

The Honourable Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation for and on behalf of the Crown in right of the State of Victoria

Keno (VIC) Pty Ltd

Keno Licence – *Gambling Regulation Act 2003 (Vic)*

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Date 21/2/2022

Parties

The Honourable Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation for and on behalf of the Crown in Right of the State of Victoria

Keno (VIC) Pty Ltd (ACN 105 341 366) of Level 21, Tower 2, 727 Collins Street, Melbourne VIC 3008 (**Licensee**)

Background

- A. Under Part 3 of Chapter 6A of the Act, the Minister may issue a licence to Conduct Approved Keno Games in the State of Victoria.
- B. The Minister has called for the expression of interest in the issue of such a licence, and has subsequently invited short-listed respondents to apply for a licence to Conduct Approved Keno Games.
- C. Following the Minister's consideration of the licence applications, the Minister has determined under section 6A.3.7 of the Act to grant the application for a licence made by the Licensee and to issue this Licence accordingly.
- D. Under section 6A.3.10 of the Act, the Minister may refuse to issue a licence unless the applicant enters into one or more agreements with the Minister dealing with matters related to the licence. Accordingly, the Minister and the Licensee have entered into the Related Agreement.
- E. Under section 6A.3.9 of the Act, the Minister may impose any conditions the Minister thinks fit on a licence. Accordingly, the Minister grants the Licensee a licence to Conduct Approved Keno Games in the State of Victoria, subject to the following conditions.

Agreed terms

1. Definitions and Interpretation

1.1 Definitions

Words not otherwise defined in this Licence have the same meaning as in the Act, except where a contrary intention appears.

Act means the *Gambling Regulation Act 2003 (Vic)*.

Agent means a person appointed as an agent of the Licensee to assist the Licensee in the Conduct of Approved Keno Games in accordance with section 6A.3.15 of the Act and includes a Ticket Agent.

Agreements means any agreement entered into between the Minister and the Licensee in accordance with section 6A.3.10 of the Act, including the Related Agreement.

Approved Implementation Plan means the Implementation Plan approved by the State's Representative under clause 6.3 of the Related Agreement.

Approved Keno Game means a Keno Game:

- (a) in respect of which the Licensee sought the Minister's approval; and
- (b) approved by the Minister,

under section 6A.2A.1 of the Act.

Assistant Operator means the Agent appointed by the Licensee in accordance with clause 23 of the Related Agreement.

Broadcasting Service means a broadcasting service (which has the meaning given in the *Broadcasting Services Act 1992* (Cth)) provided in Australia.

Business Day means a day that is not a Saturday, Sunday or any other day that is a public holiday or a bank holiday in the State of Victoria.

Commission means the Victorian Gambling and Casino Control Commission established under Part 2 of the *Victorian Gambling and Casino Control Commission Act 2011* (Vic) (or any successor body) or a Commissioner.

Commissioner has the meaning given in section 1.3(1) of the Act.

Conditions means each of the terms set out in this Licence.

Conduct in relation to an Approved Keno Game includes the doing of all things necessary to conduct and operate that Keno Game in the State of Victoria, which includes:

- (a) organising, managing or supervising the Approved Keno Game;
- (b) selling or organising the sale of tickets or other forms of entry to Approved Keno Games;
- (c) distributing prizes offered in the Approved Keno Game;
- (d) promoting and facilitating participation in the Approved Keno Game;
- (e) using a document, device, piece of equipment, system or other thing for the purposes of enabling the Approved Keno Game;
- (f) operating a Keno System; and
- (g) manufacturing or arranging for the manufacture of tickets or entries in an Approved Keno Game.

Content Service means a content service (which has the meaning given in the *Telecommunications Act 1997* (Cth)) provided using a Listed Carriage Service.

Contractor means a person engaged on contract to assist the Licensee in the Conduct of Approved Keno Games in accordance with section 6A.3.15 of the Act.

Datacasting Licence has the meaning given in the *Broadcasting Services Act 1992* (Cth).

Datacasting Service means a datacasting service (which has the meaning given in the *Broadcasting Services Act 1992* (Cth)) that is provided in Australia under a Datacasting Licence.

Dedicated Keno Outlet means a venue that:

- (a) is owned or leased by the Licensee or an Agent; or
- (b) the Licensee or an Agent has the right to occupy including by way of sub-lease or licence,

and the dominant purpose of which is the Conduct of Approved Keno Games.

Government Agency means the State, the Commonwealth of Australia or any government, semi-governmental, judicial, municipal, statutory, public or administrative entity, agency or authority and includes a Minister of the Crown (in any right), a statutory corporation, a State-owned corporation, a self regulatory authority established under statute or a stock exchange (wherever created or located).

Implementation Plan has the meaning given in clause 6.1(a) of the Related Agreement.

Interactive Distribution Methods means providing Approved Keno Games using any of the following:

- (a) an Internet Carriage Service;
- (b) any other Listed Carriage Service;
- (c) a Broadcasting Service;
- (d) any other Content Service; or
- (e) a Datacasting Service.

Internet Carriage Service means a Listed Carriage Service that enables end-users to access the internet.

Keno Game has the meaning given in section 1.3(1) of the Act.

Keno Licence means a licence granted under Part 3 of Chapter 6A of the Act.

Keno Rules means the rules made by the Licensee in accordance with section 6A.2.11 of the Act.

Keno System has the meaning given in section 1.3(1) of the Act.

Keno Venue means a venue described in **clause 4.2(b)(i) or 4.2(b)(ii)**.

Law means:

- (a) principles of law or equity established by decisions of courts;

- (b) statutes, regulations, by-laws or other subordinate instruments of a Government Agency;
- (c) the Constitution of the Commonwealth;
- (d) binding requirements and mandatory approvals (including conditions) of a Government Agency which have the force of law; and
- (e) guidelines of a Government Agency which have the force of law.

Licence means this document, which is a licence to Conduct Approved Keno Games on the Conditions set out in this document and in accordance with the Act.

Licence Commencement Date means the date specified in **clause 2.2** of this Licence.

Licence Issue Date means the date specified in **clause 2.1** of this Licence.

Licensee means the entity to which this Licence is issued as specified in **clause 2.1** of this Licence.

Listed Carriage Service has the meaning given in the *Telecommunications Act 1997* (Cth).

Material Agent or Contractor means those Agents or Contractors as determined by the Minister, which may include Agents or Contractors retained by the Licensee to provide products or services required for the Conduct of Approved Keno Games.

Melbourne Casino has the meaning that it has in the agreement that is scheduled to the *Casino (Management Agreement) Act 1993* (Vic).

Minister means the responsible Minister of the Crown for the time being administering Chapter 5 of the Act.

On-Premises Licence means an on-premises licence as described in section 9 of the *Liquor Control Reform Act 1998* (Vic).

Player means a person who enters an Approved Keno Game.

Premium Payment means the amount payable under section 6A.3.13 of the Act as specified in **clause 3** of this Licence.

Preparatory Action has the meaning given in section 6A.3.12 of the Act.

Registered Player has the meaning given in section 6A.3.34C of the Act.

Regulations means any regulations made under the Act.

Related Agreement means the related agreement entered into between the Minister and the Licensee, on or about the date of this Licence, in accordance with section 6A.3.10 of the Act, and appended at **Schedule 2**, including any schedule or annexure to the agreement.

Responsible Gambling Code of Conduct has the meaning given in section 1.3(1) of the Act.

State means the Crown in right of the State of Victoria.

Temporary Licence means a licence issued by the Minister in accordance with section 6A.3.31 of the Act.

Temporary Licensee means a person appointed by the Minister in accordance with section 6A.3.31 of the Act and issued with a Temporary Licence.

Term has the meaning given in **clause 2.2** of this Licence.

Ticket Agent means an Agent accredited by the Licensee, in accordance with section 6A.2.4 of the Act, to accept from a Player an entry or ticket or payment for an entry or ticket to an Approved Keno Game.

Treasurer means the treasurer for the State of Victoria.

Tripartite Deed means the tripartite deed referred to in **clause 7.2(b)** of this Licence to be entered into by the Minister, the Licensee and a Material Agent or Contractor, which may relate to the State's rights under this Licence and the Agreements and the obligations of any Material Agent or Contractor (including to cooperate with any Assistant Operator or Temporary Licensee).

Wagering Outlet means an outlet of an accredited agent of the wagering and betting licensee under the Act:

1.2 Interpretation

- (a) A provision of this Licence must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Licence or the inclusion of the provision in this Licence.
 - (b) If an act falls to be done on a day which is not a Business Day, it must (except where an act is expressly required to be performed on a day that is not a Business Day) be done instead on or before the next Business Day.
 - (c) In this Licence, headings and background are for convenience only and do not affect interpretation. Except to the extent that the context otherwise requires or except as expressly stated otherwise:
 - (i) references to this Licence include references to all the schedules and annexures in this Licence;
 - (ii) references to parties, clauses, paragraphs, schedules, or annexures in this Licence are references to parties, clauses, paragraphs, schedules and annexures of and to this Licence;
 - (iii) references to any document or agreement (including, this Licence) include reference to such document or agreement as amended, novated, replaced or supplemented from time to time;
 - (iv) references to any statute, regulation, by-law or guideline or to any provision of any statute, regulation, by-law or guideline include any modification or re-enactment of, or any provision substituted for, and (in the case of a statute) all statutory and subordinate instruments issued under, such statute, regulation, by-law or guideline or such provision;
 - (v) words in the singular include the plural and vice versa;
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- (vi) words denoting individuals or persons includes a corporation, partnership, joint venture, unincorporated association and a government or statutory body or authority;
- (vii) words denoting any gender includes all genders;
- (viii) “writing” and cognate expressions include all means of reproducing words in tangible and permanently visible form;
- (ix) where any word or phrase is defined, its other grammatical forms have corresponding meanings;
- (x) “\$” or “dollars” is a reference to the lawful currency of Australia;
- (xi) the terms “including” and “include” mean “including” or “include” (as applicable) without limitation;
- (xii) where an obligation or liability is imposed on the Licensee under this Licence, that obligation or liability is not to be limited or affected by an obligation or liability imposed in another provision of this Licence unless otherwise expressly stated;
- (xiii) where a right or remedy is conferred on the Minister or Commission under this Licence, that right or remedy is in addition to, and not in substitution of, any other right or remedy conferred on the Minister or Commission under the Act, the Regulations or this Licence or otherwise according to Law;
- (xiv) the term “may” when used in the context of the power or right exercisable by the Minister or Commission means that the Minister or Commission (as applicable) can exercise that right or power in his or her or its absolute and unfettered discretion and the Minister or Commission (as applicable) has no obligation to the Licensee to do so;
- (xv) where in this Licence the Minister or Commission may (or it is otherwise contemplated that the Minister or Commission can) give approval or must either give approval or do something else, the Minister or Commission (as applicable) has an absolute and unfettered discretion as to whether he or she or it gives that approval and the Minister or Commission (as applicable) has no obligation to the Licensee to do so; and
- (xvi) a reference to “suspend” means suspend or otherwise cease to perform.

2. Licence

2.1 Issue of Licence

Under sections 6A.3.1 and 6A.3.8 of the Act, the Minister issues this Licence on the date stated on the first page of this Licence (**Licence Issue Date**) to Keno (VIC) Pty Ltd ACN 105 341 366 (**Licensee**) of Level 21, Tower 2, 727 Collins Street, Melbourne VIC 3008, authorising the Licensee to Conduct Approved Keno Games in accordance with the Act, any Regulations and the Conditions set out in this Licence.

2.2 Term of Licence

This Licence will operate from 12.01 am on 15 April 2022 (**Licence Commencement Date**) until the earlier of:

- (a) 11.59 pm on 14 April 2042; and
- (b) the date this Licence is surrendered or cancelled in accordance with the Act (**Term**).

2.3 Dealing with Licence

This Licence cannot be transferred, assigned, sub-licensed, novated, amended, or surrendered except in accordance with the Act, any Regulations and the Conditions set out in this Licence.

2.4 Conduct of Licensee

The Licensee must at all times act reasonably and in good faith in its dealings with the State (including the Minister and the Commission) in connection with this Licence.

3. Premium Payment

- (a) As consideration for this Licence, the Licensee will pay the Premium Payment to the Minister as set out in this **clause 3**.
- (b) In accordance with section 6A.3.13 of the Act, the Minister has determined the Premium Payment to be [REDACTED]
- (c) The Licensee must pay the State the Premium Payment determined and required under, and by the date specified under, **clause 3(b)** of this Licence.
- (d) The Licensee is not entitled to apply for or receive a refund of all or part of the Premium Payment if the Minister varies or revokes an approval of an Approved Keno Game, or amends, suspends or cancels this Licence in accordance with the Act.

4. Approved Keno Games

4.1 Conduct of Approved Keno Games

- (a) The Licensee is authorised to Conduct the Approved Keno Games.
- (b) Unless otherwise approved by the Minister, the Licensee must Conduct each of the Approved Keno Games on and from the Licence Commencement Date (or such later date as approved by the Minister in writing) and throughout the Term.
- (c) The Licensee must Conduct the Approved Keno Games during the Term in accordance with the:
 - (i) Act and Regulations;

- (ii) Conditions of this Licence;
 - (iii) conditions, if any, imposed by the Minister on an approval of an Approved Keno Game;
 - (iv) terms of the Agreements;
 - (v) Licensee's Responsible Gambling Code of Conduct; and
 - (vi) Keno Rules in force under the Act applicable to each Approved Keno Game.
- (d) All tickets or other forms of entry to Approved Keno Games must clearly show the name of the Licensee as the person responsible for the Conduct of Approved Keno Games.
- (e) The Licensee must ensure (and must enter into arrangements and take all reasonable action to enforce such arrangements to procure that its Agents and Contractors ensure) that they do not:
- (i) promote Approved Keno Games,
 - (ii) use visual display units forming part of the Keno System or tickets or other forms of entry in Approved Keno Games,
- with the purpose or the likely effect of having a strong or particular appeal to minors.

4.2 Distribution arrangements

- (a) In accordance with section 6A.2.3(1) of the Act, the Licensee is only authorised to sell tickets in Approved Keno Games in accordance with the distribution arrangements specified in **clause 4.2(b)** of this Licence.
- (b) Tickets in Approved Keno Games can only be sold:
- (i) in venues that:
 - (A) have a pub licence;
 - (B) have a club licence;
 - (C) have an On-Premises Licence;
 - (D) are Wagering Outlets;
 - (E) are Dedicated Keno Outlets; or
 - (F) are bingo centres under the management or control of a bingo centre operator; or
 - (ii) in the Melbourne Casino; or
 - (iii) via Interactive Distribution Methods; and
 - (iv) in accordance with any conditions imposed by the Minister on approval of a Keno Game (which may limit the distribution methods set out in paragraphs (i), (ii) and (iii)).

- (c) Visual display units and monitors forming part of a Keno System can only display content to the public in Keno Venues.

4.3 Verification of Registered Player's identity

- (a) The Licensee must have appropriate risk-based systems and controls that enable the Licensee to be reasonably satisfied that a Registered Player is the person that he or she claims to be.
- (b) Without limiting **clause 4.3(a)**, the Licensee's verification of information collected about a Registered Player must be based on reliable and independent documentation or electronic data.

5. Scope of the Licence

5.1 Number of Licences and exclusivity period

This Licence is non-exclusive and no exclusivity period for the purpose of section 6A.3.11AA of the Act applies. Up to two Keno Licences may be in effect during the Term.

5.2 Exception to Number of Licences

Notwithstanding **clause 5.1**, the Minister may issue one or more:

- (a) additional Keno Licences prior to the end of the Term of this Licence authorising the proposed new licensee(s) to take Preparatory Action to assist the transition-in of the proposed new licensee(s); or
- (b) additional licences in the form of a Temporary Licence.

6. Compliance

6.1 Compliance with the Act and this Licence

The Licensee must comply with the Act, the Regulations and all other applicable Law and must comply with the Conditions set out in this Licence.

6.2 Compliance with the Agreements

- (a) The Licensee must comply with the Related Agreement and must comply with all provisions of the Agreements.
- (b) Except as set out in the Related Agreement (including clause 30.9(a) of the Related Agreement), a breach of any provision of the Agreements by the Licensee is deemed to be a breach of this Licence by the Licensee.

6.3 Compliance with directions of the Minister or the Commission

The Licensee must promptly observe and comply with any lawful direction given by either the Minister or the Commission.

6.4 Preparatory Action

- (a) In accordance with section 6A.3.12(2) of the Act, the Licensee is authorised to undertake the Preparatory Action set out in **Schedule 1** from the date
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specified in that schedule notwithstanding that such activity occurs before the Licence Commencement Date.

- (b) On and from the Licence Issue Date, the Licensee must undertake the Preparatory Action and must have completed the Preparatory Action set out in **Schedule 1** by the date specified in that schedule.

6.5 Physical Place of Business

- (a) The Licensee must maintain a physical place of business in Victoria throughout the Term.
- (b) The Licensee must advise the Commission, in writing, of any change of address of the physical place of business at least 10 Business Days before any such change.

6.6 Intellectual Property

The State by issuing this Licence does not confer any intellectual property rights on the Licensee or any other person.

7. Agents and Contractors

7.1 Appointment of Agents and Contractors

- (a) The Licensee is authorised to appoint Agents and engage Contractors to assist in the Conduct of Approved Keno Games, but is not authorised to engage or appoint an Agent or Contractor to undertake activities which in the Minister's or Commission's opinion:
 - (i) mean that the Agent or Contractor rather than the Licensee is effectively Conducting Approved Keno Games; or
 - (ii) jeopardise the integrity, probity or Conduct of Approved Keno Games.
- (b) Anything an Agent or Contractor does or fails to do, in acting for or on behalf of the Licensee or in assisting the Licensee in the Conduct of Approved Keno Games, which would be a breach of this Licence if done or failed to be done by the Licensee, constitutes a breach of this Licence by the Licensee.
- (c) An Assistant Operator appointed by the Licensee as an Agent of the Licensee under the Related Agreement is authorised to do anything an Agent may lawfully do under the Act, in accordance with the Related Agreement, notwithstanding **clause 7.1(a)** of this Licence.

7.2 Tripartite Deed

- (a) As soon as practicable after a request by the Minister and at least every 6 months, commencing on the date that is 6 months after the Licence Commencement Date, the Licensee must provide the Minister with a list of each Agent or Contractor engaged or to be engaged by the Licensee from time to time.
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- (b) Upon request from the Minister, the Licensee must procure all Material Agents or Contractors to enter into a Tripartite Deed with the Minister and the Licensee in a form approved by the Minister.
- (c) If, after making reasonable attempts to do so, the Licensee cannot procure entry into a Tripartite Deed by a Material Agent or Contractor as required under **clause 7.2(b)** of this Licence, the Minister, upon request from the Licensee, may (in his or her absolute discretion) release the Licensee from its obligation in **clause 7.2(b)** of this Licence, if the State is able to otherwise satisfactorily procure the services from the relevant Material Agent or Contractor.
- (d) The Licensee must, from time to time and upon request from the Minister in accordance with **clauses 7.2(a), (b) and (c)** of this Licence, deliver copies of any Tripartite Deed executed by all parties other than the Minister in a form acceptable to the Minister.

8. General

8.1 The Act prevails

- (a) In the interpretation of this Licence, to the extent that there is any inconsistency between this Licence, the Act and the Agreements, then the following descending order of precedence will apply:
 - (i) the Act and any Regulations;
 - (ii) any directions given under the Act;
 - (iii) this Licence;
 - (iv) the Related Agreement;
 - (v) the Agreements (other than the Related Agreement); and
 - (vi) any standards made under the Act.
- (b) This Licence will be interpreted and constructed to the greatest extent possible to protect its validity under the Act.

8.2 Severability

If anything in this Licence or the Agreements is unenforceable, illegal or void, then it is severed to the extent necessary to give this Licence full force and effect and the remainder of this Licence or the Agreements (as applicable) remains in full force and effect.

8.3 Surviving provisions

- (a) All clauses that by their nature survive expiration or termination of this Licence (which includes **clause 3(b)**) will remain in full force.
 - (b) Any rights or obligations accrued prior to the expiration or termination of this Licence survive the expiration or termination of this Licence.
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Issued by the Honourable Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation for and on behalf of the Crown in the right of the State of Victoria



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Signature of Minister

Schedule 1 Preparatory Action

Preparatory Action

This Licence authorises the Licensee to undertake the following Preparatory Action:

1. developing, testing and establishing a Keno System;
 2. developing operating procedures and manuals for operation of a Keno System and Keno Game equipment, and provision of these to Keno Venues;
 3. developing rules for Approved Keno Games and provision of rules to Keno Venues;
 4. preparing to undertake all services in respect of the operation of Approved Keno Games, including:
 - (a) preparing to conduct all draws;
 - (b) arranging for the publication of results by an appropriate means, including arranging for the publication of the results for prior draws;
 - (c) managing all prize money reserves;
 - (d) managing unclaimed prize moneys;
 - (e) arranging for payments to the State, including the payment of all taxes, duties and other amounts payable to the Treasurer; and
 - (f) arranging any other services reasonably necessary for the Conduct of Approved Keno Games;
 5. training staff in accordance with developed operating procedures and manuals and the Licensee's Responsible Gambling Code of Conduct;
 6. establishing data lines for supply or receiving of signals for Approved Keno Games and establishing communication data lines to Keno Venues;
 7. developing help-desk facilities, in relation to the Conduct of Approved Keno Games;
 8. developing promotions and advertising of Approved Keno Games;
 9. establishing required bank accounts;
 10. installing Keno Game equipment at Keno Venues;
 11. developing, protecting and licensing intellectual property;
 12. developing and distributing to Keno Venues of all necessary consumables (including entry coupons, printer paper, roles and printer ribbons) for the
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- operation of Keno Game equipment and sale of tickets in Approved Keno Games;
13. obtaining all necessary approvals (including approval of a Keno System);
 14. developing appropriate regulatory and compliance processes and procedures;
 15. appointing Agents and engaging Contractors who will assist in the Conduct of Approved Keno Games (including Ticket Agents);
 16. any other Preparatory Action specified in the Approved Implementation Plan to be developed by the Licensee in accordance with the Related Agreement.

This Licence authorises the Licensee to undertake the Preparatory Action from the Licence Issue Date.

The Licensee must have completed the Preparatory Action by the Licence Commencement Date (or such later date as approved by the Minister under **clause 4.1(b)** as the date on and from which the Licensee must Conduct each of the Approved Keno Games).

Schedule 2 Related Agreement

Related Agreement