

Keno Licence

Gambling Regulation Act 2003

(Vic)

The Honourable Michael O'Brien MP, Minister for
Gaming of the Crown in right of the State of
Victoria

Tabcorp Investments No.5 Pty Ltd

Contents

1	Definitions	3
1.1	Definitions	3
1.2	Interpretation	5
2	Licence	7
2.1	Issue of Licence	7
2.2	Term of Licence	7
2.3	Dealing with Licence	7
2.4	Conduct of Licensee	7
3	Upfront Premium Payment	7
4	Authorised Keno Games	8
4.1	Conduct of Authorised Keno Games	8
5	Compliance	9
5.1	Compliance with the Act and this Licence	9
5.2	Compliance with the Agreements	9
5.3	Compliance with directions of the Minister or the Commission	9
5.4	Distribution Arrangements	9
5.5	Preparatory Action	9
5.6	Physical Place of Business	10
5.7	Intellectual Property	10
6	Agents and Contractors	10
6.1	Appointment of Agents and Contractors	10
7	Commission approval	11
8	General	11
8.1	The Act prevails	11
8.2	Severability	11
Schedule 1 - Preparatory Action		13
Schedule 2 - Agreement		15

Date

Parties

**The Honourable Michael O'Brien MP, Minister for Gaming of the Crown
in right of the State of Victoria**

Tabcorp Investments No.5 Pty Ltd ACN 105 341 366 of 5 Bowen Crescent,
Melbourne 3004 (**Licensee**)

Background

- A Under Part 3 of Chapter 6A of the Act the Minister may issue a licence to Conduct Keno Games in the State of Victoria.
- B The Minister has called for the registration of interest in the grant of such a licence, and has subsequently invited short-listed registrants to apply for a licence to Conduct 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 require an applicant for a licence or any other person requested by the Minister (or both) to enter into one or more agreements with the Minister related to the licence. Accordingly, the Minister and the Licensee enter into the 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 Authorised Keno Games in the State of Victoria, subject to the following conditions.

Agreed terms

1 Definitions

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)*, as amended from time to time.

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

Agreement means the related agreement entered into between the Minister and the Licensee in accordance with section 6A.3.10 of the Act, and appended at Schedule 2, including any schedule or annexure to the agreement, and as amended from time to time.

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

Authorised Keno Games means a game which is approved as a Keno Game in accordance with section 6A.2.1 of the Act which the Licensee is authorised to Conduct under this Licence, subject to any variation to or conditions imposed on such approval under the Act and for as long as such approval remains in force.

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 Commission for Gambling Regulation established under the Act (or any successor body) or a Commissioner.

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

Conduct includes carry on, manage, organise or operate and Conducting has a corresponding meaning.

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

Distribution Arrangements means the class of venues in which tickets can be sold under **clause 5.4** of this Licence.

Implementation Plan means the plan to be developed by the Licensee in accordance with clause 5 of the Agreement.

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

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

Keno System means the system as defined in section 1.3(1) of the Act.

Licence means this document, which is a licence to Conduct Authorised 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.

Minister means the responsible Minister of the Crown for the time being administering Chapter 6A of the Act.

Player means a person who enters a 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 same meaning as in section 6A.3.12 of the Act.

Random Number Generator has the same meaning as in section 1.3(1) of the Act.

Regulations means any regulations made under the Act, as amended from time to time.

Responsible Gambling Code of Conduct means a Code of Conduct as defined in section 1.3(1) of the Act.

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

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

Term means the period of time for the operation of this Licence specified 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 a Keno Game.

Wagering outlets means the outlets of accredited agents 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 the Licence or the inclusion of the provision in the 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;
- (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 the 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 its approval or must either give its 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;

(xvi) a reference to “suspend” means suspend or otherwise cease to perform; and

(xvii) a provision which is expressed to be “subject to” another provision of this Licence will apply without limiting the operation of that other provision.

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 25 March 2011 (**Licence Issue Date**) to Tabcorp Investments No.5 Pty Ltd ABN 72 105 341 366 (**Licensee**) of 5 Bowen Crescent, Melbourne 3004, authorising the Licensee to Conduct Authorised Keno Games in accordance with the Act, any Regulations, the Conditions set out in this Licence and any conditions imposed by the Minister on an approval of an Authorised Keno Game under the Act.

2.2 Term of Licence

This Licence will operate from 15 April 2012 (**Licence Commencement Date**) until 14 April 2012, unless this Licence is surrendered or cancelled earlier in accordance with the Act (**the 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, for the avoidance of doubt, the Minister and the Commission) associated or in connection with this Licence.

3 Upfront Premium Payment

(a) As consideration for the 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 \$60 million, to be paid to the State within 20 Business Days of:

(i) the Licence Issue Date; or

(ii) the later time determined by the Minister.

- (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 a Premium Payment if the Minister varies or revokes an approval of a Keno Game or amends, suspends or cancels the Licence in accordance with the Act.

4 Authorised Keno Games

4.1 Conduct of Authorised Keno Games

- (a) The Licensee must Conduct and promote Authorised Keno Games on and from the Licence Commencement Date (or as agreed with the Minister in writing) and throughout the Term including, but not limited to:
 - (i) selling or organising the sale of tickets or other forms of entry to Authorised Keno Games;
 - (ii) marketing Authorised Keno Games;
 - (iii) paying prizes to Players; and
 - (iv) operating a Keno System.
- (b) The Licensee must Conduct Authorised 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 a Authorised Keno Game under the Act;
 - (iv) terms of the Agreements;
 - (v) Licensee's Responsible Gambling Code of Conduct as amended from time to time; and
 - (vi) Keno Rules in force under the Act.
- (c) All tickets or other forms of entry to Authorised Keno Games must clearly show the name of the Licensee as the person responsible for the Conduct of Authorised Keno Games.
- (d) 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 Keno Games,
 - (ii) use visual display units forming part of the Keno System or tickets or other forms of entry in Authorised Keno Games,

with the purpose or the likely effect of having a strong or particular appeal to minors.

5 Compliance

5.1 Compliance with the Act and this Licence

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

5.2 Compliance with the Agreements

- (a) The Licensee must comply with the Agreements and must strictly observe all provisions of the Agreements.
- (b) Subject to the terms of the Agreements (including for the avoidance of doubt clause 29.10(a) of the Agreement), a breach of any provision of the Agreements by the Licensee is deemed to be a breach of this Licence by the Licensee.

5.3 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.

5.4 Distribution Arrangements

- (a) In accordance with section 6A.2.3(1) of the Act, the Licensee is only authorised to sell tickets in Authorised Keno Games in accordance with the distribution arrangements specified in **clause 5.4(b)** of this Licence.
- (b) Visual display units forming part of a Keno System can only be displayed to the public and tickets in Authorised Keno Games can only be sold in venues that:
 - (i) have a pub licence;
 - (ii) have a full or restricted club licence;
 - (iii) are Wagering outlets;
 - (iv) are deemed to have a pub licence or a club licence under Chapter 3 of the Act; or
 - (v) are agents of the wagering licensee under Chapter 4 of the Act.

5.5 Preparatory Action

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

- (b) On and from the License 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.
- (c) Without prejudice to **clause 5.5(b)**, the Licensee must ensure it has a game approved as a Keno Game in accordance with section 6A.2.1 of the Act by the Licence Commencement Date.

5.6 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.

5.7 Intellectual Property

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

6 Agents and Contractors

6.1 Appointment of Agents and Contractors

- (a) The Licensee is authorised to appoint Agents and engage Contractors to assist in the Conduct of Authorised Keno Games, but is not authorised to engage or appoint an Agent or Contractor:
 - (i) to undertake activities which in the Minister's or Commission's opinion:
 - (A) means that the Agent or Contractor rather than the Licensee is effectively Conducting Authorised Keno Games; or
 - (B) jeopardises the integrity, probity or Conduct of Authorised Keno Games.
- (b) In accordance with section 6A.3.15(2) of the Act, any thing an Agent or Contractor does or fails to do, in acting for and on behalf of the Licensee or in assisting the Licensee in the Conduct of Authorised Keno Games, which would be a breach of this Licence if done or failed to be done by the Licensee, constitutes a breach of the Licence by the Licensee.
- (c) For the avoidance of doubt, a Temporary Operator appointed by the Licensee as an Agent of the Licensee under the Agreement is authorised to do anything an Agent may lawfully do under the Act, in accordance with the Agreement, notwithstanding **clause 6.1(a)** of this Licence.

7 Commission approval

Before:

- (a) the Licensee appoints Damien Gerard Johnston to the position of director; and
- (b) Tabcorp Holdings Limited appoints Damien Gerard Johnston to the position of chief financial officer and Justin Trevor Milne to the position of director,

the Licensee must ensure that Damien Gerard Johnston and Justin Trevor Milne receive the prior written approval of the Commission under section 10.4A.7(1) of the Act.

8 General

8.1 The Act prevails

- (a) In the interpretation of this Licence, to the extent that there is any inconsistency between the provisions of the Licence, the provisions of the Act and the Agreements, then the following descending order of precedence will apply:
 - (i) the Act and any Regulations;
 - (ii) any directions given or standards made under the Act;
 - (iii) the Licence; and
 - (iv) the Agreements.
- (b) The 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 the Licence full force and effect and the remainder of the Licence or the Agreements (as applicable) remains in force and effect.

Issued by the Honourable Michael O'Brien MP,
Minister for Gaming of the Crown in the right of the State of Victoria

Signature of Witness

Signature of the Minister

Name of Witness
(BLOCK LETTERS)

Schedule 1

Preparatory Action

The 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 outlets;
- 3 developing rules for Authorised Keno Games and provision of rules to outlets;
- 4 preparing to undertake all services in respect of the operation of Authorised Keno Games, including:
 - (a) conducting 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 Authorised 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 Authorised Keno Games and establishing communication data lines to outlets;
- 7 developing telephone help desk facilities in relation to the Conduct of Authorised Keno Games;
- 8 developing promotions and advertising of Authorised Keno Games;
- 9 establishing required bank accounts;
- 10 installing Keno Game equipment at outlets;
- 11 developing intellectual property;
- 12 developing and distributing to outlets of all necessary consumables (including, without limitation, entry coupons, printer paper, roles and printer ribbons) for the operation of Keno Game equipment and sale of tickets in Authorised Keno Games;

- 13 obtaining all necessary approvals (including, without limitation, 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 Authorised Keno Games (including Ticket Agents); and
- 16 any other Preparatory Action specified in the Implementation Plan to be developed by the Licensee in accordance with the Agreement.

The 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.

Schedule 2

Agreement