



## RETAILER CONTRACT

**Retailer/Chain Number:** \_\_\_\_\_ **Telephone Number:** (\_\_\_\_) \_\_\_\_\_

**Legal Business Name:** \_\_\_\_\_

**Doing Business As:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_

(city)

(state)

(zip code)

This Contract ("Contract"), by and between the Commonwealth of Virginia, acting by and through the State Lottery Department ("Lottery"), and the retailer named above, including all owners and officers, (collectively "Retailer") (together, the "Parties") made as of the later date shown beside the Parties' signatures below, specifies the terms and conditions which shall exist during the term of this Contract. Except as otherwise provided herein, this Contract supersedes any prior agreement, representation or understanding between the Parties regarding the subject matter set out herein.

When this Contract is fully executed, and the Retailer has fulfilled all eligibility requirements and paid all fees established by the Lottery, Retailer will be issued a Lottery license. Together, this Contract and its affiliated license authorize Retailer to act as a Lottery Sales Agent to sell and dispense Lottery tickets and products, and to act as the Lottery's representative to collect, preserve, and account for Commonwealth of Virginia trust funds.

**A. Term and Renewal**

Unless earlier terminated, the term of this Contract - and its affiliated Retailer's license - shall be for a period of one (1) year. These agreements may be renewed annually thereafter at the sole discretion of the Lottery, contingent upon Retailer's compliance with all related Lottery statutes, regulations, and procedures. Upon renewal of a Retailer's license, this Contract shall be renewed for the concurrent period.

**B. Termination, Cancellation, Revocation, or Suspension**

This Contract may be terminated by Retailer upon at least fifteen (15) calendar days prior written notice to the Lottery.

This Contract and Retailer's license may be terminated, canceled, revoked or suspended by the Lottery, in the Director's sole discretion, upon written notice to the Retailer (except in those limited circumstances when such notice is not required by Lottery statutes or regulations). The Retailer shall be entitled to a hearing on such termination, cancellation, revocation or suspension if, and to the extent, provided by Lottery statutes and regulations and any other applicable law.

Upon termination of the contract, Retailer shall maintain his surety bond and his required Lottery Trust bank account until all settlements are completed and all Lottery equipment, supplies, and property have been surrendered.

**C. Compliance with Statutes and Rules**

*Retailer shall:*

- 1) Fulfill the obligations of and adhere to the prohibitions denoted in this Contract, except as otherwise modified by an amendment or addendum attached hereto.
- 2) Comply with all Lottery statutes, regulations, procedures, rules for specific Lottery games, eligibility criteria and standards for licensing, and all other applicable federal and state laws, rules, directives, orders and instructions, including the Americans with Disabilities Act. By executing this Contract, Retailer certifies that to the best of its knowledge it is in compliance with all such laws.
- 3) Conduct all Lottery business and transactions ethically and with the utmost integrity, and act in every respect to uphold public confidence in the Lottery.
- 4) Immediately report to the Lottery any irregularities or anomalies involving Lottery equipment, sales, systems, tickets, or products that do not conform to standard processes and procedures or that may be detrimental to public confidence in the Lottery.
- 5) Adopt safeguards to assure that it will not sell lottery tickets or pay prizes to persons under the age of 18 years.
- 6) Not attempt, through any means whatsoever, to identify or otherwise determine whether any unsold ticket contains a winning play.

**D. Tickets/Products Requirements and Responsibilities**

*Retailer shall:*

- 1) Sell all tickets and products which he is authorized and provided by the Lottery to sell.
- 2) Sell tickets and products only at the prices fixed by the Lottery. This requirement includes a prohibition against Retailer purchasing tickets from players at discounted prices.
- 3) Sell tickets and products only at the location(s) specified in this Contract, identified on the issued Lottery license, or as otherwise expressly authorized by the Lottery.
- 4) STOP selling instant tickets and remove such tickets from public view, upon notification by and in accordance with instructions provided by the Lottery.
- 5) Accept only cash, check, debit cards, or authorized coupons in payment for the purchase of Lottery tickets or products.
- 6) Post, or otherwise display in prominent locations agreed to by the Lottery, all required Point of Sale materials.
- 7) Maintain and safeguard an adequate instant ticket inventory and serialized paper stock used in Lottery-provided equipment.
- 8) Meet any minimum sales requirement(s) established by the Lottery, at its discretion and as may be amended from time-to-time, for each Retailer business location.
- 9) Use reasonable safeguards and sound management practices to protect Lottery tickets from the elements, abuse, theft, damage, and destruction.
- 10) Immediately notify the Lottery upon the theft, loss, destruction of, or damage to any tickets in the Retailer's possession.

*Lottery shall:*

- 11) Pay Retailer compensation as established pursuant to Lottery statutes and regulations and, at the Lottery's sole discretion, any bonus or incentive payments as may be established from time-to-time.
- 12) Provide sales, marketing and customer assistance to the Retailer.

**E. Payment of Prizes**

*Retailer shall:*

- 1) Validate winning tickets in accordance with Lottery-approved procedures and via Lottery-provided equipment prior to paying a prize.
- 2) Pay cash prizes as expressly authorized by the Lottery through the proper and complete validation of winning tickets, generally up to and including \$600 per wager.
- 3) Pay prizes in cash and/or cash equivalent instruments (e.g. money order, business check) immediately upon the proper and complete validation of a winning ticket.
- 4) Not impose any fee, additional charge, or discount for cashing a winning ticket.
- 5) Return non-winning tickets to the player.

*Lottery shall:*

- 6) Reimburse Retailer for all valid cash prizes properly and completely validated and paid by the Retailer.
- 7) To the extent established by Lottery statutes and regulations, pay Retailer a cashing commission based on the cash value of all valid prizes paid by the Retailer and, at the Lottery's sole discretion, any bonus or incentive payments as may be established from time-to-time.

**F. Financial Requirements, Responsibilities, and Conditions**

*Retailer shall:*

- 1) Be personally liable for all proceeds from the sale of Lottery tickets or products.
- 2) Promptly pay all amounts owing under this Contract.
- 3) Maintain a separate, designated Lottery Trust bank account to be used exclusively for lottery business.
- 4) Ensure the Lottery account is jointly titled as "Retailer's Name/Virginia Lottery Trust."
- 5) Acknowledge that all Lottery funds, immediately upon receipt and upon the transaction of a sale, are held in trust for the Virginia Lottery and the Commonwealth of Virginia.
- 6) Deposit into the Trust account all proceeds from the sale of Lottery tickets or products.
- 7) Ensure sufficient funds are timely deposited into the Trust account for scheduled EFT transfer. In the event such EFT transfer is dishonored, Retailer shall be liable for penalties and interest as established by Lottery statute and/or regulation.
- 8) Be responsible for, preserve, and account for all proceeds from the sale of Lottery tickets/products, all instant tickets accepted from the Lottery, and all on-line tickets generated, whether such activities are conducted by the Retailer or any employee or representative of the Retailer.
- 9) Be financially liable for all tickets once they are in a billable status. Retailer shall also be financially liable for stolen, lost, destroyed, or otherwise unaccounted for tickets – without regard to their billing status - if such loss resulted from the willful or negligent act or omission of Retailer, or from Retailer's intentional misconduct or failure to reasonably safeguard or maintain the tickets in accordance with sound management practices.
- 10) Maintain a surety bond, through a company licensed to conduct business in Virginia, in such an amount and penalty as determined by the Lottery. Such bond must be payable to the State Lottery Department and conditioned upon the faithful performance of the Retailer's duties. Retailer shall promptly provide proof of bonding to the Lottery, as requested. Retailer may, at the sole discretion of the Lottery, be permitted to provide such other surety as may be satisfactory to the Lottery Director.

## **G. Equipment Requirements and Responsibilities**

### *Retailer shall:*

- 1) Be responsible for meeting all equipment installation requirements as specified by the Lottery. Such requirements may include, but not limited to: (a) dedicated electrical circuitry; (b) counter, roof, floor, and building space; and (c) conduit, if applicable. All expenses associated with the items required to be furnished by the Retailer and all consents, approvals, and permits from any and all necessary parties required for equipment installation, if any, shall be the sole responsibility of Retailer.
- 2) Place equipment only in Lottery-approved locations.
- 3) Place self-service/vending equipment in a location that is visible to the Retailer's staff during all hours that the Retailer is open to the public.
- 4) Pay a weekly communications charge in an amount determined by the Lottery (\$15 per week as of the revision date of this contract form).
- 5) Grant the Lottery, or Lottery-approved service technicians, permission and access to the premises, equipment, and/or keys during Retailer's normal business hours for equipment placement/installation, equipment removal, and equipment maintenance/repair.
- 6) Remove all monies and tickets, as appropriate, from Equipment prior to maintenance or repair.
- 7) Use reasonable safeguards and sound management practices to protect Lottery equipment and property from the elements, abuse, theft, damage, and destruction.
- 8) Immediately notify the Lottery upon the theft, loss, destruction of, or damage to any Lottery-provided equipment or property in the Retailer's possession.
- 9) Repair or replace, at Retailer's expense, any loss of, destruction of, or damage to Lottery-provided equipment, machines or parts thereof which results from the willful or negligent act or omission of Retailer, or from Retailer's intentional misconduct or failure to reasonably safeguard or maintain the equipment in accordance with sound management practices.
- 10) Ensure all Equipment is operational and able to be used to sell and validate Lottery products during the Retailer's normal business hours.
- 11) Call the Lottery service hotline when a problem occurs which the Retailer cannot resolve.
- 12) Load printer paper, ticket stock, and instant tickets into all bins of Equipment, and maintain sufficient quantities of such ticket stock and instant tickets in the bins.
- 13) Return all Lottery-provided equipment, property, supplies, and products upon request of the Lottery; suspension, cancellation, or revocation of the Retailer's license; and/or termination of this Contract.
- 14) Ensure that Retailer's employees complete a Lottery-designated training program prior to initially selling any Lottery tickets or products and any subsequent training sessions as may be required by the Lottery.

### *Lottery or its authorized representatives shall:*

- 15) Provide Retailer all required Lottery Equipment and product supplies, including playslips, Point of Sale materials, printer paper, and ticket stock.
- 16) Retain ownership of all Lottery-provided equipment and supplies.
- 17) Be responsible for the cost of all normal maintenance associated with Lottery-provided Equipment, other than costs incurred because of Retailer's neglect, abuse, or failure to use sound management practices, which costs shall be borne by Retailer.
- 18) Train Retailer employees on the operation of all Lottery-provided equipment and the sale of Lottery products. Training sessions will be conducted at a mutually agreeable time and location prior to or immediately after Equipment installation, provided that training must be completed before Retailer can commence selling tickets.
- 19) Provide a toll-free Lottery service hotline for Equipment repair service and Retailer support service.

## **H. Report of Change in Condition**

*Retailer shall:*

- 1) Notify the Lottery in writing not less than 15 days prior to any proposed changes in its business, including but limited to: (a) ownership, number, or identity of responsible parties associated with the business; (b) federal tax identification number; (c) location; (d) form of ownership or operation of the business; (e) lease of Retailer's business and/or premises; or (f) sale or closing of the Retailer's business.
- 2) Notify the Lottery if any person listed on the Retailer's application or Contract, or any amendments thereto (e.g. owner, partner, stockholder, officer, etc.), is charged with or convicted of, or enters a plea of guilty or nolo contendere to, **any** offense punishable as a felony, or **any** offense involving moral turpitude, fraud, misrepresentation, bookmaking, or gambling, regardless of the jurisdiction in which the offense occurred. Retailer shall report such event in writing within 15 days of the event, irrespective of the adjudication.

## **I. Cooperation with Lottery Representatives**

*Retailer shall:*

- 1) Fully cooperate with Lottery employees or its agents and make available all pertinent records, documents, and information in all matters related to Lottery operations, including but not limited to the accounting, collection, inspection, auditing, or investigation of Lottery proceeds, tickets and products, equipment, and the terms and conditions of this Contract.
- 2) Shall provide the Lottery or its agents access to the premises of the licensed location during normal business hours or at such other times as may be required.

## **J. Penalties for Non-Compliance**

- (1) *The Lottery reserves the right* to suspend or revoke the Retailer's license, terminate this Contract, and/or suspend operations of and/or remove any Equipment provided by the Lottery for noncompliance with the Lottery's statutes, regulations, or rules or for noncompliance with any of the terms and conditions of this Contract.
- (2) *Retailer acknowledges and agrees* that its failure to meet the minimum sales requirement(s), if any, may result in any of the sanctions cited in Paragraph J.(1), and/or the imposition of a service charge to be paid by the Retailer. The amount of the service charge will be established by the Lottery, at its discretion, and may be amended from time-to-time.
- (3) *Retailer agrees* to pay the Lottery's expenses, including reasonable attorney's fees, incurred in the event the Lottery should have to initiate legal proceedings to enforce any provision of this Contract or to collect any amount due and owing, which obligation shall survive termination or expiration of this Contract.

## **K. Waiver and Indemnification**

- (1) *Retailer hereby waives* any claim(s) it has or may have against the Commonwealth of Virginia, the Lottery Board, the Lottery, the Lottery Director, or any officer, employee, director or agent of any of same, arising out of any interruption, suspension, failure or defects in the operation of the Lottery's games, Equipment, products or systems, including any claim(s) for lost profit or revenues, regardless of the reason for such interruption, suspension, failure or defect.
- (2) *Retailer agrees to indemnify* and hold harmless the Commonwealth of Virginia, the Lottery Board, the Lottery, the Lottery Director, and any officer, employee, director or agent of any of same, that may arise out of any interruption, suspension, failure of, or defects in the operation or design of the Lottery's games, Equipment, products or systems, including any claim(s) for lost profit or revenue, regardless of the reason for such interruption, suspension, failure or defect.
- (3) This section shall survive termination or expiration of this Contract.

**L. Non-assignability of Contract**

(1) *Retailer understands and agrees* this Contract is valid only at the location(s) specified in this Contract or as otherwise expressly authorized by the Lottery, and that he may not assign, subcontract or in any way transfer, in whole or in part, any rights, obligations, claims or interests of any kind in, under, or arising out of this Contract or its Lottery license. Should Retailer attempt to do any of these actions, the Lottery reserves the right to revoke the Retailer’s license, terminate the Contract and/or suspend operation or remove any Equipment provided by the Lottery.

(2) *Retailer understands and agrees* that it shall be responsible for all Lottery activities and be liable for all monies owed to the Lottery during the entire time this Contract and the associated license is in effect, and for the acts and omissions of its employees as they relate to Lottery operations.

Any monies or debt owed by Retailer to the Lottery will survive termination or expiration of this Contract.

(3) *Retailer understands and agrees* that it may not relieve itself of any retailer obligations by entering into management or other agreements involving the operation of its business.

**M. Severability**

*Retailer agrees* that if any provision of this Contract is declared by a court of competent jurisdiction to be illegal, unenforceable or in conflict with any law, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid or unenforceable.

**N. Applicable Law; Choice of Forum**

*The Parties agree* that the laws of the Commonwealth of Virginia shall govern all matters arising out of, or in connection with, this Contract and that any action or suit relating to this Contract shall be brought in the Circuit Court of the City of Richmond. This paragraph shall survive any termination or expiration of this Contract.

IN WITNESS WHEREOF, the Parties have executed this Contract by their duly authorized representatives as of the later date appearing opposite their respective signatures.

**RETAILER**

**COMMONWEALTH OF VIRGINIA**

***STATE LOTTERY DEPARTMENT***

\_\_\_\_\_  
(Company Name)

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Position/Title)

\_\_\_\_\_  
(Date)

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Position/Title)

\_\_\_\_\_  
(Date)