

Request for Proposals

For

Traditional/ Umtelebhelo Racecourse
Operator Licences

1 DEFINITIONS

In this Determination of Traditional/ Umtebheho Horseracing and Request for Proposal, including the appendices and annexures thereto, unless the content indicates otherwise:

Act	means the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010), as amended.
Applicant	means a person who applies for a racecourse operator's licence pursuant to this RFP.
Association	A group of natural and or juristic persons with a common purpose of running Horseracing/Umtebheho races through provision of oversight and governance
B-BBEE	means Broad-Based Black Economic Empowerment, as envisaged in the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003) and the Codes of Good Practice on Black Economic Empowerment, issued under section 9(1) of thereof.
B-BBEE Act	means Broad-Based Black Economic Empowerment Act, 2003 (Act No 53. of 2003)
Black Persons	means a Black Person as defined in the B-BBEE Act.
Black Designated Groups	means Black Designated Groups as defined in the B-BBEE Codes of Good Practice issued on 11 October 2013 under Government Gazette No 36928 Vol 580.
Board	means the KwaZulu-Natal Gaming and Betting Board, established in terms of section 5 of the Act.
Non-responsive proposal	A proposal that does not comply with the instructions laid out in this RFP
Race meeting	means any gathering off the public to watch a horse race or horse races.
Traditional Racecourse operator	a corporate body licensed in terms of section 89 to hold race meetings at one or more racecourses.
Township	an area on the periphery of a town or city that has historically been used to uphold racially segregated living arrangements or a township as defined in section 1 of the Spatial Planning and Land Use Management Act No.16 of 2013
Racecourse operator licence	means a licence issued in terms of section 89 to a corporate body and which authorises the licence holder to hold race meetings at one or more racecourses.
Traditional Umtebheho Horseracing	means a horse race in which standardbred horses or any other breed may compete ridden under saddle of a natural person at a racecourse operated by a licensed horseracing operator.
Chief Executive Office Committee	means the person appointed to this position in terms of section 23(1) of the Act; means a committee established by the Board in accordance with section 18 of the Act;
District Municipality	means a District municipality as defined in section 1 of the Local Government: Municipal Structures Act 117 of 1998, Municipal District as a corresponding meaning;

Local Municipality	means a Local municipality as defined in section 1 of the Local Government: Municipal Structures Act 117 of 1998;
Local person	means a natural person whose normal residence and or employment is within the District or a juristic person in whom the majority ownership and beneficiation is ultimately held or accrues to natural persons whose normal residence and or employment is within the District;
National Act	means the National Gambling Act, 2004 (Act No. 7 of 2004);
New Entrant	means a person who is currently not an owner of or an employee of, or a member of, or a shareholder in a licensed racecourse operator, or a holder of any other gambling licence issued by any Regulator of horseracing or any other gambling Regulator in the world;
Person	includes a partnership, association, trust or a juristic person established by or in terms of any law.
Province	means the Province of KwaZulu-Natal as referred to in section 103 of the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996);
RFP	means this request for proposal for Traditional/Umtebhelo Horserace Operator licences
Regulations	means the KwaZulu-Natal Gaming and Betting Regulations, 2012, as may be amended from time to time;
Rural Area	means an area that is sparsely populated in which people farm or depend on natural resources, including villages and small towns that are dispersed through such areas and may include large settlements in the former homelands, which depend on migratory labour and remittances as well as government social grants for their survival, and usually have traditional land tenure systems
Small, Medium and Micro-sized Enterprise	means a business enterprise commonly regarded as small, medium and/or micro-sized in terms of legislation in the Republic of South Africa;
SMME	means a Small, Medium and Micro-sized Enterprise as defined in this document and SMMEs has a corresponding meaning.
Urban area	means an area occupied by a continuous series of dwellings, factories, and other buildings, harbour and docks, urban parks and playing fields which are not separated from each other by rural land or township

2 INTRODUCTION

2.1 Section 6 of the KwaZulu-Natal Gaming and Betting Act (Act No. 8 of 2010 as amended), sets out specific objectives for the Board. In light thereof, this RFP has been designed to help the Board achieve some of these objectives by:-

2.1.1 Providing opportunities for Black people to participate in the horseracing and related gambling industry as licensees;

- 2.1.2 Supporting the development of the Traditional / Umtebhelohorseracing Sector;
- 2.1.3 Providing a regulatory framework for the Traditional / Umtebhelohorseracing Sector;
- 2.1.4 Promoting economic development in the Province
- 2.1.5 Facilitating the creation of employment opportunities in areas where Traditional / Umtebhelohorseracing takes place
- 2.1.6 Promotion of opportunities for SMME and Enterprise Development
- 2.1.7 Increase in fiscal / tax revenues for the Province; and provision of entertainment and recreational activities for members of the public.

2.2 In recognition of the contribution to social and economic development of the Province that is being made by the traditional/Umtebhelohorseracing, the Board has considered expanding entertainment and economic opportunities in the horse racing sector, and thereby invites proposals for Racecourse Operators Licences from people who are interested in the Traditional / Umtebhelohorseracing in the Province. This will assist the Board in achieving the following objectives:- to

- 2.2.1 Diversify and expand the existing horseracing sector by providing Traditional/Umtebhelohorseracing licences within the municipal District as determined by the Board;
- 2.2.2 Facilitate the licensing of persons interested in the sport of Traditional/Umtebhelohorseracing within the various municipal Districts of KwaZulu-Natal;
- 2.2.3 Create needed new job opportunities in previously disadvantaged areas;
- 2.2.4 Support the traditional equine sector through a licence can access financial assistance to the transformation fund;
- 2.2.5 Allow for the inclusion of Traditional / Umtebhelohorseracing Racecourse Operators into the regulatory framework;
- 2.2.6 Contribute to the eradication of illegal gambling in the Province; and
- 2.2.7 Promote the ideals of B-BBEE, by increasing the participation of women and designated groups in the horseracing industry.

2.3 The Board acknowledges that Traditional/Umtebhelohorseracing is already taking place and organised in the following districts and local municipalities:-

- 2.3.1 **AMAJUBA DISTRICT**
Dannhauser Local Municipality; eMadlangeni Local Municipality and Newcastle Local Municipality
- 2.3.2 **HARRY GWALA DISTRICT**
Dr Nkosazana Dlamini Zuma Local Municipality; Greater Kokstad local Municipality, Ubuhlebezwe Local Municipality and uMzimkhulu Local Municipality

- 2.3.3 **ILEMBE DISTRICT**
KwaDukuza Local Municipality, Mandeni Local Municipality, Maphumulo Local Municipality and Ndwedwe Local Municipality
- 2.3.4 **KING CETSHWAYO DISTRICT**
City of uMhlathuze Local Municipality, Mthonjaneni Local Municipality, Nkandla Local Municipality, uMfolozi Local Municipality and uMlalazi Local Municipality
- 2.3.5 **UGU DISTRICT**
Ray Nkonyeni Local Municipality, Umdoni Local Municipality, Umuziwabantu Local Municipality and Umzumbe Local Municipality
- 2.3.6 **UMGUNGUNDLOVU DISTRICT**
Impendle Local Municipality, Mkhambathini Local Municipality, Mpofana Local Municipality, Msunduzi Local Municipality, Richmond Local Municipality, uMngeni Local Municipality and uMshwathi Local Municipality
- 2.3.7 **UMKHANYAKUDE DISTRICT**
Big 5 Hlabisa Local Municipality, Jozini Local Municipality, Mtubatuba Local Municipality and uMhlabuyalingana Local Municipality
- 2.3.8 **UMZINYATHI DISTRICT**
Endumeni Local Municipality, Msinga Local Municipality, Nquthu Local Municipality and Umvoti Local Municipality
- 2.3.9 **UTHUKELA DISTRICT**
Alfred Duma Local Municipality, Inkosi Langalibalele Local Municipality and Okhahlamba Local Municipality
- 2.3.10 **ZULULAND DISTRICT**
Abaqulusi Local Municipality, eDumbe Local Municipality, Nongoma Local Municipality and uPhongolo Local Municipality
- 2.3.11 **ETHEKWINI METROPOLITAN AREA**
- 2.4 In terms of the Regulations, the Board invites proposals for Traditional/Umtebheho Racecourse Operator licences for each municipal Districts mentioned in clause 2.3 above.
- 2.5 The Board has an approved transformation strategy aimed at creating opportunities for Black Persons within the Horseracing industry.

3 PURPOSE OF THE RFP

- 3.1 The purpose of this RFP is to provide all interested parties with the regulatory requirements and process to be followed for any persons wishing to submit a proposal under this RFP and to set out the principles applicable and the criteria that will be applicable in the consideration and awarding of the right to apply for a Traditional/Umtebheho Racecourse Operator licence.
- 3.2 The document also provides interested parties with guidelines on information required by the Board when evaluating proposals.

4 LEGISLATIVE REQUIREMENTS

4.1 Section 7(1) of the Act provides that *“In addition to any other powers, functions and obligations that the Board has in terms of this Act, the Board’s powers and functions, in respect of gaming, are to –*

(a) invite and accept applications for any licence contemplated by this Act or accept applications without such invitation”

- *develop appreciation for and knowledge of horse racing amongst all communities, particularly those comprised of historically disadvantaged persons;*
- *limit restrictive practices, the abuse of dominant market position and mergers in the betting industry, as contemplated in the Competition Act, 1998 (Act No. 89 of 1998), and the Board is, for the purposes of the said Act, a regulatory authority as defined in section 1 of that Act.*

5 LICENSING OBJECTIVES

5.1 The Board intends, among others, to achieve the following objectives through the introduction of Traditional / Umtebheho Racecourse Operator licences in the Province:

5.1.1 To support the regularization of Traditional /Umtebheho horseracing sector;

5.1.2 To give interested persons the right to apply for racecourse operator and totalizator licences in terms of the Act

6 TRADITIONAL/ UMTEBHEHO RACECOURSE OPERATOR LICENCES

6.1 A person may not hold a race meeting unless that person holds a racecourse operator licence and such race meetings are held in one or more of the racecourses specified in a licence.

6.2 A Racecourse operator’s licence is renewable in March of every year

6.3 The corporate body must have as one of its objects the promotion and conducting of horse racing.

6.4 The licence may not be issued unless:

6.4.1 the Board is satisfied that due provision will be made for the conduct of horseracing and betting on the said racecourse in a manner that will promote the objects of the Board; and

6.4.2 the applicant is a person who was awarded, in terms of this RFP, a right to apply for a licence

7 THE BOARD'S DETERMINATION

7.1 The Board has determined and is inviting proposals, in terms of Regulation 13 (1) for the following nineteen (19) Traditional /Umtebhelo Racecourse Operator licences in the following Municipal Districts:

District Municipality	Local Municipality	Number of Licences
1. Amajuba	1. Dannhauser Local Municipality 2. Newcastle Local Municipality 3. Emadlangeni Local Municipality	2
2. Harry Gwala	1. Dr Nkosazana Dlamini Zuma Local Municipality 2. Greater Kokstad Local Municipality 3. Umzimkhulu Local Municipality 4. Ubuhlebezwe Local Municipality	2
3. ILembe	1. Ndwedwe Local Municipality 2. Mandeni Local Municipality 3. Maphumulo Local Municipality 4. KwaDukuza Local Municipality	1
4. King Cetshwayo	1. Nkandla Local Municipality 2. City of Umhlathuze 3. Mthonjaneni Local Municipality 4. Umfolozi Local Municipality 5. Umlalazi Local Municipality	2
5. Ugu	1. Ray Nkonyeni Local Municipality 2. uMuziwabantu Local Municipality 3. Umdoni Local Municipality 4. Umzumbe Local Municipality	1
6. uMgungundlovu	1. Impendle Local Municipality 2. Msunduzi Local Municipality 3. uMngeni Local municipality 4. Mkhambathini local Municipality 5. Richmond Local Municipality 6. Mpofana Local Municipality 7. Umshwathi Local Municipality	2
7. uMkhanyakude	1. Mtubatuba Local Municipality 2. Big 5 Hlabisa local Municipality 3. Jozini Local Municipality 4. Umhlabyalingana Local Municipality	1

8. uMzinyathi	1. Endumeni Local Municipality 2. Nquthu Local Municipality 3. Umsinga Local Municipality 4. Umvoti Local Municipality	2
9. uThukela	1. Alfred Duma Local Municipality 2. Inkosi Langalibalele Local Municipality 3. Okhahlamba Local Municipality	2
10. Zululand	1. Abaqulusi Local Municipality 2. eDumbe Local Municipality 3. Ulundi Local Municipality 4. Uphongolo Local Municipality 5. Nongoma Local Municipality	2
11. eThekweni Metropolitan	1. eThekweni Metropolitan Municipality	2

7.2 The Board has also determined that each licence shall be restricted to the Municipal District for which it shall be granted.

8 REQUEST FOR PROPOSAL

8.1 The RFP is hereby extended to persons interested in acquiring a right to apply for a Traditional/ Umtebhele Racecourse Operator licences determined by the Board in terms of the Regulations.

8.2 In order to achieve the objects of the Act and to create a licensing framework as well as regularization of the Traditional / Umtebhele Horseracing sector, the Board has resolved that the following shall be the criteria for adjudication of proposals: that

- 8.2.1 the disposal of each right to apply for a Traditional/ Umtebhele Racecourse Operator licence shall be restricted to Black People who are in the Umtebhele horseracing and breeding sectors only: Provided that persons who currently hold Racecourse Operator Licences issued in terms of the Act shall be allowed to form joint ventures with Black People where Black People own and control at least 90% financial interest in the business; and
- 8.2.2 proposals shall be scored in accordance with the criteria set out in the table in paragraph [9] below and the right to apply for a licence will be awarded to proposals with the highest scores per Municipal District.

8.3 A Non-Compulsory Briefing Session will be held in accordance with the following table:

NO	DATE	DISTRICT / AREA	VENUE
1	8 February 2024 10h00-12h00	Harry Gwala District	Sonyongwane Community Hall
2	12 February 2024 10h00-12h00	eThekweni Metro	KZN GBB Offices Marine Building, Durban
3	13 February 2024 10h00-12h00	uMgungundlovu District	KZNGBB offices Redlands Building, Wembley, Pietermaritzburg
4	20 February 2024 11h00-13h00	King Cetshwayo District	Nkandla Municipality
5	22 February 2024 10h00 – 12h00	Umzinyathi District	Endumeni Moth Hall
6	23 February 2024 10h00-12h00	Amajuba District	Newcastle Local Municipality town hall
7	26 February 2024 10h00 to 12h00	uThukela District	Alfred Duma Local Municipality town hall
8	28 FEBUARY 2024 10h00 -12h00	uGu District	Portshepstone or Margate community hall

The proposals should be submitted in the format appearing below. Proposals should be sealed and should be delivered by no later than 16:00 noon on 29 March 2024 to the following address:

KwaZulu-Natal Gaming and Betting Board
KZNGBB House, Redlands Estate
1 George MacFarlane Lane
Wembley
Pietermaritzburg
KwaZulu-Natal
3201
For Attention: The Chief Executive Officer

- 8.4** Interested parties should take note that they are merely submitting a proposal for a right to make application for a Traditional /Umtebheho Racecourse Operator's Licence. Once the licence has been issued, the licensee will be required to submit the location of the proposed racecourse for consideration by the Board.
- 8.5** This process consists of two separate and distinct phases. The first phase entails an open competitive process of submission of proposals in which the highest qualifying person will win the right to enter the second phase. The second phase entails a formal application for a Traditional / Umtebheho Racecourse operator licence in terms of the Act .
- 8.6** If the application for a licence is for any reason not successful, the person who attained the second highest number of points in the competitive process will be invited to apply for the Licence. If for any reason, a winning person is unable to apply for a licence for a period of more than twelve (12) months from the date of the publication of the notice of award, the right to apply for a licence so awarded lapses.

- 8.7 Racecourse operator businesses are regulated in terms of the Act, the Regulations, the National Act and other related legislation. Interested parties are strongly advised to familiarise themselves with all relevant legislation.

9 THE BROAD ASSESSMENT CRITERIA TO BE APPLIED BY THE BOARD IN AWARDING LICENCES ARE AS FOLLOWS:

9.1 Ownership/Membership/Shareholding by Black Persons (40):

The scores will be allocated in accordance to the following table:

Black Membership/Shareholding	<ul style="list-style-type: none"> • Less than 90% =0 • 90% = 10 • More than 90% = 15 	Mandatory Requirements: <ul style="list-style-type: none"> • List of members or Membership Register with Demographics (race) • CIPC with share certificate/Register with Demographics (race) or
Black Women	<ul style="list-style-type: none"> • No women = 0 • 1% - 5% = 10 • More than 5% = 15 	Mandatory Requirements: <ul style="list-style-type: none"> • List of members or Membership Register with Demographics (gender) • CIPC document with share certificate/Register with Demographics (gender) or
Voting rights by black people	<ul style="list-style-type: none"> • Less than 90% = 0 • 90% or more = 10 	Mandatory Requirements: <ul style="list-style-type: none"> • Constitution or, Shareholders agreement/ Memorandum of Incorporation /Membership register/Articles of Association/Founding statement/Trust Deed, etc;

9.2 Skills development and Expertise (20)

The scores will be allocated in accordance to the following table:

Skill and Experience in conducting Racecourse Operations	<ul style="list-style-type: none"> • Less than 5 years =0 • Between 5 and 10 years = 4 • More than 10 years = 8 	Mandatory Requirements: <ul style="list-style-type: none"> • A signed testimonial letter from the municipality, local tribal authority or local chief or Induna or any other evidence confirming the number of years the person/association or entity submitting a proposal has been organizing Traditional/Umtebhelo horseracing meetings.
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Involvement of black people or people with disability in the conduct of racecourse operation at Committee/Board level	<ul style="list-style-type: none"> • Less than 90% = 0 • 90% or more = 3 • 90% or more including people with disabilities = 6 	Mandatory Requirements: <ul style="list-style-type: none"> • List of membership, Skills transfer plan explaining future involvement of youth, women, and people with disabilities within the association or entity submitting a proposal.
Employment of Black People or people with disabilities in the conduct of racecourse operations	<ul style="list-style-type: none"> • Less than 90% = 0 • 90% or more = 3 • 90% or more including people with disabilities = 6 	Mandatory Requirements: <ul style="list-style-type: none"> • List of membership, Structure setting out responsibilities in terms of (senior management as well as staff) detailing the information about employment of black people, the gender, race, age and disability.

9.3 Membership/Shareholding held by local black people (20)

The scores will be allocated in accordance to the following table:

Level of Membership/Shareholding by local black people.	<ul style="list-style-type: none"> • Less than 90% = 0 • 90% or more = 10 	Mandatory Requirements: <ul style="list-style-type: none"> • A signed testimonial letter from the municipality, local tribal authority or local chief or Induna or any other evidence confirming that they have seen the membership register/CIPC documents/share register and that all members listed therein are black people resident in the municipal District to which the proposal relates, or in the event of a split either in race or locality, a testimonial must provide the details thereof.
Level of participation by local women, youth, people with disability	<ul style="list-style-type: none"> • Less than 20% = 0 • 20% or more = 10 	Mandatory Requirements: <ul style="list-style-type: none"> • A list of all local members in terms of women, youth and people with disability

9.4 New Entrants (30)

The scores will be allocated in accordance with the following table:

New entrants in the gambling industry	<ul style="list-style-type: none">• Membership/shareholding in any licensed thoroughbred horseracing = 0• Current holder of a Standardbred and or harness racecourse operator licence = 5• Current holder of any other gaming and or betting licence and or certificate = 10• No licence and or Certificate = 30 points	Mandatory Requirements: <ul style="list-style-type: none">• An affidavit that confirms that the person submitting the proposal does not hold any valid gaming or betting licence, Copy of a gaming and or betting licence or Certificate of Registration held by the person submitting the proposal
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9.5 Location of the Racecourse (10)

The scores will be allocated in accordance with the following table:

The location of the racecourse	<ul style="list-style-type: none">• Urban area = 0• Township = 5• Rural area = 10	Mandatory Requirements: <ul style="list-style-type: none">• Testimonial from Local Chief or Tribal Authority in the area or Ward Councillor or Municipality or Title Deed or Permission to Occupy a Racecourse
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10 FORMAT OF THE PROPOSAL

10.1 The proposals should be submitted in the following format:

10.1.1 District Municipality to which the proposal relates.

10.1.2 Full name(s) of the person (s) submitting the proposal for the Traditional/Umtebheho Racecourse Operator licence opportunity.

10.1.3 Identity/registration numbers of the person(s) submitting the proposal for the Traditional/Umtebheho licence opportunity.

10.1.4 Physical address(es) of the person(s) submitting the proposal for Traditional/Umtebheho licence opportunity.

10.1.5 Postal address(es) of the person(s) submitting the proposal for the Traditional/Umtebheho licence opportunity.

10.1.6 Telephonic and other contact details of the person(s) submitting the proposal for the Traditional Horseracing opportunity.

10.1.7 Ownership/membership/shareholding details of the persons entity(ies)/Association submitting the proposal (membership list, membership register, share certificates, CIPC documents, constitution, articles of association, founding statement, memorandum of incorporation, etc).

- 10.1.8 A signed testimonial letter from the municipality, local tribal authority or local chief or Induna or any other evidence confirming the number of years the person/association or entity submitting the proposal has been organizing Traditional/Umtlebhelo horseracing meetings.
- 10.1.9 Skills transfer plan explaining future involvement of youth, women, and people with disabilities within the entity/association submitting the proposal.
- 10.1.10 Structure of the association/business (senior management as well as staff) detailing the information about employment of black people, the gender, race, age and disability.
- 10.1.11 A signed testimonial letter from the municipality, local tribal authority or local chief or Induna or any other evidence confirming that they have seen the membership register/CIPC documents/share register and that all members listed therein are black people resident in the Municipal District to which the proposal relates, or in the event of a split either in race or locality, a testimonial must provide the details thereof
- 10.1.12 A list of all local members categorized in terms of women, youth and people with disability
- 10.1.13 Copy of a gaming and or betting licence or Certificate of Registration held by the persons submitting a proposal or an affidavit that confirms that the person submitting a proposal does not hold any valid gaming or betting licence.
- 10.1.14 Testimonial from Local Chief or Tribal Authority in the area or Ward Councillor or Municipality or Title Deed or a copy of a Permission to Occupy a Racecourse or any other document proving lawful usage of the land for purposes of hosting race meetings in the Municipal District.
- 10.1.15 B-BBEE verification certificates of persons/joint venture entity(ies) submitting the proposal or proof of exemption;
- 10.1.16 Affidavit confirming that the person or entity or association submitting a proposal is not disqualified in terms of section 32 of the Act from holding a Racecourse operator's licence.
- 10.2 Submission of the above information/documentation is mandatory. **It is advisable that the proposal follows the format prescribed above.** No correspondence will be entered into with persons who have submitted the proposal prior to the announcement of the successful proposal. Proposals will remain sealed prior to the closing date. It is therefore incumbent upon the persons who have submitted the proposal, to ensure that the proposal is complete and correct.

11 TERMS AND CONDITIONS

11.1 Disclaimer

- 11.1.1 Every effort has been made to ensure that the information contained in this invitation is correct but it is the obligation of interested parties to ensure that their proposals are correct and that they comply with the provisions of the Act in all material respects.

11.1.2 In view of the above:

- Each interested party must make its own independent assessment and investigation of the issues required to be dealt with in its proposal and should not rely solely on the accuracy of the information provided in this invitation; and
- Neither the Board, its employees nor its agents will be held liable for any act performed in good faith during the evaluation of proposals and adjudication process.

11.1.3 Any additional information provided to interested parties by the Board or any of its employees in connection with this invitation or the Racecourse operator's licence application process will also be subject to the terms of this invitation.

11.1.4 A shareholder or member in one Municipal District cannot be a shareholder in another Municipal District for purposes of this RFP to prevent anti-competitive behaviour

11.1.5 This RFP excludes shareholders/members/participants in a thoroughbred horseracing

11.1.6 Each interested person is allowed to submit a proposal for one Municipal District **only**.

11.1.7 Subject to the processing of any appeals or review in terms of clause 15, no correspondence shall be entered into with unsuccessful proposals.

11.2 Changes

11.2.1 The Board may, at its discretion, by notice in the Provincial Gazette or in writing to applicants, supplement or update any of the contents or terms and conditions applicable to the invitation. It may also change procedures, requirements and any other aspect of or in connection with matters covered in the invitation.

11.3 No guarantee

11.3.1 The Board does not guarantee that any applicant will be granted an opportunity to apply for a Licence.

11.4 No compensation

11.4.1 The Board will not, under any circumstances, be liable to compensate a person submitting a proposal or any other party for any expenses, losses and/or damages arising from whatsoever nature incurred or suffered by such person or any party in acting upon this invitation and/or otherwise participating in the Racecourse operator's licence application process.

11.5 Waiver of immaterial defects

11.5.1 The Board may at its sole discretion, waive any immaterial defect or lack of compliance with any formality in any application or application procedure. The level of materiality and/or lack of compliance warranting such waiver shall be determined by the Board.

11.6 Totalisator Licence

11.6.1 Upon becoming a Racecourse Operator licensee, such person submitting a proposals will also qualify to apply for a Totalisator Licence.

11.7 B-BBEE

- 11.7.1 As a public entity, the Board upholds and promotes the principles enshrined in the legislation pertaining to B-BBEE, and as such, will seek to ensure commitment to, adherence and compliance to the B-BBEE Act.
- 11.7.2 The Board in line with its objectives as contemplated under the Act and its Transformation Objectives will seek to ensure persons contemplated in the B-BBEE Act and Codes receive the benefits. It will seek compliance with the B-BBEE Codes and transformation in terms of licence conditions.

11.8 Transformation Objectives

- 11.8.1 The Licensee shall ensure that it operates in a manner which enhances the transformation objectives set out in this Invitation. The Licensee may not enter into commercial arrangements which undermine these objectives.

11.9 False information and incomplete applications: -

- 11.9.1 The Board reserves the right to refuse a proposal that:
- Contains false information; or
 - Is incomplete.

11.10 Commencement of operations and maintenance of a Racecourse

- 11.10.1 Successful persons submitting a proposal shall commence business activities authorised by the Racecourse operator's licence within a period of twenty four (24) months from the date of issue of the Licence failing which the Licence shall lapse.
- 11.10.2 It shall be a condition of a licence that the Racecourse will, at all times, be maintained at a standard determined by the Board or where no standards are determined, at a standard approved by the National Horseracing Authority or any other standard approved by the Board.

12 ENQUIRIES

- 12.1 All enquiries regarding this proposal process must be directed to -

Ms Zanele Zwane or / Mr Don Ngubane

Tel: 033 345 2714

Email: zwanez@kznqbb.org.za / ngubanet@kznqbb.org.za

13 CLARIFICATION OF RFP

- 13.1 Applicants may seek clarification of the requirements of this RFP, during office hours (08h00 to 16h30).
- 13.2 All requests for clarification must be in writing and may be sent by email
- 13.3 If requests for clarification are raised which, in the opinion of the Board, are relevant to all other applicants, the Board will provide written clarification to all applicants.

13.4 Requests for clarification should be directed to:

The Chief Executive Officer
KwaZulu-Natal Gaming and Betting Board
KZNGBB House, Redlands Estate
1 George McFarlane Lane
Wembley
Pietermaritzburg

The Chief Executive Officer
KwaZulu-Natal Gaming and Betting Board
Private Bag X9102
Pietermaritzburg
3200

Mrs Thandeka Sithole

Tel: 031 583 1800

Email : sitholet@kznqbb.org.za

14 GENERAL TERMS AND CONDITIONS

14.1 GENERAL DISCLAIMER

14.2 This RFP supplies information on a wide range of matters, many of which depend on interpretation of law in its widest sense. The information given is not an exhaustive account of the statutory and licensing requirements and shall not be regarded as a complete or authoritative statement of relevant law. Each Proposal shall consult their own legal, tax, financial and other advisors on all relevant matters.

14.3 The Board, its employees and its agents accept no responsibility for the accuracy or otherwise of the information contained in this document, nor for any omission or opinion of law expressed herein, nor liability for any loss or damage whether resulting from negligence or otherwise, howsoever caused arising from the reliance of any person upon the statements or information contained in it.

14.4 It is the duty of the person submitting the proposal to establish, at their own expense, the legal and other requirements and implications of the National Act, National Regulations, the Act, the Regulations and this RFP.

14.5 The Board reserves the right to request new or additional information regarding the Proposal or other persons associated with their proposal or application.

14.6 RIGHT TO CANCEL THIS RFP

14.6.1.1 The Board reserves the right to cancel or withdraw the RFP for any lawful reasons

14.6.1.2 The Board reserves the right to amend or restructure this RFP should circumstances justify such

14.7 REJECTION

14.7.1.1 The Board reserves the right not to consider any non-responsive proposals in its sole and absolute discretion.

14.7.1.2 The Board reserves the right to waive any defect or lack of compliance with any formality in the proposal which the Board considers immaterial in the competitive process.

14.8 COST AND EXPENSES

- 14.8.1 The Board or its agents will not be responsible for any costs or expenses incurred in the preparation of a proposal or an application for a licence, whether an application is submitted, or a licence issued.

14.9 POSSIBILITY OF CHANGES IN LEGISLATION

- 14.9.1 Each person submitting the proposal shall be aware that the law, legislation, taxation, regulations and directives pertaining to gambling may change from time to time. The Board, its employees or agents do not take any responsibility for such changes.

14.10 NO GUARANTEE

- 14.10.1 The Board does not guarantee that any applicant shall be granted a licence and this RFP shall not constitute an offer of any kind whatsoever to the person submitting a proposal or applicants.

14.11 RECTIFICATION

- 14.11.1 It shall be the duty of each applicant to advise the Board forthwith in writing of any information contained in its proposal which the applicant subsequently establishes to be incorrect and to rectify such information. The Board reserves the right to deal with such rectified information, as it may deem fit.

14.12 REFUSAL, SUSPENSION OR REVOCATION OF LICENCE

- 14.12.1 The Board may in terms of the law, refuse, suspend or revoke a licence if any information contained in a proposal is found to be false in any material respect or subject to any material omission, with the intention to mislead the Board, at the time the information was provided.

14.13 DISSEMINATION OF INFORMATION AND RETENTION OF MATERIAL

- 14.13.1 The Board reserves the right to publicly disseminate any information of a non-confidential nature contained in any application or proposal. Any and all eligible applications including all related material shall become the property of the Board and shall not be returned.

14.14 NO BINDING AGREEMENT

- 14.14.1 This RFP and the proposal or application from the successful applicant(s) shall not constitute a binding agreement and the selection of a successful proposal does not mean that such person who submitted the proposal or application is necessarily totally acceptable in the form submitted. The Board reserves the right to decline to issue a licence to the successful applicant(s) should such applicant fail, neglect or refuse to conform with any further or alternate requirements or conditions stipulated by the Board, or should any of the information contained in the proposal or application of the successful person or applicant be invalid, or incorrect. In such event the Board may, at its sole discretion, either invite the person who attained the second highest number of points or refuse an application for a licence or issue a new RFP in respect of the Municipal District concerned.

15 APPEALS/REVIEWS

- 15.1** Any person who is aggrieved by the decision of Board in not awarding or refusing to award a right to apply for a Traditional/Umtebhele Racecourse Operator licence, may lodge an appeal or review against the decision of the Board.
- 15.2** The appeal or review contemplated in this RFP must be lodged within fifteen (15) working days from the date of publication of a notice of award by serving Notice of Appeal or Review with the Chief Executive Officer.
- 15.3** The Notice of Appeal or Review must, at a minimum, set out the following particulars:
- 15.3.1 The full names and contact particulars of appellant;
 - 15.3.2 The Municipal Districts in relation to which the appeal or review is lodged.
 - 15.3.3 The grounds upon which the appeal or review is founded; and
 - 15.3.4 The nature of the relief sought.
- 15.4** The appeal or review contemplated in this RFP shall be presided over by a three (3) member Special Review Panel, which shall be constituted as follows:
- 15.4.1 A practising Advocate holding the rank of a Senior Counsel or a practising Attorney with a minimum of 15 years litigation experience, who shall be the Chairperson of the Special Review Panel and must be selected by the chairperson of the KwaZulu-Natal Legal Practice Council;
 - 15.4.2 Two (2) additional members appointed by the Chairperson of this Special Review Panel, and must be constituted as follows:
 - (a) One (1) man or woman who, in the opinion of the Chairperson of the Special Review Panel, has appropriate knowledge and experience business and commerce; and
 - (b) One (1) man or woman who, in the opinion of the Chairperson of the Special Review Panel, has appropriate knowledge and experience in gambling regulation.

15.5 POWERS OF THE SPECIAL APPEAL/ REVIEW PANEL

The Appeal/Special Review Panel:

- 15.5.1 Shall have power to preside over and decide appeals or reviews;
- 15.5.2 Must declare whether or not the Board failed to comply with any aspect of this RFP;

- 15.5.3 If it declares that the Board failed to comply with the RFP, may:
- (a) Condone deviation or failure to comply if it considers such deviation or failure immaterial
 - (b) Set aside and refer the matter back to the Board for re-consideration;
 - (c) In exceptional circumstances, substitute the decision of the Board with its own decision.

15.6 TIMELINE WITHIN WHICH TO FINALISE APPEAL OR REVIEW AND CONDUCT OF PROCEEDINGS

- 15.6.1 An appeal or review lodged in terms of this RFP must be finalised within two (2) months from the date of receipt by the Special Appeal/Review Panel: Provided that the CEO may extend the period on request by the Chairperson of the Special Appeal/Review panel.
- 15.6.2 The Chairperson of the Special Appeal/Review Panel must, subject to clause 15.6.1, give directions on how the appeal or review proceedings shall be conducted.