



NON-EXCLUSIVE AGREEMENT FOR MARKET RESEARCH

THIS NON-EXCLUSIVE AGREEMENT FOR MARKET RESEARCH (“Agreement”) is made this ___ day of _____, 2012, by and between _____, with offices at _____ (“Researcher”), and the Pennsylvania Liquor Control Board, with offices at Northwest Office Building, Capital and Forester Streets, Harrisburg, PA 17124 (“PLCB”).

WITNESSETH

WHEREAS, the effort contemplated by this Nonexclusive Agreement for Market Research (“Agreement”) is of mutual interest and benefit to PLCB and Researcher and will further market research objectives of PLCB;

WHEREAS, Researcher has valuable experience, skill and ability in performing research in the area of _____.

WHEREAS, PLCB desires to have Researcher undertake a project in accordance with the scope of work described in Exhibit A (“Statement of Work”);

WHEREAS, PLCB has agreed to allow Researcher to use PLCB Fine Wine & Good Spirits stores as listed in Exhibit A and PLCB’s intellectual property consisting of item set-up, and store item inventory data (“Commonwealth IP”) and has determined that this Agreement is the appropriate legal instrument to be executed by the Parties; and

WHEREAS, PLCB is willing to grant Researcher a limited non-transferable, non-exclusive, revocable license to use the Commonwealth IP, subject to the terms and conditions of the Agreement and Researcher’s formal acknowledgement of its acceptance of the terms and conditions of PLCB’s Data Use Policy which is incorporated by reference as if physically attached to this Agreement.

NOW THEREFORE, for mutual consideration set forth herein, the adequacy of which is hereby acknowledged, PLCB and Researcher, intending to be legally bound, hereby agree as follows:

1. SCOPE OF WORK

A. Researcher agrees to use reasonable efforts to perform the Project. "Project" shall mean the Statement of Work approved under this Agreement as described in Exhibit A.

B. Substantive changes to the Project require prior written approval of PLCB.

C. Researcher shall provide consent forms which will be signed by research respondents to PLCB within 10 days of signing this Agreement. Approval of the consent forms shall be within the sole discretion of the PLCB.

2. KEY PERSONNEL

A. The following individual, who will be identified as the Project Manager, shall be the primary contact person for Researcher:

PROJECT MANAGER: _____

 Phone: _____
 Fax: _____
 E-mail: _____

B. The Project Manager may select and supervise other project staff as needed. No other person will be substituted for the Project Manager except with PLCB approval. PLCB may exercise Termination for Convenience provisions of this Agreement if a satisfactory substitute is not identified.

3. TERM OF AGREEMENT

The term of this Agreement shall commence on the date that all required signatures have been affixed and shall end at the close of business _____ from the effective date. The effective date shall be fixed after the Agreement has been fully executed.

4. REPORTS

Project Manager shall maintain records of the results of the Project and shall provide PLCB with reports of the progress and results of the Project in accordance with Exhibit A.

5. PUBLICATION

A. PLCB shall have the right, at its sole discretion, to release any information or to publish any material resulting from the Project.

B. Researcher shall not use PLCB's name or logo, including the name and logo of the PLCB's Fine Wine & Good Spirits stores, without PLCB's prior written consent.

C. Researcher shall not identify or in any way represent itself as being the PLCB or as being an agent of the PLCB.

D. Since the Commonwealth IP is owned to benefit the taxpayers of the Commonwealth of Pennsylvania, Researcher shall refrain from making any representations or creating any inferences, express or implied, that the use of the Commonwealth IP constitutes evidence of an affiliation with or endorsement by PLCB of any of Researcher's products or services or any of Researcher's agents, sponsors, or advertisers. Therefore, any Commonwealth IP used by Researcher during the course of the Project must clearly identify the PLCB as the source of such information. Title and ownership of the Commonwealth IP shall remain at all times with PLCB and the Commonwealth and Researcher shall acknowledge PLCB's exclusive right and title to the Commonwealth IP and reasonably cooperate with its protection at all times.

6. RELATIONSHIP OF PARTIES

A. Nothing contained herein shall create or establish a joint venture or a partnership between PLCB and Researcher. Except as otherwise provided herein, each party shall be solely responsible for any and all claims for taxes, fees, or costs, including but not limited to withholding, income tax, FICA, and workmen's compensation.

B. For the purposes of this Agreement and all services to be provided hereunder, the parties shall be and shall be deemed to be independent contractors and not agents or employees of the other party.

C. Nothing contained in this Agreement shall be construed or implied to create an agency, partnership, joint venture, or employer and employee relationship between PLCB and Researcher.

D. Neither party shall have the authority to make any statements, representations or commitments of any kind or to take action which shall be binding on the other party, except as may be expressly provided for herein or authorized in writing.

E. Researcher shall leave the PLCB Fine Wine & Good Spirits stores as listed in Exhibit A and all property of any kind located thereon, in as good order and condition as they were immediately prior to any use of said premises pursuant to this Agreement in substantially as

good condition as when received by it, and to pay for any injury or damage that may occur through the use of PLCB Fine Wine & Good Spirits stores as listed in Exhibit A.

8. DISCLAIMER OF WARRANTY

The warranties contained herein are in lieu of all other warranties or conditions, express or implied, including, without limitation, those of merchantability or fitness for a particular purposes. In no event shall PLCB be liable for damages, direct or indirect, including incidental or consequential damages, suffered by the Researcher or other third party arising from breach of warranty or breach of contract, negligence, or any other legal ground of actions.

9. TERMINATION

PLCB shall have the right to immediately terminate this Agreement for any reason or for no reason, by giving written notice to Researcher.

10. POST-TERMINATION RIGHTS

A. Upon expiration or termination of this Agreement:

1. Researcher shall discontinue all use of PLCB Fine Wine & Good Spirits stores as listed in Exhibit A and Commonwealth IP; and

2. Researcher shall provide PLCB with all records and/or reports of the progress and results of the Project.

B. It is understood and agreed that termination shall not entitle Researcher to any compensation on any grounds whatsoever, including, but not limited to, lost profits, loss of goodwill, or consequential, direct, indirect, punitive, or exemplary damages.

11. FORCE MAJEURE

Neither party will be liable for, or will be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions that are beyond such party's reasonable control and that such party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, the affected party will give prompt written notice to the other party and will use commercially reasonable efforts to minimize the impact of the event.

12. NOTICE

A. Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or by deposit in the United States mail, postage prepaid, registered or certified, return receipt requested.

B. Either party may change the address to which notice is to be sent by written notice to the other party under any provision of this paragraph.

C. Notice to PLCB shall be in an envelope addressed to:

Mr. William Harlan
Director of Market and Store Analytics
Pennsylvania Liquor Control Board
214 Northwest Office Building
Harrisburg, PA 17124

D. Notice to Researcher shall be in an envelope addressed to:

13. JURISDICTION/DISPUTES/INTERPRETATION

This Agreement shall be governed in accordance with the laws of the Commonwealth of Pennsylvania. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania. All disputes under this Agreement shall be resolved by litigation in the courts of the Commonwealth of Pennsylvania, including the federal courts therein. All parties consent to the jurisdiction of such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to it.

14. ORAL MODIFICATION

This Agreement may not be modified orally. Except or provided in this Agreement, all modifications must be by written amendment signed by PLCB and Researcher.

15. AGREEMENT BINDING ON SUCCESSORS

The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, administrators, successors, and assigns.

16. ASSIGNABILITY

Neither party may assign this Agreement or the rights and obligations thereunder to any third party without the prior express written approval of the other party, which shall not be unreasonably withheld.

17. WAIVER

No waiver by either party of any default shall be deemed as a waiver of prior or subsequent default of the same of other provisions of this Agreement.

18. SURVIVABILITY

The obligations set forth in publication section shall survive the expiration or termination of this Agreement.

19. SEVERABILITY

If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision, and such invalid term, clause or provision shall be deemed to be severed from the Agreement.

20. INTEGRATION

This Agreement and the attachments appended thereto constitute the entire understanding of the parties and are intended as a final expression of their Agreement. It shall not be modified or amended except in writing, signed by the parties hereto, and specifically referring to this Agreement. This Agreement shall take precedence over any other documents which may conflict with this Agreement.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, hereby, have each caused to be affixed hereto its or his/her hand and seal the day indicated.

Pennsylvania Liquor Control Board

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____