

NSI Certification/Verification Agreement

Issue 1.3.1 – November 2014

This Certification/Verification Agreement ("Agreement") is made and entered into by and between the following Parties: The Open Group, 8 New England Executive Park, Burlington, MA 01803, USA, and the Organization described in the execution section of this Agreement.

Whereas, the Organization wishes to submit a business practice or technology for certification or verification in the North American Association of State and Provincial Lotteries (NASPL) Standards Initiative (NSI) Certification and Verification Program ("the Certification and Verification Program"); Whereas the business practice or technology is uniquely defined in the Registration Form; and Whereas, The Open Group is the Certification and Verification Authority operating the Certification and Verification Program in accordance with the terms of the Certification/Verification Policy on behalf of NASPL.

Now therefore, in consideration of the mutual rights and obligations of the Parties set forth below, the Parties agree as follows:

1. Definitions

For purposes of this Agreement, the following terms shall have the following meanings:

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| Assessment | With respect to certifying/verifying an NSI Best Practice or Technical Standard, an inspection of an Organization's processes, procedures, staff and/or documentation to determine the degree to which the Organization is operating in accordance with an NSI Best Practice or Technical Standard. |
| Assessment Report | The Assessment Report consists of a recommendation by the Assessor(s) regarding certification/verification of the Applicant's business practice or technology and any corrective actions required on the part of the Applicant, accompanied by documents that support and elaborate upon that recommendation. |
| Assessor | An individual who has been qualified by the Certification and Verification Authority as competent to perform Assessments. |
| Business Practice | An Organization's customary way of operating with respect to a particular functional area. |
| Certification and Verification Authority | The organization officially sanctioned to manage the day-to-day operations of the NSI Certification and Verification Program in accordance with the policies defined in the Certification/Verification Policy, including any third-party acting |

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| | on behalf of the Certification and Verification Authority. The Open Group acts as the Certification and Verification Authority for the NSI Certification and Verification Program. |
| Certification/Verification Policy | The “NSI Certification/Verification Policy” document, along with any Policy Supplements specific to the business practice or technology being certified/verified, as amended from time to time by NSI, and currently available at http://www.opengroup.org/naspl/conformance/docs/policies.html . |
| Certified/Verified Entity | A business practice or technology that has been awarded certification/verification under the NSI Certification and Verification Program. |
| Conformance Requirements | A definition of the mandatory and optional behavior that must be implemented in order for a business practice or technology to be considered conformant. |
| Indicators of Conformance | Evidence submitted to the Certification and Verification Authority to demonstrate the conformance of a Certified/Verified Entity to a Best Practice or Technical Standard (e.g., results from an assessment process, test suite, test procedure, or other Validation Method). |
| Interpretation | Recommendation to the Certification and Verification Authority, made by the Specification Authority, that elaborates or refines the meaning of an NSI Best Practice or Technical Standard. An Interpretation is one possible outcome of a Problem Report. |
| NSI Specification | An NSI approved and published document, which contains specific requirements for implementation. Developed by the Specification Authority, it can be either an NSI Best Practice or an NSI Technical Standard. |
| Organization | A lottery, vendor, or third-party lottery expert organization that is interested in applying for certification/verification or that has certified/verified, a business practice or technology in the NSI Certification and Verification Program. During the period in which an Organization is going through the certification/verification process, the Organization may be referred to as an Applicant or an Organization. The Organization takes legal responsibility for the conformance of the business practice or technology and fulfills the Applicant’s responsibilities during the process. |
| Person | Includes a body of persons whether or not incorporated. |
| Policy Supplement | A Policy Supplement defines requirements and obligations specific to the type of business practice or technology being certified/verified and is used in conjunction with the general NSI Certification/Verification Policy document. |
| Problem Report | A question of clarification, intent, or correctness of (1) an NSI |

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| | Best Practice or Technical Standard, (2) a Validation Method, or (3) a certification/verification document, assessment materials, or the web-based certification/verification system, which, if accepted by the Certification and Verification Authority, will be resolved into (1) an Interpretation, (2) a Validation Method Deficiency, or (3) a System Deficiency, respectively. |
| Register | The official list of all Certified Entities (for the Certification Program) or Verified Entities (for the Verification Program), which is maintained by the Certification and Verification Authority and made available via the Internet. |
| Registration Form | A web form completed by the Organization to register a particular business practice or technology for certification/verification. The form contains information on the Organization and the business practice or technology to be certified/verified. |
| Specification Authority | The NASPL Standards Initiative, which is responsible for developing, maintaining, and interpreting the NSI Specification(s). In the first instance this will be the working group that developed the NSI Specification. However, final authority rests with the NSI Steering Committee. |
| System Deficiency | An agreed error in the certification/verification system, which is inhibiting the certification/verification process. The system includes the processes, documentation – including the assessment materials - and software systems provided to implement certification/verification. A System Deficiency is one possible outcome of a Problem Report. |
| Technology | A hardware or software component, or a collection of such components. |
| Validation Method | A set of test procedures or standardized test methods used to establish confidence in conformance. |
| Validation Method Deficiency | An agreed error in a Validation Method, which is causing it to produce an incorrect result that impacts certification/verification. A Validation Method Deficiency is one possible outcome of a Problem Report. |

2. The Certification and Verification Authority's Obligations

Certification/Verification

The Certification and Verification Authority will review all certification/verification-related information provided by the Organization, along with the Indicators of

Conformance. The Certification and Verification Authority will confirm that this information demonstrates that the business practice or technology meets the applicable Conformance Requirements. The Certification and Verification Authority will complete the Conformance Review and notify the Organization via electronic mail of the Conformance Review result within ten (10) business days of receipt of a complete submission. If an incomplete submission is received, the Organization will be notified within ten (10) business days via electronic mail with a list of all the missing or incomplete items. Once the complete submission is received, the Conformance Review will resume, with an additional ten (10) business days for turnaround.

If the Conformance Review indicates that the Conformance Requirements have been met, the Certification and Verification Authority will notify the Organization via electronic mail of the successful certification or verification. If the organization requested during the registration process to keep the certification/verification confidential, then the Certification and Verification Authority will maintain confidentiality as per clause 4, item iv. If a confidential period was not requested or the confidential period has ended, then the Certification and Verification Authority will enter the Certified/Verified Entity into the applicable Register.

If the Certification and Verification Authority determines that the Conformance Requirements have not been met, the Certification and Verification Authority will reject the application for certification/verification and report the discrepancies with the Conformance Requirements. The Organization may undertake corrective action and reapply, though a further fee may apply for this additional work.

Renewal

After a business practice or technology has been successfully certified or verified and is due for renewal, the Certification and Verification Authority will send a renewal reminder notice by electronic mail to the Organization at or before ninety (90) calendar days prior to the renewal due date.

Anonymity of Appeals

In the event that the Organization desires to appeal a decision made by the Certification and Verification Authority or NSI by invoking the appeals process defined in the Certification/Verification Policy, and wants the appeal to be anonymous, the Certification and Verification Authority will facilitate an anonymous review on behalf of the Organization.

3. The Organization's Obligations

In addition to providing the certification/verification-related information as part of the registration process, the Organization undertakes to answer all reasonable additional questions the Certification and Verification Authority may raise.

Registration and Payment

The Organization must complete a web-based Registration Form, thoroughly defining the business practice or technology that is to be certified or verified. The Organization must formally accept the terms of this Agreement by having an authorized person sign below. The Organization must authorize payment of the applicable certification/verification fees when due.

Payment is required to complete the registration process. Payment may be made by credit card, check or wire transfer at the time of registration, or else a purchase order specifying the payment amount and terms must be provided at the time of registration. Payment against a purchase order must be received by the Certification and Verification Authority within sixty (60) calendar days of registration. The Certification and Verification Authority will not complete the certification/verification process until payment has been received.

Certification/Verification

For certification/verification against a Best Practice or Technical Standard that includes Validation Method results as an Indicator of Conformance, the validation process must be completed using a currently authorized version of the Validation Method(s). The Certification and Verification Authority will maintain a list of the current version(s) of each Validation Method valid for use in the Certification and Verification Program at http://www.opengroup.org/naspl/conformance/docs/validation_docs.html. This web page will also include directions on how to obtain the Validation Methods. After completing the validation process, the Organization agrees to provide the Validation Method results to the Certification and Verification Authority, along with references to all relevant Interpretations, Validation Method Deficiencies, and System Deficiencies to explain all omitted or failed components of the Validation Method.

For certification/verification against a Best Practice or Technical Standard that includes an Assessment Report as an Indicator of Conformance, the Organization agrees to provide all information required for the Assessment, as requested by the Certification and Verification Authority and/or the Assessors, and, if specified in the Certification/Verification Policy, reasonable access to the key personnel to be interviewed during the Assessment.

In all cases, the Organization agrees to comply with the Certification and Verification Authority's reasonable requests for clarification or rework regarding the completeness, correctness, or consistency of the information provided.

Notwithstanding anything to the contrary in this Agreement, the Organization is not required to divulge or otherwise provide any documents or information to the Certification and Verification Authority or the Assessors that the Organization may not divulge by law. In the case of documents or information which the Organization has agreed with a third party not to disclose, the Organization shall make all reasonable

efforts (and document such efforts) to get such restriction lifted by said third party for the purposes of achieving certification. Only in the event of a refusal from such third party to lift the restriction on disclosure after all reasonable efforts have been taken by the Organization shall the Organization not be required to divulge the restricted information.

Archiving Certification/Verification Materials

If the Organization has been certified/verified or renewed a certification/verification against a Best Practice or Technical Standard and elects to hold the archive for some or all of the certification/verification materials, as specified in the Certification/Verification Policy, the Organization must maintain each such archive for the period specified in the Certification/Verification Policy. This obligation shall remain in effect, even if the Organization's Certified/Verified Entity ceases to be certified/verified.

It is the responsibility of the Organization to maintain such archive without breaking the seal, and to make it available to the Certification and Verification Authority at any time upon request. If the Certification and Verification Authority requests an archive, the Organization must send the archive to the Certification and Verification Authority via registered postal mail within 14 calendar days of such request.

Warranty of Conformance

By signing this Agreement below, the Organization hereby warrants and represents that the business practice or technology identified in the Registration Form, as entered in the web-based certification/verification system, meets the Conformance Requirements at the time of certification/verification and will continue to meet the Conformance Requirements throughout the time in which the business practice or technology is certified/verified, in accordance with the Certification/Verification Policy.

If the Organization fails to ensure continued conformance with the Conformance Requirements, the Certification and Verification Authority may revoke the certification or verification. For the avoidance of doubt, any demonstrable shortfall with respect to the Conformance Requirements is grounds for withdrawal of certification/verification, whether or not that shortfall is apparent in the Indicators of Conformance.

Maintaining Up-to-Date Certification/Verification Information

An Organization with a Certified/Verified Entity is responsible for notifying the Certification and Verification Authority of a change to any of the elements upon which certification/verification is based, in accordance with Section 8 of the NSI Certification/Verification Policy document, "Certification/Verification Requirements for Modifications of a Certified/Verified Entity".

An Organization with a Certified/Verified Entity is responsible for ensuring that the names and contact information for all contacts specified in the web-based certification/verification system are up-to-date. Changes to such information may either

be made in the web-based certification/verification system itself or by notifying the Certification and Verification Authority.

Renewal

During the period of this Agreement, renewal of certification or verification by the Organization is required periodically at intervals defined in the Certification/Verification Policy. Failure to renew by the renewal date listed on the Register will result in removal of the Certified/Verified Entity from the Register. Renewal incurs a renewal fee.

4. Confidentiality

- i. The Certification and Verification Authority shall, except where a provision of this Agreement provides otherwise, maintain in confidence all information the Organization discloses to the Certification and Verification Authority in relation to any registration for certification or verification within the NSI Certification and Verification Program. No license, express or implied, under any trademark or copyright is granted by the Organization to the Certification and Verification Authority by virtue of such disclosure and the Certification and Verification Authority shall not use any such information except for the purposes of this Agreement. The Certification and Verification Authority's obligations under this sub-clause shall be limited to taking such steps as it ordinarily takes to preserve the most important of its own confidential information. The obligations of non-disclosure and non-use set out in this Agreement shall not apply to any item of information which:
 - a. Is in the public domain at any time (but without prejudice to any Person's rights of action against another Person who wrongfully causes or permits such information to be in the public domain),
 - b. Was rightfully in the receiving Person's possession without obligation of confidence prior to its disclosure pursuant to this Agreement, or is subsequently independently developed by the receiving Person's employees having no access to the information disclosed hereunder,
 - c. Is subsequently rightfully obtained without obligation of confidence by the receiving Person from a source other than the Organization as evidenced by written records,
 - d. Is required to be disclosed by order of any court of competent jurisdiction,

PROVIDED that no right or interest under any license, patent, or otherwise shall be acquired by the recipient of any information by virtue of the application of this clause.

- ii. Information regarding an Assessment Report or the results of using any Validation Method(s) shall not be disclosed in any publicly available document or to any third party by the Certification and Verification Authority, the Organization, or any party acting on the Organization's behalf.

- iii. The Certification and Verification Authority may disclose the Organization's confidential information to those of its employees who reasonably require access to such information. The Certification and Verification Authority may also disclose the Organization's confidential information to any third-party acting on behalf of the Certification and Verification Authority in the areas of assessment, validation, or operation of the program, and who reasonably requires access to such information. The Open Group will execute an agreement with such third-party, which will include confidentiality terms equivalent to those appearing in this Clause 4, prior to sharing any of the Organization's confidential information with the third-party. However, the Certification and Verification Authority may not disclose the Organization's confidential information to any employee of a member company in NASPL, unless another exception to the obligations under this sub-clause applies. For the avoidance of doubt, the Certification and Verification Authority may disclose the Organization's confidential information to the Organization's employees, or employees of any party acting on the Organization's behalf.
- iv. To enable the Organization to keep the fact of certification or verification confidential for a period of up to six months from the date of written notice via electronic mail by the Certification and Verification Authority that the business practice or technology has achieved certification/verification, the Organization's identity, the fact of certification or verification, and the name of the Certified/Verified Entity (the "Certification/Verification Information") will be kept subject to the disclosure and use restrictions set out in this clause. During this period, the Organization may not publicly claim that the Certified/Verified Entity is or has been certified/verified, or make any representation of the Certified/Verified Entity's conformance with the applicable NSI Specification(s) without first informing the Certification and Verification Authority that the confidential period has expired. Certification/Verification Information will cease to be held confidential upon the earlier of written notice via electronic mail by the Organization that the confidential period has expired or at the end of the six-month period, provided that the Organization has not requested withdrawal and deletion of such information.
- v. Except for disclosure to the Certification and Verification Authority for the purpose of NSI certification, the results of the validation or assessment process, and any other information about the Certified/Verified Entity that is obtained during the validation or assessment process shall be held confidential.

5. Liability and Indemnity

Liability

THE ORGANIZATION ACKNOWLEDGES THAT BECAUSE OF THE SPECIAL NATURE OF THE CERTIFICATION AND VERIFICATION AUTHORITY IT IS REASONABLE FOR THE CERTIFICATION AND VERIFICATION AUTHORITY TO EXCLUDE LIABILITY AS SET OUT BELOW AND FOR THE ORGANIZATION TO TAKE MEASURES, INCLUDING INSURANCE WHERE APPROPRIATE, TO

MITIGATE OR PREVENT ANY POTENTIAL LOSSES THAT MAY ARISE (PROVIDED THAT SUCH MEASURES ARE NOT IN BREACH OF THIS AGREEMENT).

THE CERTIFICATION AND VERIFICATION AUTHORITY ON ITS OWN BEHALF AND ON BEHALF OF ITS OFFICERS, EMPLOYEES AND AGENTS HEREBY EXCLUDES ALL LIABILITY, WHETHER IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE USE OR NON-USE BY ANY PERSON OF ANY INFORMATION PROVIDED BY THE CERTIFICATION AND VERIFICATION AUTHORITY TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW. IN NO EVENT SHALL THE CERTIFICATION AND VERIFICATION AUTHORITY BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL LOSSES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF PROFITS, CONTRACTS, PRODUCTION OR USE).

Indemnity

The Organization shall indemnify and hold harmless the Certification and Verification Authority together with its officers, servants, agents, subcontractors, and shareholders of the Certification and Verification Authority and their servants when engaged in activities on behalf of the Certification and Verification Authority but only to the extent that they are acting in that capacity (together the “Indemnified”) against any and all demands, claims, and liability for direct losses, damages, settlements, and costs (including lawyers’ fees) of any nature whatsoever asserted against or suffered by the Indemnified, but limited to demands and claims from a third Person, and liability incurred from such demands, and claims arising out of the Organization’s manufacture, use, or supply of the Certified/Verified Entity, provided that:

- a. Any such demand and claim is based on the Certification and Verification Program under this Agreement and not caused by any criminal action, gross negligence, or tort by the Indemnified,
- b. The Indemnified notifies the Organization within ten days of any such demand and claim, and refrains from any action on account of such demand and claims which may prejudice the Organization, and
- c. The Organization is given full authority and sole control to defend and settle any such demands and claims.

The Certification and Verification Authority shall take all reasonable steps to limit such damage or loss.

No provision of this clause shall apply in any circumstances or in respect of any liability or class of liability to the extent that it may not apply in accordance with applicable law. In the event of such a provision being held to be inapplicable or invalid the Parties will make such amendments to this Agreement by the addition or deletion of wording, or otherwise, so as to remove the inapplicable or invalid part of the provision but otherwise retain the provision to the extent permissible under applicable law.

6. General

Entire Agreement

This Agreement including any documents referred to therein (as amended from time to time) together with all other forms relating to this Agreement submitted and accepted by both Parties constitutes the entire agreement and supersedes all prior oral or written agreements, understandings, or arrangements between the Parties relating to such subject matter. Neither Party shall be entitled to rely on any agreement, understanding, arrangement, or representation relating to the subject matter of this Agreement which is not expressly contained in this Agreement and no change may be made to this Agreement except in writing and signed by duly authorized representatives of both Parties.

Waiver of Rights under this Agreement

No failure or delay on the part of either of the Parties to exercise any right or remedy under this Agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy as the case may be.

Notices

Any notice or other document to be given under this Agreement shall be in writing in the English language and, except in circumstances where this Agreement specifically provides for notices by electronic mail, shall be deemed to have been duly given if sent by hand, or by recorded delivery, or registered post, or by facsimile (subsequently confirmed by post) to a party at the specified address for that party, unless a different address has been notified to the other in writing for this purpose. The specified address for the Certification and Verification Authority is the address set out above, and the specified address for the Organization is the address provided on the Registration Form for the Authorized Signatory, as entered into the web-based certification/verification system. Notices shall be deemed to have been received by the addressee within 72 hours of posting as above or within 24 hours if sent by hand or facsimile to the addressee's correct address.

Interpretation

The headings in this Agreement are inserted only for convenience and shall not affect its construction.

Where appropriate words denoting the singular only shall include the plural and vice versa.

Term and Termination

This Agreement comes into effect upon the date of last signature of the parties herto and will expire only if explicitly terminated:

1. At any time upon six months' written notice by either Party to the other; or
2. If a period of 30 days has elapsed from one Party notifying the other Party of a breach of this Agreement, or of the terms of the Certification/Verification Policy, and such a breach has not been rectified to the satisfaction of the other Party.

Notwithstanding the termination of this Agreement for any reason, the obligations of non-disclosure in respect of any confidential information disclosed prior to such termination shall survive for a period of five years following such termination.

Notwithstanding the termination of this Agreement for any reason, the obligation for the Organization to hold any archives of certification/verification materials and make them available to the Certification and Verification Authority upon request shall survive for a period of six years from the date of the certification or verification to which the certification/verification materials apply.

Governing Law

The laws of the Commonwealth of Massachusetts shall govern this Agreement, and the Parties hereby submit to the non-exclusive jurisdiction of the Massachusetts courts.

7. Fees

The fees described at http://www.opengroup.org/naspl/conformance/docs/fee_schedules.html are quoted net of all applicable taxes and duties which, where appropriate, will be payable by the Organization to the Certification and Verification Authority (or to the relevant tax authorities as applicable) in addition.

Payment

The Certification and Verification Authority will charge the applicable certification/verification fee upon submission of a completed Registration Form. The Organization agrees to incur the applicable fee for each such registration for certification or verification.

Fees are payable in U.S. dollars. Acceptable forms of payment are:

- Credit card
- Wire transfer from the organization
- Check from the organization

Fees are non-refundable.

8. Execution

By signing below, the Organization:

1. Hereby acknowledges reading and understanding of this Agreement;
2. Agrees to be bound by the terms of the Certification/Verification Policy and this Certification/Verification Agreement;
3. Warrants and represents that the business practice or technology named: _____, and defined in the Registration Form, meets the applicable Conformance Requirements;
4. Warrants that NO MATERIAL CHANGES have been made to this Agreement since it was made available to the Organization by the Certification and Verification Authority;

Agrees that all these obligations and those described in the Confidentiality and Indemnity clauses of this Agreement shall survive the termination of this Agreement.

AGREED by the Parties through their authorized signatories:

FOR AND ON BEHALF OF

FOR AND ON BEHALF OF

The Organization

The Open Group

Signed

Signed

Name

Name

Title

Title

Date

Date

Facsimile Number: _____

Facsimile Number: +1 240 250 6102

Email: _____

Email: legal@opengroup.org

Address: _____

8 New England Executive Park

Burlington, MA 01803

United States

Please complete and email (scanned/PDF) or fax a signed copy of this document to legal@opengroup.org. The Open Group will countersign and return a fully executed copy to the email address or fax number provided above. If preferred, you may just complete, sign and send this signature page.