

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) BIDDER'S CERTIFICATION

Bidder certifies that the nonpaper office products which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the paper, to provide the Commonwealth with documentary evidence that the nonpaper office product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

**EXHIBIT A-7
 PARK & RECREATION PRODUCTS
 RECYCLED CONTENT**

(A) REQUIREMENT

All park and recreation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth must contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Park & Recreation Product	Recovered Material Content ¹
Park Benches & Picnic Tables:	
----Plastic ²	90% (post-consumer) + 10% (recovered)
----Plastic Composites	50% (post-consumer) + 50% (recovered)
----Aluminum	25% (post-consumer)
----Concrete	15% (total)
----Steel ³	16% (post-consumer) + 9% (recovered)
	67% (post-consumer) + 33% (recovered)
Plastic Fencing for Specified Uses ⁴	60% (post-consumer) + 30% (recovered)
Playground Equipment	
----Plastic ²	90% (post-consumer) + 10% (recovered)
----Plastic Composites	50% (post-consumer) + 45% (recovered)
----Steel ³	16% (post-consumer) + 9% (recovered)
	67% (post-consumer) + 33% (recovered)
----Aluminum	25% (post-consumer)
Playground Surfaces:	
----Plastic or Rubber	90% (post-consumer)
Running Tracks:	
----Plastic or Rubber	90% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) BIDDER'S CERTIFICATION

Bidder certifies that the park and recreational product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the park and recreational product(s), to provide the Commonwealth with documentary evidence that the park and recreational product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

¹ The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

² "Plastic" includes both single and mixed plastic resins. Park benches and picnic tables made with recovered plastic may also contain other recovered materials such as sawdust, wood, or fiberglass. The percentage of these materials contained in the product would also count toward the recovered materials content level of the item.

³ The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel of which 67% is post-consumer.

⁴ Designation includes fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.

**EXHIBIT A-8
 TRANSPORTATION PRODUCTS
 RECYCLED CONTENT**

(A) REQUIREMENT

All transportation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth must contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Transportation Products	Recovered Material Content ¹
Traffic Cones: ---Plastic (PVC and LDPE) ---Crumb Rubber	50% (recovered) 50% (recovered)
Traffic Barricades (type I and II only): ---Plastic (HDPE, LDPE, PET) ---Steel ² ---Fiberglass	80% (post-consumer) + 20% (recovered) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 100% (recovered)
Parking Stops: ---Plastic and/or Rubber ---Concrete Containing Coal Fly Ash ---Concrete Containing Ground Granulated Blast Furnace Slag	100% (recovered) 20% (recovered) 15% when used as a partial cement replacement as an admixture in concrete. 25% (recovered)
Traffic Control Devices: ---Channelizers: -----Plastic -----Rubber (base only) ---Delineators: -----Plastic -----Rubber (base only) -----Steel (base only) ² ---Flexible Delineators	25% (post-consumer) 100% (post-consumer) 25% (post-consumer) 100% (post-consumer) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 25% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(B) BIDDER'S CERTIFICATION

Bidder certifies that the transportation product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidder's Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the transportation product(s), to provide the Commonwealth with documentary evidence that the transportation product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

¹ Content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

² The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel of which 67% is post-consumer.

MANUFACTURER/MILL CERTIFICATION

(To be submitted with invoice for each order)

TO BE COMPLETED BY MANUFACTURER/MILL:

NAME OF MANUFACTURER/MILL: _____

ADDRESS OF MANUFACTURER/MILL: _____

FEDERAL EMPLOYER I.D. NO.: _____

CONTRACT OR REQUISITION NO. _____

NAME OF CONTRACTOR: _____

ADDRESS OF CONTRACTOR: _____

Type of product(s) which the manufacturer/mill furnished to the contractor: _____

CERTIFICATION: I, the undersigned officer of the above-named manufacturer/mill, do hereby certify that I am authorized to provide this certification on behalf of the above-named manufacturer/mill and that the type of product(s) listed above which my company furnished to the contractor named above for the referenced contract or purchase requisition, contained not less than _____% post-consumer materials and _____% recovered materials as those terms are defined in the invitation for bids. I understand that this document is subject to the provisions of the Unsworn Falsification of Authorities Act (18 P.S. Section 4904).

Signature

Name of Signatory

Title

Date

APPENDIX F
Not used in this RFP

APPENDIX G
CONTRACTOR RESPONSIBILITY PROVISIONS

APPENDIX G

CONTRACTOR RESPONSIBILITY PROVISIONS

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant, with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

1. The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit a written explanation of why such certification cannot be made. The written explanation must be provided with the proposal, as well as before proceeding to perform under the Contract. The Commonwealth reserves the right to reject the proposal or cancel the Contract without liability if the Contractor cannot so certify, and the Commonwealth is not satisfied with the explanation.
2. The Contractor must also certify, in writing, that, as of the date of its execution of any Commonwealth contract, it has no tax liabilities or other Commonwealth obligations.
3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the PLCB if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within fifteen (15) days of the date of suspension or debarment.
4. The failure of the Contractor to notify the PLCB of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No.: (717) 783-6472
Fax No.: (717) 787-9138

APPENDIX H
THE AMERICANS WITH DISABILITIES ACT

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THE AMERICANS WITH DISABILITIES ACT

During the term of this Contract, the Contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of **The Americans With Disabilities Act**, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting and executing this Contract, the Contractor agrees to comply with the "**General Prohibitions Against Discrimination**," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of **The Americans With Disabilities Act** which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
2. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph 1 above.

APPENDIX I

STORE HOLIDAY SCHEDULE AND KEY OPERATIONAL DATES

APPENDIX I

STORE HOLIDAY SCHEDULE AND KEY OPERATIONAL DATES

<u>HOLIDAY</u>	<u>DAY</u>	<u>DATE</u>	<u>STORES CLOSED</u>
New Year's Day	Tuesday	01-01-2008	Yes
Dr. Martin Luther King Jr. Day	Monday	01-21-2008	Yes
Presidents Day	Monday	02-18-2008	Yes
Good Friday	Friday	03-21-2008	No
Primary Election Day	Tuesday	05-13-2008	No
Memorial Day	Monday	05-26-2008	Yes
Independence Day	Friday	07-04-2008	Yes
Labor Day	Monday	09-01-2008	Yes
Columbus Day	Monday	10-13-2008	No
General Election Day	Tuesday	11-04-2008	No
Veterans' Day	Tuesday	11-11-2008	No
Day Before Thanksgiving	Wednesday	11-26-2008 *No Store Deliveries	No*
Thanksgiving	Thursday	11-27-2008	Yes
Day After Thanksgiving	Friday	11-28-2008	No
1 st Day Buck Season	Monday	12-01-2008	No
Christmas Eve	Wednesday	12-24-2008	No
Christmas Day	Thursday	12-25-2008	Yes
New Year's Eve	Wednesday	12-31-2008	No

Contractors, because of labor agreements or operational requirements, may or may not observe the same holidays and closings. Of course, if the stores are closed, there will be no store deliveries. The PLCB reserves the right to request store deliveries on any given day.

APPENDIX J

AGREEMENT STANDARDS WORKSHEET

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AGREEMENT STANDARDS WORKSHEET

Task	Criteria	PLCB Minimum Agreement Standard	Proposer's Proposed Agreement Standard	Methodology to Demonstrate Compliance	Liquidated Damages Assessed for Non-Compliance
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The selected contractor will present renderings and schematic drawings of the prototype of the pre-approved concept. The Bill of Materials ("BOM") will be developed for the prototype & pre-production units. A full testing process will be developed to test the prototype, including, but not limited to:

1. Physical attributes;
2. Software Interface;
3. Data integration to PLCB /Oracle Retail Management System;
4. Network Communication;
5. Inventory process and controls;
6. Registration process;
7. Point-of-sale ("POS") process;
8. Assembly;
9. Updated Project Plan

The selected contractor and the PLCB will test the prototype. The selected contractor will present the test findings to the PLCB. The selected contractor will revise the BOM and project plan to reflect any project change orders resulting from the testing or modifications during testing. The revised project plan will contain estimates on unit delivery, and success criteria for pre-production or BETA units, as well as a project plan.

The selected contractor will provide an application development plan for the software interface to the PLCB/Oracle Retail Management System for the transmittal of satellite wine store transactions, inventory management and other data as required to allow the kiosk to function as a store in the Oracle RMS system. The selected contractor will also be responsible for the integration and functionality of all software and drivers and OS related to the controller PC.

The selected contractor will provide a detailed, written comprehensive rollout schedule and corresponding project plan which will include, but not be limited to: 1. A determination of the number of controller PCs involved in the final deployment and the time required installing each; 2. A list the resources needed to complete the process within the schedule; 3. Identification of personnel needed for the deployment processes, and associated training requirements; 4. A fully-detailed rollout plan, which incorporates a description of the PLCB's installation methodology; 5. Resolution of problems related to the distribution or installation; 6. Reports on the rate and success of deployment; and, 7. Documentation of success criteria.

The selected contractor will successfully install and make operational the proposed wine kiosk. Installation will include placing the wine kiosks in the location designated by the PLCB and, with the PLCB's networking, making them operational. The selected contractor will maintain the wine kiosks for the remaining term of the contract.

APPENDIX K

DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

APPENDIX K
DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

Each proposal will be scored for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those proposers who will perform the contracted direct labor exclusively within the geographical boundaries of the United States. Those who propose to perform a portion of the direct labor outside of the United States will receive a correspondingly smaller score for this criterion.

In order to be eligible for any consideration for this criterion, proposers must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the proposer for this criterion.

I, _____ [title] of _____ [name of Contractor] a _____ [place of incorporation] corporation or other legal entity, ("Contractor") located at

[address], having a Social Security or Federal Identification Number of _____, do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check **one** of the boxes below):

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States.

OR

_____ percent (____%) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States. Please identify the direct labor performed under the contract that will be performed outside the United States:

[Use additional sheets if necessary]

The Pennsylvania Liquor Control Board shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

Corporate or Legal Entity's Name

Signature/Date

Signature/Date

Printed Name/Title

Printed Name/Title

APPENDIX L
CORPORATE SIGNATORY DELEGATION AUTHORIZATION

APPENDIX L

CORPORATE SIGNATORY DELEGATION AUTHORIZATION

I, _____, of _____, City of _____,
(Name) (Address)

County of _____, State of _____, certify that I am the

_____ of _____, a corporation organized
(Title/Capacity) (Name of Corporation)

under the laws of the State of _____, having its principal office at
_____, City of _____, County of _____,
(Address)

State of _____; and that the following is a true and complete copy of a
resolution duly adopted by the Board of Directors of _____
(Name of Corporation)

at a meeting held by them on _____ day of _____, _____, at which a quorum
was present; and that this resolution has not been altered, amended, repealed,
rescinded or otherwise modified and that it is still in full force and effect.

RESOLVED THAT _____ of _____, City of
(Name) (Address)

_____, County of _____, State of _____

is hereby authorized to execute contracts on behalf of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of
the corporation this _____ day of _____, 20_____.

(Signature of Certifying Official)

(SEAL)

(Typed or Printed Name)

(Title)

APPENDIX M
PROPOSED CONTRACT FOR
WINE KIOSKS



CONTRACT NO. 20080318

WINE KIOSKS

BETWEEN:

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LIQUOR CONTROL BOARD
PROCUREMENT DIVISION
ROOM 413, NORTHWEST OFFICE BUILDING
HARRISBURG, PA 17124-0001**

AND

CONTRACTOR TO BE DETERMINED

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CONTRACT

GENERAL CONDITIONS

1. PARTIES

The parties to this agreement (hereinafter referred to as "Contract") are the Commonwealth of Pennsylvania, Pennsylvania Liquor Control Board, (hereinafter referred to as "PLCB") and _____ (hereinafter referred to as "Contractor"). The parties hereby agree as follows:

2. DEFINITIONS - For purposes of this Contract, the following terms and definitions apply:

- A. Board - The Commonwealth of Pennsylvania, Pennsylvania Liquor Control Board (PLCB).

- B. Business Day - A weekday, excluding Commonwealth of Pennsylvania holidays.

- D. Commonwealth - The Commonwealth of Pennsylvania, including the Pennsylvania Liquor Control Board (PLCB).

- E. Contact Person - The PLCB official responsible for administering the Contract. This individual shall be the Contractor's primary contact for Contract questions and other issues.

- F. Contract Year - One (1) full year beginning on the Effective Date of this Contract, and each subsequent full year thereafter during the term of this Contract. The final Contract year may be less than a full calendar year.

- G. Contracting Officer - The person or his/her designee authorized to sign the Contract on behalf of the PLCB.

- H. Contractor - **TO BE DETERMINED (Name and business address of Contractor).**

- I. Contractor Project Manager - the Contractor's official or his/her designee responsible for the overall project management and coordination. This individual will be the primary point of contact with the PLCB.

- J. Credit Card – Visa, Mastercard, American Express and/or Discover.

- K. Day - A calendar day.

- L. Distribution Center - A building designated for the receipt of merchandise, storage of merchandise and outbound transportation of merchandise. Also referred to herein as

“warehouse” or “facility.”

- M. Holiday - A day on which the PLCB Central Office, and/or PLCB wine and spirits stores are closed or not operating normally. (See Appendix I of PLCB RFP 20080318, as incorporated herein by reference, for the store holiday schedule).
- N. In Writing - Other than verbal, i.e., via U.S. postal, electronic or facsimile transmission and/or delivery.
- O. Merchandise - Liquor (wine or spirits), accessories, and supplies tendered to the PLCB for resale.
- P. Minor – A person under the age of twenty-one (21) years.
- Q. PLCB - The Commonwealth of Pennsylvania, Pennsylvania Liquor Control Board.
- R. Satellite Wine Store – a bottled wine vending machine, together with the space in which it is located.
- S. Store(s) - Locations for the retail sale of merchandise operated by the PLCB, also referred to herein as PLCB and/or Pennsylvania Liquor Stores, wine and spirits stores, the retail liquor store system and retail locations.

T. Weekday - A day of the week, except Saturday or Sunday.

U. Wine kiosks – Bottled wine vending machines.

3. **TERM OF CONTRACT** - The term of the contract shall commence on the Effective Date (as defined below) and shall end at the close of business five (5) years from the effective date. The Effective Date shall be fixed by the Contracting Officer, or his/her designee, after the PLCB receives written TTB approval of its business plan, and after the contract has been fully executed by the Contractor and by the PLCB/Commonwealth, and all approvals required by Commonwealth contracting procedures have been obtained. The Contract shall not be legally binding until after the Effective Date is affixed and the fully-executed Contract has been sent to the Contractor. The Contracting Officer, or his/her designee, shall issue a written Notice to Proceed to the Contractor directing the Contractor to start performance on a date, which is on or after the Effective Date. The Contractor shall not start the performance of any work prior to the date set forth in the Notice to Proceed and the PLCB shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No PLCB employee has the authority to verbally direct the commencement of any work under this Contract.

The PLCB reserves the right, upon ninety (90) days written notice to the Contractor for each option period, to extend this Contract for five (5), one (1)-year option periods, subject to the terms and conditions set forth in the initial contract term. As specific projects are requested by the PLCB and agreed to by both parties, the Contractor shall submit a detailed work plan, schedule of deliverables and cost for PLCB approval prior to the commencement of any work during the option year(s).

In addition, the PLCB, in its sole discretion, shall have the right, at the expiration of the Contract, to extend the term of the Contract, or any part of the Contract, for up to three (3) months, upon the same terms and conditions, in order to prevent a lapse in contract coverage and only for the time necessary, up to three (3) months, to enter into a new contract, if deemed necessary by the PLCB.

4. SERVICES TO BE PROVIDED –

- A. On the Effective Date of this Contract, as defined in Paragraph 3, Term of Contract, the Contractor shall perform all tasks and requested services as set forth within this Contract.

- B. On the Effective Date, as defined in Paragraph 3, Term of Contract, the Contractor shall lease, provide, maintain and service fully functional wine kiosks for the PLCB to place in locations throughout the Commonwealth designated by the PLCB

as satellite wine store locations, at no cost to the Commonwealth/PLCB. The kiosks will be monitored via a PLCB-staffed customer service support center.

- C. The Contractor shall accomplish the following in a manner that properly supports the project due dates. The PLCB reserves the right to review all proposed methodologies and recommendations, and to determine when or if implementation will occur.

Task 1 – Within ninety (90) days of issuance date of the Notice to Proceed, the Contractor will identify an appropriate wine kiosk or similar solution meeting the requirements of this RFP and will provide the PLCB with its concept, including its business plan, implementation timelines, and options for installing said devices using industry best practices/benchmarks.

Deliverable: The Contractor will provide the PLCB with a detailed report describing the proposed solution's technical requirements, required level of effort to set-up the system, and associated costs to the selected contractor. In addition, the Contractor will provide a PowerPoint presentation or another form of visual presentation outlining system implementation options.

Task 2 – Within one hundred twenty (120) days of issuance date of the Notice to Proceed, the Contractor will provide visuals of the proposed wine kiosk based on the approved concept.

Deliverable: The Contractor will present renderings and schematic drawings of the prototype of the pre-approved concept. The Bill of Materials (“BOM”) will be developed for the prototype and pre-production units. A full testing process will be developed to test the prototype, including, but not limited to:

1. Physical attributes
2. Software Interface
3. Data integration to PLCB/Oracle Retail Management System
4. Network Communication
5. Inventory process and controls
6. Registration process
7. Point-of-sale (“POS”) process
8. Assembly
9. Updated Project Plan

Task 3 - The Contractor will be required to provide a fully-functional prototype model which, together with the PLCB, will be tested, and all test results will lead to modification of the a pre-production or BETA unit based on the approved concept.

Deliverable: The Contractor and the PLCB will test the prototype. The Contractor will present the test findings to the PLCB. The Contractor will revise the BOM and project plan to reflect any project change orders resulting from the testing or modifications during testing. The revised project plan will contain estimates on unit delivery, and success criteria for pre-production or BETA units, as well as a project plan.

Task 4 - The Contractor will be required to provide a full development plan for the software interface to the PLCB/Oracle Retail Management System and all software related to the functionality of the controller personal computer ("PC"), and to the customer service support center.

Deliverable: The Contractor will provide an application development plan for the software interface to the PLCB/Oracle Retail Management System for the transmittal of satellite wine store transactions, inventory management and other data as required to allow the kiosk to function as a store in the Oracle RMS system. The Contractor will also be responsible for the integration and functionality of all software and drivers and OS related to the controller PC.

Task 5 - The Contractor will be required to provide a comprehensive rollout schedule.

Deliverable: The Contractor will provide a detailed, written comprehensive rollout schedule and corresponding project plan which will include, but not be limited to:

1. A determination of the number of controller PCs involved in the final deployment and the time required installing each;
2. A list of the resources needed to complete the process within the schedule;
3. Identification of personnel needed for the deployment processes, and associated training requirements;
4. A fully-detailed rollout plan, which incorporates a description of the PLCB's installation methodology;
5. Resolution of problems related to the distribution or installation;
6. Reports on the rate and success of deployment; and,
7. Documentation of success criteria.

Task 6 - Within one (1) year from the issuance date of the Notice to Proceed but in no event earlier than October 7, 2008, the Contractor will set up and install the wine kiosks, video links, and other hardware/software components and in general, provide implementation support to ensure that the wine kiosk rollout is successful. The Contractor will maintain the wine kiosks for the remaining term of the contract.

Deliverable: The selected contractor will successfully install and make operational the proposed wine kiosks. Installation will include placing the wine kiosks in the location designated by the PLCB and, with the PLCB's networking, making them operational. The selected contractor will maintain the wine kiosks for the remaining term of the contract.

5. **REPORTS AND PROJECT CONTROL** - The Contractor shall submit reports, receipts, forms and/or controls as the PLCB shall require.

A. Project Plan

The Contractor must prepare, maintain and provide to the PLCB a detailed project plan for each task outlined in this Contract. The plan must clearly establish the work elements of each task, the resources assigned to each element, the time allotted to each element, task dependencies and deliverable items to be produced.

B. Progress Reports

The Contractor shall prepare and submit to the PLCB written weekly progress reports during Tasks 1, 2, 3, 4, 5, and 6 addressing project status, significant accomplishments during the reporting period, problems, and recommendations for resolution. Reports must be in electronic format to the PLCB Contact Person by Tuesday of each week for the previous week and will show progress through the entire week.

C. Project Meetings

During the course of work, the Contractor's Project Manager and the PLCB will hold regularly scheduled conference calls at mutually agreeable times. In addition, the Contractor shall attend project meetings with the PLCB approximately one (1) time per month. The meetings will take place in Harrisburg, Pennsylvania or by videoconference. The PLCB Contact Person will schedule all meetings. The purpose of these meetings may include, but will not be limited to, project status and presenting recommendations and strategies.

6. **PROJECT CHANGE CONTROL PROCEDURES** - The PLCB reserves the right to issue change orders at any time during the term of the Contract or any extensions or renewals thereof. Any such change order shall be in writing and signed by the Contact Person. Changes relating to the work to be accomplished by the Contractor under the Contract

may be requested at any time by either party to the Contract. The change order shall be effective as of the date appearing on the change order, unless the change order specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract. The Contractor must provide written notice to the PLCB when such a change order will result in increased costs or delay of deliverables. In such a case, the PLCB and the Contractor shall negotiate and agree on appropriate fees for services or materials required under the change order within ten (10) days of the required effective date of the change order.

The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required under any change order shall be handled through Paragraph 23, Contract Controversies.

For purposes of this Contract, "change order" is defined as a written order signed by the Contact Person directing the Contractor to make changes authorized under this Paragraph 6.

This procedure will be used by the PLCB and the Contractor to control changes relating to the work to be accomplished by the Contractor. It will also be used if modifications to deliverables are requested.

- A. The PLCB or Contractor personnel requesting the change will write a Project Change Request (PCR) which describes the change, and includes the necessary rationale and/or effect the change will have on the project. PCRs shall be numbered sequentially, starting with number one.
- B. The PLCB Contact Person or Contractor Project Manager, as appropriate, will review the proposed change. It is then accepted or rejected by the other party. If rejected, the PCR is returned to the originator.
- C. The PLCB Contact Person and Contractor Project Manager will weigh the merits of the proposed change and approve it or reject it for the cost estimated by the Contractor to investigate the PCR.
- D. Appropriate work will take place after approval for investigation. After determination by the Contractor of the effects on price and schedule, the proposed change will be approved or disapproved by the PLCB.
- E. Each PCR approved in the PCR process must be signed by both parties and will be incorporated into the Contract and will not require any additional written Contract amendment(s), provided that the PCR process may be used in this manner only to accomplish the expeditious approval of necessary modifications

or other project deliverables, previously unforeseen. However, it may not be used to modify other Contract language or any other terms or conditions of the Contract.

7. **SPECIAL SERVICES** - Upon request of the PLCB, the Contractor shall perform special services, not otherwise provided for in this Contract, at rates mutually agreed upon in writing.

8. **ACCEPTANCE** -

A. The Contractor shall notify the PLCB when each deliverable is completed and ready for acceptance by the PLCB. Unless otherwise agreed to in writing by the parties, the acceptance period shall be as set forth in the deliverables for each task as contained in Paragraph 4 of this Contract.

B. Following receipt by the PLCB of the Contractor's notification of completion of a particular task, as set forth in Paragraph 4 of this Contract, the PLCB shall either:

1. Provide the Contractor with its written acceptance of the deliverable for that task or,

2. Identify to the Contractor, in writing, the failure of the deliverable to comply with the PLCB's specifications, listing all such errors and omissions with reasonable detail.

- C. If a deliverable is not acceptable, the Contractor must provide written justification for its failure or deviation. The PLCB may either waive the requirement as not applicable to the PLCB's business requirements, or require that the Contractor provide an alternative acceptable to the PLCB. Any waiver of the requirement must be in writing.
- D. Upon the Contractor's receipt of the PLCB's written notice of rejection, the Contractor shall have fifteen (15) business days, or such other time as the PLCB and the Contractor may agree in writing is reasonable, within which to correct failures and to re-submit the corrected deliverable to the PLCB certifying, in writing, that the failures have been corrected. Upon receipt of such corrected and resubmitted deliverable and certification, the PLCB shall have thirty (30) business days to review the deliverable and to confirm that it is acceptable and provide the Contractor with its acceptance of the deliverable for the completed task.
- E. If, in the opinion of the PLCB, the corrected deliverable still contains material failures, the PLCB may, in its sole discretion, either:
1. Repeat the procedure set forth above,
 2. Invoke penalties against the Contractor pursuant to

Paragraph 9, Liquidated Damages, or

3. Terminate the Contract pursuant to Paragraph 24, Termination Provisions, and pursue any and all remedies to which the PLCB is entitled under this Contract and/or at law or in equity.

9. **LIQUIDATED DAMAGES PROVISIONS -**

- A. These liquidated damages provisions shall be in addition to and not in substitution of any other remedy or remedies available to the PLCB at law or in equity.

- B. By accepting this Contract, the Contractor agrees to the delivery and schedule requirements of this Contract. If the Contract schedule is not met or certain agreed deliverables are not delivered pursuant to the Contract requirements, the delay and/or failure to deliver will interfere with the PLCB's programs and operations. In the event of any such delay or downtime, it would be impractical and extremely difficult to establish the actual damage for which the Contractor is the material cause. The PLCB and the Contractor, therefore, agree that, in the event of any such delay or failure to deliver, the amount of damage potentially assessable shall be the amount to be set forth in this Paragraph 9 and agree that the Contractor, at the PLCB's discretion, shall pay such amount as liquidated damages, not as a

penalty. Such liquidated damages are in lieu of all other damages arising from such delay, failure or downtime. The Contractor agrees that the PLCB shall have the right to recover damages, in the amount equal to the damages incurred, by deduction from the Contractor's performance bond for this Contract or from any other Commonwealth contract, or by direct billing to the Contractor.

- C. The parties agree that delays by the Contractor in meeting deadlines may result in damages to the PLCB.
- D. To the extent that the delay is caused by the PLCB or any third party (other than the Contractor's subcontractors), no liquidated damages will be applied.
- E. The Contractor shall not be liable for liquidated damages if the delay to the Contract arises out of causes beyond the control of and without the fault or negligence of the Contractor and/or its subcontractors. Such causes may include, but are not limited to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, general strikes or work stoppages throughout the trade, freight embargoes, acts of terrorism, or unusually severe weather; but in every case, the delay must be beyond the control of, and without the fault or negligence of, the Contractor and/or its subcontractors. The Contractor shall notify

the PLCB immediately in writing of its inability to perform because of a cause beyond the control of the Contractor and/or its subcontractors.

10. **OFFICE SPACE** - The PLCB will have no obligation to provide any office space to the Contractor. The PLCB will, however, work with the Contractor to the best of its ability to ensure that sufficient space is made available to the Contractor to accomplish the project while on site.

11. **EQUIPMENT AND MATERIALS** - The Contractor shall furnish all software, materials, and other necessary equipment for its employees to perform its Contractual requirements. All equipment provided by the Contractor shall remain the property of the Contractor.

12. **INSURANCE AND SURETY** –

A. **Insurance** - Except as provided for in Subparagraph 12.A.3 below, the Contractor shall purchase and maintain at its expense for the term of the Contract the following types of insurance, issued by companies and evidenced by policies, both of which are acceptable to the PLCB.

1. **Workers' Compensation Insurance** – The Contractor shall obtain workers' compensation insurance sufficient to cover all of the employees of the Contractor or any subcontractor

working to fulfill this Contract.

2. Comprehensive General Liability and Property and Damage Insurance - The Contractor shall obtain Comprehensive General Liability and Property Damage Insurance in an amount not less than one million dollars (\$1,000,000.00) for injury to or death of one (1) person in a single occurrence, and three million dollars (\$3,000,000.00) for injury to or death of more than one (1) person in a single occurrence, and five hundred thousand dollars (\$500,000.00) for a single occurrence of property damage.

The Contractor shall submit to the PLCB current certificates of insurance naming the PLCB as an additional insured within ten (10) days after written notice to furnish such certificates before the PLCB will issue the Notice to Proceed. Upon the PLCB's written request, the Contractor shall provide the PLCB with a copy of any policy, which names the PLCB as an additional insured. These certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or changed until at least thirty (30) days prior written notice has been given the PLCB. Copies of such notification shall be sent to the Contracting Officer.

The Contractor also agrees to authorize any provider of insurance coverage required under this Contract, to notify the Contracting Officer of any notices or premiums due by sending a copy of such notice to the Contracting Officer. The PLCB reserves the right, in the event of any default by the Contractor on any premiums due hereunder, to cure said default and to deduct such premiums from any monies due the Contractor.

If the Contractor does not maintain insurance as required by this Paragraph 12, the Contractor will be considered in default of this Contract pursuant to Paragraph 21, Default.

3. Flood Insurance – If applicable, the Contractor shall maintain flood insurance insuring the interest of the PLCB in all PLCB materials in the custody of the Contractor. The amount of the insurance maximum will be based upon the allowable insurance available for that specific site. This clause is applicable to any and all facilities/equipment of the Contractor used to perform the requirements of this Contract which are situated in a flood plain designated by the United States (U.S.) government.

B. Personal Injury/Property Damage - Without in any way limiting the scope of Subparagraph 12.A above, the Contractor shall be liable for all personal injuries or property damage to invitees while

on the Contractor's or the PLCB's property caused by the negligence of the Contractor. The Contractor shall also be liable for any injuries or damages sustained by the PLCB, its agents, servants, employees or invitees resulting from the negligent activities of the Contractor, its agents, servants, employees or invitees. The Contractor shall also be liable for any and all harm to PLCB merchandise resulting from the care, maintenance, installation and/or operation of the wine kiosks.

- C. **Occupational Safety and Health Requirements** - All matters dealing with the health, welfare and working conditions of the Contractor's employees are the responsibility of the Contractor. The Contractor agrees to comply with all local, state and federal regulations governing health, welfare and occupational safety standards.
- D. **Performance Surety** –The Contractor agrees to furnish, at its own expense, a performance bond or other performance guarantee acceptable to the PLCB in the amount of three million dollars (\$3,000,000.00) and which is renewable annually for the term of the Contract. Forms of performance guarantees acceptable to the PLCB include performance bonds, irrevocable letters of credit or certified or cashier's/bank checks. The initial performance guarantee must be submitted to the PLCB within ten (10) calendar days after written notice from the PLCB to furnish

such surety before the PLCB will issue the Notice to Proceed (see Paragraph 3, Term of Contract). Any subsequent performance surety must be in place thirty (30) calendar days before the expiration of the current performance surety. This Contract shall be included by reference in its entirety on the performance surety without exclusion. The performance surety shall guarantee the Contractor's performance in all aspects of the contents and provisions of this Contract. If the Contractor is unable to secure a performance bond or other acceptable performance guarantee, the Contractor will be considered in default of the Contract pursuant to Paragraph 21, Default.

13. CONDUCT OF SERVICE -

- A. **Work Performance** - Unless otherwise provided herein, the Contractor shall furnish all necessary qualified personnel and equipment to perform the requirements set forth in the Contract. Unless otherwise mutually agreed by the parties, all services required in the Contract shall be performed within the time periods specified in the Contract. In determining whether or not the Contractor has performed with due diligence hereunder, it is agreed and understood that the Contact Person may measure the amount and quality of the Contractor's effort against the representations made by the Contractor and in comparison with the schedules and guidelines established by the PLCB under this

Contract in determining the extent of services to be provided. The Contractor shall be compensated in accordance with the terms and conditions of this Contract. The Contractor's work hereunder shall be carried out under the supervision of the Contact Person. The PLCB will, within five (5) days of the Effective Date of this Contract, provide the Contractor with the name of the Contact Person.

1. **PLCB Policies/Procedures** - The Contractor shall use and follow all policies, practices, systems, and procedures as provided by the PLCB for use by the Contractor in executing all services required herein, unless otherwise approved in advance by the Contact Person.

2. The Contractor is required to replace any staff member(s) within five (5) calendar days of notification by the PLCB, if in the opinion of the PLCB, the identified staff member is not performing his or her duties to the reasonable satisfaction of the PLCB or is deemed not qualified by the PLCB to perform his or her duties.

- B. **Clerical/Administrative Costs** - The Contractor is responsible for and agrees to pay for all clerical and administrative costs which it incurs incidental to the terms and conditions of this Contract.

- C. **Offset Provision** - The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other debt or obligation of the Contractor or its subsidiaries that is owed to the Commonwealth and is not being contested on appeal against any payments due the Contractor under this or any other contract with the Commonwealth.
- D. **Nondiscrimination/Sexual Harassment Clause** - The Contractor agrees to the conditions of Appendix A of PLCB RFP 20080318, as incorporated herein by reference.
- E. **Contractor Integrity Provisions** - The Contractor agrees to the conditions of Appendix D of PLCB RFP 20080318, as incorporated herein by reference.
- F. **Liquor Code** - The Contractor agrees to the conditions of Appendix B of PLCB RFP 20080318, as incorporated herein by reference.
- G. **Adverse Interest Act** - The Contractor agrees to the conditions of Appendix C of PLCB RFP 20080318, as incorporated herein by reference.

- H. **Americans with Disabilities Act** - The Contractor agrees to the conditions of Appendix H of PLCB RFP 20080318, as incorporated herein by reference.
- I. **Contractor Responsibility Provisions** - The Contractor agrees to the conditions of Appendix G of PLCB RFP 20080318, as incorporated herein by reference.
- J. **Covenant Against Contingent Fees** - The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the PLCB shall have the right to terminate this Contract, in writing, without liability, or, in its discretion, to deduct from the Contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.
- K. **Licenses Required** - The final award of this Contract is contingent upon the satisfactory issuance to the Contractor of any appropriate federal, state or local license, or permit legally necessary to operate.

L. **Other Contractors** - The Contractor, its servants, agents and employees shall fully cooperate with and not restrict facility access to other PLCB/Commonwealth contractors and/or employees inasmuch as the performance of work of such other contractors and/or Commonwealth employees is related to the operation of the PLCB's business. The Contractor, its servants, agents and employees, shall not commit or permit any act which will interfere with the performance of work by any other PLCB/Commonwealth contractor and/or employees. This Subparagraph 13.L shall be included in the contracts of all contractors with whom this Contractor will be required to cooperate in the performance of this Contract. The PLCB shall equitably enforce this Subparagraph 13.L on all contractors to prevent the imposition of unreasonable burden upon any contractor. The Contractor shall be responsible for any costs incurred by the PLCB/Commonwealth or the PLCB/Commonwealth contractors for violations of this Subparagraph 13.L.

M. **Environmental Provisions** - In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations (local, state and federal).