

Ms. Martha Otton  
Chief Strategy Officer  
Strategy and Policy Division  
Alcohol and Gaming Commission of Ontario  
90 Sheppard Avenue East, Suite 200  
Toronto, ON M2N 0A4

February 21, 2019

**Re: Report from the Fairness Monitor Regarding the First Phase of the Expressions of Interest Lottery Process for Cannabis Retail Store Licensing**

Dear Ms. Otton,

The Alcohol and Gaming Commission of Ontario (AGCO) retained KPMG LLP (KPMG) to monitor the fairness of its Expressions of Interest Lottery Process. The lottery was held to identify 25 Applicants who may apply for a Retail Operator Licence to operate a cannabis retail store beginning on April 1, 2019. AGCO conducted the lottery and published the results on its website on January 11, 2019.

**As further described in this report, KPMG is satisfied that the Lottery Process was fair to all Applicants and potential Applicants throughout the first phase of the Lottery Process up until January 11, 2019 — the date the lottery took place and the results were published on the AGCO website.**

This report summarizes KPMG's observations and conclusions regarding the fairness of the first phase of the Lottery Process. It also presents KPMG's scope of work, KPMG's methodology to assess fairness, and an overview of the Lottery Process during its first phase. The Lottery Process covers the period until Ontario Regulation 468/18 is amended, and KPMG will continue to monitor the Lottery Process until this time.

Capitalized terms in the report, if not defined herein, have the meaning ascribed to them in the Expression of Interest Lottery Rules (Rules) published on the AGCO website. All times indicated throughout the report reflect Eastern Standard Time.

## I. Restrictions

This report is pursuant to our engagement letter dated December 17, 2018. It is solely for the stated purpose and is not to be used, circulated, quoted or otherwise referred to for any other purpose. Notwithstanding the foregoing, KPMG expressly authorizes the addressee to share this report with employees of AGCO who were involved in the Lottery Process, and to publicly disclose this report without further express written permission.

KPMG reserves the right, but will be under no obligation, to revise our conclusions in light of any information existing at the report date but made known to us subsequently.

KPMG has not compiled, examined or applied agreed-upon procedures in accordance with standards established by the Auditing and Assurance Standards Board or any other standard; therefore, we do not express an opinion or any other form of assurance. Additionally, nothing contained in this report is to be construed as a legal interpretation of, or an opinion on, any contract, document, legal or otherwise, nor is it to be interpreted as a recommendation to invest or divest.

This report and the observations and conclusions expressed herein are valid only in the context of the whole report, including the appendices. Selected observation or conclusions should not be examined or quoted outside of the context of the report in its entirety.

This report is not to be relied upon by any party other than AGCO, and KPMG accepts no responsibility for any losses incurred by any third parties as a result of the use of this report.

## II. Scope of Work

KPMG was engaged to monitor the fairness of the Lottery Process whereby 25 Applicants were selected to have the opportunity to apply for a Retail Operator Licence and a Retail Store Authorization to operate a cannabis retail store in Ontario. KPMG's mandate is to observe and comment on the fairness of the Lottery Process, beginning with a review of the Rules prior to publication on the AGCO website until Ontario Regulation 468/18, made under the Cannabis Licence Act, 2018, is amended.

KPMG's assessment is limited to the question of whether the Lottery Process has been undertaken in accordance with KPMG's *Fairness Principles* contained in **Appendix A** of this report.

KPMG based its assessment of the first phase of the Lottery Process on our:

- Reading of selected documentation and records, including:
  - Expression of Interest Lottery Rules.
  - Lottery procedures established by AGCO in advance of implementation.
  - Communications published on the AGCO website, including the Rules, frequently asked questions and responses, the webinar presentation material, and lottery results.
  - Notification letters sent to the selected Applicants.
- Monitoring of key activities such as:
  - The online webinar held on January 4, 2019.
  - Implementation of established lottery procedures up to and including the lottery held on January 11, 2019.
  - Meetings that took place on the 10<sup>th</sup> and 11<sup>th</sup> of January 2019, during which AGCO reviewed the Applications submitted via iAGCO and determined which Applications violated Rule 4, Rule 6, Rule 8, and/or Rule 9, based on information identified in each Applicant's Expression of Interest application form.
  - Responses received from the lottery working group and cannabis executive leads with respect to KPMG's questions regarding the Lottery Process.

KPMG's scope of work excludes:

- Evaluation and verification of the lottery software program. Through a separate contract that KPMG was not a party to, AGCO engaged Gaming Laboratories International LLC (GLI) to certify that the computerized lottery would draw Expressions of Interest entries in a random fashion. To the extent this affects the overall Lottery Process, KPMG has relied on assurances provided by GLI.
- AGCO's assessment of the eligibility of selected Applicants to obtain a Retail Operator Licence, Retail Store Authorization and retail manager licence. This exclusion encompasses consideration about whether an Applicant met the requirements to obtain a licence and a Retail Store Authorization, as well as the appropriateness of the mandatory, technical and financial requirements for licensing and authorization.

Please note that KPMG has read and discussed various information provided by AGCO and GLI, but has not audited or otherwise independently verified the accuracy of the information. In the event that there are errors or omissions in the information provided by AGCO and GLI, such errors or omissions may impact KPMG's assessment and conclusions.

### III. KPMG's Methodology to Assess Fairness

KPMG's approach to fairness monitoring is based on a pre-established set of fairness principles which describe the foundation of a fair process. These principles have been developed by KPMG based on our experience in conducting procurements and monitoring fairness, and have been restated where appropriate to reflect how they apply to the Lottery Process. The term Applicant that is referred to in the fairness principles is intended to capture both potential Applicants (who were interested in participating in the Lottery Process prior to the application deadline) and Applicants (who submitted an Application prior to the application deadline).

The fairness principles for the Lottery Process are:

1. All Applicants have the same opportunity made available to them to access information.
2. The information made available to Applicants is sufficient to fully understand the opportunity.
3. All Applicants have reasonable access to the opportunity.
4. The Rules reflect the objectives of the Lottery Process.
5. The Rules and lottery procedures are established in advance of implementation.
6. The Rules and lottery procedures are internally consistent.
7. The Rules and lottery procedures are followed and applied consistently to all Applications.

In applying these fairness principles, KPMG used the following guidelines to help determine the fairness of the lottery processes.

- **Variations:** A variance from the fairness principles is deemed to have occurred if one or more circumstances, situations or events during the Lottery Process was treated in a manner inconsistent with or departs from one or more of the fairness principles.
- **Violations – Individual Variations:** A violation of the fairness principles is deemed to have occurred if an individual variance is deemed to have resulted in a process where one or more Applicants enjoyed a material advantage over any other, or — conversely — was subject to a material disadvantage, and the material advantage or disadvantage affected the results of the Lottery Process. Consequently, the Lottery Process would be deemed to be unfair in that respect.
- **Violations – Collective Variations:** A violation of the fairness principles is deemed to have occurred if individual variations, when considered collectively, resulted in a process where one or more Applicant(s) enjoyed a material advantage over any other, or — conversely — was subject to a material disadvantage, and the material advantage or disadvantage affected the results of the Lottery Process. Consequently, the overall Lottery Process would be deemed to be unfair.

### IV. Overview of the Lottery Process

On December 13, 2018, the Government of Ontario (Government) announced that a temporary cap of 25 Retail Store Authorizations will be imposed while cannabis supply stabilizes. As set out in Ontario Regulation 468/18, the Government gave AGCO the mandate to hold a lottery to determine who may apply for a Retail Operator Licence, and subsequently a Retail Store Authorization Application.

To support its mandate and objectives for the lottery, AGCO established the Rules prior to the lottery with the specific intent to:

- conduct a lottery that provides a fair and transparent opportunity for potential operators to apply for a licence to operate a cannabis retail store;
- support the Government’s objective of providing a safe, legal alternative to the illegal market by having licensed operators open cannabis retail stores on April 1, 2019; and
- regulate licensed retail operators in the public interest.

The Rules are identified in **Appendix B** of this report, and provide further information about the Lottery Process and the requirements of Applicants.

The Expression of Interest Lottery began on January 2, 2019, with the publication of the Rules, and concludes when Ontario Regulation 468/18 is amended. This period of time is referred to as the “Lottery Process” and is the timeframe established by the Government under Ontario Regulation 468/18 for the temporary cap of 25 Retail Store Authorizations while cannabis supply stabilizes. KPMG is monitoring the Lottery Process during this timeframe to assess whether it is conducted fairly.

The lottery was open to corporations, limited partnerships, partnerships, trusts, and sole proprietors. Within an application form completed and submitted through iAGCO (AGCO’s online portal used for the submission of Applications), each Applicant could identify up to five Regions for a total of five separate Expressions of Interest entries in the lottery (i.e., one per Region). For example, an Applicant who identified three of the Regions within their Application would have three entries in the lottery.

A summary of the timeline of key elements of the first phase of the Lottery Process relevant to this report follows.

- On December 13, 2018, the Honourable Caroline Mulroney, Attorney General and the Honourable Vic Fedeli, Minister of Finance, released a statement that announced that AGCO would implement a lottery system to determine eligibility for the initial licences to legally operate a store in Ontario.
- On December 31, 2018, GLI provided a report to AGCO certifying that sample Expressions of Interest entries are randomly drawn by the computerized lottery software program (the random number generator).
- On January 2, 2019, AGCO published the Rules on its website.
- On January 3, 2019, AGCO published frequently asked questions and responses on its website. Frequently asked questions were posted to provide further clarification to potential Applicants regarding the Lottery Process and Rules. Additional questions were added to this list to share responses to additional areas of inquiry raised during the webinar, through the iAGCO online inquiries portal and the toll-free customer service line.
- On January 4, 2019, AGCO held a two-hour online webinar to provide further clarification about the Lottery Process and Rules. All potential Applicants had the opportunity to register and attend the webinar. The last 43 minutes of the webinar was allotted to respond to questions submitted during the webinar. During the webinar, 1,736 inquiries were submitted online. As there was not enough time during the webinar to respond to all inquiries received, AGCO responded to selected questions that provided additional clarification of the Lottery Process and Rules.
- On January 4, 2019, AGCO published an amendment to Rule 16 (a), as permitted under Rule 20.
- Between 12:01 AM on January 7, 2019 and 1:00 PM on January 9, 2019, 17,320 Applications were submitted to AGCO (representing a total of 60,166 Expression of Interest entries for all five Regions). AGCO extended the original deadline for submission by one hour (from 12:00 PM noon to 1:00 PM) due to technical issues affecting the distribution of registration activation emails and the functionality of iAGCO.
- On the 10<sup>th</sup> and 11<sup>th</sup> of January 2019, AGCO undertook an initial assessment of the 17,320 Applications for compliance with Rule 4, Rule 6, Rule 8, and Rule 9 (see **Appendix B**, Lottery Rules). Based on this assessment,

415 Applications (representing a total of 1,097 Expression of Interest entries for all five Regions) were disqualified from the lottery. These 415 Applicants were disqualified due to clear violations of the Rules. In certain instances, Applications did not include sufficient information for AGCO to verify compliance with the Rules; and accordingly, in these instances, AGCO deferred the assessment of compliance until after the lottery. During the licensing process, AGCO will assess all selected Applicants to confirm compliance with the Rules using additional information submitted to the Registrar.

- On January 11, 2019, AGCO held the lottery, whereby 16,905 Applications (representing a total of 59,069 Expression of Interest entries for all five Regions) were randomly drawn using AGCO's certified computerized lottery software program. The 415 disqualified Applications were not included in the lottery.
- Selected Applicants were notified directly by AGCO on January 11, 2019. On the same day, AGCO posted the lottery results on its website, which identified the 25 selected Applicants and the top 20 Applicants on the Wait List for each Region. AGCO also posted a link to an electronic file that contained the full list of 59,069 Expression of Interest entries included in the lottery draw, and a link to another file that contained the 415 Expression of Interest Applications that were disqualified from the lottery.

## V. Analysis of Key Issues

KPMG observed three issues during the first phase of the Lottery Process which are worthy of mention. Ultimately, two of these issues did not constitute a variance from KPMG's fairness principles. The third issue was deemed to be a variance although it does not constitute a violation of the fairness principles. Each of these issues is described and analyzed below.

### 1) Treatment of incoming questions from potential Applications

During the period from when the Rules were posted on January 2, 2019, to the application deadline on January 9, 2019, potential Applicants could make inquiries by:

- a) calling AGCO's toll-free customer service line;
- b) submitting inquiries electronically through the iAGCO online portal; and
- c) submitting inquiries online during the webinar held on January 4, 2019.

The AGCO staff who were involved in developing the Rules provided oversight and reviewed the nature of the incoming inquiries to help ensure consistency in responses provided to potential Applicants.

During this period, a very high volume of inquiries from potential Applicants were received by AGCO. For instance, 1,736 inquiries were submitted online during the January 4 webinar. Due to the high volume of inquiries received, AGCO was not able to respond to every incoming question. While AGCO was unable to respond to all inquiries prior to the application deadline, AGCO posted substantial information about the lottery to its website, including the Rules, a video recording of the webinar, and frequently asked questions and answers.

For questions asked by a number of potential Applicants that led to responses that communicated new information, additional questions and responses were added to the frequently asked questions and answers posted on the AGCO website to ensure responses were available to all potential Applicants.

Overall, KPMG did not deem this situation to create a variance from the fairness principles since questions were responded to in a manner that is consistent with the fairness principles. In particular:

- All Applicants were treated consistently and had access to the same resources to access information, which was available through the Rules, frequently asked questions and answers, the published webinar, the toll-free customer service line, and the iAGCO online portal. This supports AGCO's adherence to the first fairness principle: *All potential Applicants have the same opportunity made available to them to access information.*
- Potential Applicants had sufficient information to fully understand the opportunity and information was made available to potential Applicants in a manner that a reasonable Applicant would have sufficient time to respond. This supports AGCO's adherence to the second fairness principle: *The information made available to Applicants is sufficient to fully understand the opportunity.*

## 2) Extension of deadline to application period

The Expression of Interest application period opened at 12:01 AM on January 7, 2019, and was scheduled to close at 12:00 PM (noon) on January 9, 2019. Between 10:52 AM and 12:13 PM on January 9, 2019, AGCO experienced technical issues due to the high volume of last-minute registrations, which affected the distribution of registration activation emails containing a link that activates a new iAGCO account.

AGCO's pre-established lottery procedures identified circumstances where AGCO may consider extending the application deadline. The circumstances included any performance or system availability issue that could impact the ability of potential Applicants to submit an Application.

A meeting was held with the lottery working group and KPMG prior to the original deadline to discuss the impact of the delays on a potential Applicant's ability to submit an Application. As a result of the delays in activating new iAGCO accounts, AGCO decided to extend the application deadline by one hour to 1:00 PM EST on January 9, 2019.

Overall, KPMG did not deem this to be a variance from the fairness principles since AGCO addressed the delays in a manner that is consistent to the fairness principles, and in accordance with the pre-established procedures. The main considerations in KPMG's assessment of this matter are:

- AGCO granted an extension of a sufficient length to allow for potential Applicants that may have been impacted by the delays to submit an Application prior to the extended deadline. This supports AGCO's adherence to the third fairness principle: *All Applicants have reasonable access to the opportunity.*
- As AGCO's internal lottery procedures indicated that AGCO was to consider an extension of the submission deadline if potential Applicants were negatively impacted in the process of submitting an Application, granting an extension supports AGCO's adherence to the seventh fairness principle: *The Rules and lottery procedures are followed and applied consistently to all Applications.*

## 3) Payment processing delays

Between 11:47 AM and 12:05 PM on January 9, 2019, the iAGCO server became overloaded such that the iAGCO site was not responsive. During this time, some Applicants experienced one of the following issues:

- a. Fifty-one (51) Applicants received a message when submitting their application to 'try again later'; however, their \$75 application fee was accepted and processed nonetheless. These Applicants received a confirmation email that did

not include their file number<sup>1</sup>. These Applicants were sent an email from AGCO on the evening of January 10, 2019 that confirmed their Application was accepted and provided a file number<sup>2</sup>. These Applications were entered into the lottery on January 11, 2019.

A few Applicants that encountered this technical issue submitted a second Application. These Applicants were not disqualified under Rule 12, as it was determined by AGCO that these Applicants had understood that their first Application was not successful as a result of the error message received following submission of their first Application. An email confirmation with a file number was successfully sent to these Applicants for their second Applications. AGCO refunded each of these Applicants \$75, since they had paid the fee twice as a result of the system disruption.

- b. Seventy-three (73) Applicants successfully submitted their Applications; however, their confirmation email indicated that their \$75 application fee was outstanding. The confirmation email that these Applicants received included their file number. These Applicants were not disqualified under Rule 11(c), which requires that an Applicant provide a \$75 non-refundable Expression of Interest Fee for their Application, since it was determined that the issue was not a result of insufficient payment. Further, at the time that the confirmation email was sent, all outstanding \$75 application fees had been received. These Applicants were sent an email from AGCO on the evening of January 10, 2019 that confirmed that their Applications were accepted, and that their Applications were entered into the lottery on January 11, 2019.

As AGCO did not have pre-established procedures to guide how to handle technical issues such as these, a variance to the fifth fairness principle is deemed to have occurred under both payment issues encountered. That principle states: *The Rules and the supporting procedures are established in advance of implementation.*

Although the procedures followed for resolving the issues encountered were not pre-established, the approach AGCO followed to address these issues was reasonable to ensure no further variances from the fairness principles related to the issues encountered. For instance, if the Applicants impacted by issue (a) described above had been disqualified under Rule 12, or the Applicants impacted by issue (b) had been disqualified under Rule 11, there may have been a variance to the third fairness principle (stated above) since these Applicants had correctly followed the instructions for submission of an Application using their iAGCO account, and the issues encountered could not have been prevented with the information that was made available to potential Applicants during the application submission period.

## VI. Conclusions

Although KPMG identified one variance to the fairness principles, KPMG is satisfied that the Lottery Process was fair to all Applicants and potential Applicants throughout the first phase of the Lottery Process up until January 11, 2019 — the date the lottery took place and the results were published on the AGCO website.

This conclusion is based only on information that was made available until the date of this report.

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<sup>1</sup> The file number is the unique identifier that applicants are to reference and locate their application in the lottery results.

<sup>2</sup> This file number was produced on AGCO's system end when the Application was submitted; it just was not included in the original confirmation email that was sent to each impacted Applicant.

## Appendix A – Fairness Principles

The fairness principles for the Lottery Process are outlined below. The term Applicant that is referred to in the fairness principles is intended to capture both potential Applicants (who were interested in participating in the Lottery Process prior to the application deadline) and Applicants (who submitted an Application prior to the application deadline).

1. All Applicants have the same opportunity made available to them to access information.
  - All Applicants have the same opportunity to access information related to the Lottery Process.
  - All amendments to the Rules are distributed to all Applicants at the same time.
2. The information made available to Applicants is sufficient to fully understand the opportunity.
  - All information available that is material to understanding the opportunity is made available to Applicants.
  - The information that is made available is appropriate to the particular stage in the Lottery Process.
  - Applicants have adequate access to information so that a reasonable Applicant would have sufficient time to respond.
  - Applicants are made aware of the limitations that apply to the reliability of the information.
3. All Applicants have reasonable access to the opportunity.
  - The opportunity is adequately reflected in information made available to Applicants related to the Lottery Process to permit an Applicant to make informed decisions with respect to its Application.
  - Timely notice is provided to all Applicants of all key events (e.g., application period, application deadlines, and next steps for the selected Applicants).
  - Applicants are treated consistently in soliciting information required to clarify their Applications and additional information requested of selected Applicants.
  - Reasonable timeframes are provided to all Applicants for all key deliverables (e.g., reasonable time to prepare Applications after the issuance of the Rules and frequently asked questions and responses, reasonable timeframes to submit additional information requested of the selected Applicants).
4. The Rules reflect the objectives of the Lottery Process.
  - The Rules reflect the true requirements and objectives of the Lottery Process.
  - The true requirements are fully disclosed to Applicants. (In other words, there are not any hidden criteria.)
5. The Rules and lottery procedures are established in advance of implementation.
  - The Rules and supporting procedures are established in advance of implementation.
  - The procedures to maintain the security of information related to Applications are established prior to the receipt of Applications.
  - The procedures for transferring data from iAGCO into the lottery software program is established prior to receipt of the Applications.
  - The lottery software program was finalized and certified prior to receipt of the Applications.

6. The Rules and lottery procedures are internally consistent.
  - The lottery procedures reflect the requirements necessary to appropriately apply the Rules.
7. The Rules and lottery procedures are followed and applied consistently to all Applications.
  - Pre-established Rules are applied in a consistent manner.
  - Pre-established lottery procedures are applied in a consistent manner.
  - Pre-established lottery procedures are applied to changes to the Rules.
  - The lottery procedures are carried out by individuals with appropriate technical competence and appropriate oversight is applied.

## Appendix B – Lottery Rules

**The version of the Rules was up to date as of February 18, 2019, the date that this report was published on the AGCO website. Please refer to the [AGCO's website](#) for the latest version of the Rules.**

### Alcohol and Gaming Commission of Ontario Cannabis Retail Store Licensing Expression of Interest (EOI) Lottery

#### Preamble

On December 13, 2018, the Government of Ontario announced that a temporary cap of 25 Retail Store Authorizations will be imposed while cannabis supply stabilizes. The Government of Ontario remains committed to permitting the opening of cannabis retail stores in Ontario on April 1, 2019.

As set out in Ontario Regulation 468/18, the Government of Ontario gave the Alcohol and Gaming Commission of Ontario (AGCO) the mandate to hold a lottery to determine who may apply for Retail Operator Licences.

AGCO has established Expression of Interest Lottery Rules (Rules) with the specific intent to:

- Conduct a lottery that provides a fair and transparent opportunity for potential operators to apply for a licence to operate a cannabis retail store;
- Support the government's objective of providing a safe, legal alternative to the illegal market by having licensed operators open cannabis retail stores on April 1, 2019; and,
- Regulate licensed retail operators in the public interest.

The Expression of Interest Lottery covers a period of time from January 2, 2019, when the Rules are published, to December 13, 2019, when Ontario Regulation 468/18 will be amended. This period of time is referred to as the "Lottery Process" and is the timeframe established by the government for the temporary cap of 25 Retail Store Authorizations while cannabis supply stabilizes.

KPMG will monitor the Lottery Process to assess whether it is conducted fairly. The AGCO has also submitted its lottery software program for independent testing and certification from Gaming Laboratories International (GLI®), an independent testing laboratory which holds international accreditations for compliance with ISO/IEC 17025, 17020, and 17065 standards for technical competence in the gaming, wagering and lottery industries.

Expression of Interest Applications will be accepted online from 12:01 AM Eastern Standard Time (EST) January 7, 2019 until 12:00 PM (noon) EST January 9, 2019. **There is no advantage or disadvantage to when an Applicant submits an application during this timeframe.**

The AGCO intends to publish the results of the lottery, to be held on January 11, 2019, on its website within 24 hours of the lottery selection.

The lottery Rules have been established to encourage the opening of stores on April 1, 2019. Potential applicants who are not committed to opening a cannabis retail store on April 1, 2019 should not participate in this lottery.

To participate in the lottery, potential applicants are required to pay a non-refundable Expression of Interest Fee of \$75 when submitting their Expression of Interest Application.

Subject to AGCO regulatory approvals and Ontario Cannabis Retail Corporation supply requirements, potential applicants should be prepared to sell cannabis under a Retail Store Authorization on April 1, 2019, and understand and be:

- Prepared to comply with requirements under the [Cannabis Licence Act, 2018, its regulations](#), and the [Registrar's Standards for Cannabis Retail Stores](#); and,
- Committed to act in accordance with the AGCO's mandate to ensure that Ontario's cannabis retail environment operates with integrity, honesty, and in the public interest.

Additionally, **potential applicants for the lottery are expected to carefully review all the rules** to ensure that they are fully aware of, and ready to meet the requirements before submitting their Expression of Interest Application.

In particular, unless otherwise agreed to by the Registrar in writing, within five (5) business days of AGCO publishing the lottery results on the AGCO website, the 25 selected Expression of Interest Applicants will need to:

- Submit a Retail Operator Licence Application including a non-refundable \$6,000 fee payment; and,
- Provide a \$50,000 Letter of Credit in the form provided.

At any time during the Lottery Process, if the Registrar determines that an Expression of Interest Applicant has not followed the requirements in Ontario Regulation 468/18, or the Expression of Interest Lottery Rules, that Applicant will be disqualified from the Lottery Process. Any pending application for a Retail Operator Licence will be considered abandoned. If a Retail Operator Licence has been issued, the Registrar will revoke the licence.

Throughout the Lottery Process, AGCO will review the Expression of Interest Applicant information for compliance with the Expression of Interest Lottery Rules.

**Expression of Interest Lottery Rules:**

Throughout the Rules:

“Lottery Process” means the period of time from January 2, 2019, when the Expression of Interest Lottery Rules are published on the AGCO website, to December 13, 2019, when Ontario Regulation 468/18 will be amended.

“Affiliate” has the meaning as set out in Ontario Regulation [468/18](#).

1. **The lottery is open to the following applicant types: corporation, limited partnership, partnership, trust, and sole proprietor.**
2. **Expression of Interest Applicants in the Lottery Process who are selected to apply for a licence:**
  - a. Must use the same legal name and applicant type identified on the Expression of Interest Application in their Retail Operator Licence Application; and,
  - b. Are not permitted to change their applicant type, ownership and/or corporate structure in such a way that would result in a change of control of the Expression of Interest Applicant or licensee during the Lottery Process.
3. **All individuals associated with an Expression of Interest Application including every director, officer, shareholder, partner and, trustee, must be at least 19 years of age.**
4. **The following may not submit an Expression of Interest Application to the lottery:**
  - a. Employees and board members of the Alcohol and Gaming Commission of Ontario;
  - b. Employees and board members of the Ontario Cannabis Retail Corporation;
  - c. KPMG LLP, its partners and employees;
  - d. Gaming Laboratories International LLC (GLI) employees, owners, and/or board members; and,
  - e. The holder or the Affiliate of the holder of a cultivation, processing or nursery licence issued by Health Canada under the *Cannabis Act* (federal) and the regulations.
5. **At any time during the Lottery Process, if the Registrar determines that an Expression of Interest Applicant has not followed the requirements in Ontario Regulation [468/18](#), or the Expression of Interest Lottery Rules, that Applicant will be disqualified from the Lottery Process. Any pending application for a Retail Operator Licence will be considered abandoned. If a Retail Operator Licence has been issued, the Registrar will revoke the licence.**
6. **Subject to the restrictions set out in Rule 9, an Applicant may submit an Expression of Interest Application and identify up to five (5) Regions for a total of five (5) separate Expressions of Interest entries in the lottery (i.e., one per Region). For example, an Applicant who has identified three (3) of the Regions within their Expression of Interest Application, will have three (3) Expressions of Interest entries in the lottery.**
7. **The maximum 25 Retail Store Authorizations will be allocated in accordance with Ontario Regulation [468/18](#) which provides for the maximum number of stores in the following Regions:**
  - a. **East Region:** (Stormont, Dundas and Glengarry, Prescott and Russell, Ottawa, Leeds and Grenville, Lanark, Frontenac, Lennox and Addington, Hastings, Prince Edward, Northumberland, Peterborough, Kawartha Lakes, Simcoe, Muskoka, Haliburton, Renfrew): five (5) stores;
  - b. **GTA Region:** (Durham, York, Peel and Halton): six (6) stores;
  - c. **North Region:** (Nipissing, Parry Sound, Sudbury, Greater Sudbury, Timiskaming, Cochrane, Algoma, Thunder Bay, Rainy River, Kenora): two (2) stores;
  - d. **Toronto Region:** five (5) stores; and,
  - e. **West Region:** (Dufferin-Wellington, Hamilton, Niagara, Haldimand-Norfolk, Brant, Waterloo, Perth, Oxford, Elgin, Chatham-Kent, Essex, Lambton, Middlesex, Huron, Bruce, Grey, Manitoulin): seven (7) stores.
8. **Prospective Expression of Interest Applicants or their representatives must create an iAGCO account (if an account has not yet been created) prior to filling out an Expression of Interest Application. An iAGCO account holder may submit only one Expression of Interest Application.**

- 9. Expression of Interest Applicants, including its Affiliates if any, who submit more than one Expression of Interest for the same Region will be disqualified from the Lottery Process. For clarity, where it is found that two Applicants who are Affiliates of each other have applied to the same region, both Applicants will be disqualified from the Lottery Process.**
- 10. An Expression of Interest Applicant and its Affiliate(s) may all submit applications, as long as they are for different Regions.**
- If Affiliates of each other are placed on the Selected List for different Regions, only the first drawn Expression of Interest entry will be notified by the Registrar that they may make a licence application and the second drawn Affiliate entry becomes ineligible.
  - If Affiliates of each other are placed on the Wait List for different Regions, the first Expression of Interest entry that may be moved to a Selected List will be notified by the Registrar that they may make a licence application and the remaining Affiliate entries become ineligible.
- 11. Expressions of Interest Applications must be submitted to the Registrar as follows:**
- Online through the [iAGCO](#) using the Expression of Interest Application established by the Registrar;
  - Between 12:01 AM EST on January 7, 2019 and 12:00 PM EST (noon) on January 9, 2019; and,
  - With a payment in full of a \$75 non-refundable Expression of Interest Fee for the Expression of Interest Application.
- 12. Expression of Interest Applications cannot be changed or amended once submitted and the non-refundable Expression of Interest fee is paid. If an iAGCO account holder requires a change to their submitted Expression of Interest Application between January 7, 2019 and 12:00 (noon) EST January 9, 2019, the application may be completely withdrawn by the iAGCO account holder and a new Expression of Interest Application may be completed and submitted. Another Expression of Interest Fee will be required for the corrected Expression of Interest Application.**
- 13. An Expression of Interest Applicant may withdraw from the Lottery Process as follows:**
- Between 12:01 AM (EST) January 7, 2019 and 12:00 PM (noon) EST January 9, 2019, an Applicant may withdraw their Expression of Interest Application from the lottery from within the iAGCO portal;
  - Between 12:00 PM (noon) EST January 9, 2019, and AGCO publishing the lottery results on the AGCO website, Applicants **may not withdraw** an Expression of Interest Application;
  - After the AGCO publishes the results of the lottery:
    - The 25 selected Expression of Interest Applicants, prior to commencing the licensing and authorization processes may decline the Registrar's notification that they may make a licence application by writing to the Registrar at [connect@agco.ca](mailto:connect@agco.ca);
    - Wait List Applicants may request removal of their name by writing to the Registrar at [connect@agco.ca](mailto:connect@agco.ca);
  - Between publication of the lottery results on the AGCO website and January 25, 2019 at 5:00 PM EST, any of the 25 selected Expression of Interest Applicants may provide written email notification of withdrawal to the Registrar at [connect@agco.ca](mailto:connect@agco.ca). If an Applicant withdraws from the Lottery Process pursuant to this rule, the non-refundable licence and authorization fee payments if incurred will also pursuant to this rule, be refunded and the Letter of Credit will be returned.
- 14. The lottery selection will take place on January 11, 2019, at a time set by the Registrar as follows:**
- Expressions of Interest entries will be randomly selected using a third-party certified lottery software program.
  - There will be five Region categories as described in Rule 7 above.
  - Each Region category will have a Selected List and a Wait List.
    - The number of available store opportunities on the Selected List will be equal to the maximum number of Retail Store Authorizations allocated to that Region.
    - Once the Selected List for a Region is full, the Wait List will be comprised of other first drawn Expressions of Interest entries identifying that Region (subject to the exception noted in Rule 14.d.iii).
  - Expressions of Interest entries will be randomly selected as follows:
    - The first drawn Expression of Interest entry for an Applicant will be placed on the Selected List for the identified Region, or appended to the Wait List in the order drawn, if the Selected List is complete.
    - If an Expression of Interest Applicant has submitted for more than one Region, their first drawn Expression of Interest entry will be placed in that identified Region category. Any remaining Expression of Interest entries from that Applicant will become ineligible, with one exception (see Rule 14.d.iii).
    - If an Applicant has submitted more than one Expression of Interest entry and the Applicant's first drawn Expression of Interest entry is placed on a Wait List for a Region and another Expression of Interest entry for the Applicant is subsequently drawn that identifies a Region that has available store opportunities on its Selected List, then the Applicant's subsequently drawn Expression of Interest will be placed on that Selected List. The Applicant's first drawn Expression of Interest will be ineligible and

removed from the Wait List.

15. **Applicants with an Expression of Interest on the Selected List for a Region will be contacted by the AGCO and provided with a Notification Letter from the Registrar using the contact information identified in the Expression of Interest Application.**
16. **An Expression of Interest Applicant on a Selected list will be required:**
  - a. Unless otherwise agreed to by the Registrar in writing, within five (5) business days of AGCO posting the lottery results on its website:
    - i. To provide a standby Letter of Credit with an expiry date of December 13, 2019 in the amount of Fifty Thousand Dollars (\$50,000) issued from a bank found in Schedule I or Schedule II of the *Bank Act* (S.C. 1991, c.46) substantively in the form identified by the AGCO, to the address identified by the AGCO, and;
    - ii. To submit a Retail Operator Licence application and make the non-refundable \$6,000 Retail Operator Licence fee payment.
  - b. To use the same legal name and applicant type in the Retail Operator Licence Application as was used in their Expression of Interest Application;
  - c. Following submission of a Retail Operator Licence application, to submit a Retail Store Authorization Application and make the non-refundable \$4,000 Retail Store Authorization fee payment;
  - d. To open a cannabis retail store location that meets school distance requirements as set out in Ontario Regulation [468/18](#); and,
  - e. To be located in a local municipality that has a population over 50,000 as identified by the 2016 Canadian Census and that permits the retail sale of cannabis.
17. **Once the lottery selection is complete and during the Lottery Process (i.e. until December 13, 2019), an Expression of Interest Applicant that is first on a Wait List for a Region will be moved to the Selected List for that Region if:**
  - a. An Applicant on the Selected List for that Region is disqualified from the Lottery Process by the Registrar;
  - b. An Applicant on the Selected List for that Region declines the Registrar's notification that they may make a licence application;
  - c. An Applicant on the Selected List for that Region withdraws an application for a Retail Operator Licence;
  - d. A Retail Operator Licence within that Region is refused or revoked by the Registrar.
18. **The Registrar reserves the right to draw on the Letter of Credit in the event that the Expression of Interest Applicant is unable to sell cannabis under their Retail Store Authorization. If the Registrar draws on the Letter of Credit, it will be drawn on in the following manner:**
  - a. On April 1, 2019, if the Expression of Interest Applicant is not selling cannabis under their Retail Store Authorization \$12,500 will be drawn;
  - b. On April 15, 2019, if the Expression of Interest Applicant is not selling cannabis under their Retail Store Authorization additional \$12,500 will be drawn;
  - c. On April 30, 2019, if the Expression of Interest Applicant is not selling cannabis under their Retail Store Authorization \$25,000 will be drawn; and,
  - d. For potential applicants on a Wait List who may be notified by the Registrar that they may apply for a licence, the timelines for drawing on the Letter of Credit will be adjusted by the Registrar to provide equivalent duration.
19. **Additionally, Letters of Credit will:**
  - a. Be returned to the selected Expression of Interest Applicant should they withdraw pursuant to Rule 13d;
  - b. Be drawn in full should a selected Expression of Interest Applicant be disqualified by the Registrar during the Lottery Process.
20. **The Registrar reserves the right to cancel, amend or suspend the lottery, or to amend the Expression of Interest Lottery Rules in any way without prior notice or obligation. The Registrar will communicate any cancellation, amendment, or suspension of the lottery and/or Rules to Applicants in a timely manner.**