

**PENNSYLVANIA LIQUOR CONTROL BOARD
STANDARD CONTRACT TERMS AND CONDITIONS
FOR WINE, SPIRITS AND ACCESSORIES PURCHASE ORDERS**

The signed Purchase Order constitutes the Seller's authority to furnish the item(s) in accordance with these Standard Contract Terms and Conditions for Wine, Spirits and Accessories Purchase Orders:

1. TERM OF CONTRACT

The term of the Contract shall commence on the date the Purchase Order, which has been signed by the Pennsylvania Liquor Control Board (hereinafter the "Board"), is sent to the Seller (hereinafter the "Contractor"). The Contract, created by the issuance of the Purchase Order, shall, subject to the other provisions of the Contract, end on the later of: a) complete delivery and acceptance of the awarded item(s); b) the expiration of any specified warranty and maintenance period; c) payment by the Board for the item(s) received; or d) any Expiration Date identified in the Purchase Order.

The Contract shall not be a legally binding contract until after the Purchase Order and these standard contract terms and conditions have been sent to the Contractor. The Contractor shall not start the performance under the Contract prior to the Effective Date shown on the Purchase Order and the Board shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the Effective Date. No agency employee has the authority to verbally direct the shipment of any item(s) or the commencement of any work under the Contract.

2. INDEPENDENT CONTRACTOR

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Board.

3. COMPLIANCE WITH LAW

The Contractor shall comply with all applicable international, federal and state laws and regulations and local ordinances in performing its obligations under the Contract.

4. ENVIRONMENTAL PROVISIONS

In performing its obligations under the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including but not limited to, the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. §691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. § 6018.101 et seq.; and the Dam Safety and Encroachment Act, Act of November

26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. § 693.1. In addition, the Contractor shall abide by the Commonwealth's requirements regarding the identity and hazards of hazardous substances supplied or used by the Contractor in performance of the Contract. The requirements for the identification and labeling of hazardous substances are detailed in 25 Pa. Code §261a, et. seq.

5. COMPENSATION/INVOICES

The Contractor shall be required to furnish the awarded item(s) at the price(s) quoted in the Purchase Order. All item(s) shall be delivered within the time period(s) specified in the Purchase Order. The Contractor shall be compensated only for item(s) which are delivered and accepted by the Board.

Unless otherwise specified or unless the Contractor has been authorized by the Board for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall send an itemized invoice to the agency at the address referenced on the purchase order promptly after the item(s) are delivered. The invoice should include only amounts due under the purchase order. The purchase order number must be included on all invoices.

6. PAYMENT

The Board shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) sixty (60) days after a proper invoice actually is received at the "Bill To" address, if a date on which payment is due is not specified in the Contract [a "proper" invoice is not received until the Board accepts the item(s)]; or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Purchase Order. If any payment is not made within fifteen (15) days after the required payment date, the Board may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the items furnished by the Contractor. The Board reserves the right to conduct further testing and inspection after payment, but within a reasonable time after delivery, and to reject the item(s) if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Board may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Board against any payments due the Contractor under any contract with the Board.

7. TAXES

With the exception of purchases of the following items, no exemption certificates are required by Department of Revenue regulations and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Board is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees, and vehicle rental tax.

8. WARRANTY

The Contractor warrants that all item(s) furnished by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all item(s) are warranted for a period of one year following delivery by the Contractor and acceptance by the Board. The Contractor shall repair and/or replace any defective item with an item of equivalent or superior quality without any additional cost to the Board.

9. DELIVERY

All item(s) shall be delivered in accordance with the shipping terms stated in the purchase order. All item(s) must be delivered within the time period specified on the Purchase Order. Time is of the essence and, in addition to any other remedies, the Contract is subject to termination for failure to deliver as specified. Unless otherwise stated by the Contractor in its quote or as otherwise agreed in advance and in writing by the parties, delivery must be made within thirty (30) days after requested delivery date identified on the Purchase Order.

10. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of the item(s) or the process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the Board under the Contract. The Contractor shall defend any suit or proceeding brought against the Board on account of any alleged patent, copyright or trademark infringement in the United States of the item(s) provided or used in the performance of the Contract. This is upon condition that the Board shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same. As principles of governmental or public law are involved, the Board may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the Board at the Contractor's written request, it shall be at the Contractor's expense, but the

responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Board harmless from all damages, costs, and expenses, including attorneys' fees that the Contractor or the Board may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any item(s) provided or used in the performance of the Contract. If any of the item(s) provided by the Contractor are held in such suit or proceeding to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement item(s), replace them with non-infringement equal performance item(s) or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which is obtained contemporaneously with the infringing item(s), or, at the option of the Board, only those items of equipment or software which are held to be infringing, and to pay the Board: 1) any amounts paid by the Board towards the item(s) of the product, less straight line depreciation; 2) any license fee paid by the Board for the use of any software, less a reasonable amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

11. OWNERSHIP RIGHTS

The Board shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Board as part of the performance of the Contract.

12. ASSIGNMENT OF ANTITRUST CLAIMS

The Contractor and the Board recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Board. As part of the consideration for the award of the Purchase Order, and intending to be legally bound, the Contractor assigns to the Board all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the item(s) which are the subject of the Contract.

13. HOLD HARMLESS PROVISION

The Contractor shall hold the Board harmless from and indemnify the Board against any and all claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents pursuant to the Contract and shall, at the request of the Board, defend any and all actions brought against the Board based upon any such claims or demands.

14. AUDIT PROVISIONS

The Board shall have the right, at reasonable times and at a site designated by the Board, 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, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Board and/or its authorized representatives.

15. DEFAULT

a. The Board may, subject to the provisions of Paragraph 16, 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 17, Termination Provisions) the whole or any part of the Contract for any of the following reasons:

- 1) Failure to deliver the item(s) within the time period specified in the Purchase Order or as otherwise specified;
- 2) Improper delivery;
- 3) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract;
- 4) Delivery of a defective item;
- 5) Failure or refusal to remove and replace any item(s) rejected as defective or nonconforming within fifteen (15) days after notification;
- 6) Insolvency or bankruptcy;
- 7) Assignment made for the benefit of creditors;

8) Failure to protect, to repair, or to make good any damage or injury to property; or

9) Any violation of sections 210, 214, 491(13) and/or 491(14) of the Liquor Code [47 P.S. §§ 2-210, 4-491(13), 4-491(14)] by Contractor, its employees or agents;

10) Breach of any provision of the Contract.

b. In the event that the Board terminates the Contract in whole or in part as provided in Subparagraph a. above, the Board may procure, upon such terms and in such manner as it determines, an item(s) similar or identical to the item(s) so terminated, and the Contractor shall be liable to the Board for any reasonable excess costs for such similar or identical item(s) included within the terminated part of the Contract.

c. If the Contract is terminated as provided in Subparagraph a. above, the Board, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Board in the manner and to the extent directed by the Issuing Office, any partially manufactured or delivered item(s) as the Contractor has specifically produced or specifically acquired for the performance of the Contract as has been terminated. Except as provided below, payment for any partially manufactured or delivered item(s) accepted by the Board shall be in an amount agreed upon by the Contractor and Contracting Officer. The Board may withhold from amounts otherwise due the Contractor for any partially manufactured or delivered item(s), such sum as the Contracting Officer determines to be necessary to protect the Board against loss.

d. The rights and remedies of the Board provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

e. The Board's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Board of its rights and remedies in regard to the event of default or any succeeding event of default.

f. Following exhaustion of the Contractor's administrative remedies as set forth in Paragraph 18, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

16. FORCE MAJEURE

Neither party will incur any liability to the other if its performance of any obligation pursuant to the Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Board orally within five (5) days 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 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 proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Board may reasonably request. After receipt of such notification, the Board may elect either to cancel the Contract or to 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 Board by notice to the Contractor, may suspend all or a portion of the Contract.

17. TERMINATION PROVISIONS

The Board has the right to terminate the Contract for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

a. **TERMINATION FOR CONVENIENCE:** The Board shall have the right to terminate the Contract for its convenience if the Board determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION:** The Board's obligation to make payments during any Board 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 Board shall have the right to terminate the Contract. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the

price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

c. **TERMINATION FOR CAUSE:** The Board shall have the right to terminate the Contract for Contractor default under Paragraph 15, Default, upon written notice to the Contractor. The Board shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in the Contract or by law. If it is later determined that the Board erred in terminating the Contract for cause, then, at the Board's discretion, the Contract shall be deemed to have been terminated for convenience under Subparagraph 17.a.

18. CONTRACT CONTROVERSIES

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six 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 120 days of the receipt of the 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 the 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 purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 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 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 Board shall compensate the Contractor pursuant to the terms of the Contract.

19. ASSIGNABILITY AND SUBCONTRACTING

- a. Subject to the terms and conditions of this Paragraph 19, the 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 the Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Contractor may not assign, in whole or in part, the Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received pursuant to 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 the Contract.
- e. For the purposes of the Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- 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.

20. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor shall abide by the Commonwealth's requirements regarding Non-discrimination and Sexual Harassment in its performance of the Contract. The requirements are set forth in Management Directive 215.16, as amended, located at http://www.oa.pa.gov/Policies/md/Documents/215_16.pdf.

21. CONTRACTOR INTEGRITY PROVISIONS

The Contractor shall abide by the Commonwealth's requirements regarding Contractor Integrity in its performance of the Contract. The requirements are set forth in Management Directive 215.8, as amended, located at http://www.oa.pa.gov/Policies/md/Documents/215_8.pdf.

22. CONTRACTOR RESPONSIBILITY PROVISIONS

The Contractor shall abide by the Commonwealth's requirements regarding Contractor Responsibility in its performance of the Contract. The requirements are set forth in Management Directive 215.9, as amended, located at http://www.oa.pa.gov/Policies/md/Documents/215_9.pdf.

23. AMERICANS WITH DISABILITIES ACT

a. 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 the Contract or from activities provided for under the Contract on the basis of the disability. As a condition of accepting 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.

b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Board from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Board as a result of the Contractor's failure to comply with the provisions of Subparagraph 23.a above.

24. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except 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 Board shall have the right to terminate the Contract 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.

25. APPLICABLE LAW

The 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.

26. INTEGRATION

The Contract is comprised of the Quote, this Purchase Order, and these standard terms and conditions, and constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Board 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 or by a change order signed by the Board. All such amendments and change orders will be made using the appropriate Board form.

27. LIQUOR CODE SECTION, LAWS OF PENNSYLVANIA

The Contractor shall comply with Liquor Code Sections 210, 214, 4-491(13) and 4-491(14) [47 P.S. §§§§ 2-210, 2-214, 4-491(13) and 4-491(14)], which provide as follows:

Section 2-210. Restrictions on members of the board and certain employees of Commonwealth

- (a) A member or employee of the board or enforcement bureau or a member of the immediate family of a member or employee of the board or enforcement bureau shall not be directly or indirectly interested or engaged in any other business or undertaking within the Commonwealth dealing in liquor, alcohol, or malt or brewed beverages, whether as owner, part owner, partner, member of syndicate, holder of stock exceeding five percent (5%) of the equity at fair market value of the business, independent contractor or manager of a licensed establishment required under 40 Pa. Code §5.23 (relating to appointment of managers), and whether for his own benefit or in a fiduciary capacity for some other person. For the purpose of this subsection only, "employee of the board or Enforcement Bureau" shall mean

any individual employed by the board or Enforcement Bureau who is responsible for taking or recommending official action of a non-ministerial nature with regard to:

- (1) Contracting or procurement;
 - (2) Administering or monitoring grants or subsidies;
 - (3) Planning or zoning;
 - (4) Inspecting, licensing, regulating or auditing any person; or
 - (5) Any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.
- (b) No member or employee of the board or enforcement bureau or a member of the immediate family of a member or employee of the board or enforcement bureau nor any employee of the Commonwealth shall solicit or receive, directly or indirectly, any commission, remuneration or gift whatsoever, from any person having sold, selling or offering liquor or alcohol for sale to the board for use in Pennsylvania Liquor Stores.
- (c) No person convicted of an infamous crime may be employed as a member or employee by the board or enforcement bureau.
- (d) No member or employee of the board or enforcement bureau may use his position with the board or enforcement bureau, or any confidential information received through his position with the board or enforcement bureau, to obtain financial gain, other than compensation provided by law, for himself, a member of his immediate family or a business with which he is associated.
- (e) No person may offer or give to a member or employee of the board or enforcement bureau or a member of his immediate family or a business with which he is associated, and no member or employee of the board or enforcement bureau may solicit or accept anything of value, including a gift, loan, political contribution, reward or promise of future employment, based on an understanding that the vote, official action or judgment of the member or employee of the board or enforcement bureau would be influenced thereby.
- (f) No member or employee of the board or enforcement bureau or a member of his immediate family or any business in which the member or employee or a member of his immediate family is a director, officer or owner or holder of stock exceeding five percent (5%) of the equity at fair market value of the business may enter into any contract valued at five hundred dollars (\$500.00) or more to provide goods or services to the board or

enforcement bureau unless the contract has been awarded to the lowest responsible bidder through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded.

- (g) No former member or employee of the board or enforcement bureau may represent a person, with or without compensation, on any matter before the board or enforcement bureau for one year after leaving the board or enforcement bureau.
- (h) No member or employee of the board or enforcement bureau or an advisor or consultant thereto having recommended to the board or enforcement bureau either the making of a contract or a course of action of which the making of a contract is an express or implied part, may, at any time thereafter, have an adverse interest in that contract.
- (i) No member or employee of the board or enforcement bureau may influence or attempt to influence the making of, or supervise or deal with, a contract with the board or enforcement bureau in which he has an adverse interest.
- (j) No member or employee of the board or enforcement bureau may have an adverse interest in a contract with the board or enforcement bureau.
- (k) No person having an adverse interest in a contract with the board or enforcement bureau may become an employee of the board or enforcement bureau until the adverse interest has been wholly divested.
- (l) No member or employee of the board or enforcement bureau, except in the performance of his duties as such employee, may, for remuneration, directly or indirectly, represent a person upon a matter pending before the board or enforcement bureau.
- (m) (1) Any person who violates the provisions of this section shall have his employment by the board or enforcement bureau immediately terminated by the appropriate person having the power to terminate and shall be liable to the board or enforcement bureau to reimburse the board or enforcement bureau for all compensation received by him from the board or enforcement bureau while employed in violation of subsection (c).
- (2) Any person who violates the provisions of subsections (b), (d) or (e) shall be guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine of not more than ten thousand dollars (\$10,000.00) or to undergo imprisonment for not more than five (5) years, or both.

- (3) Any person who violates the provisions of subsections (a) or (f) through (l) shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) or to undergo imprisonment for not more than one (1) year, or both.
 - (4) Any person who obtains financial gain from violating any provisions of this section, in addition to any other penalty provided by law, shall pay into the accounts of the board a sum of money equal to three (3) times the financial gain resulting from the violation.
 - (5) Any person who violates the provisions of this section shall be barred for a period of five (5) years from engaging in any business or contract with the board or enforcement bureau.
 - (6) The penalties and sanctions provided by this subsection shall supersede any similar penalties and sanctions provided by the act of July 19, 1957 (P.L. 1017, No. 451), known as the "State Adverse Interest Act" and the act of October 4, 1978 (P.L. 883, No. 170), referred to as the Public Official and Employee Ethics Law.
- (n) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Business" shall mean a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust or legal entity organized for profit or as a not-for-profit corporation or organization.

"Immediate family" shall mean a spouse residing in the person's household and minor dependent children.

"Infamous Crime" shall mean a violation and conviction for an offense which would disqualify an individual from holding public office pursuant to section 6 of Article II of the Constitution of Pennsylvania; a conviction within the preceding ten (10) years for a violation of this section or of 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions), Ch. 47 (relating to bribery and corrupt influence), Ch. 49 (relating to falsification and intimidation), Ch. 51 (relating to obstructing governmental operations) or Ch. 53 (relating to abuse of office); or a violation of the laws of this Commonwealth or another state or the Federal Government for which an individual has been convicted within the preceding ten (10) years and which is classified as a felony.

Section 2-214. Prohibitions

- (a) The board may not make a contract or otherwise do business with a corporation, vendor or service contractor that has not complied with the regulatory and statutory requirements of any other administrative agency.
- (b) The board may not make a contract or otherwise do business with a transportation carrier for hire of liquor, wine or malt or brewed beverages which (carrier) has not obtained the proper permits from the Pennsylvania Public Utility Commission under 66 Pa. C.S. Ch. 25 (relating to contract carrier by motor vehicle and broker).

Section 4-491(13) and (14). Unlawful acts relative to liquor, alcohol and liquor licensees

- (13) For any person, to violate any rules and regulations adopted by the board to insure the equitable wholesale and retail sale and distribution of liquor and alcohol through the Pennsylvania Liquor Stores.
- (14) For any person selling or offering to sell liquor or alcohol to, or purchasing at wholesale liquor or alcohol from, the board, either directly or indirectly, to pay or offer to pay any commission, profit or remuneration, or to make or offer to make any gift to any member or employee of the board or other employee of the Commonwealth or to anyone on behalf of such member or employee.

28. MISCELLANEOUS ADDITIONAL CONDITIONS

- a. Title to merchandise ordered by the Board:
 - i. Bailment Merchandise: title to and risk of loss for bailment merchandise passes to the Board only after it is receipted, received and loaded onto a truck at the PLCB Distribution Center for delivery to a store or a licensee.
 - ii. Non-bailment merchandise: title to and risk of loss for non-bailment merchandise passes to the Board when it is receipted and accepted by the Distribution Center on behalf of the Board.
- b. If a specific vintage year is listed in Standard Quotation and Specification Form Item Number 15 or Specialty Quotation Form, only that specific vintage is eligible for shipment to the Board. Any changes in vintages on vintage specific Standard Quotation and Specification Forms must be Board approved prior to shipment and acceptance by the Board. Otherwise, product is subject to return to vendor at the vendor's expense.
- c. It is agreed that goods ordered shall comply with all federal and state laws. All merchandise must be labeled in accordance with the regulations of the

federal government. Should any liquor or wine regulations (federal or otherwise) cause a change to be made on the labels, thereby affecting its present classification or type, vendor or shipper agrees to take back for exchange or to allow credit at invoice price for any and all of this merchandise which is in our stock at the time such amended regulations become effective.

d. All merchandise ordered by the Board will be received subject to the right of the Board to make tests and inspections thereof at any time and, the Board reserves the right, at any time, to reject such merchandise if, upon tests and inspections, the merchandise does not conform to requirements. Upon rejection by the Board, ownership of said property shall automatically vest in the vendor, whether the merchandise is bailment or non-bailment merchandise.

If, prior to said rejection, the Board has paid for said merchandise, the vendor shall reimburse the Board for the rejected merchandise by payment in cash by the vendor to the Board or by vendor's credit memorandum to be applied upon accounts due vendor from Board or by deduction by the Board from accounts due vendor. Bailment and non-bailment merchandise exhibiting quality issues will be shipped back to the vendor or destroyed at the Distribution Center, at the Board store, or at the licensed premises of a Board licensee, depending on where the merchandise is physically located at the time the quality defect(s) is/are discovered. In the event that a vendor issues a recall for its product, regardless of where the subject product is in the distribution chain, the vendor will immediately assume financial responsibility for the product, including any and all costs involved in recalling the product.

e. Under no circumstances may quantities ordered be exceeded. If overshipment occurs, merchandise may be returned at your expense.

f. It is understood and agreed that all liquor received under this purchase order may be returned in full cases for "ordinary and usual commercial reasons" in accordance with F.A.A.A. regulations. Any of said liquors so returned will be accepted by vendor, its successors or assigns, and in the event such vendor, successors or assigns will automatically reimburse the Board, either by check or credit memorandum, as shall be designated by the Board, the full invoice cost plus any additional amount which will be fixed by the Board, as reimbursement for its expense for shipping same to and from its stores and distribution centers.

By downloading and completing the form below, you are accepting the Standard Contract Terms & Conditions:

- [Standard Quotation and Specification Form](#)