppliers. This includes, but is not limited to, all equipment, the Instant Games System itself, reporting software, project management system, accounting system, and hardware diagnostics. At the time Scientific Games is notified by a supplier that a release is scheduled to have support dropped, it is Scientific Games' obligation to acquire and install an appropriate upgrade or replacement (with the DSL's approval). Equipment and software changes necessary to support increased volumes of transactions are to be included in the base pricing.

21.3 Scientific Games is responsible for software changes for instant validation processing, instant games management, tel-sell, instant ticket distribution, retailer licensing, instant games management reporting, financial/accounting reports, security, instant ticket inventory controls and instant games tax reporting required for the DSL to manage the Instant Games System. Any software and games made available to any of Scientific Games' clients shall also be made available to the DSL.

21.4 Changes and enhancements to the equipment and software which exceed RFP-specifications and which are not otherwise accommodated by the Pricing Method and Options detailed in Part 4 of the RFP, will have their pricing negotiated with Delaware.

22. Approval of Hardware and Software Changes and Upgrades

Scientific Games' configuration management system and practices shall preclude unauthorized changes to the Instant Games System. Any engineering changes or variations from the designs and specifications of the RFP, the Proposal, the Agreement, or signed-off working papers must be approved in writing by Delaware prior to installation or implementation.

23. Non-Appropriation of Funds.

23.1 If sufficient support is not appropriated by the Delaware General Assembly or other appropriate federal or state agency to sustain in whole or in part, Delaware's performance under the Agreement, or if such support is reduced such that it is insufficient to sustain said performance, the Agreement shall be null and void at the insistence of the Delaware.. Notwithstanding the foregoing, Delaware shall remain liable for and compensate Scientific Games for all goods and services supplied prior to such termination.

23.2 Notwithstanding any other provisions of this Agreement, this Agreement shall

terminate and Delaware's obligations under it shall be extinguished at the end of the fiscal year in which Delaware fails to appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then become due.

24. State of Delaware Business License.

Scientific Games and all subcontractors represent that they are properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

25. Audit

25.1 Delaware reserves the right to audit Scientific Games records and operations as they relate to Delaware's lottery operation. Said audits may be conducted by Delaware's own auditors, or by an independent firm specified by Delaware. Scientific Games agrees to cooperate fully with any and all audits required under this Agreement. Under the Agreement, Scientific Games must meet the following specific auditing and accounting obligations:

a. Scientific Games shall have a complete corporate financial audit conducted annually, at its own expense. The audit must follow generally accepted auditing standards (GAAS) or the appropriate non-U.S. equivalent. A copy of Scientific Games' certified financial statements shall be provided within one quarter after the close of Scientific Games' fiscal year.

b. If applicable, Scientific Games shall provide Delaware with Securities and Exchange Commission (SEC) 10-K reports (or the appropriate non-U.S. equivalent) as they are issued, together with any other reports required pursuant to Section 13 of the Securities and Exchange Act of 1934, as amended.

c. A third-party review of Scientific Games' Delaware operations must also be conducted annually. This audit will be a Service Organization Control Report (SSAE 16), Type 1, at the sole discretion and determination of Delaware, and shall be paid for by Scientific Games. For this review Scientific Games will suggest, for Delaware's approval, the firm(s) to perform the work. All financial aspects shall be conducted pursuant to auditing standards as issued by the American Institute of Certified Public Accountants. Annual reviews shall occur on a July through June basis and will be reported to the Lottery not later than forty-five (45) days after the close of the State of Delaware's fiscal year. The first audit shall cover a partial year ending with the State of Delaware's fiscal year.

d. Scientific Games is required to maintain its books, records and all other evidence pertaining to the contract in accordance with generally accepted accounting principles (GAAP) (or the appropriate non-U.S. equivalent) and such other procedures specified by Delaware. These records shall be available to Delaware, its internal auditors or external auditors (and other designees) at all

times during the Agreement term and for five (5) years from the Agreement's expiration date or final payment on the Agreement, whichever is later.

25.2 Scientific Games shall maintain all public records, as defined by 29 *Del. C.* § 502(7), relating to this Agreement and its deliverables for the time and in the manner specified by the Delaware Division of Archives, pursuant to the Delaware Public Records Law, 29 *Del. C.* Ch. 5. During the term of this Agreement, authorized representatives of Delaware may inspect or audit Scientific Games' performance and records pertaining to this Agreement at the Scientific Games business office during normal business hours.

26. Insurance.

26.1 Scientific Games shall maintain the following insurance during the term of this Agreement:

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law, and
- b. Comprehensive General Liability - \$2,000,000.00 per person/\$4,000,000 per occurrence for personal injury, and \$1,000,000 for any one occurrence for property damage
- c. Miscellaneous Errors and Omissions - \$5,000,000.00.
- C. Automotive Liability Insurance – combined single limit not less than \$1,000,000.

26.2 The Errors and Omissions Insurance must indemnify Delaware, its Commissioners, officers and employees, and the State of Delaware for direct loss due to any act or omission of Scientific Games and coverage must continue until one (1) year past the term of the Agreement or any extension thereof. All other insurances covered by this Section must be effective when performance commences under the Agreement and continue through the term of the Agreement or any extension thereof. Delaware must receive thirty (30) days' advance written notice of cancellation, termination or failure to renew any policy.

26.3 Certificates of insurance and any renewals thereof must be furnished to the Delaware's Contracting Officer on the date of Agreement execution, with the exception of the certificate for Errors and Omissions Insurance, which must be furnished no later than ten (10) business days prior to production start-up.

26.4 In no event shall the State of Delaware be named as an additional insured on any policy required under this Agreement.

26.5 All required bonds (if bonds) and insurance must be issued by companies which are A rated or higher by A.M. Best & Co., have a record of successful continuous

operation, are licensed, admitted, and authorized to do business in the State of Delaware, and are approved by the Delaware. Required coverage and limits must be put into effect as of the effective date of the Agreement and must remain in effect throughout the term of the Agreement, as determined by Delaware.

27. Performance Bond

27.1 Upon notification of receiving the Agreement award, Scientific Games will be required to obtain a Performance Bond or other acceptable form of security in the amount of one million dollars (\$1,000,000) for the first year of the Agreement. The Performance Bond may be paid in full or in part to Delaware if Scientific Games defaults in the performance of the Agreement or has occasioned uncompensated liquidated damages. The amount of the performance bond for the second and subsequent years of the Agreement shall be in the sum of one hundred thousand dollars (\$100,000) and the total of all liquidated damages assessed to Scientific Games during the preceding twelve (12) months of operation under the Agreement.

27.2 The Performance Bond may be assessed liquidated damages if these damages have not been received by Delaware within thirty (30) calendar days of written notice to Scientific Games that they have been incurred. Other forms of security may be acceptable but are subject to Delaware's discretion. Failure to post an additional bond or security within seven (7) days after notice that the proposed security is inadequate shall be grounds for immediate termination of the Agreement.

28. Fidelity Bond

Prior to Agreement execution, Scientific Games must obtain a Fidelity Bond in the amount of five million dollars (\$5,000,000) covering any loss to Delaware due to any fraudulent or dishonest act on the part of Scientific Games' officers, employees, agents or subcontractors. Such an event, in the sole discretion of Delaware, could be grounds for termination of the Agreement, whether or not the losses arising as a result thereof were paid under the crime insurance policy. If Scientific Games' policy does not cover agents or subcontractors, then Scientific Games must ensure that these entities have equivalent insurance in their own right. This bond is not in lieu of any other actions deemed appropriate by Delaware or the State of Delaware.

29. Vendor Error Liability

Scientific Games will be liable for any specific and definite financial obligations that arise as a result of errors and faults by Scientific Games' staff, agents, subcontractors and products, including, but not limited to, instant game tickets and back office software.

30. Liquidated Damages Provisions

In the liquidated damages sections below, Delaware and Scientific Games agree that it can be extremely impractical and difficult to determine actual damages sustained by Delaware. Therefore, the parties agree that the liquidated damages specified in all the sections below are reasonable and are not to be construed as punitive. In the case that

damages can be precisely determined and are less than the schedules shown below, actual damages will then apply. Assessment of liquidated damages shall be in addition to, and not in lieu of, such other remedies as may be available to Delaware. Except and to the extent expressly provided herein, Delaware shall be entitled to recover liquidated damages under each section applicable to any given incident.

30.1. Notification of Liquidated Damages

Upon determination that liquidated damages are to or may be assessed, Delaware shall notify Scientific Games of the assessment in writing. The availability of any period of cure will depend on the situation and will be in the sole discretion of Delaware.

30.2. Conditions for Termination of Liquidated Damages

As determined appropriate by Delaware, the following are the conditions under which Scientific Games may obtain relief from the continued assessment of liquidated damages that have been imposed.

a. Except as waived in writing by Delaware, no liquidated damages imposed shall be terminated or suspended until Scientific Games issues a written notice verifying the correction of the condition(s) for which liquidated damages were imposed, and all corrections have been subjected to system testing or other verification at the discretion of Delaware.

b. As appropriate, Scientific Games shall conduct system testing of any correction, as Delaware deems necessary. Such testing shall be developed jointly by Delaware and Scientific Games, and must be approved by Delaware.

30.3 Severability of Individual Liquidated Damages

If any portion of the liquidated damages provisions is determined to be unenforceable in one or more applications, that portion remains in effect in all applications not determined to be invalid and is severable from the invalid applications. If any portion of the liquidated damages provisions is determined to be unenforceable, the other provision or provisions shall remain in full force and effect.

30.4. Waivers of Liquidated Damages

The waiver of any liquidated damages due Delaware shall constitute a waiver only as to such liquidated damages and not a waiver of any future liquidated damages. Failure to assess liquidated damages or to demand payment of liquidated damages within any period of time shall not constitute a waiver of such claim by Delaware.

30.5. Payment of Liquidated Damages

All assessed liquidated damages will be deducted from any moneys owed Scientific Games by Delaware and, in the event the amount due Scientific Games is not sufficient to satisfy the amount of the liquidated damages, Scientific Games shall pay the balance

to Delaware within thirty (30) calendar days of written notification. If the amount due is not paid in full, the balance will be deducted from subsequent payments to Scientific Games. At Delaware's sole option, Delaware may obtain payment of assessed liquidated damages through one (1) or more claims upon the Performance Bond.

30.6. Applicability of Liquidated Damages and Pro Rata Liquidated Damages

Scientific Games shall not be required to pay liquidated damages for delays solely due to matters as enumerated in the section entitled "Force Majeure," or for time delays specifically due to, or approved by, Delaware. In all the below liquidated damages sections, the damages shall be pro-rated for partial periods.

31. Liquidated Damages Amounts

31.1 Instant Games System Installation

Condition

Scientific Games shall complete all installation preparations as required, complete testing to Delaware's satisfaction, pass Lottery acceptance testing, comply with all other contractual requirements in effect during the implementation period, and achieve readiness for production operations.

Damages

Delaware may impose liquidated damages for each calendar day of delay as follows:

- a. **Installation.** Delaware may impose liquidated damages of two thousand five hundred dollars (\$2,500) per day for each calendar day of delay according to a schedule of installation mutually agreed upon by the DSL and Scientific Games in completion of system testing and acceptance testing and may assess such damages until system testing and acceptance testing are completed in accordance with definitions and requirements set forth in the Contract, and until the Instant Games System is fully operational.
- b. **Missing Deliverables.** Delaware may impose liquidated damages of two hundred fifty dollars (\$250) per day for each and every failure to provide a deliverable or to resolve an acceptance test problem pursuant to the agreed upon schedule or to comply with all other contractual requirements in effect, until such requirement is provided or performed.

31.2 Instant Games Ticket Delivery

Condition

Scientific Games shall deliver instant game tickets in a timely manner as set forth in the Working Papers for such game.

Damages

If instant game tickets are not delivered in a timely manner as set forth in the Working Papers for such game, and if and to the extent that the delay does not result in

Delaware being unable to fill orders for tickets from retailers, Delaware may impose liquidated damages of two thousand five hundred dollars (\$2,500) per day or part of a day that the shipment is delayed beyond the time specified. If to the extent that the delay does result in Delaware being unable to fill orders for tickets from the retailers or does result in Delaware being unable to start or continue a game in a timely fashion, the DSL may impose liquidated damages of ten thousand dollars (\$10,000) per day or part of a day that the shipment is delayed beyond the time specified.

31.3 Instant Games System Down

Condition

The instant games system shall be defined as "down" if no instant tickets can be validated by the system. The total time during which the instant games system is down during the operational day shall be the sum of all time during such period when the instant games system is "down."

Damages

In the event that the instant games system has been down, the DSL may impose liquidated damages as a result of the total time during each daily operational period that the instant games system is down, except for the first hour, according to the following schedule:

- a. Liquidated damages of two hundred fifty dollars (\$250) shall be assessed for each hour, or pro-rated fraction thereof, of instant games system downtime.
- b. In the event that two (2) downtime incidents in excess of one (1) hour each have already occurred in a business week, the grace period of one (1) hour shall be rescinded, and liquidated damages shall begin immediately with any subsequent outage in that week.

31.4 Failure to Provide Enhancements and Modifications

Condition

During the term of the Contract, the DSL and Scientific Games may agree in writing to a schedule for developing, testing, and implementing or installing modifications or enhancements of the instant games system. The DSL and Scientific Games shall mutually agree to a delivery date for such modifications and enhancements.

Damages

If Scientific Games fails to meet any date specified for DSL acceptance testing or start-up for the instant games system, the Director may assess liquidated damages of five hundred dollars (\$500) per day for each day of delay regarding the modification, enhancement or addition of a game and two hundred fifty dollars (\$250) per day for each day of delay regarding the modification, enhancement or addition of a report, or other instant games system change.

31.5 Timely and Accurate Reports

Condition

Scientific Games shall produce and deliver timely, sufficient and accurate management reports within the specified timeframes (e.g. daily reports, weekly report), as approved by Delaware. Liquidated damages will apply if the report is late or deficient for more than one (1) report time period (e.g., daily report is two days late).

Damages

For each late, insufficient, or inaccurate report, Delaware may impose liquidated damages up to one hundred dollars (\$100) per time unit, until the report is provided, made sufficient or corrected.

31.6 Timely and Accurate Files

Condition

Scientific Games shall produce and deliver timely, sufficient and accurate files within the specified timeframes, as approved by Delaware. Liquidated damages shall apply if the file transfer is late one time period or more.

Damages

For each late, insufficient, or inaccurate file Delaware may impose liquidated damages up to one hundred dollars (\$100) per time period until the file is provided, made sufficient or corrected.

31.7 Unauthorized Software and/or Hardware Modifications

Condition

Scientific Games shall not modify any software or hardware in the instant games system without the prior written approval of Delaware, except in the event of emergency when Scientific Games shall be permitted to rely on the verbal consent of the Director or his designee.

Damages

If Scientific Games modifies any software or hardware without the prior written approval of Delaware, Delaware may issue a written order that the change or modification be removed and the System restored to its previous operating state at Scientific Games' expense. "Modification" does not include replacement of a System component with an essentially similar working component in the event of necessary maintenance. Further, Delaware may impose liquidated damages up to ten thousand dollars (\$10,000) per violation in addition to any other damages that may occur as a result of such unauthorized modification.

31.8 Unauthorized Access

Condition

Scientific Games shall preclude personnel not authorized by Delaware from accessing the Delaware instant games system.

Damages

If Scientific Games fails to preclude access by unauthorized personnel, Delaware may impose liquidated damages in the amount of five thousand dollars (\$5,000) for each person and Delaware State Lottery for each incident in violation. Each and every act that permits access by an unauthorized person is an incident.

31.9 Failure to Report Incidents

Condition

It will be the responsibility of Scientific Games to immediately report all significant incidents related to the operation of the instant games system. The immediate reporting shall be delivered personally or by telephone within one (1) hour of the discovery of the incident, followed by a letter addressed to Delaware Director within twenty-four (24) hours of the incident. All written reports and notifications may be sent by courier or facsimile copy directly to Delaware Director.

Damages

In the event that Scientific Games fails to report incidents as defined in this section and required by this RFP, Delaware may impose liquidated damages of five hundred dollars (\$500) per day until an incident is correctly reported.

31.10 Failure to Remedy Audit Recommendations

Condition

If Scientific Games fails to address recommendations made as a result of a System or operational audit by a recognized authority such as the State of Delaware, or Lottery-approved auditors, there will be liquidated damages assessed.

Damages

In the event that audit recommendations addressing any of Scientific Games's operational or system activities are not corrected within ninety (90) days of notification, unless specifically exempted by Delaware, the Vendor may be charged liquidated damages of five thousand dollars (\$5,000) at the end of the initial 90-day period and an additional two thousand five dollars (\$2,500) for each subsequent 30-day period or any portion thereof, for which the audit recommendation corrections have not been completed.

32. Assignment of Antitrust Claims.

As consideration for the award and execution of this contract by the State, Scientific Games hereby grants, conveys, sells, assigns, and transfers to Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

33. News Releases

Scientific Games shall not issue any news releases pertaining to the award or the performance of the Agreement without prior approval by Delaware, and then only in cooperation with Delaware.

34. Advertising

Scientific Games agrees not to use Delaware name, logos, images, nor any data or results arising from this procurement process or Agreement as a part of any commercial advertising without prior written approval by Delaware.

35. Loss of Statutory Authority

If statutory authority to operate is lost for the Delaware Lottery, then the Agreement shall be null and void. In the event of such an occurrence, neither party shall have any remaining obligation or liability thereafter.

36. Authority of the Lottery

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, the assessment of liquidated damages, and the determination of payment due or to become due, the decision of Delaware shall be final and binding.

37. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, except where Federal Law has precedence. Scientific Games consents to jurisdiction venue in the State of Delaware.

38. Disputes under the Agreement

In the event that any dispute arises between the parties with respect to the performance required of Scientific Games under the Agreement, Delaware's Executive Director shall make a determination in writing and send it to Scientific Games. That interpretation shall be final, conclusive and not subject to review in all respects unless Scientific Games, within thirty (30) days of receipt of said writings, delivers a written appeal to Delaware's Executive Director or his/her duly authorized designee. The decision of Delaware on any such appeal shall be made within thirty (30) days and shall be final and conclusive and Scientific Games shall thereafter in good faith and due diligence render such performance as Delaware has determined is required of it. Scientific Games' options with respect to any such decision on appeal shall be either 1) to accept the determination of Delaware as a correct and binding interpretation of the Agreement, or 2) to make such claims as it may desire before a court of competent jurisdiction. Pending a final judicial resolution of any such claim, Scientific Games shall proceed diligently and in good faith with the performance of the Agreement as interpreted by Delaware and, if the contract requires, Delaware shall compensate Scientific Games pursuant to the terms of the Agreement.

39. Notices.

Any and all notices required by the provisions of this Agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

TO DELAWARE:

Vernon Kirk
Acting Director
Delaware State Lottery
McKee Business Park
1575 McKee Road, Suite 102
Dover, DE 19904

TO Scientific Games:
Scientific Games International, Inc.
1500 Bluegrass Lakes Parkway
Alpharetta, GA 30004
Attn: Jim Trask

40. Miscellaneous Provisions.

40.1 In performance of this Agreement, Scientific Games shall comply with all applicable federal, state and local laws, ordinances, codes and regulations. Scientific Games shall solely bear the costs of permits and other relevant costs required in the performance of this Agreement.

40.2 Neither this Agreement nor any Appendix may be modified or amended except by the mutual written agreement of the parties. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

40.3 The failure of a party to insist upon strict adherence to any term of the Agreement shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Agreement.

40.4 Scientific Games covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Scientific Games further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

40.5 If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be severed and the remaining portion of the Agreement shall remain in effect.

40.6 Any attempt by Scientific Games to assign or otherwise transfer any interest in this Agreement without the prior written consent of Delaware shall be void. Such consent shall not be unreasonably withheld.

40.7 The compensation due shall not be affected by Delaware's approval of the Scientific Games' request to subcontract.

40.8 A Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled and is without the fault or negligence of the non-performing party. As herein used, Force Majeure includes, but is not limited to, fire, explosion, action of the elements, strike or labor disturbance, rationing, war, terrorism, act of any governmental authority or agency, civil disturbance, governmental interference, or any other cause which is beyond the control of the party affected, and which, by the

exercise of reasonable diligence, said party is unable to prevent delays arising as a result thereof or to predict and through advance planning avoid such delays. Except as otherwise provided herein, neither Scientific Games nor Delaware shall be liable to the other for any delay in, or failure of performance of, any covenant contained herein nor shall any such delay or failure of performance constitute default hereunder, to the extent that such delay or failure is caused by Force Majeure. The existence of such causes of delay or failure shall extend the schedule for performance to such extent as may be necessary to complete performance in the exercise of reasonable diligence after the causes of delay or failure have been removed. Any such delay in or failure of performance shall not in and of itself give rise to any liability for damages; however, Delaware may elect to terminate the Contract for cause should its continuing operations, in its sole judgment, be materially threatened or harmed by reason of extended delay or failure of performance. During a period of non-performance due to Force Majeure, payments from Delaware to Scientific Games will be suspended.

40.9 This Agreement was drafted with the joint participation of both parties and shall be construed neither against nor in favor of either, but rather in accordance with the fair meaning thereof.

41. Complete Agreement.

41.1 This agreement and its Appendices shall constitute the entire agreement between Delaware and Scientific Games with respect to the subject matter of this Agreement and shall not be modified or changed without the express written consent of the parties. The provisions of this agreement supersede all prior oral and written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement.

41.2 If the scope of any provision of this Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the Agreement shall not thereby fail, but the scope of such provision shall be curtailed only to the extent necessary to conform to the law.

44.3 Scientific Games may not order any product requiring a purchase order prior to Delaware's issuance of such order. Each Appendix, except as its terms otherwise expressly provide, shall be a complete statement of its subject matter and shall supplement and modify the terms and conditions of this Agreement for the purposes of that engagement only. No other agreements, representations, warranties or other matters, whether oral or written, shall be deemed to bind the parties hereto with respect to the subject matter hereof.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

State of Delaware
Delaware State Lottery

Tracy L Kaiser
Witness

Date: Jan. 31, 2012

Name: Vernon Atkins
Title: ACTING DIRECTOR
Date: 31 JAN 2012

SCIENTIFIC GAMES INTERNATIONAL, INC.

Donna Munselwhite
Witness

Date: Feb 1, 2012

Name: J. Frank
Title: PRESIDENT, PAINTED PRODUCTS
Date: FEB 1, 2012

Appendix A: RFP

Appendix B: Proposal

Appendix C: Pricing and Payment Schedule

Appendix D: Negotiable Options

Appendix C - Pricing and Payment Schedule

	<u>Item</u>	<u>Charge</u>
9	Additional Display Color	-
10	Additional Overprint Color	-
11	Additional Color on Ticket Back	-
12	Fluorescent Ink	-
13	Metallic Ink, Standard	-
14	Full UV Coating	-
15	Premium Metallic Ink, per each	-
21	Matte Coating	-
22	Additional Hit of Primer	-
24	Megacolor Process; 4 color process display with integrated 4 color process overprint design	-
25	Scientific Games ClearMark Marking System	-
26	Scientific Games Graphic ClearMark Marking System	-
27	Scientific Games SureMark Marking System	-
28	Scientific Games ColorMark Marking System	-
35	Two Color Imaging	-
36	Three Color Imaging	-
37	Four Color Imaging	-
38	One Color Imaging, Other than Black	-
39	Pulsing Colors within a Game, per color	-

40	Alternating Scenes within a Game	-
42	Ticket Reorders, subtract	
43	Scientific Games' FailSafe	
47	Graphic Benday	
48	Four Color Process Printing on Ticket Back	
52	Scene Game	-
53	Synchronized Scene Game	
54	Continuous Scene Game	
62	Accelerated Delivery Schedule	
63	Programming of Unusual Games or Post-Executed Changes, per hour	
64	Art and proofing Changes for Post-executed Changes to Art as Specified in Approved Working Papers, per hour	-
67	Multiple Play Areas	-

Total cost for Exercised Options:	0.90%
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Compensation rate without FailSafe validation software: 5.15%

Compensation rate with FailSafe validation software: 5.60%

Appendix D - Negotiable Options

<u>Item</u>	<u>Charge</u>
16 Simulated Foil	0.2180%
17 Color Shift Ink	0.4845%
18 Glow in the Dark Ink	1.0826%
19 Pearlescent Coating	0.0606%
20 Scented Ink	0.8741%
23 Scientific Games Micromotion (includes foil substrate)	1.0598%
29 Scientific Games Scratch My Back	1.0295%
30 Holographic Paper: One premium stock game per year included in base price. Price for additional games:	2.4224%
31 Foil Paper	0.5450%
32 Scoring and Perforations	0.7610%
33 Stub with Scratch-Off Coating	0.0969%
34 Stub with no Scratch-Off Coating	0.0606%
41 Die-Cutting	0.7610%
44 Patterned Ultra Shine	0.0848%
45 SoftTouch Coating	0.0606%

<p>46 Advanced / Specialized Imaging - To be determined Symbols that are restricted to specific locations varying from ticket to ticket, synchronizing symbols to a specific ticket within a string of tickets, symbols that require stacking of image heads, etc.</p>	0.3330%
<p>49 Variable Messaging on Ticket Back - To be determined Messages imaged on a ticket back that will change from ticket to ticket within a press repeat.</p>	0.3330%
<p>50 Graphic Pulse, per Press stop as required by production</p>	0.2857%
<p>51 Graphic Pulse, per each plate changed as required by production</p>	0.1714%
<p>55 Scientific Games Proprietary Play Action Games: Multi-Line Games, Lucky Dice/Lucky Card Cash, Golden Spin play action, Big Bingo, Go To play action, Linked Play, Match & Win</p>	0.2500%
<p>56 KDSii</p>	0.3331%
<p>57 Spotlight AMP This game is the same game as Mega Wheel presented in 2010 that includes all POS, advertising and the usage of the electronic drawing machine.</p>	1.0250%
<p>58 Pouch Games - Negotiable</p>	Negotiable
<p>59 Retailer Games A 2.5" x 4.0" game printed and imaged to targeted to retailers as a retailer incentive. Quantity 10,000 - 20,000</p>	\$250.00/ per 1000 tickets
<p>60 Understand Dual Language Feature</p>	0.3028%
<p>61 3D Games - Negotiable</p>	Negotiable
<p>65 Gligantix 8-1/2 x 1" ticket, 120,000 in quantity, numerous games on the ticket,</p>	2.6460%

ticket back has room to use for additional advertising much like a direct mail piece without the cost of postage.

66 (Additional) Inserts in Pack	0.1465%
68 Attach Cards - Negotiable	Negotiable
69 Bar Coded Coupons Current Standard Coupon, 4.25" x 6.25" , 80# text stock 4/0 colors, cut to size 4.00" x 6.00" , (1) imaged barcode, dropped shipped to (1) location, 15,000 quantity, bundled in 50's	\$267.00/ per 1000
Advanced Coupons (direct mail, etc) 8.75" x 11.625" , 100# gloss stock, 4/4 Colors, cut size 8.50" x 11.00" , multiple barcodes, bundled by 100's, data processing/programming, drop shipped to various locations, 50 quantity. Postage and Sorting Cost	\$610.00/ per 1000 for printing Plus Postage, Sorting and Shipping Cost
70 PlayCentral Self-Service Terminals	
71 Licensed Properties and Related Merchandise	
72 SalesMaker	
73 Sciplay	
74 Lottery in Motion	
75 Linked Games	
76 Internet Services	
77 Internet Games	
78 Players Clubs	
79 Internet Subscriptions	

- 80 E-Coupons
- 81 Properties Plus
- 82 Optional Research - Segmentation Study
- 83 Optional Research - In Person Focus Groups
- 84 Optional Research - Ethnographic Study
- 85 Optional Research - Telephone/Mail Survey
- 86 Optional Research - Internet Survey
- 87 Optional Research - Conjoint Analysis
- 88 Optional Research - Perceptual Mapping
- 89 Optional Research - Geo-Demographic Research
- 90 Bulk Purchase Lottery Tickets / Lottery Playing Cards
- 91 Electronic Instant Ticket Vending Machines
- 92 Optional Payout Analysis Research