

DEPARTMENT OF TRADE AND INDUSTRY

NO. 73

02 FEBRUARY 2018

MEMORANDUM OF UNDERSTANDING**BETWEEN:****BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION**

An Entity within the administration of the dti in terms of section 13 B (1) of the Broad Based Black Economic Empowerment Act, 2003 (Act 53 of 2003) as amended and herein represented by **Ms Zodwa Ntuli** in her capacity as the Acting Commissioner and she being duly authorised to enter into this agreement

(Hereinafter referred to as "BBBEEC")

And

**THE NATIONAL GAMBLING BOARD**

A Schedule 3A entity established in terms of the National Gambling Act, 2004 (Act 7 of 2004) herein represented by **Ms Caroline Kongwa** in her capacity as the Accounting Authority of the National Gambling Board duly authorized thereto

(Hereinafter referred to as "NGB")

1. PURPOSE

The purpose of this Memorandum of Understanding (MoU) is:

- 1.1 to create co-operation and collaboration between the two parties regarding the fulfilment of responsibilities and obligations under the National Gambling Act 7 of 2004 and the B-BBEE Act 53 of 2003 as amended in facilitating transformation in the gambling industry,
- 1.2 to further provide a framework for collaboration on matters of mutual interest, and
- 1.3 through the parties' mandates and structures, to share their interest on the matters relating to the regulation of gambling.

2. COMMENCEMENT AND DURATION

- 2.1 This MoU shall commence on the date of the last signature of the last party signing and it shall continue in force indefinitely unless terminated by either party giving the other party fourteen (14) days' written notice.

3. IMPLEMENTATION

- 3.1 The parties will develop and devise implementation strategies and time bound action plans in order to meet the desired objectives and goals.

4. PRINCIPLES GOVERNING CO-OPERATION BETWEEN THE PARTIES

The primary principles that shall govern the MoU are as follows:

- 4.1 Each party recognizes and respects the independence, governance structures and internal processes of the other party.
- 4.2 This MoU is based on the understanding of and respect for each party's mandate, processes and responsibilities.
- 4.3 The parties shall cooperate in the utmost good faith and with honesty, integrity and professionalism, and each party shall respect the other's intellectual property (whether copyrighted or not).



5. AREAS OF COLLABORATION

5.1 The areas of collaboration shall include the following:

- 5.1.1 B-BBEE Advocacy and Education for Provincial Licensing Authorities and Industry representatives;
- 5.1.2 Monitoring and Evaluation when conducting Compliance and Enforcement oversight visits to Provincial Licensing Authorities;
- 5.1.3 Information sharing on the best practices aimed at better regulation of the Gambling industry;
- 5.1.4 Identification of opportunities to increase black ownership in the Limited Payout Machine sector particularly the manufacturing of gambling machines;
- 5.1.5 Providing advisory services for the gambling licensing process to ensure compliance of the process and setting higher criteria for ownership and other elements for transformation in terms of the Based Black Economic Empowerment Act, 2013;
- 5.1.6 Development of norms and standards in the gambling industry to ensure alignment to the Broad Based Black Economic Empowerment Codes of good practice;
- 5.1.7 Any other matters of common interest as may be identified by parties.

5.2 The parties anticipate that their collaborative activities will include:

- 5.2.1 A joint approach to regulation, compliance and enforcement initiatives.
- 5.2.2 Seminars, workshops, training aimed at building capacity, advocacy, information sharing and enhancing regulatory capabilities.
- 5.2.3 Information sharing and referrals of matters brought to the attention of each party that fall within the jurisdiction of the other and / or might have an impact on the mandate of either party.

6. RELATIONSHIP BETWEEN THE PARTIES

- 6.1 **Liability for acts of the parties:** Neither party shall be liable for acts or defaults of the other party or of the other party's employees or representatives.



6.2 **No partnership or agency created:** Nothing in this MoU shall constitute, or be deemed to constitute a partnership between the Parties or constitute or be deemed to constitute an agency or shall have any authority or power to bind or incur liability on behalf of the other or to pledge the credit of the other Party.

6.3 **Good Faith:** the Parties shall at all times apply good faith in their dealings with each other.

6.4 These provisions do not preclude any party from fully complying with the obligations of the B-BBEE Act, to enable the B-BBEE Commission to execute its mandate.

7. FUNDING

7.1 Each party will be responsible for any costs that might be necessary for effective implementation of this MoU and / or where necessary joint funding as agreed by parties.

8. COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS

8.1 The Parties agree, for the duration of this agreement and for any project as negotiated under this agreement, to share authorship of any publications arising from such project.

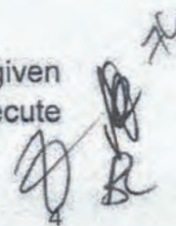
8.2 Copyright and other Intellectual property rights in all reports and material pursuant to the collaboration shall be negotiated on a project-specific basis, recognizing the collaborative nature of the Programme and the mutual commitment of the parties thereto.

9. CONFIDENTIALITY

9.1 The parties shall treat the terms of this MoU and all information exchanged, received by each other, including but not limited to underwriting and administration of policies, as strictly confidential and secret. This information relates to proprietary information, technical knowledge, experience, specimens and data of secret and confidential nature.

9.2 The parties shall keep all such information obtained confidential towards third parties and only use it in co-operation with each other for the purpose expressly agreed upon and to disclose same to the employees only on the basis of the need to know.

9.3 The parties shall cause all of their employees who are directly or indirectly given access to the said proprietary and confidential information to execute



confidential undertakings in a form acceptable to the parties in order to protect the parties against the unauthorised disclosure of such information to any third party and fully cooperate in the enforcement of such confidential undertakings.

10. PUBLICITY

10.1 The NGB shall not use the name B-BBEE Commission or any member of the B-BBEE Commission, in any publicity, advertising or news release without the prior written approval of an authorized representative of the B-BBEE Commission.

10.2 The B-BBEE Commission shall not use the name of the NGB, or any employee of the NGB, in any publicity, advertising or news release without the prior written approval of an authorized representative of the NGB.

11. DOMICILIA AND NOTICES

11.1 The parties hereby choose as their *domicilia citandi et executandi* for all purposes under this MoU, whether in respect of court processes, notices or any other documents or communications of whatever nature the addresses as set out below.

11.2 All notices to the NGB shall be given or addressed to:

Ms Caroline Kongwa

Designation: Accounting Authority

Street Address: 420 Witch-Hazel Avenue
Block C Eco Glades 2
Eco Park
Centurion
0144

Telephone Number: 01000 33487
Facsimile: 0866737002
Email: tdlamini@ngb.org.za

11.3 All notices to the B-BBEE Commission shall be given or addressed to:



Ms. Zodwa Ntuli

Designation: Acting Commissioner

Street Address: **the dti**
77 Meintjies Street
Sunnyside
Pretoria, South Africa, 0002

Telephone: +27 (12) 394 2535
Facsimile: +27 (12) 394 2535
Email: RamareM@beecommission.gov.za

11.4 The parties undertake to notify each other of any change of address within 14 (fourteen) days of such change.

11.5 Any notice in terms of this MoU:

11.5.1 may be hand-delivered to the physical address of the respective party, in which event proof of acknowledgement shall be endorsed upon a copy of notice together with the name of the recipient and date of receipt and it shall be deemed to have been received on the date of delivery, or

11.5.2 may be sent by registered post to the nominated postal address of the respective party, in which event proof of postage issued by the relevant postal authority will serve as a proof: provided that where a notice is posted it shall be deemed to have been received.

12. GOVERNING LAW

12.1 The parties agree that this MoU shall be governed by and construed in accordance with the laws of the Republic of South Africa and acknowledge that they are both organs of the state and that the Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005) is applicable to the resolution of any dispute between them.

12.2 The parties shall use all reasonable efforts to resolve any dispute that may arise under this MoU through good faith negotiations.

12.3 In the event that the parties are unable to reach settlement, such dispute shall be referred to the Accounting Authority of the NGB and the Acting Commissioner of the BBBEE Commission, and they shall endeavor to settle the matter of such referral.

12.4 Should such endeavors still fail to resolve the dispute, then the dispute shall be referred to the Director-General of the Department of Trade and Industry, or an official delegated by him for such purpose, to attempt to settle the dispute.

12.5 In the event that the dispute still remains unresolved, then the matter shall be dealt with in terms of Section 41 (3) of the Constitution read with chapter 4 of the Intergovernmental Relations Framework Act.

13. GENERAL

13.1 This MoU constitutes the cooperative and collaborative framework through which parties will manage the working relationship and acknowledge that they have entered into this Agreement, not relying on any representations, statements, warranties or guarantees not recorded in this MoU.

13.2 No amendments of, or additions to or variation or cancellation of this Agreement shall be of any force or effect unless reduced to writing and signed by both parties hereto.

13.3 No party shall be entitled to cede, delegate or transfer any of its rights in terms of this Agreement to any of its authorized representatives, unless written consent has been obtained from the other party.

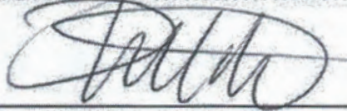


Handwritten signatures and initials, including a large 'H' and a '7'.

IN WITNESS WHEREOF the undersigned parties approve the terms and conditions of this MoU.

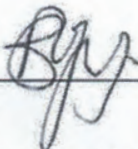
For BROAD-BASED BLACK ECONOMIC EMPOWERMENT COMMISSION

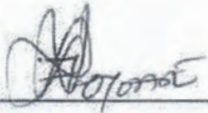
SIGNED AT Pretoria ON THIS 20th DAY OF December 2016.



**MS ZODWA NTULI
ACTING COMMISSIONER**

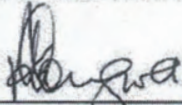
WITNESSES:

1  _____

2  _____

For NATIONAL GAMBLING BOARD

SIGNED AT Pretoria ON THIS 9th DAY OF November 2016.



**MS CAROLINE KONGWA
ACCOUNTING AUTHORITY**

WITNESSES:

1 _____

2 _____