

ADMINISTRATION AGREEMENT

Effective Date: April 1, 2016 - March 31, 2021

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SCHEDULES

1. Funding
2. Accountability Indicators and Performance Targets
3. Reporting
4. Form of Compliance Declaration

THIS ADMINISTRATION AGREEMENT made in duplicate is effective as of the 1st day of April, 2016.

B E T W E E N:

**Her Majesty the Queen in right of Ontario,
as represented by the Minister of Finance ("Minister")**

- and -

Ontario Lottery and Gaming Corporation ("OLG")

RECITALS

The *Ontario Lottery and Gaming Corporation Act, 1999* ("Act") established the Ontario Lottery and Gaming Corporation as a corporation without share capital and Crown agent.

Pursuant to the Act:

1. The Minister has established a grant program for the purpose of supporting live horse racing in Ontario and has established guidelines for the program;
2. The Minister has designated a grant program established under the foregoing ("Successor Horse Racing Partnership Funding Program") as the successor to the Horse Racing Partnership Funding Program established under section 7 of the *Ministry of Agriculture, Food and Rural Affairs Act*, and has, by regulation, designated transfer payment agreements entered into under the Horse Racing Partnership Funding Program. to provide operational and purse support for the operators of race tracks in Ontario;
3. The Crown as represented by the Minister replaces the Ontario Racing Commission as a party in the designated agreements and the designated agreements are deemed to be grant agreements for the purpose of the grant program established by the Minister, being the Successor Horse Racing Partnership Funding Program;
4. The Minister and OLG wish to enter into an administration agreement governing the administration of the grant program including the terms and conditions that OLG shall observe in administering the grant program on the Minister's behalf including making payments to grant recipients and monitoring and enforcing compliance by grant recipients with the grant agreements and OLG agrees to administer the grant program in accordance with the terms and conditions of this administration agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Minister and OLG agree as follows:

ARTICLE 1.0 - DEFINITIONS & INTERPRETATION

1.1 **Definitions.** In this Agreement the following terms will have the following meanings:

"Act" means the *Ontario Lottery and Gaming Corporation Act, 1999* and any regulations made thereunder.

"Accountability Indicator" means a measure of OLG's performance under this Agreement for which a Performance Target has been set by the Minister;

“Administration Costs” means the costs that OLG incurs to administer the Program on behalf of the Minister;

“Agreement” means this agreement and includes the Schedules and any instrument amending this Agreement or the Schedules;

“Alcohol and Gaming Commission of Ontario” means the Alcohol and Gaming Commission responsible for the licensing and regulation of the horse racing industry in Ontario pursuant to the *Horse Racing Licence Act, 2015*;

“Annual Balanced Budget” means that, in each fiscal year of the term of this Agreement, the total expenses of OLG in respect of the Funded Activities are less than or equal to the Funding;

“Applicable Law” means all federal, provincial, or municipal law that is applicable to OLG, the Industry, Funded Activities, this Agreement and the Parties’ obligations under this Agreement during the term of this Agreement. “Applicable Law” includes the statutes, regulations, orders, judgements, codes, rules, by-laws, ordinances and licenses issued under or pursuant to federal, provincial, or municipal law;

“Applicable Policy” means any policies, guidelines, directives, or standards of practice issued or adopted by the Minister, the Ministry or other ministries or agencies of the province of Ontario that are applicable to OLG during the term of this Agreement;

“Board” means the Board of Directors of OLG;

“BPSAA” means the *Broader Public Sector Accountability Act, 2010* and any regulations thereunder;

“Business Day” means any working day, Monday to Friday inclusive, but excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day that the Ministry has elected to be closed for business;

“Business Plan” means the operating plan and budget submitted annually by OLG to the Minister.

“CEO” means the President and Chief Executive Officer of OLG;

“Compliance Declaration” means a compliance declaration in the form set out in Schedule “4”;

“Confidential Information” means information that is marked or otherwise identified as confidential by the disclosing Party at the time the information is provided to the receiving party. Confidential Information does not include information that:

- (a) was known to the receiving Party prior to receiving the information from the disclosing Party;
- (b) has become publicly known through no wrongful act of the receiving Party; or
- (c) is required to be disclosed by law, provided that the receiving Party provides timely notice of such requirement to the disclosing Party, consults with the disclosing Party on the proposed form and nature of the disclosure, and ensures that any disclosure is made in strict accordance with Applicable Law;

“Conflict of Interest” in respect of OLG, includes any situation or circumstance where, in relation to the performance of its obligations under this Agreement,

- (i) OLG;

- (ii) a member of OLG's Board; or
- (iii) any person, including an employee who has the capacity to influence OLG's decision-making,
has other commitments, relationships or financial interests that:
- (iv) could or could be seen to interfere with OLG's objective, unbiased and impartial exercise of its judgement; or
- (v) could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under this Agreement;

"Delegation" means the delegation by the Minister of Finance pursuant to subsections 12.1(3) or 12.3(6) of the Act;

"Designated Grant Agreements" means the transfer payment agreements designated by the Minister of Finance under the Regulation;

"Director" means the Senior Vice President of Horse Racing at OLG or his or her authorized delegate;

"Effective Date" means April 1, 2016;

"FAR Support" means the transfer payment program, up to five years in duration, to provide operational and purse support for the FAR Racetracks;

"FAR Racetracks" means Fort Erie Racetrack, Ajax Downs Racetrack and Rideau Carleton Raceway;

"FIPPA" means the *Freedom of Information and Protection of Privacy Act* (Ontario), and any regulations thereunder;

"Funded Activities" means the activities for which OLG receives Funding from the Minister under this Agreement and which are in accordance with the Program Guidelines, including the payment of grants under Designated Grant Agreements, the Industry Development Component of the Program and Administration Costs for the Program;

"Funding" and "Funds" means the money provided by the Minister to OLG in each Funding Year of this Agreement;

"Funding Year" means in the case of the first Funding Year, the period commencing on the Effective Date and ending on the following March 31, and in the case of Funding Years subsequent to the first Funding Year, the period commencing on the date that is April 1 following the end of the previous Funding Year and ending on the following March 31;

"HRL Act" means the *Horse Racing Licence Act, 2015* and any regulations thereunder;

"Industry" means the live horse racing industry in Ontario;

"Industry Development Component" means the industry development component of the Program as set out in subsection 4.2 of this Agreement;

"Interest Income" means interest earned on the Funding received;

"Live Racing Component" means the live horse racing component under (i)(a), (b) and (c) of the definition of Program;

“**Minister**” means the Minister responsible for the administration of the Act which as of the effective date of this Agreement is the Minister of Finance;

“**Ministry**” means the ministry of the Minister;

“**MOU**” means the Memorandum of Understanding between the Minister and OLG effective as of April 1, 2016, as amended from time to time;

“**Notice**” means any notice or other communication required to be provided one Party to the other Party under this Agreement pursuant to Article 13;

“**OLG**” means the Ontario Lottery and Gaming Corporation established under the Act;

“**Operational Support**” means the operational support component under (i)(d) and (e) of the definition of Program;

“**Party**” means either of the Minister or OLG and “**Parties**” mean both of the Minister and OLG;

“**Performance Factor**” means any matter that could or will significantly affect OLG’s ability to fulfill its obligations under this Agreement;

“**Performance Target**” means a level of performance expected of OLG as set out in Schedule 2;

“**Person**” means a legally recognized entity;

“**Program Guidelines**” means guidelines for the Program established by the Minister, which may be amended from time to time;

“**Program**” means the Successor Horse Racing Partnership Funding Program established by the Minister under subsection 12.1(1) of the Act and designated by the Minister to be the successor grant program to the Horse Racing Partnership Funding Program and its component parts as follows:

- (i) Live Racing Component, which is comprised of the following:
 - a. Purse Support for Centralized and Alliance Racetracks;
 - b. Purse Support for Regional Racetracks;
 - c. Purse Support for FAR Racetracks
 - d. Operational Support for Regional Racetracks; and,
 - e. Operational Support for FAR Racetracks.
- (ii) The Industry Development Component, which is comprised of the following:
 - a. Responsible Gambling
 - b. Marketing
- (iii) Administration Costs

“**PSSDA**” means the *Public Sector Salary Disclosure Act, 1996* (Ontario);

“**Recipient**” means a Person who has entered into a grant agreement with the Minister to receive a grant under the Program;

“**Regulation**” means a regulation made pursuant to s. 12.3(2) of the Act;

“Reports” means the reports described in Schedule “3” as well as any other reports or information required to be provided under this Agreement or otherwise requested by the Minister from time to time in respect of the subject matter of this Agreement;

“Review” means a financial or operational audit, investigation, inspection or other form of review requested or required by the Minister under the terms of the Act or this Agreement, but does not include the annual audit of OLG’s financial statements;

“Schedule” means any one of, and **“Schedules”** mean any two or more, as the context requires, of the schedules appended to this Agreement including the following:

- Schedule 1: Funding Schedule
- Schedule 2: Accountability Indicators and Performance Targets
- Schedule 3: Reporting Requirements
- Schedule 4: Compliance Declaration

1.2 **Interpretation.** Words in the singular include the plural and vice-versa. Words in one gender include both genders. The headings do not form part of this Agreement. They are for convenience of reference only and will not affect the interpretation of this Agreement. Terms used in the Schedules shall have the meanings set out in this Agreement. In the event of a conflict or inconsistency in any provision of this Agreement, the main body of this Agreement will govern over the Schedules. When used in this document, the words “include”, “includes” and “including” shall not denote an exhaustive list.

ARTICLE 2.0 - TERM AND AGREEMENT

2.1 Agreement.

- (a) The Minister and OLG agree that they will fulfil their respective obligations under and in accordance with the terms of this Agreement;
- (b) The Parties further agree that
 - (i) each Schedule of this Agreement will indicate the Funding Year(s) to which it applies;
 - (ii) the Schedules may be reviewed and updated annually as required by the Minister, in accordance with Section 14.11;
- (c) OLG will consult with the Ministry or seek direction from the Ministry about any issues that arise with respect to its obligations under this Agreement.
- (d) For clarity, the Minister is the party to the Designated Grant Agreements, not OLG.

2.2 **Term.** The term of this Agreement will commence on the Effective Date and will expire on September 30, 2021 unless terminated earlier or extended pursuant to its terms.

ARTICLE 3.0 - FUNDING

3.1 **Funding.** Subject to the terms of this Agreement and in accordance with the Program Guidelines, the Minister,

- (i) will provide the funds identified in Schedule 1 to OLG for the purpose of providing or ensuring the provision of the Funded Activities;

- (ii) may adjust the amount of funds identified in Schedule 1 to the date on which this Agreement is signed, if that date is after April 1, 2016; and
- (iii) will deposit the funds into an account designated by OLG provided that the account resides at a Canadian financial institution and is in the name of OLG.

3.2 Payment Schedule

- (a) General. Funding will be provided in accordance with the payment schedule set out in Schedule 1. At least ten Business Days prior to the start of each fiscal year, OLG will submit to the Ministry any revisions to Schedule 1 for review and approval.
- (b) Live Racing. Notwithstanding (a), the schedule of funding payments to OLG for Live Racing will depend on the race dates and purse sizes approved under the Live Racing Components.

3.3 Conditions of Funding

- (a) OLG will:
 - (i) use the Funding only for the purpose of carrying out the Funded Activities in accordance with the terms of this Agreement and the Program Guidelines;
 - (ii) will not use the Funding for incremental compensation increases for new collective agreements or for any compensation increases prohibited by the *BPSAA* if applicable;
 - (iii) propose, achieve and maintain an Annual Balanced Budget.
- (b) Notwithstanding subparagraph 3.3(a)(i), OLG may move Funds allocated in a Funding Year within and between the Industry Development Component and the Administration Costs component in that same Funding Year provided that such movement of Funds is required for OLG to carry out its obligations under this Agreement.
- (c) Interest Income earned by OLG on the Funding received or collected by OLG from a grant recipient in accordance with section 4.6 of this Agreement, will be reported to the Minister and is subject to a year-end reconciliation. The Minister may deduct the amount equal to the Interest Income from any further funding instalments under this Agreement with OLG; or the Minister may require OLG to pay an amount equal to the unused Interest Income to the Minister of Finance.
- (d) The Minister may impose such additional terms or conditions on the use of the Funding or on the Funding Activities which it considers appropriate for the proper expenditure and management of the Funding.

3.4 Limitation on Payment of Funding. Despite section 3.1, the Minister:

- (i) will not provide any Funds to OLG until this Agreement is fully executed;
- (ii) will not provide any Funds to OLG until OLG meets the insurance requirements described in section 11; and
- (iii) will not be required to continue to provide Funds in the event OLG breaches any of its obligations under this Agreement until the breach is remedied to the Minister's satisfaction; and
- (iv) may adjust the amount of Funds it provides to the OLG in any Funding Year based upon the Minister's assessment of the information contained in the Reports.

3.5 Appropriation. Funding under this Agreement is conditional upon an appropriation of moneys by the Legislature of Ontario to the Ministry. If the Minister does not receive its anticipated funding the Minister will not be obligated to make the payments required by this Agreement. The Minister

may (i) reduce the amount of Funding and change the Funded Activities; or (ii) terminate this Agreement in accordance with Article 12.

3.6 **Additional Funding.** Unless the Minister has agreed to do so in writing through an amendment to this Agreement, the Minister is not required to provide additional Funds to OLG for providing additional activities or for exceeding the requirements of Schedule 1.

3.7 **Additional Terms and Conditions.** The Minister may add such further terms or conditions on the use of the Funding and may revise the Program Guidelines from time to time.

3.8 **Adjustment or Recovery.**

- (a) Funding is subject to adjustment or recovery in the following circumstances:
 - (i) OLG has received an overpayment of Funding;
 - (ii) Funded Activities are reduced or eliminated;
 - (iii) OLG fails to provide the Funded Activities supported by Funding;
 - (iv) OLG fails to spend Funding in accordance with this Agreement and with the Program Guidelines;
 - (v) A Recipient has not spent all of the Funds allocated for the funding year or has breached the terms of its Designated Grant Agreement and has not remedied such breach within the cure period set out in its Designated Grant Agreement;
 - (vi) OLG is forecasting a surplus of Funding for the Program;
 - (vii) in the event of changes to Applicable Law or Applicable Policy that affect Funding;
 - (viii) OLG has provided false information to the Minister or a Recipient has provided false information to OLG;
 - (ix) OLG breaches a term or condition of this Agreement and does not, within 30 calendar days after receiving Notice from the Minister take reasonable steps to remedy the breach to the satisfaction of the Minister;
 - (x) on termination or expiry of this Agreement; and
 - (xi) as otherwise permitted by this Agreement or the Act.
- (b) Funding adjustments or recoveries required pursuant to section 3.8 may be accomplished through the adjustment of Funding, requiring the repayment of Funding and/or through the adjustment of the amount of any future Funding instalments.
- (c) Subsections 3.8(a)(viii) to and including (xi) do not apply to Funding already expended properly in accordance with this Agreement. The Minister will, at his or her sole discretion, and without liability or penalty, determine whether the Funding has been expended properly in accordance with this Agreement and the Act.

ARTICLE 4.0 – PROGRAM ADMINISTRATION AND FUNDED ACTIVITIES

4.1. Designated Grant Agreements - Live Racing

- (a) Administration. OLG agrees that it will administer the Designated Grant Agreements on behalf of the Minister and in accordance with this Agreement, the Delegation and the terms of each Designated Grant Agreement, the Program Guidelines and otherwise as directed by the Minister.
- (b) Allocation of Funds. OLG shall identify its proposed allocation of funding for each of the Designated Grant Agreements (Centralized and Alliance Racetracks, the Regional Racetracks, FAR Support and the Operational Support for Regional and FAR Racetracks components) in its

annual budget.

- (c) Where the amount of funds available under FAR Support is less than the amount of funding that would be calculated based on the maximum payment set out in the Designated Grant Agreements for FAR Racetracks, the following principles shall be used to determine the allocation amongst eligible FAR racetracks:
 - (i) The allocation supports racing in the area based on market need and regional horse supply;
 - (ii) The allocation does not undermine the racing provided by the Alliance racetracks;
 - (iii) The allocation supports increased economic activity in Ontario; and
 - (iv) The allocation supports growth in wagering and the fan base for live racing in Ontario.
- (d) OLG will diligently manage all (i) Designated Grant Agreements; and (ii) funding that it provides under the Designated Grant Agreements.
- (e) Eligible Activities. OLG will verify that Recipients receive and use Funding only for eligible activities outlined and in accordance with the Designated Grant Agreements and in the Program Guidelines established by the Minister of Finance, as applicable.
- (f) Ineligible Activities. OLG will verify that funding is not used for:
 - (i) activities identified as ineligible activities in the Program Guidelines issued by the Minister; and
 - (ii) any expense not associated with the funding of purses or approved operational support.

4.2 Industry Development Component.

- (a) OLG will be responsible for developing the following products that will support the implementation of programs by the Industry by the end of the term of the Program.
 - (i) Responsible Gambling. OLG will assist the Industry to develop a responsible gambling strategy for the Industry. The responsible gambling strategy will identify external support services and community resources for those who may experience problems related to their participation in wagering on horseracing. OLG will provide a copy of the responsible gambling strategy to the Ministry.
 - (ii) Marketing. OLG will provide advice to the horse racing industry to assist the Industry with developing a plan for marketing horse racing in the province that in conjunction with racetrack marketing efforts increases the fan base for horse racing and wagering. OLG will prepare a draft marketing plan and provide a copy of it to the Ministry.
- (b) OLG is permitted to use the funds allocated to the Industry Development Component to pay for, or to procure from a service provider, the following activities that will assist OLG with carrying out the Industry Development Component:
 - (i) Knowledge acquisition;
 - (ii) Strategy, Plan development and implementation or execution; or
 - (iii) Research projects, pilots or demonstrations of innovative technologies, processes or practices.
- (c) Allocation of Funds. Program funding will be provided to support these activities as per Schedule 1 on an annual basis.

- 4.3 **Funded Activities.** OLG will carry out the Funded Activities and achieve the Performance Targets in accordance with:
- (i) the terms of this Agreement, including the Schedules;
 - (ii) Program Guidelines issued by the Minister;
 - (iii) Applicable Law;
 - (iv) Applicable Policy;
 - (v) Designated Grant Agreements.
- 4.4 **Conflict of Interest.** OLG will carry out the Funded Activities and otherwise fulfil its obligations under this Agreement without an actual, potential or perceived Conflict of Interest. OLG will disclose to the Minister without delay any situation that a reasonable person would interpret as an actual, potential or perceived Conflict of Interest and comply with any requirements prescribed by the Minister to resolve any Conflict of Interest.
- 4.5 **Administration Costs.**
- (a) The Ministry agrees that it will pay OLG annually, up to the amount that is set out in Table 1 of Schedule 1, for Administration Costs such as salaries and benefits, training expenses and travel expenses permitted by the Government's Travel, Meal and Hospitality Expenses directive, provided that such costs are reasonable and directly related to OLGs administration of the Program.
 - (b) In accordance with the timelines set out in Schedule 3 of this Agreement, OLG shall deliver a report to the Ministry that provides an accounting of the Administration Costs that were paid for using the Funds. Within thirty days of each fiscal year end, OLG will repay the Ministry any Funds allocated to Administration Costs that were not spent on reasonable Administration Costs.
- 4.6 **Director's Discretion.** Notwithstanding any discretion that the Director has under the Designated Grant Agreements relating to interest earned on the grant funds, OLG will instruct the Director to require that an amount equal to the interest be returned to OLG, or set off against future Funds, if applicable under a Designated Grant Agreement, if that amount of interest was not used for eligible costs permitted under a Designated Grant Agreement.
- 4.7 **Conflict between Program Guidelines and Agreement.** In the event of a conflict or inconsistency in any of the provisions between this Agreement and the Program Guidelines, the provisions of the Program Guidelines shall govern.

ARTICLE 5.0 – DEBT OWING TO THE CROWN

5.1 Debt Due.

- (a) If the Minister requires the repayment or return by OLG of any Funding the amount required will be deemed to be a debt owing to the Crown by OLG. The Minister may adjust future Funding instalments to recover the amounts owed or may, at its discretion, direct OLG to pay the amount owing to the Crown.
- (b) All amounts repayable to the Crown will be paid by electronic funds transfer to a bank account specified by the Ministry or cheque payable to the "Ontario Minister of Finance" and mailed or delivered to the Minister at the address provided in section 13.1

ARTICLE 6.0 - PLANNING & ENGAGEMENT

6.1 Planning for Future Years.

- (a) Advance Notice. OLG will include a Business Plan for the administration of this Program as part of its regular Business Plan process, in accordance with the MOU.
- (b) Multi-Year Planning. The Business Plan will be in the format required by the Minister and may require OLG to incorporate (i) prudent multi-year financial forecasts; (ii) plans for the achievement of Performance Targets; and (iii) realistic risk management strategies. OLG's Business Plan will be aligned with the Minister's priorities and initiatives.

ARTICLE 7.0 – PERFORMANCE

7.1 Performance Factors.

- (a) The Minister will notify OLG of the existence of a Performance Factor, as soon as reasonably possible after the Minister becomes aware of the Performance Factor. The Notice will:
 - (i) describe the Performance Factor and its actual or anticipated impact;
 - (ii) include a description of any action the Minister is undertaking, or plans to undertake, to remedy or mitigate the Performance Factor;
 - (iii) indicate whether the Minister is requesting a meeting to discuss the Performance Factor; and
 - (iv) address any other issue or matter the Minister wishes to raise with OLG.
- (b) OLG will provide a written acknowledgment of receipt of the Notice as soon as practicable ("Date of the Notice").
- (c) Where a meeting has been requested under 7.1(a)(iii), the Parties agree to meet and discuss the Performance Factors.

7.2 Performance Meetings. During a meeting on performance, the Parties will:

- (i) discuss the causes of a Performance Factor;
- (ii) discuss the impact of a Performance Factor and the risk resulting from non-performance; and
- (iii) determine the steps to be taken to remedy or mitigate the impact of the Performance Factor (the "Performance Improvement Process").

7.3 The Performance Improvement Process.

- (a) The Performance Improvement Process will focus on the risks of non-performance and problem-solving. It may include one or more of the following actions:
 - (i) a requirement that OLG develop and implement an improvement plan that is acceptable to the Minister;
 - (ii) the conduct of a Review;
 - (iii) an in-year, or year-end, adjustment to the Funding,
 - (iv) cancellation of Program Funding; provided that prior to cancellation of Funding pursuant to this Section 7.3, OLG shall consult with the Minister to ensure that all other actions contemplated by OLG hereunder have been exhausted;

among other possible means of responding to the Performance Factor or improving performance.

ARTICLE 8.0 - REPORTING, ACCOUNTING AND REVIEW

8.1 Reporting

- (a) **Specific Obligations.** OLG,
 - (i) will provide to the Minister in the form and within the time specified by the Minister, the plans, reports, financial statements and other information, that the Minister requests, pursuant to this Agreement;
 - (ii) will fulfil the specific reporting requirements set out in Schedule 3, to the satisfaction of the Minister
 - (iii) will ensure that all information is complete, accurate, signed on behalf of OLG by an authorized signing officer, and provided in a timely manner and in a form and substance satisfactory to the Minister in his or her sole discretion; and
 - (iv) agrees that all information submitted to the Minister by or on behalf of the OLG, will be deemed to have been authorized by the OLG for submission
- (b) **French Language Services.** If OLG is required to provide services to the public in French under the provisions of the *French Language Services Act*, OLG will be required to submit a French language services report to the Minister
- (c) **Compliance Declaration.** Within 30 days of September 30 and March 31 of each Funding Year, the Board will issue a declaration in the form set out in Schedule 4, signed by its Chair certifying that OLG has complied with the terms of this Agreement and the Act.

8.2 Reviews.

- (a) During the term of this Agreement and for seven (7) years after the term of this Agreement, and in accordance with OLG's governing record retention policies, OLG agrees that the Minister or its authorized representatives may, conduct a Review of OLG to confirm OLG's fulfillment of its obligations under this Agreement. For these purposes the Minister or its authorized representatives may, upon twenty-four hours' Notice to OLG and during normal business hours enter upon OLG's premises to:
 - (i) inspect and copy any financial records, invoices and other financially-related documents, in the possession or under the control of OLG which relate to the Funding, or otherwise to the Funded Activities; and
 - (ii) inspect and copy non-financial records in the possession or under the control of OLG which relate to the Funding, the Funded Activities or otherwise to the performance of OLG under this Agreement.
- (b) The cost of any Review will be borne by OLG if the Review (i) was made necessary because OLG did not comply with a requirement under this Agreement; or (ii) determines that OLG has not fulfilled its obligations under this Agreement.

- (c) To assist in respect of the rights set out in (a) above, OLG shall disclose any information requested by the Minister or the Minister's authorized representatives, and shall do so in a form requested by the Minister or the Minister's authorized representatives.
- (e) OLG's obligations under this paragraph will survive any termination or expiration of this Agreement.

8.3 Document Retention and Record Maintenance. OLG agrees,

- (i) that it will retain all records (as that term is defined in *FIPPA*) related to OLG's performance of its obligations under this Agreement for seven (7) years after the termination or expiration of the term of this Agreement. OLG's obligations under this paragraph will survive any termination or expiry of this Agreement;
- (ii) all financial records, invoices and other financially-related documents relating to the Funding or otherwise to the Funded Activities will be kept in a manner consistent with either generally accepted accounting principles or international financial reporting standards as advised by OLG's auditor; and
- (iii) all non-financial documents and records relating to the Funding or otherwise to the Funded Activities will be kept in a manner consistent with all Applicable Law.

8.4 Disclosure of Information.

- (a) **FIPPA.** Each party acknowledges that the other is bound by *FIPPA* and that any information provided to one party by the other party in connection with this Agreement may be subject to disclosure in accordance with *FIPPA*.
- (b) **Confidential Information.** The Parties will treat Confidential Information as confidential and will not disclose Confidential Information except with the consent of the disclosing Party or as permitted or required under *FIPPA*, court order, subpoena or other Applicable Law.

8.5. Transparency. OLG will make this Agreement and each Compliance Declaration submitted to the Minister during the term of this Agreement available to the public by:

- (i) posting copies on its public website; and
- (ii) making copies available from its head office and such other locations as the Minister may from time to time advise.

8.6 Auditor General. For greater certainty the Minister's rights under this article are in addition to any rights provided to the Auditor General under the *Auditor General Act* (Ontario).

8.7 OLG to Publish Salary Disclosure. OLG will publish annually on its website the salaries and benefits of all employees of Recipient's that are equal to \$100,000 or more that were disclosed by the Recipient's in accordance with the Designated Grant Agreements.

ARTICLE 9.0 - ACKNOWLEDGEMENT OF GOVERNMENT SUPPORT

- 9.1 Publication.** For the purposes of this Article 9.0, the term "Publication" means any material on or concerning the Funded Activities and paid for by the Funding that OLG makes available to the public, regardless of whether the material is provided electronically or in hard copy; provided that "Publication" shall not include any advertisement or promotional material published by or for

the Corporation in any form of media whatsoever. Materials that are prepared by OLG in order to fulfil its reporting obligations under this Agreement are not included in the term “publication”.

- 9.2 **Acknowledgment of Funding Support** OLG agrees that any Publications will include an acknowledgment of the Funding provided by the Minister and the Government of Ontario. However, the Minister may, at his/her discretion, decide that an acknowledgment is not necessary.

ARTICLE 10.0 – REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 **General.** OLG represents, warrants and covenants that:

- (i) it has the experience and expertise necessary to administer the Program and carry out the Funded Activities and that it will administer the Program in accordance with this Agreement;
- (ii) it holds all permits, licences, consents, intellectual property rights and authorities necessary to perform its obligations under this Agreement;
- (iii) all information that the OLG provided to the Minister with regards to this Program was true and complete at the time the OLG provided it, and that all material information will, subject to the provision of Notice otherwise, continue to be true and complete for the term of this Agreement; and
- (iv) it does, and will continue for the term of this Agreement, operate in compliance with Applicable Law and Applicable Policy, including observing where applicable, the requirements of the Act or successor legislation and OLG’s by-laws in respect of the holding of board meetings, the requirements of quorum for decision-making, the maintenance of minutes for all board and committee meetings and the holding of members meetings.

10.2 **Execution of Agreement.** OLG represents and warrants that it has the full power and authority to enter into this Agreement and perform its obligations hereunder.

10.3 **Governance.** OLG represents warrants and covenants that it has established, and will maintain for the period during which this Agreement is in effect, policies and procedures:

- (i) that set out a code of conduct and ethical responsibilities for all persons at all levels of OLG’s organization;
- (ii) to ensure the ongoing effective functioning of OLG;
- (iii) for effective and appropriate decision-making;
- (iv) for effective and prudent risk-management, including the identification and management of potential, actual and perceived conflicts of interest;
- (v) for the prudent and effective administration and management of the Funding;
- (vi) to monitor and ensure the accurate and timely fulfillment of OLG’s obligations under this Agreement and the Act;
- (vii) to enable the preparation, approval and delivery of all Reports required pursuant to Article 8;
- (vi) to address complaints about the provision of Funded Activities, the management or governance of OLG; and
- (vii) to enable the on-going provision of the Funded Activities upon an event that triggers or could reasonably be believed to trigger any of the Corporation’s business continuity plans.

- 10.4 **Funded Activities.** OLG represents, warrants and covenants that the Funded Activities are and will continue to be provided:
- (i) by persons with the expertise, professional qualifications, licensing and skills necessary to complete their respective tasks;
 - (ii) in compliance with Applicable Law and Applicable Policy; and
 - (iii) in a way that demonstrates value for money.
- 10.5 **Supporting Documentation.** Upon request, OLG will provide the Minister with proof of the matters referred to in this Article.

ARTICLE 11.0 - INSURANCE

- 11.1 **Commercial General Liability Insurance.** OLG shall protect itself from and against claims that might arise from anything done or omitted to be done by OLG under this Agreement and all claims that might arise from anything done or omitted to be done under this Agreement where bodily injury (including personal injury), death or property damage, including loss of use of property is caused.

ARTICLE 12.0 - TERMINATION OF AGREEMENT

12.1 Termination by the Minister.

- (a) **Where No Appropriation.** If the Ministry does not receive an appropriation from the Legislature of Ontario, the Minister may terminate this Agreement immediately by giving Notice to OLG.
- (b) **For Cause.** The Minister may terminate this Agreement immediately upon giving Notice to OLG if in the sole opinion of the Minister:
 - (i) OLG has provided false or misleading information in any communication with the Minister or Ministry;
 - (ii) OLG breaches any material provision of this Agreement;
- (c) **Upon Notice.** The Minister may terminate this Agreement at any time upon giving at least 90 days' Notice to OLG.

12.2 Opportunity to Remedy.

- (a) **Opportunity to Remedy.** The Minister will give OLG an opportunity to remedy a breach of this Agreement by giving OLG Notice of the particulars of the breach and of the period of time within which the OLG is required to remedy the breach. The Notice will also advise OLG that the Minister will terminate this Agreement,
 - (i) at the end of the Notice period provided for in the Notice if OLG fails to remedy the breach within the time specified in the Notice; or
 - (ii) prior to the end of the Notice period provided for in the Notice if it becomes apparent to the Minister that the OLG cannot completely remedy the breach within that time or such further period of time as the Minister considers reasonable, or OLG is not proceeding to remedy the breach in a way that is satisfactory to the Minister.
- (b) **Failure to Remedy.** If:

- (i) OLG does not remedy the breach within the time period specified in the Notice to the satisfaction of the Minister;
- (ii) it becomes apparent to the Minister that OLG cannot completely remedy the breach within the time specified in the Notice or such further period of time as the Minister considers reasonable in his sole discretion; or
- (iii) OLG is not proceeding to remedy the breach in a way that is satisfactory to the Minister in his sole discretion,

then the Minister may immediately terminate this Agreement by giving Notice of termination to OLG.

12.3 Consequences of Termination.

- (a) If this Agreement is terminated pursuant to this Article 12, the Minister may:
 - (i) cancel all further Funding instalments;
 - (ii) demand the repayment of any Funding remaining in the possession or under the control of OLG;
 - (iii) determine OLG’s reasonable costs to wind down the Funded Activities in whole or in part; and
 - (iv) permit OLG to offset the costs determined pursuant to subsection (iii), against the amount owing pursuant to subsection (ii).
- (b) Despite subsection 12.3(a), if the cost determined pursuant to subparagraph 12.3(a)(iii) exceeds the Funding remaining in the possession or under the control of OLG the Minister will not provide additional monies to OLG to wind down the Funded Activities.

12.4 Effective Date. The effective date of any termination under this Article will be the last Day of the Notice period, the last Day of any subsequent Notice period or immediately, which ever applies.

12.5 Corrective Action. Despite the Minister’s right to terminate this Agreement pursuant to this Article, the Minister may choose not to terminate this Agreement and may take whatever corrective action he or she considers necessary and appropriate.

12.6 Upon Termination. Upon termination of this Agreement or of the Program, OLG shall deliver to the Minister all documents and records related to the administration of the Program.

ARTICLE 13.0 - NOTICE

13.1 Notice. Notice means any notice or other communication required to be provided pursuant to this Agreement. A Notice will be in writing; delivered personally, by pre-paid courier, by facsimile with confirmation of receipt, or by any form of mail where evidence of receipt is provided by the post office. A Notice may not be sent by e-mail. A Notice will be addressed to the other Party as provided below or as either Party will later designate to the other in writing:

<p>To the Minister:</p> <p>Ministry of Finance 7 Queen’s Park Crescent, Frost Building South 7th Floor</p>	<p>To OLG</p> <p>Ontario Lottery and Gaming Corporation 4120 Yonge Street Suite 500 Toronto, ON M2P 2B8</p>
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<p>Toronto, ON M7A 1Y7</p> <p>Attn: Deputy Minister</p> <p>Fax: (416) 325-1595 Telephone: 416-325-0420</p> <p><u>With a copy to:</u></p> <p>Ministry of Finance 7 Queen's Park Crescent Frost Building South 2nd Floor Toronto, ON M7A 1Y7</p> <p>Attn: Assistant Deputy Minister, Revenue Agencies Oversight Division</p> <p>Telephone: 416-325-0400</p>	<p>Attn: Chair</p> <p>Telephone: (416) 224-1772</p> <p><u>With a copy to:</u></p> <p>Ontario Lottery and Gaming Corporation 4120 Yonge Street Suite 500 Toronto, ON M2P 2B8</p> <p>Attn: President and CEO Telephone: (416) 224-1772</p> <p>Attn: SVP Horse Racing</p> <p>Telephone: (416) 224-1772</p>
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13.2 **Notices Effective From.** A Notice will be effective at the time the delivery is made.

ARTICLE 14.0 - ADDITIONAL PROVISIONS

- 14.1 **Invalidity or Unenforceability of Any Provision.** The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision of this Agreement and any invalid or unenforceable provision will be deemed to be severed.
- 14.2 **Terms and Conditions on Any Consent.** Any consent or approval that the Minister may grant under this Agreement is subject to such terms and conditions as the Minister may require.
- 14.3 **Waiver.** A Party may only rely on a waiver of the Party's failure to comply with any term of this Agreement if the other Party has provided a written and signed Notice of waiver. Any waiver must refer to a specific failure to comply and will not have the effect of waiving any subsequent failures to comply.
- 14.5 **Minister is an Agent of the Crown.** The Parties acknowledge that the Minister is an agent of the Crown and may only act as an agent of the Crown. Notwithstanding anything else in this Agreement, any express or implied reference to the Minister providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the Minister or Government of Ontario, whether at the time of execution of this Agreement or at any time during the term of this Agreement, will be void and of no legal effect.
- 14.6 **Express Rights and Remedies Not Limited.** The express rights and remedies of the Minister are in addition to and will not limit any other rights and remedies available to the Minister at law or in equity.
- 14.7 **No Assignment.** OLG shall not assign either the Agreement or any of its rights or obligations under the Agreement or the Funding in whole or in part, directly or indirectly .

- 14.8 **Governing Law.** This Agreement and the rights, obligations and relations of the Parties hereto will be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein.
- 14.9 **Survival.** The provisions in Articles 1, 3.5, 5, 8, 10.5, 13, 14 and 15 will continue in full force and effect for a period of seven years from the date of expiry or termination of this Agreement.
- 14.10 **Further Assurances.** The Parties agree to do or cause to be done all acts or things necessary to implement and carry into effect this Agreement to its full extent.
- 14.11 **Amendment of Agreement.** This Agreement may only be amended by a written agreement duly executed by the Parties. However, the Minister may unilaterally amend Articles 3.1, 3.2, 3.3(a)(b),(c),(d), 3.4 to 3.7, 3.8, and Article 4.0, excluding sections 4.2, 4.5 and 4.6, and Schedules 1 and 3 of this Agreement provided that it provides Notice to OLG in writing prior to unilaterally executing any such amendment.
- 14.12 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

[The remainder of the page is left intentionally blank.]

ARTICLE 15.0 - ENTIRE AGREEMENT

15.1 **Entire Agreement.** This Agreement together with the Schedules constitutes the entire Agreement between the Parties with respect to the subject matter contained in this Agreement and supersedes all prior oral or written representations and agreements.

The Parties have executed this Agreement on the dates set out below.

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
as represented by the Minister Finance**

By:

Hon. Charles Sousa
Minister of Finance

Date

ONTARIO LOTTERY AND GAMING CORPORATION

By:

Phillip Olsson, Chair
I have authority to bind OLG

Date

And By:

Stephen Rigby, President and CEO
I have authority to bind OLG

Date

**SCHEDULE 1:
FUNDING**

1. **Application.** This Schedule applies to: April 1, 2016 – March 31, 2021
2. **Maximum Available Funding by Funding Year.** Table 1 identifies the Maximum Funding available under the Agreement in each year of this Agreement, subject to the terms of Program Guidelines issued by the Minister.

TABLE 1

	Maximum Funding Available by Funding Year¹				
	16/17²	17/18²	18/19²	19/20	20/21
Maximum Funding Available under Agreement	\$93,419,700	\$93,446,800	\$93,511,100	\$93,511,100	\$93,511,100
Proposed Program Component Allocation					
LR Centralized and Alliance Tracks	\$71,736,452	\$71,736,452	\$71,736,452	\$71,736,452	\$71,736,452
LR Regional Tracks – Purses and Operational Support	\$3,647,000	\$3,177,000	\$3,177,000	\$3,177,000	\$3,177,000
LR FAR Tracks – Purses and Operational Support	\$16,029,355	\$15,800,000	\$15,800,000	\$15,800,000	\$15,800,000
Industry Development	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000
Program Administration	\$1,106,893	\$1,833,348	\$1,897,648	\$1,897,648	\$1,897,648
Maximum Available	\$93,419,700	\$93,446,800	\$93,511,100	\$93,511,100	\$93,511,100

Notes to Table 1

¹ Numbers cited are approximate amounts and may not add due to rounding.

² Projected Maximum Funding is subject to appropriation and confirmation by the Minister.

3. Payment Schedule

The anticipated payment schedule of Funding is set out in Table 2.

TABLE 2

A: 2016-17:

MOF EFT date	1-Apr-16	30-May-16	4-Jun-16	29-Jul-16	26-Sept-16	28-Nov-16	30-Jan-17	
OLG EFT date	4-Apr-16	1-Jun-16	6-Jul-16	3-Aug-16	28-Sept-16	30-Nov-16	1-Feb-17	
Racetrack receipt date	4-Apr-16	6-Jun-16	11-Jul-16	8-Aug-16	3-Oct-16	5-Dec-16	6-Feb-17	
MOF Component Expenditures	Apr-May	Jun-Jul	July	Aug-Sept	Oct-Nov	Dec-Jan	Feb-Mar	Total
Live Racing – Centralized & Alliance Tracks	15,379,010	19,606,290	-	17,300,990	8,326,770	4,408,310	6,715,080	71,736,450
Live Racing – Regional Tracks	709,000	784,000	938,000	940,000	276,000	-	-	3,647,000

SCHEDULE 3: REPORTING

1. **Application.** This Schedule applies to: April 1, 2016 – March 31, 2021
2. **General.** OLG will submit the reports listed on this Schedule 3 in a form and substance satisfactory to the Minister in his sole discretion by the indicated due date. OLG must also provide any additional information requested by the Minister.
3. **Content.** A description of the reports listed below, if available, is included in section 5 at the end of this document where available.
4. **Due Date.** Where a due date falls on a non-Business Day, the Due Date will be deemed to fall on the next occurring Business Day.
5. **Reports.**

Title of Report/Document & Frequency	Yearly Due Date
Reports Required on an Annual Basis	
Due Date: As indicated	
1. Audited Financial Statements for OLG y/e March 31	Per regular OLG reporting as outlined in MOU
2. Final Business Plan	Per regular OLG reporting as outlined in MOU
3. Annual Report	Per regular OLG reporting as outlined in MOU
4. Racetrack Financial Reports (Unaudited Results) a) Expenses b) Funding c) Net Income d) Performance	June 30
5. Annual Wagering and Commissions Report	June 30
6. French Language Services Compliance Report	Per regular OLG reporting as outlined in MOU
7. Accessibility for Ontarians with Disabilities Compliance Report	Per regular OLG reporting as outlined in MOU
Reports Required on a Quarterly Basis	
Due Dates: Quarterly on May 31, August 31, November 30 and February 28 of each Fiscal Year.	
8. Quarterly Financial Report	Quarterly
9. Quarterly Racing Performance Report	Quarterly
10. Quarterly Report on Accounting of Administration Costs	Quarterly
Reports Required Only During Fiscal 16/17	
Due Date: As indicated	
11. Responsible Gambling Strategy	December 31, 2016
12. Marketing Strategy	July 31, 2016
Other Reports	
OLG will provide such other reports as may be requested by the Minister	From time to time

Title of Report/Document & Frequency	Yearly Due Date
or Ministry within the time frame and in the format requested.	

6. Description of Reports. Subject to specific direction from the Ministry as to form, format and content, the reports set out in the above table are described below.

Racetrack Financial Report (Unaudited Results):

a) Annual Racetrack Expense Report. The Annual Race Track Expense Report will include:

- (i) A breakdown of racing related expenses on a per track basis;
- (ii) A breakdown of non-racing related expenses on a per track basis;
- (iii) Number of racetrack FT, PT and total FTE employees;
- (iv) Total salaries and wages including bonuses and incentives;
- (v) Annual capital investment;
- (vi) Value of capital at year end; and
- (vii) Marketing budget actual for past year, and estimate for following year

b) Annual Racetrack Funding Report. The Annual Race Track Funding Report will include:

- (i) Dollar value of agreements per track;
- (ii) Contracted number of race dates and racing opportunities per track;
- (iii) OLG quarterly payments on a per track basis;
- (iv) Reconciliation on a per track basis of Pari-Mutuel Tax Reduction (PMTR) funds;
- (v) Wagering and gross takeout from teletheatre network by quarter;
- (vi) Wagering and gross takeout from Telephone Account Betting/ Horse Player Interactive (TAB/HPI) network by quarter;
- (vii) Report on a per track basis all distribution of funds between racetracks by source; and
- (viii) Gross takeout from non-racing sources divided by type for example hospitality, OLG, other entertainment.

c) Net Income Report. The annual Net Income Report will calculate the net income of operators of racetracks receiving either FAR Support or funding under the Operational Support for Regional Racetracks Component of the Program. It will also specify how each operator has reinvested or has committed to reinvest net income in the operator's race track.

d) Annual Racing Performance Report. The Annual Racing Performance Report will include:

- (i) Average purse per race date;
- (ii) % of purse funded by the Program;
- (iii) Total purses paid by track;
- (iv) Minimum purse per race date by track;
- (v) Number of unique horses racing by track;
- (vi) Value of purse account at year end by track;
- (vii) Number of HPI players;
- (viii) Number of unique bettors per track;
- (ix) Minimum and maximum attendance for live racing days per track and
- (x) Activities undertaken to increase fan base and wagering.

Annual Wagering and Commissions Report. The Annual Wagering and Commissions Report will include:

- (i) Wagering on live (occurring on races run at individual Ontario Tracks) racing, reported on a per track basis:
 - on track live;

- Teletheatre on live;
 - TABTAB/HPI on live;
 - Export outside of Ontario.
- (ii) Wagering at Ontario Racetracks on races at other racetracks reported on a per track basis split by:
- Wagering on Ontario Racing; and
 - Wagering on non-Ontario Racing.
- (iii) Gross takeout from wagering on live racing (races run at reporting track) reported on a per track basis for:
- At track live;
 - TABTAB/HPI on live;
 - and
 - Export outside of Ontario.
- (iv) Gross takeout from other wagering (not occurring at reporting track) for:
- Gross takeout on non-Ontario racing reported on a per track basis;
 - Gross takeout from Ontario Teletheatre network on Ontario racing; and
 - Gross takeout from Ontario Teletheatre network on non-Ontario racing.
- (v) Maximum wagering and gross takeout for a full single day of racing for the year.
- (vi) Minimum wagering and gross takeout for a full single day of racing for the year.

Quarterly Financial Report. The Quarterly Report will include:

- (i) quarterly payments on a per track basis;
- (ii) reconciliation on a per track basis of PMTR funds;
- (iii) Gross takeout and net revenues from teletheatre network by quarter;
- (iv) Gross takeout and net revenues from TAB/HPI by quarter; and
- (v) Report on a per track basis of all distribution of funds between racetracks by source.

Quarterly Racing Performance Report. The Quarterly Racing Performance Report will include:

- (i) Number of races;
- (ii) Number of race dates; and
- (iii) Number of racing opportunities held by track.

Quarterly Report on Accounting of Administration Costs. The Quarterly Report on Accounting of Administration Costs will include an itemization of the Administration Costs incurred by OLG for the preceding quarter and will indicate the balance of the Funds allocated to Administration Costs that are remaining as of the end of the preceding quarter.

Responsible Gambling Strategy – refer to Schedule 2

Marketing Strategy – refer to Schedule 2

SCHEDULE 4 – FORM OF COMPLIANCE DECLARATION

Application: April 1, 2016 - March 31, 2021

Compliance Declaration and Certification

To: The Deputy Minister of Finance

From: Board of Directors (the “Board”) of the Ontario Lottery and Gaming Corporation (“OLG”)

Date: [insert date]

Re: [insert date range: e.g. April 1, 201[●] – Sept 30, 201[●] or October 1, 201[●] – March 31, 201[●] (the “Applicable Period”)]

Unless otherwise defined in this declaration, capitalized terms have the same meaning as set out in the Administration Agreement between the Minister and the OLG effective April 1, 2016.

The Board has authorized me, by resolution dated [insert date]; to declare and certify to you as follows:

After making inquiries of the CEO and other appropriate officers, the OLG and subject to any exceptions identified on Appendix 1, to the best of the Board’s knowledge, the OLG has fulfilled its obligations under the Administration Agreement during the Applicable Period.

Philip Olsson, Chair