

- i) The chemical name or common name,
- ii) A hazard warning, and
- iii) The name, address, and telephone number of the manufacturer.

b. Hazardous Mixtures:

- i) The common name, but if none exists, then the trade name,
- ii) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
- iii) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
- iv) A hazard warning, and
- v) The name, address, and telephone number of the manufacturer.

c. Single Chemicals:

- i) The chemical name or the common name,
- ii) A hazard warning, if appropriate, and
- iii) The name, address, and telephone number of the manufacturer.

d. Chemical Mixtures:

- i) The common name, but if none exists, then the trade name,
- ii) A hazard warning, if appropriate,
- iii) The name, address, and telephone number of the manufacturer, and

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- iv) The chemical name or common name of either the top five (5) substances by volume or those substances consisting of 5.0% or more of the mixture.

A common name or trade name may be used only if the use of the name more easily or readily identifies the true nature of the hazardous substance, hazardous mixture, single chemical, or mixture involved.

Container labels shall provide a warning as to the specific nature of the hazard arising from the substance in the container.

The hazard warning shall be given in conformity with one of the nationally recognized and accepted systems of providing warnings, and hazard warnings shall be consistent with one or more of the recognized systems throughout the workplace. Examples are:

- NFPA 704, Identification of the Fire Hazards of Materials.
- National Paint and Coatings Association: Hazardous

Materials Identification System.

- American Society for Testing and Materials, Safety Alert Pictorial Chart.
- American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

Labels must be legible and prominently affixed to and displayed on the product and the carton, container, or package so that employees can easily identify the substance or mixture present therein.

2. Material Safety Data Sheet - The Contractor shall provide Material Safety Data Sheets (MSDS) with the information required by the Act and the regulations for each hazardous substance or hazardous mixture. The PLCB must be provided an appropriate MSDS with the initial shipment and with the first shipment after an MSDS is updated or product changed. For any other chemical, the Contractor shall provide an appropriate MSDS, if the manufacturer, importer, or supplier produces or possesses the MSDS. The Contractor shall also notify the PLCB when a substance or mixture is subject to the provisions of the Act. Material Safety Data

Sheets may be attached to the carton, container, or package mailed to the PLCB at the time of shipment.

14. **PLCB HELD HARMLESS** - The Contractor shall be responsible for and agrees to indemnify, defend, save and hold harmless the PLCB and the Commonwealth, its officers, agents and employees from damages to property or injuries to any person(s), including the Contractor's employees or agents, and from any other losses, damages, expenses, claims, demands, suits, and actions by any party against the PLCB and/or the Commonwealth which arise from or are related or connected to the negligence or willful misconduct of Contractor.

15. **DISADVANTAGED BUSINESS PARTICIPATION AND ENTERPRISE ZONE SMALL BUSINESS PARTICIPATION** -

The Contractor agrees to meet and maintain those commitments made to Disadvantaged Businesses and/or Enterprise Zone Small Businesses at the time of proposal submittal or Contract negotiation, unless a change in the commitment is approved by the Bureau of Minority and Women Business Opportunities ("BMWBO") of the Department of General Services. All Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors, and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture must perform at least fifty percent (50%) of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business portion of the joint venture.

Commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or Contract negotiation must be maintained

throughout the term of this Contract. Any proposed change must be submitted to BMWBO, which will make a recommendation as to a course of action to the PLCB. The PLCB shall retain final approval authority for any change to this Contract.

If the Contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Businesses participation and/or Enterprise Zone Small Business participation of the original Contract.

The Contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the Contracting Officer of the PLCB and BMWBO within ten (10) workdays at the end of each quarter the Contract is in force. If there was no activity, the form must also be completed, stating "No activity in this quarter." This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Businesses and/or Enterprise Zone Small Businesses involved in Joint Ventures. Also, it is a record of fulfillment of the commitment the Contractor made and for which it received Disadvantaged Business and Enterprise Zone Small Business points.

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE

PROOF OF DISADVANTAGED BUSINESS STATUS OR ENTITLE A PROPOSER TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESS UTILIZATION.

16. **DOMESTIC WORKFORCE UTILIZATION** - The Contractor agrees to use and maintain, except as otherwise authorized by the PLCB and/or the Commonwealth, the percentage of domestic workforce as set forth in **Appendix K** of the RFP as completed by the Contractor and is incorporated herein by reference.

17. **WINE KIOSK OPERATIONS** –

- A. The PLCB's use of the wine kiosks in the Commonwealth of Pennsylvania represents the initial commercialization of this equipment and its constituent technology. Because there currently is no precedent for accurately assessing the fair market value associated with a retailer's use of the wine kiosks, the Contractor is furnishing the equipment pursuant to this Contract on a rent-free basis. However, the Contractor shall provide promotional services on a fee-for-service basis to participating wine suppliers in the form of, including, but not limited to, producing proprietary software and product display programming that will enable consumers to use the kiosk's video monitor and keyboard to learn about a specific brand of wine contained in the wine kiosks. The Contractor shall collect a fee on a per-brand/per-module basis from each supplier who engages the company to produce such a computer interface display. Moreover, the fee charged by the Contractor to produce and administer its brand-specific display will be uniform, i.e. the same fee will be levied on each supplier for each brand

where such services are requested and provided, regardless of the number of brands, if any, a supplier has in any wine kiosk.

No fees are charged or revenues received by the Contractor based on actual sales of wine or any other alcohol beverage.

- B. The Contractor agrees, within twelve (12) months of the Contract Effective Date, to establish an irrevocable Letter of Credit for the benefit of the PLCB, in form satisfactory to the PLCB, with a U.S. banking institution of good repute in the amount of \$1,000,000.00. On a quarterly basis during each fiscal year thereafter, starting with the first fiscal year following beta testing, the PLCB may elect to review its Gross Profits and Wine Kiosk sales patterns up to the date of such review. If the PLCB reasonably determines that, based on the PLCB's review of its Gross Profits and Wine Kiosk sales patterns, the existing Letter of Credit will not be sufficient to cover its Shortfall for that fiscal year, the PLCB may direct that the Contractor increase the Letter of Credit for that fiscal year (subject at all times to the limit of \$2,200,000). Within thirty (30) days of such request, the Contractor shall increase the Letter of Credit as requested, subject at all times to the a limit of \$2,200,000. Regardless of any such increase, following payment of any Shortfall, the Letter of Credit can be reset to the greater of \$1,000,000 or the amount of the Shortfall for the previous fiscal year. At the end of the first fiscal year following the initial establishment of the Letter of Credit and every fiscal year thereafter, the PLCB shall calculate its total Actual Operating Expenses and

Gross Profits for the just completed fiscal year. If and to the extent that the PLCB's total Actual Operating Expenses in any fiscal year, exceed the PLCB's Gross Profits for the applicable fiscal year, the Contractor will reimburse the PLCB for the Shortfall as set forth below. For the first year of the Contract, the figure used as Actual Operating Expenses shall not exceed \$2,200,000 regardless of the actual monies expended by the PLCB. After determining its Actual Operating Expenses, as set forth above, and Gross Profits, the PLCB shall provide the Contractor with a report evidencing its Actual Operating Expenses, the Shortfall (if any) and invoice the Contractor for payment of the Shortfall. The Contractor shall, within thirty (30) days of its receipt of the invoice, remit to the PLCB the amount due and owing. Failure by the Contractor to remit said amount shall permit the PLCB to present a request for the deficiency to the issuing banking institution for payment. The PLCB shall use reasonable efforts to minimize its Actual Operating Expenses, including but not limited to the ERP integration costs. For each fiscal year thereafter, the figure used as Actual Operating Expenses, for purposes of determining the Shortfall, shall not exceed one hundred ten percent (110%) of the figure used as Actual Operating Expenses during the previous fiscal year.

- C. The Contractor agrees to renew and/or extend the Letter of Credit once each fiscal year during the term of the Contract, and, if necessary, to increase its amount so that it remains in effect for one fiscal year following the end of the Contract term. Failure to deliver the Letter of Credit, including annual renewals

and replenishments, shall constitute a breach of this Contract, which shall permit the PLCB to terminate this Contract, after forty-five (45) days written notice to the Contractor of its failure to deliver or replenish the Letter of Credit, unless the Contractor has cured such failure during such forty-five (45) day period.

- D. The PLCB has, at all times relevant to performance of this Contract, the sole discretion to determine staffing levels required for successful operation of the wine kiosks and associated functions, including, but not limited to, the customer service center, fulfillment operations and vehicle operations. Notwithstanding this Subparagraph, the PLCB agrees to consult with the Contractor regarding any material change to said staffing levels during the term of this Contract.
- E. If required as part of the specifications agreed to by the parties following the Contractor's due diligence, the Contractor shall, at its cost, supply Radio Frequency Identification ("RFID") tags. In such case, the PLCB shall affix one (1) RFID tag to each bottle placed for sale in a wine kiosk.
- F. The Contractor shall insure that the wine kiosks operate in such fashion so that a paper receipt is issued to each customer at the conclusion of each transaction. The PLCB shall be responsible for supplying and maintaining the paper for such receipts and restocking the wine kiosks with the paper.
- G. The parties have agreed that the Contractor will use one of the two specified technologies that have been identified by the Contractor as of the Effective Date to test the blood alcohol level of potential customers. The parties may mutually agree to use a different technology to test the blood alcohol level of potential customers. The parties recognize that such technology continues to evolve in

the marketplace. The Contractor agrees, during the term of this Contract, to implement for the wine kiosks, subject to this Contract and the PLCB's written approval, any improvements, upgrades, enhancements or any other features that have been proven to provide a material advantage over the technology initially used by the Contractor in the design of the wine kiosks provided that such technology is commercially available. The Contractor shall bear any and all costs associated with such improvements, upgrades, enhancements or other features. For the avoidance of doubt, the foregoing does not obligate the Contractor to engage third parties to research, develop or create such technology.

- H. At all times during the term of this Contract, the PLCB shall have the sole discretion to determine the location and placement of the wine kiosks for use by its customers; provided that all locations meet the networking and connectivity requirements agreed to by the parties. Agreements for the locations shall be completed by the PLCB in accordance with the timelines agreed to by the parties. If, during the term of this Contract, the PLCB determines that it is in the PLCB's best interests to relocate one (1) or more of the wine kiosks, the PLCB shall notify the Contractor, and the parties will mutually agree, in writing, upon the moving arrangements. The wine kiosks will be moved by the Contractor. Any costs associated with moving any wine kiosks from their initial retail locations during the first twelve (12) months following the date of issuance of the Notice to Proceed shall be borne by the PLCB. Any costs associated with moving any

wine kiosks from any one (1) retail location to another retail location at any time after the first twelve (12) months following the date of installation of the first kiosk shall be borne mutually by the parties in equal amounts. Any costs associated with moving any wine kiosks from their retail locations at any time for maintenance, repair, upgrade or any other purpose related to defects with the wine kiosks shall be borne by the Contractor.

- I. At all times during the term of this Contract, the Contractor shall provide any and all maintenance services related to each wine kiosk, at no cost to the PLCB. Maintenance services include, but are not limited to, repairing the hardware and software in the kiosks, correcting material defects to the exterior and interior of the wine kiosks, and in general, any operation other than those listed in Paragraph 4.H, needed to ensure that the wine kiosks are capable of operation. Maintenance services do not include repairs of defects caused by (i) changes to the wine kiosks made by the PLCB or its agents not otherwise agreed to by the parties under Paragraph 4, (ii) negligence, misuse or abuse by the PLCB or its agents, or (iii) defects with any equipment, software, resources or materials provided by the PLCB.

- J. At all times during the term of this Contract, the Contractor shall replace or repair a wine kiosk that is damaged by third parties, or by fire, vandalism, flood or other such acts or occurrences not attributable to the parties to this Contract. The Contractor shall repair or replace such damaged wine kiosks as soon as

reasonably possible under the circumstances. The Contractor shall provide access to telephone and hardware break/fix support as set forth in Exhibit E. Remote troubleshooting of the wine kiosks is the responsibility of the Contractor, as are the repair and service of all Contractor-supplied equipment. The PLCB is not required to provide on-site or remote diagnostics prior to placing a service call with the Contractor.

If any wine kiosk shall be out of service for a period in excess of forty-eight (48) consecutive hours, the most senior executive member, partner, employee or agent of the Contractor shall immediately contact the PLCB Contact Person directly to discuss resolution of the underlying problem.

In the event that PLCB-supplied equipment fails (e.g. the router), the Contractor will provide access to the wine kiosk to the PLCB's designated service provider on a mutually agreed to schedule based on the PLCB's service contract with that service provider. The Contractor will not be responsible for service delays due to (i) the failure of the PLCB-supplied equipment or (ii) PLCB's service provider or its contracts.

K. The Contractor agrees to pay to the PLCB any losses or costs incurred by the PLCB associated with payment card transactions conducted via the wine kiosks, except those standard per transaction fees required to be paid by the PLCB pursuant to its contracts with its payment card services providers.

L. As per Section IV-3.e.v of the RFP, the wine kiosks will process credit card

transactions through the IBM StorePay software installed at the PLCB, which is currently used for processing credit, debit and gift card transactions. The wine kiosks will be linked to the PLCB's network via the Cisco router installed in each wine kiosk, and connected to the Commonwealth's network via the Commonwealth's network provider, Level-3 and the Commonwealth's existing telecommunications contract. The wine kiosks will link to the existing StorePay software and utilize the Commonwealth's network, so that the PLCB will continue to be compliant with Payment Card Industry Security Specifications (PCI DSS).

- M. If, at any time during the term of this Contract, the Contractor determines that it will no longer do business, or otherwise terminates this Contract (other than for a material breach of the PLCB), the PLCB shall have the option (as of the date that Contractor elects to no longer do business or the effective date of any such termination) of purchasing any and all of the wine kiosks supplied pursuant to this Contract at fair market value on the date of the PLCB's purchase of the wine kiosk from the Contractor. All wine kiosks shall be sold on an "AS-IS" basis without warranty of any kind. For the avoidance of doubt, the Contractor's obligations under Paragraph 13 and this Paragraph 17 will not survive termination of this Contract and the Contractor will not have any obligation to continue to maintain the wine kiosks following the purchase of any wine kiosks by the PLCB.
- N. The PLCB recognizes that the Contractor intends to host visual content, including third party advertisements, on video monitors installed on the wine kiosks. Such visual content shall be limited to the hours that the wine kiosks are available to transact business. The PLCB shall provide the Contractor, at such times as the parties may reasonably agree, with the hours that each kiosk is available to

transact business.

- O. The PLCB shall, at no cost to the PLCB, be permitted to issue public service announcements via the video monitors installed on the wine kiosks, the timing and content of which shall be mutually agreed upon in writing by the parties. Such public service announcements will be no longer than thirty (30) seconds in length. The Contractor will not be obligated to show such public service announcements more than four (4) times per hour for every hour that the wine kiosks are available to transact business.

- P. The Contractor recognizes that PLCB proposes to upgrade its current POS system within the next few years. At such time, the Contractor shall conduct additional due diligence to determine the appropriate steps required to appropriately upgrade the wine kiosks. As soon as the PLCB has the data specification requirements for the Oracle Point-of-Service's interface to the Oracle Retail Central Office and the new payment card processing switch, the PLCB shall provide a copy of such specifications to the Contractor, and Contractor and the PLCB shall jointly develop appropriate data specification requirements for the wine kiosks. Once the upgrade begins, the Contractor will begin to plan to upgrade the wine kiosks to meet the new, mutually agreed upon data specification requirements for the Oracle Retail Central Office System and payment processing switch. The Contractor will take the steps necessary to upgrade the wine kiosks data exchange module in accordance with a schedule that will be mutually agreed upon by both parties. The Contractor will be responsible for all costs associated with the upgrade of the wine kiosks as described in this Paragraph. The PLCB acknowledges that the rollout schedule may have to be modified, depending on the timing of the rollout compared to the

initiation of the POS upgrade. The parties agree to work in good faith to revise the rollout schedule as appropriate. The PLCB further agrees that it must provide the Contractor with all software, access, and personnel as reasonably required and requested by the Contractor to facilitate appropriate due diligence and testing.

18. **CLAIMS** – The Contractor agrees that all undisputed claims presented by the PLCB to the Contractor shall be paid within thirty (30) days from the claim date. The PLCB agrees that all undisputed claims presented by the Contractor to the PLCB shall be paid within thirty (30) days from the date the claim is received by the PLCB. The Contractor agrees that any dispute of a claim presented by the PLCB shall be submitted by the Contractor in writing within thirty (30) days of the claim date to the PLCB Claims and Statistics Section, Room 308, Northwest Office Building, Harrisburg, PA 17124-0001. Failure to submit timely a dispute to the claim shall be considered the Contractor's agreement to the propriety of the claim and a waiver of the Contractor's rights under Paragraph 22, Contract Controversies. If a timely dispute is filed to a claim presented by the PLCB, the Contractor may present evidence to the PLCB in support of its dispute. The PLCB will respond in writing to the Contractor's dispute within thirty (30) days from the filing date of the Contractor's dispute. Following the resolution of the dispute, the Contractor must pay the remaining amount of the disputed claim within fifteen (15) days of the resolution of the dispute. If such reimbursement is due in accordance with Paragraph 17.B, then such reimbursement shall be remitted via the Letter of Credit at the end of the then-current fiscal year, notwithstanding whether any remittance is otherwise due to the PLCB from the Contractor pursuant to Paragraph 17.B of this

Contract. The PLCB's written response to the Contractor's dispute shall be final, conclusive, binding and non-reviewable in all respects unless the Contractor files a claim in the Commonwealth Board of Claims within thirty (30) days of the date of the PLCB's written response to the Contractor's dispute. Payment, if any, under Paragraph 17.G. for shortfalls, shall not constitute a claim and must be paid in accordance with the terms of that paragraph and the Contract. For the avoidance of doubt, while the PLCB does not have to appeal to the Board of Claims to collect a shortfall, Contractor does have the right to file an appeal with the Commonwealth Board of Claims in the event it disputes the amount of any claimed shortfall by the PLCB.

19. **DISCHARGE** - Notwithstanding any other notice provisions contained in this Contract, if during the term of the Contract, or any additional period or extension thereof, the PLCB is required to discontinue operations through actions taken by the courts, the state or federal government, or by action or inaction of the General Assembly of the Commonwealth of Pennsylvania, or some other cause beyond the control of the PLCB, this Contract shall immediately expire and both parties are discharged from all terms, conditions and covenants in this Contract. As promptly as is practicable following termination of this Contract for any reason, the PLCB shall empty the wine kiosks it does not want to buy and remove all of its inventory from those wine kiosks, Contractor shall remove all PLCB-emptied wine kiosks, broom clean and return each leased area to no worse than its condition when the unit was placed, except for reasonable wear and tear, and advise the PLCB when each leased area has been vacated. Upon financial reconciliation of any amounts owed by the parties, obligations shall be fully

satisfied within sixty (60) days or as the parties may otherwise mutually agree.

20. DEFAULT -

A. The PLCB may, subject to the provisions of Paragraph 21, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph 23, Termination Provisions and subject to the notice and cure provisions contained therein) the whole or any part of this Contract for any of the following reasons:

1. Failure to provide wine kiosks that are in conformance with the specifications referenced in the Contract, subject to the Contractor's right to correct defects as specified in Paragraph 8 (subject to the terms of Paragraph 20.F);
2. Discontinuance of work without approval;
3. Failure to resume work which has been discontinued within a reasonable time after notice to do so;
4. Insolvency or bankruptcy;
5. Assignment made for the benefit of creditors;
6. Failure to provide the Letter of Credit as specified in Paragraph 17 of this Contract.
7. Insolvency as specified in Paragraph 24 of this Contract.
8. Breach of any provision of this Contract (subject to the terms of Paragraph

20.F).

- B. If the Contract is terminated as provided in Paragraph 20.A above, the PLCB, in addition to any other rights provided in this Paragraph 20, may require the Contractor to transfer title and deliver immediately to the PLCB in the manner and to the extent directed by the PLCB, any property of the PLCB and such partially completed work, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated.
- C. The rights and remedies of the PLCB provided in this Paragraph 20 shall not be exclusive and are in addition to any other rights and remedies provided by law or at equity or under this Contract.
- D. The PLCB's failure to exercise any rights or remedies provided in this Paragraph 20 shall not be construed to be a waiver by the PLCB of its rights and remedies in regard to the event of default or any succeeding event of default.
- E. Following exhaustion of the Contractor's administrative remedies as set forth in Paragraph 22, Contract Controversies, the Contractor's exclusive remedy shall be to seek damages in the Commonwealth Board of Claims.
- F. While materiality has not been listed as a condition to the PLCB's right to

terminate the Contract, the parties have agreed that the PLCB will not exercise its termination rights under this Contract unless Contractor's defaults under this Contract are material in respect to the Contractor's overall obligations under this Contract. For example, the Contractor's failure to deliver up to ten (10) percent of the wine kiosks due on a particular, agreed upon date, would not be deemed material. Similarly, the Contractor's failure to correct a defect with, or maintain up to eight (8) percent of the Wine Kiosks then in operation would not be deemed material.

21. **FORCE MAJEURE** - Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, diseases, or elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of national, local or foreign governmental authorities or courts, national or state of emergencies, or changes in laws; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment, expropriation, condemnation of facilities or destruction, in whole or part, of the equipment or property necessary to perform the services; (f) delays or failures caused by third-party nonperformance (except that a party will not be excused for delays or failures caused by such party's subcontractors or agents unless the event or circumstance is a Force Majeure Event as to such subcontractor or agent) or (g) any other similar cause beyond the reasonable control of

a party provided that such event could not have been prevented by reasonable precautions (each, a "Force Majeure Event").

The Contractor shall notify the Contact Person orally immediately, but not later than close of business next business day, and in writing within ten (10) days, of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect(s) on performance, (ii) state whether performance under the Contract is prevented or delayed, and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of providing that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the PLCB may reasonably request. After receipt of such notification, if the Contractor is unable to resume performance within forty-five (45) days of such notification and such failure impacts the Contractor's obligations under this Contract (subject to the terms of Paragraph 20), the PLCB may elect to either cancel the Contract or extend the time for performance, as reasonably necessary, to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the PLCB, by notice to the Contractor, may suspend all or a portion of the Contract. During such emergencies, the PLCB may adopt any available means to provide for the services required without any obligation to the Contractor.

22. CONTRACT CONTROVERSIES –

- A. In the event of a controversy or claim arising from the Contract, the Contractor must, within six (6) months after the cause of action accrues, file a written claim with the Contracting Officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum.
- B. The Contracting Officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within one hundred twenty (120) days of the receipt of any claim, unless extended by consent of the Contracting Officer and the Contractor. The Contracting Officer shall send his/her written determination to the Contractor. If the Contracting Officer fails to issue a final determination within one hundred twenty (120) days (unless extended by consent of the parties), the claim shall be deemed denied. The Contracting Officer's determination shall be the final order of the PLCB.
- C. Within fifteen (15) days of the mailing date of the determination denying a claim or within one hundred thirty-five (135) days of filing a claim, if no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final

judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the Contracting Officer, and the PLCB shall compensate the Contractor pursuant to the terms of the Contract.

- D. Nothing in this Contract shall preclude Contractor from seeking nonmonetary relief in another forum as provided by law.

23. **TERMINATION PROVISIONS** - The PLCB has the right to terminate this Contract, subject to the cure provisions contained in Section C below, for any of the following reasons:

- A. Pursuant to Paragraph 21, Force Majeure (subject to the terms of Paragraph 20).
- B. Non-Appropriation: The PLCB's obligation to make payments during any PLCB fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the PLCB shall have the right to terminate the Contract.
- C. Termination for Cause: The PLCB shall have the right to terminate the Contract for Contractor's default under Paragraph 20, Default, and in the event that Contractor breaches in any respect any of its obligations under this Contract, upon forty-five (45) days' prior written notice to the Contractor provided that the Contractor has not cured the breach during such forty-five (45) day period

(subject to the terms of Paragraph 20).

The Contractor is not entitled to any fees, payments or damages upon the PLCB's termination of this Contract under this Paragraph 23 (except any payments required under Paragraph 17.M).

24. **INSOLVENCY** - In addition to any other provisions of this Contract, regardless of any order of court, and not by way of limitation, if at any time during the term of this Contract, pursuant to any statute either of the United States or of any state, bankruptcy proceedings, voluntary or involuntary, and including Chapter XI - Reorganization of the Federal Bankruptcy Act; appointment of a receiver of all or a portion of the Contractor's property; or if the Contractor makes an assignment for the benefit of the creditors; or the Contractor assigns the Contract voluntarily or involuntarily by judicial sale or otherwise; and the same are not withdrawn, settled or disposed within thirty (30) days of filing, appointment or assignment, this Contract, at the option of the PLCB, exercised within a reasonable period of time of notice of the happening of any one (1) or more such events, may be cancelled and terminated and the Contractor shall be in default of the terms of this Contract. This provision shall in no way limit any other rights of the PLCB in the event of the Contractor's default of any other terms of this Contract. Notwithstanding the foregoing, the PLCB shall be entitled to purchase the wine kiosks pursuant to Paragraph 17.M.

25. **INDEPENDENT CAPACITY OF THE CONTRACTOR** - The Contractor and any agents

and employees of the Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers, employees or agents of the PLCB. Nor shall they, for any purpose, be deemed or considered officers, employees or agents of the PLCB.

26. **ASSIGNABILITY AND SUBCONTRACTING** -

- A. Subject to the terms and conditions of this Paragraph 26, this Contract shall be binding upon the parties and their respective successors and assigns.
- B. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may not be unreasonably withheld. The PLCB consents to the Contractor's use of the entities listed on Exhibit B as subcontractors to provide services under this Contract, to the extent that such entities are subject to Paragraph 13.1., Contractor Responsibility, and are not otherwise debarred in the Commonwealth.
- C. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may not be unreasonably withheld. Notwithstanding the foregoing, the PLCB acknowledges that the Contractor may pledge this Contract to a lender for the purpose of receiving financing.

- D. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.
- E. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer.
- F. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- G. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

27. **DOCUMENTATION** - The Contractor shall provide documentation as required by the

PLCB or the RFP, as incorporated herein by reference.

28. **EXAMINATION OF RECORDS** - The parties agree to maintain books, records, documents and other evidence pertaining to the conduct of the contracted services, and the use and operations of the wine kiosks. In the case of the PLCB such books and records shall include records and documentation required for the Contractor to confirm the PLCB's Actual Operating Expenses. Subject to and in accordance with the Commonwealth's information technology security and appropriate use policies, the parties agree to make available at their offices, at all reasonable times during the term of this Contract and for a period of three (3) years thereafter, any of those records pertinent to the conduct of the contracted services, verification of the PLCB's Actual Operating Expenses, and the use and operations of the wine kiosks, for inspection, audit or reproduction by any authorized representative of the parties. Additionally, the Contractor and its subcontractors shall be allowed to have remote secure access to each wine kiosk and other technical components contained therein, to allow the Contractor to perform its maintenance and support functions, and to access and view data relating to the wine kiosks, and the sales of wine from such wine kiosks.

29. **RESPONSIBILITY FOR PROPERTY DAMAGE** –

- A. The Contractor is responsible for damage to or loss of merchandise in the wine kiosks, including but not limited to burglary or theft of merchandise from the wine kiosks, provided that (1) such damage or loss is attributable to the wine kiosk(s) and (2) is not caused by the negligence or willful misconduct of the PLCB or its

employees or agents.

- B. The Contractor shall be responsible for any and all damage to PLCB premises and/or property or third party property, including but not limited to space leased by the PLCB for placement of the wine kiosks, caused by the Contractor while performing under this Contract.
 - C. The PLCB reserves the sole right to determine liability under this Paragraph 29 subject to the terms and conditions of Paragraphs 9, Limitation of Liability, 12, Insurance and Surety, and 18, Claims. For the avoidance of doubt, the foregoing determination by the PLCB does not restrict the Contractor's right to file an appeal with the Commonwealth Board of Claims.
30. **CONFIDENTIALITY** - The PLCB deems its documents, data, records and other information provided to the Contractor under this Contract, and any data (including, but not limited to, payment card data and blood alcohol levels) to which the Contractor has access (that is not Contractor Confidential Information, as defined below) while electronically accessing the wine kiosks, as "Confidential Information." The Contractor agrees not to disclose to any third party individual or organization the confidential information of the PLCB unless disclosure of such information is approved in writing by the PLCB or to the extent necessary for the Contractor to perform its obligations or exercise its rights under this Contract or is directed by a court or other tribunal of competent jurisdiction. The Contractor's use of such confidential information shall be

limited to use for its internal business purposes and such information shall not be disclosed to third parties without the PLCB's written approval. The Contractor shall protect the confidentiality of the confidential information of the PLCB in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, which shall be at least a commercially reasonable manner.

The term "Contractor Confidential Information" shall mean all business strategies, plans and procedures, business information, proprietary information, data and trade secrets of the Contractor, as well as any other information and materials that are deemed confidential or proprietary to or by the Contractor (including, without limitation, all information and materials of the Contractor's licensors and service providers). In addition, all software shall be treated by the PLCB as Contractor Confidential Information. The PLCB acknowledges and agrees that a duty is owed to the Contractor to maintain in strict confidence all Contractor Confidential Information provided to or learned or developed by the PLCB during the course of this Contract. The PLCB shall take all steps reasonably necessary to prevent the unauthorized disclosure or dissemination of such Contractor Confidential Information for any reason and to any person or entity, except with the prior written consent of the Contractor. In addition, the PLCB shall not use or copy any such Contractor Confidential Information, or authorize or permit others to use any such Contractor Confidential Information, for any purposes other than in connection with performance of the services hereunder. Nothing in this Contract shall prohibit or limit either parties' use of information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (i) previously known to it without an obligation of confidence, (ii) independently developed by or for it, (iii)

acquired by it from a third party which is not, to its knowledge, under an obligation of confidence with respect to such information, or (iv) which is or becomes publicly available through no breach of this Contract.

31. **AUDIT PROVISIONS** - In addition to any rights provided within this Contract, the Commonwealth shall have the right, upon reasonable notice during normal business hours and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, records, and documents that relate to costs or pricing data for the Contract for a period of three (3) years from the date of the final payment. The Contractor shall give full and free access to all records described herein to all representatives of the Commonwealth and/or its authorized representatives.

32. **INTEGRATION** -

- A. The Contract, including all referenced documents, constitutes the entire agreement between the parties. The PLCB waives all terms and conditions that are contained in documents that are different from or additional to the terms and conditions set forth in this Contract. No agent, representative, employee or officer of either the PLCB, except the Contact Person or his/her authorized designee, or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract,

which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments will be made using the appropriate Commonwealth form.

- B. To the extent possible, each provision of this Contract shall be interpreted in such manner as to be effective and valid under applicable law; but if any portion or provision of this Contract shall be held to be invalid, illegal or unenforceable, such portion or provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability without rendering invalid, illegal or unenforceable the remainder of such provision or the remaining provisions of this Contract.
- C. It is expressly understood that any practice between the Contractor and the PLCB that may deviate from the terms and conditions hereof, whether a single incident or arising out of a course of dealing, shall not be construed as a modification to this Contract, as prevailing over the terms and conditions hereof, or as a waiver of any provisions or terms contained herein.
- D. All headings in this Contract are for reference only and shall not be deemed as part of this Contract.
- E. If any conflicts or discrepancies should arise in the terms and conditions of this Contract, or the interpretation thereof, the order of precedence for resolution shall be:

1. The Contract.
2. Any riders or amendments to the Contract.
3. Any change orders.
4. The RFP.
5. The Contractor's Response to the RFP.

33. **APPLICABLE LAW** - This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have *in personam* jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

34. **NOTICES** – The parties agree that all legal notices pursuant to this Contract shall be sufficient if in writing and mailed certified United States mail, Return Receipt Requested, and all other communications shall be sufficient if in writing, and mailed prepaid first class United States mail or overnight courier and shall be effective on the date received, to the following addresses of the parties or such other addresses as may be designated from time-to-time by the parties in writing:

A. **As to the Commonwealth:**

Pennsylvania Liquor Control Board
Chief, Procurement Division
Room 413, Northwest Office Building
Harrisburg, PA 17124-0001

B. **As to the Contractor:**

SIMPLE BRANDS, L.P.
190 Presidential Boulevard
Bala Cynwyd, PA 19004

35. **"MOST FAVORED NATION CLAUSE"** – In consideration of the PLCB's agreement to enter into this Contract, thereby becoming the first retailer to utilize the wine kiosks, the Contractor agrees that, after the term of this Contract, should the PLCB wish to continue its use of the wine kiosks, the Contractor may charge a fee, if any, to the PLCB that will be at least ten percent (10%) lower than the lowest fee being paid at that particular time by any other retailer for the wine kiosks.

IN WITNESS WHEREOF, the PARTIES to this Contract 20080318 have executed it through their respective duly authorized officers. This Contract shall not be fully executed and will not be binding on the PARTIES unless and until all signatures required below are affixed hereto.

CONTRACTOR

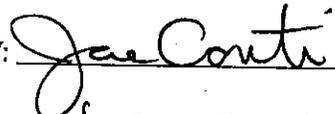
BY: Simple Brands 

NAME: James Lesser

TITLE: CEO

FED ID NO: 

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA LIQUOR CONTROL BOARD**

BY: Joe Conti 

NAME: Joe Conti

TITLE: CEO

APPROVED FOR FORM AND LEGALITY:

NS Diel
OFFICE OF CHIEF COUNSEL (PLCB)

Robert A. Albe 1/26/09
OFFICE OF ATTORNEY GENERAL

Approved as to Fiscal Responsibility, Budgetary
Appropriateness and availability of funds in the amount of
\$ 0.00

084-026-291-08-2

COMPTROLLER J. A. Jamb 1/22/09
DATE

Exhibit A
Initial PLCB Responsibilities

1. ****INDICATES PLCB SUPPLIED HARDWARE OR SOFTWARE**
2. Available hardware and software to work with PLCB applications.
3. The PLCB will be responsible for the acquisition of:
 - a. PCI Compliant Server** to work with Payment Card System that will replace the IBM StorePay.
 - b. All required Payment Card Software for installation**
4. Simple Brands will assist the PLCB in its determination of PLCB's design and data specifications for the POSTRAN interface.
5. The PLCB will be responsible for defining the existing Data Export Format for the POSTRAN interface as it currently functions today.
6. The PLCB will pull from a Simple Brands managed and supplied FTP server (Kiosk Central Server) the data files which will be imported into the Oracle RMS Server via the POSTRAN interface until written notice that the interface is obsolete or Simple Brands has been authorized to replace the interface.
7. The PLCB will provide a Veritas NetBackup client for the Kiosk Central Server. If the server runs Windows, the server must run the Commonwealth's required security packages which will be supplied by the PLCB; McAfee anti-virus software, IBM/ISS IDS and Microsoft SMS. Patching and virus updates will follow Commonwealth practices.
8. The PLCB will be responsible for third party application support for its existing software in its existing environment and all software provided or documented in the PLCB Responsibilities & PLCB Assumptions documents. In addition, the PLCB will be responsible for the application support for the Payment Card System that will replace IBM StorePay. Any proprietary software needed by the kiosks, up to and including the Kiosk Central Server, and the Customer Call Center will be the responsibility of Simple Brands with the exception of any PLCB provided software at the aforementioned locations.
9. The PLCB will be responsible for maintaining all licensing and providing media for all software products that it has currently purchased, including the Payment Card System that will replace the IBM StorePay or any software products that the PLCB will purchase or acquire in relation to this project.
10. The PLCB will be responsible for access to the server room (Back Office), wiring closet, LAN and desktops as needed to complete the implementation, migration and enhancements successfully. The PLCB maintains the right to determine if and when such access is warranted.
11. The PLCB will be responsible for providing contacts to resolve any questions / concerns and handle escalation processes both internally and with 3rd party vendors with whom it has a contractual relationship for existing hardware and software. The PLCB will provide contact information and assist to the best of their ability in escalating the support process for any vendor the PLCB had a prior contractual relationship with.
12. The PLCB will be responsible for furnishing additional network cabling, rack cabinets, battery back-up, and surge suppressors as needed for any Servers related to the Wine Kiosk connections that are installed on PLCB premises, excluding the kiosks themselves for which the PLCB is responsible only for the connection to the PLCB router installed inside the kiosk.



13. The PLCB will be responsible for suitability of network connection for connection of the Wine Kiosks to the PLCB network. The bandwidth requirements of said network connection will be provided by Simple Brands with appropriate justification to ensure that the bandwidth is matched to the requirements of the kiosks.
14. PLCB & Simple Brands will work in concert to insure that Simple Brands will only be required to create a new modular interface to the newly selected Payment Card Switching System to replace IBM Store Pay. PLCB will further affirm that Simple Brands will not be required to alter or redesign the User Interface and associated work flow. With the new Payment Card Switching System interface Simple Brands may be required to alter the existing User Interface & associated work flow to accommodate a signature capture device.
15. PLCB & Simple Brands will work in concert during the completion of Task 1 & 2 to develop the Data Specifications required for the Wine Kiosk after the PLCB has created an adequate test environment for the POSTRAN interface to the Oracle RMS System.
16. PLCB & Simple Brands will work in concert during the completion of Task 1 & 2 to develop the Data Specifications required for the Wine Kiosk after the PLCB has created an adequate test environment for the IBM Store Pay System.
17. PLCB will provide contacts and introductions to IBM's National Retail Service Center for the connection to IBM StorePay. The PLCB will provide access to its test environment for the IBM Store Pay System.
18. PLCB & Simple Brands will work in concert during the completion of Task 7 to develop the Data Specifications required for the Wine Kiosk after the PLCB has created an adequate test environment for the Oracle Central Office System.
19. Simple Brands will have no responsibility to comply with any changes to the PLCB Infrastructure, after the release and written acceptance of the Data Specifications document used to interface to the Oracle RMS Server via the POSTRAN interface.
20. During the due diligence period both parties will agree on a file format from the Kiosk Central Server, or kiosk machine itself, that mimics the log file produced by CA-ACM/MLINK to indicate what files have been sent to the stores. The goal being to produce an ASCII text log file that resides on the Kiosk Central Server with the proper name and path
21. During nighttime polling, if communications from the Kiosk Central Server to the kiosk itself is unsuccessful, the Kiosk Central Server must provide a log file indicating that a failure occurred so that POSTRAN will know about the failure. A sample of these files is included.
22. The POSTRAN process will be responsible for resending any outbound communications files, via the FTP site running on the Kiosk Central Server.
23. The PLCB will FTP outbound files from POSTRAN to the Kiosk Central Server on a nightly basis. (The Kiosk Central Server may need a kick-off file from POSTRAN to know when to start sending. If a "kick-off" file is needed it will be the responsibility of the PLCB to work with Simple Brands to create such a file.)
24. Once all kiosks are polled, the Kiosk Central Server will notify POSTRAN that the appropriate files are available on the FTP site residing on the Kiosk Central Server. PLCB & Simple Brands will work in concert to develop a strategy for a solution to notify POSTRAN jointly during the due diligence period.
25. It is understood that a goal and outcome of the due diligence period is to ascertain what the actual contents of the outbound and inbound files so that any required changes to accommodate kiosks instead of current "brick-and-mortar" stores staffed by people, as well as any process changes determined by Store Operations will be address. The PLCB and



Simple Brands will work jointly to identify these required changes as a part of developing the data specifications requirements.

26. The PLCB will be responsible for providing its portion of a suitable test environment to facilitate all agreed upon testing defined in Task 4.
27. The following documents were provided by the PLCB as point of reference for POSTRAN process and current system overview.
 - a. POSTRAN2.doc - is a narrative of how the existing nighttime polling currently works
 - b. inbound_process.jpg - inbound process flow, integrating ERP w/legacy
 - c. outbound_process3.jpg - outbound process flow, integrating ERP w/legacy
 - d. log.server2 - raw logging data provided by ACM/MLINK
 - e. poslog42.10140001 - verbose logging data as formatted by POSTRAN service
 - f. ACM-MLINK_logfile_record_layout.pdf - scan of the ACM-MLINK manual pages describing the record format.
 - g. Log.server2 - Poll Failure - File as produced by ACM/MLINK polling server when polling fails to a store.
 - h. Poslog32.output: - Poll Failure - Log file post formatting by POSTRAN process when polling fails to a store.



Exhibit B
Approved Subcontractors

M.T. Fiore & Associates LLC
Flextronics International, USA (and its subsidiaries and affiliates)
Transfer Technology, Inc.
Tricon Construction



Exhibit C
PLCB Assumptions

1. Simple Brands installs software as provided by PLCB. Simple Brands does not require proof of licensing. All licensing requirements and purchases are the sole responsibility of the PLCB.
2. The PLCB will pull from a Simple Brands managed and supplied FTP server (Kiosk Central Server) the data files which will be imported into the Oracle RMS Server via the POSTRAN interface.
3. Each kiosk will be assigned a unique store number.
4. The POSTRAN service will communicate via FTP with in the PLCB supplied network (non-SSL) to the Kiosk Central Server that in turn will communicate directly with the Wine Kiosk machines. The Kiosk Central Server can transmit files (outbound) originating from FTP Server location on the Kiosk Central Server to the kiosks based upon a 4-digit store number which will occupy the first 4 bytes of the file name. (e.g. 2102ITEM.OTBD, where "2102" is the store number assigned to the kiosk) POSTRAN will deposit those aforementioned files onto the FTP site running on the Kiosk Central Server.
5. The actual mechanism that the Kiosk Central Server and the kiosks use to transmit data is to be determined by Simple Brands.
6. The Kiosk Central Server can transmit files (outbound) to all kiosks when the 1st four bytes of the outbound file name provided by the POSTRAN service is not a store number. (e.g., ITEMDOWN.OTBD) The Kiosk Central Server can receive files (inbound) from the kiosks, using the 4-digit store number as the .ext of the file. (e.g. SCOINVUP.2102, again where "2102" is the kiosk's "store" number)
7. The Kiosk Central Server will be responsible for recovering any inbound communications files from individual kiosks.
8. The Kiosk Central Server will be configured to retain a backup copy of all files received from the kiosks for 30-days and be configured to integrate with the existing PLCB disaster recovery/backup solution. If during the due diligence period the PLCB & Simple Brands determines that the Kiosk Central Server should be a Simple Brands owned and managed server then Simple Brands will provide the necessary disaster recovery/backup solution to facilitate a 30 day data recovery solution utilizing VERITAS NetBackup
9. The Kiosk Central Server will transmit files provided by POSTRAN (outbound) to the kiosks and retrieve incoming files (inbound), provide a standard naming convention for as discussed under assumptions and defined during due diligence.
10. Once all kiosks are polled, the Kiosk Central Server will notify POSTRAN that the appropriate files are available on the FTP site residing on the Kiosk central server.
11. It is understood that a goal and outcome of the due diligence period is to ascertain what the actual contents of the outbound and inbound files so that any required changes to accommodate kiosks instead of current "brick-and-mortar" stores staffed by people, as well as any process changes determined by Store Operations will be address. The PLCB and Simple Brands will work jointly to identify these required changes as a part of developing the data specifications requirements.
12. The following documents were provided by the PLCB as point of reference for POSTRAN process and current system overview.
 - i. POSTRAN2.doc - is a narrative of how the existing nighttime polling currently works



- j. inbound_process.jpg - inbound process flow, integrating ERP w/legacy
 - k. outbound_process3.jpg - outbound process flow, integrating ERP w/legacy
 - l. log.server2 - raw logging data provided by ACM/MLINK
 - m. poslog42.10140001 - verbose logging data as formatted by POSTRAN service
 - n. ACM-MLINK_logfile_record_layout.pdf - scan of the ACM-MLINK manual pages describing the record format.
 - o. Log.server2 - Poll Failure - File as produced by ACM/MLINK polling server when polling fails to a store.
 - p. Poslog32.output: - Poll Failure - Log file post formatting by POSTRAN process when polling fails to a store.
13. Only Payment Card Industry (PCI) approved hardware, including PIN entry devices, will be installed and utilized in the kiosks to complete all credit and debit card transactions. Devices will comply with and be within all legal conditions and restrictions at all times, referencing the Payment Card Industry PIN Entry Device (PED) Security Requirements, Payment Card Industry Encrypting PIN Pad (EPP) Security Requirements and Payment Card Industry Point of Sale (POS) Security Requirements.
14. The PLCB understands and accepts that it may be required to change the POSTRAN file interface or POSTRAN interface to accommodate the Simple Brands Custom Software Solution if required.



Exhibit D
Completion and Approval Form

Simple Brands Deliverable Completion & Approval Form

Deliverable _____ Completion Acceptance Form

Deliverable Description: _____

PLCB SPOC: _____

SB Project Lead _____

Date _____

Project Start Date: TBD

Request Date: _____ **Requested Response Date:** _____

If "Response Date" can not be met please explain:

I hereby certify and accept that the following "Services Provided" for this Deliverable of this project have been completed successfully. I further certify that by signing below that I acknowledge that any further services pertaining to the working services that have been provided under this Phase, will be serviced under the existing Service Contract that our organization has with Simple Brands, LLC.

- *Phase _____ - <Description>*
- *<DETAILS OF SERVICES PROVIDED>*
- *<DETAILS OF SERVICES PROVIDED>*

Approvals

PLCB SPOC: _____ **Date:** _____

Simple Brands SPOC: _____ **Date:** _____



Exhibit E
Telephone and Hardware Break/Fix

The Contractor shall provide access to telephone support. The Contractor shall provide on-site response within eight (8) operational hours, seven (7) days per week, for hardware break/fix.

If a wine kiosk is out of service, the Contractor will determine the cause of the problem. The Contractor will contact the PLCB after determining the cause of the problem and will work to fix the problem, subject to the terms of Paragraph 17 J. The parties will determine the amount of time that will be required to fix the wine kiosk (the "Repair Period").

Subject to the terms of Paragraph 17 J, if any wine kiosk is out of service for a period longer than the Repair Period, the Contractor shall reimburse the PLCB at a fee of \$250.00 per day, for each retail day or pro rata portion thereof that the kiosk remains out of service (in excess of the Repair Period).

A handwritten signature in black ink, appearing to be the initials 'FM' or similar, located in the lower right quadrant of the page.