



INVITATION TO BID (“ITB”) #20680

for

LOTTERY IN-COUNTER GLASS

THIS IS A GENERAL PROCUREMENT AS DEFINED IN OAR 177-038-0000

Date of Issue: January 18, 2024

Proposal Submission Deadline: January 29, 2024, at 10:00 AM P.T.

Single Point of Contact (SPC): Elyse Castillo, Procurement Specialist 2

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The Oregon State Lottery promotes equal opportunity for all individuals without regard to age, color, disability, marital status, national origin, race, religion or creed, sex or gender, sexual orientation, or veteran status.

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**SECTION 1
GENERAL INFORMATION**

1. PURPOSE AND BACKGROUND.

The Oregon State Lottery (“Lottery”) is soliciting Bids from qualified manufacturers/distributors for the purchase of Lottery’s in-counter Scratch-it dispenser glass (“In-counter Glass”). The Lottery has Scratch-it dispensers (“Dispenser”) at various retail locations throughout the state. The Dispenser houses our Scratch-it ticket products and is typically located at the point-of-sale. The Dispenser has one piece of glass that is sealed within the frame of the Dispenser and another that fits on top of the secured glass, so it can be replaced periodically to maintain clear visibility of Lottery products.

The Lottery intends to place an initial order of 1,100 pieces of In-counter Glass and establish a price agreement (“Price Agreement”) with the successful Bidder that is substantially in the form of Exhibit A. The initial term of the Price Agreement will be for one (1) year with the option to renew for four (4) additional one (1) year terms, for a possible total term of five (5) years. Individual contracts for the In-counter Glass (“Contract” or “Contracts”) will be created by Lottery’s issuance of a purchase order (“Purchase Order”) under the Price Agreement. The quantity of In-counter Glass to be purchased by the Lottery and set forth in Section 3 of this ITB. Subsequent purchase orders are provided as an estimate only and is intended to serve only as a guide and is not to be construed as a guaranteed order quantity. The Lottery makes no guarantee as to the minimum or maximum amount of In-counter Glass to be purchased under the Price Agreement and any resulting Contract(s).

1.1 LOTTERY PROCUREMENT RULES AND DEFINITIONS.

This ITB, any resulting Price Agreement and all Contracts are governed by Oregon Revised Statute (“ORS”) Chapter 461 and Oregon Administrative Rules (“OAR”) Chapter 177, Division 38, Lottery Procurement Rules. In addition to the defined terms in this ITB, all capitalized terms that are not defined in this ITB apply as defined in OAR 177-038-0000.

1.2 TENTATIVE SOLICITATION SCHEDULE.

The anticipated schedule for this solicitation process is shown below. If any part of this schedule, such as the Bid submission deadline, is delayed, the rest of the schedule may be adjusted by the same number of calendar days (“Days”). **This is a tentative schedule only and is provided as a courtesy to potential bidders. The actual schedule may vary without notice to potential bidders. However, any changes made to the inquiry deadline or the Bid submission deadline (the Closing) of the ITB will be made by Addendum to this ITB.**

ACTIVITY:	DATE:
Invitation to Bid Released:	January 18, 2024
Inquiry Submission Deadline:	January 23, 2024
Bid Submission Deadline (last Day to submit Bids):	January 29, 2023 no later than 10:00 AM. (PT).
Bid Results Notification:	January 30, 2024
Price Agreement Award (approx.):	February 8 th , 2024

1.3 SINGLE POINT OF CONTACT.

Elyse Castillo, Procurement and Contracts Specialist 2, is Lottery's sole point of contact for questions concerning this ITB, requests for change, clarification, the Award process, and any other questions that may arise.

Elyse Castillo may be contacted by telephone at (503) 540-1367 and by e-mail at elyse.castillo@lottery.oregon.gov.

SECTION 2 INSTRUCTIONS TO BIDDERS

2.1 Lottery Procurement Rules and Definitions:

The Oregon Constitution, Oregon Revised Statutes and administrative rules establish the purpose, powers, duties, and procedural regulatory framework applicable to Lottery. Lottery is subject to the following: Article XV of the Oregon Constitution, sections 4, 4a, 4b and 4c; Oregon Revised Statutes (“ORS”) chapter 461; and Oregon Administrative Rules (“OAR”) Chapter 177, specifically OAR 177-038-0000 through OAR 177-038-0260 (Lottery Procurement Rules) and at OAR 177-037-0000 through OAR 177-037-0070 (Lottery Vendor Disclosure Rules). Each Bidder shall be familiar with these administrative rules and with ORS chapter 461. Lottery Procurement Rules and Lottery Vendor Disclosure Rules are currently accessible at <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=4814> Oregon Revised Statutes chapter 461 is currently accessible at https://www.oregonlegislature.gov/bills_laws/ors/ors461.html

2.2 Vendor Security Background Investigation:

This procurement has been classified by Lottery as a General Procurement per OAR 177-037-0000(2). A General Procurement does not require a Vendor security background investigation unless deemed necessary by the Director or the Commission. However, Contractor’s employees and any subcontractor employees performing Services in the Lottery building will be subject to a background investigation performed by Lottery’s Security Section which may include, but may not be limited to, a Law Enforcement Data System (LEDS) background check or completion of forms and fingerprint cards.

2.3 BID PREPARATION:

Bids must be typewritten or prepared in ink and submitted on the forms provided with this ITB. Bidders must submit via email in pdf. format, the following:

One (1) original, fully completed Pricing Submittal Form, Section 4;

One (1) original Bid Signature Page, Section 5, signed by Bidder’s authorized representative;

Any Addenda that require a signature.

Bidder’s authorized representative must sign the Bid and must initial all modifications made on the Bid.

By signing the Bid on behalf of Bidder, Bidder’s authorized representative certifies that the Bid is made without connection to any other person, firm or corporation submitting a separate Bid and is, in all respects, fair and made without collusion or fraud and that Bidder has read, fully understands, and agrees with all specifications and Contract terms and conditions. Bidders shall include in the Bid only the information requested and

required under this ITB. Bidders must not alter the ITB contents in any manner other than filling in blanks and providing signatures where required. Lottery may reject any Bid that alters the ITB content in an unauthorized manner.

2.2 BID SUBMISSION PROCESS AND DEADLINE.

Lottery will only accept electronically submitted Bids. Bids must be emailed to:

Attention: elyse.castillo@lottery.oregon.gov
Invitation to Bid (ITB) Number: 20680
Project: In-counter Glass ITB

All Bids must be in Lottery's possession no later than the Bid Submission Deadline specified in Section 1.2. Lottery will reject Bids delivered after the Bid Submission Deadline.

2.3 BIDS ARE BINDING OFFERS.

The Bid is the Bidder's offer to enter into a Price Agreement to provide the In-counter Glass for Lottery in accordance with the specifications contained in Section 3 and which, if the Bid is accepted for Award, binds the Bidder to enter into a Price Agreement with terms and conditions substantially in the form of Exhibit A. A Bidder shall not make its Bid contingent upon Lottery's acceptance of specifications or terms that conflict with or are in addition to those required in this ITB. Bids are binding offers valid and firm for 90 Days following the Bid Submission Deadline.

2.4 INQUIRIES / REQUESTS FOR CHANGE.

Requests for ITB Clarification or Change, Questions concerning ITB.

By submitting a Bid, Bidder agrees that it understands the requirements of this ITB, and that Bidder fully understands the obligations if Bidder were to enter into a Price Agreement with Lottery. Potential Bidders must submit any questions concerning this ITB, requests for change to this ITB and requests for clarification of this ITB (collectively "Inquiries") to the SPC listed in Section 1.3 of this ITB. Inquiries must be submitted via email and received by the SPC on or before the Inquiry Submission Deadline stated in Section 1.2 of this ITB.

**POTENTIAL BIDDERS MUST CLEARLY LABEL ALL INQUIRIES AS FOLLOWS:
"INQUIRIES REGARDING IN-COUNTER GLASS – ITB 20680".**

Lottery will send Inquiries received and Lottery's responses to those Inquiries via email. Lottery will not identify the potential Bidders who submitted the Inquiries. Lottery may, but is not required to, accept and address any Inquiries submitted after the Inquiry Submission Deadline. If a potential Bidder discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission or other error in this ITB and fails to notify Lottery on or before the Inquiry Submission Deadline, the Bidder submits its Bid at its own risk.

Lottery will promptly respond to each properly submitted inquiry. Where appropriate, Lottery will issue ITB revisions by Addenda sent via email by the SPC. Lottery may informally respond to questions, but no informal responses are binding on Lottery and no informal responses affect or change the ITB in any manner.

2.5 METHOD OF BIDDING.

The price must be clearly shown in the spaces provided on the Pricing Submittal Form (Section 3). The pricing must be extended to show the total when required. In case of errors in extension, the unit price shall prevail.

Lottery reserves the right to reject stipulated or unbalanced Bids that are determined by Lottery to not be in its best interest.

2.6 ITB ADDENDA.

Lottery may change this ITB only by written Addenda sent via email prior to the Bid Submission Deadline. **BY SUBMITTING A BID, EACH BIDDER THEREBY AGREES THAT IT ACCEPTS ALL RISKS ASSOCIATED WITH OR RELATED TO ITS FAILURE TO OBTAIN ANY ADDENDUM ANNOUNCEMENTS.** If required by an Addendum, Bidders must sign and return the Addendum to Lottery either prior to the Bid Submission Deadline or with their Bids.

2.7 RESERVED.

2.8 BID MODIFICATION.

Once submitted, Bids may be modified in writing prior to the Bid Submission Deadline. Modifications shall be signed by an authorized representative of the Bidder and shall state that the new document supersedes or modifies the prior Bid and shall be submitted via email with the subject line "Modification to Bid #20680" to the SPC as specified in Section 1.3. A Bidder's last Bid submitted replaces and supersedes in its entirety all prior Bids submitted by the Bidder.

2.9 BID WITHDRAWALS.

A Bidder may withdraw its Bids prior to the Bid Submission Deadline by submitting a Written request for withdrawal on the Bidder's letterhead, signed by Bidder's authorized representative and submitted to the single point of contact identified in Section 1.3 before the Bid Submission Deadline. Bid withdrawals submitted in Writing must be labeled as such and contain the ITB number. Bidders may withdraw Bids after the Bid Submission Deadline only in accordance with OAR 177-038-0130.

2.10 COST OF BIDDING.

Bidder is responsible for all costs Bidder incurs that are associated with Bid preparation or submission including, but not limited to, costs incurred for making necessary studies or designs for Bid preparation.

2.11 PUBLIC RECORDS AND REQUESTS FOR CONFIDENTIALITY:

All information submitted with a Bid may be a public record and subject to disclosure under the Oregon Public Records Law, ORS 192.311 through 192.478, unless an exemption from disclosure under the Oregon Public Records Law applies. Bidders must specifically identify those sections in the Bid the Bidders regard as confidential and briefly explain how and why the information may be exempt from disclosure. Bidders must also include the name, address, and telephone number of the person Bidder authorizes to respond to Lottery's inquiries concerning the nature of the materials Bidder deems exempt from disclosure. Lottery's non-disclosure of documents or any portion of a document submitted as part of a

Bid may depend on official or judicial determinations based on the Oregon Public Records Law.

2.12 PROCESSING OF BIDS.

Lottery's acknowledgment that the selection process is complete (whether by posting of a Bid tabulation sheet, issuance of bid results, or otherwise), operates as a representation by Lottery that any Bid submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements.

2.13 BID EVALUATION AND AWARD

2.13.1 BID OPENING

Lottery does not publicly open Bids.

2.13.2 NON-RESPONSIVE BIDS.

Lottery may reject Bids that are not Responsive as defined in OAR 177-038-0000(33)

2.13.3 CLARIFICATION OF BID RESPONSE.

At any time during the evaluation process, Lottery may request a Bidder to clarify any item in the Bid submitted and may request additional information from the Bidder that Lottery deems necessary to properly evaluate the Bid. Lottery will make all requests for clarification and additional information in writing. Bidders shall respond to all Lottery requests for clarification within 24 hours (Monday through Friday) following Lottery's delivery of the request to Bidders. If Lottery cannot reach a Bidder for clarification or if a Bidder fails to respond within the specified time, Lottery may reject that Bidder's submission.

2.13.4 METHOD OF AWARD.

Subject to Lottery's reservation of rights under Section 2.15 below, Lottery in its sole discretion, intends to Award a single Price Agreement to the Responsible Bidder who submitted the lowest total priced Responsive Bid for the In-counter Glass ("Overall Project Total"), as required by this ITB. Lottery reserves the right to withdraw any item(s) from Award consideration if Lottery determines that it is in Lottery's the best interest to do so.

2.13.5 INVESTIGATION OF REFERENCES AND PAST PERFORMANCE.

Lottery reserves the right to investigate the responsibility of any Bidder and the references and the past performance of any Bidder with respect to its successful performance of similar services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, subcontractors, and employees. Lottery may postpone the Award or execution of the Price Agreement after the announcement of the apparent successful Bidder in order to complete its investigation.

2.14 BID RESULTS

2.14.1 NOTICE OF BID RESULTS.

Lottery will provide written notice of its intent to Award a Price Agreement once Lottery has determined the Responsible Bidder who submitted the lowest priced Responsive Bid. A Written notice of bid results will serve as notice to all Bidders that Lottery intends to make an Award. The bid results announcement will be emailed to all Bidders.

2.14.2 PRICE AGREEMENT AWARD.

Lottery will Award the Price Agreement, subject to rights reserved in Section 2.15.

2.15 LOTTERY'S RESERVATION OF RIGHTS.

The Lottery, in addition to any other rights reserved, reserves the right, in its sole discretion to:

2.15.1 Modify this ITB;

2.15.2 Extend the Bid Submission Deadline;

2.15.3 Determine whether a Bid does or does not substantially comply with the requirements of this ITB;

2.15.4 Waive any minor irregularity, informality, or non-conformance with the requirements of the solicitation documents;

2.15.5 Include in the Price Agreement some or all items priced in the Bid; and

2.15.6 At any time prior to Price Agreement execution:

2.15.6.1 Reject any Bid that fails to comply with all requirements specified in this ITB; and

2.15.6.2 Reject all Bids and cancel this ITB upon Lottery's determination that cancellation is in Lottery's best interest.

**SECTION 3
SPECIFICATIONS/REQUIREMENTS**

3. By submitting a Bid, Bidder agrees to comply with the specifications and requirements set forth in this Section 3.

3.1 Specifications/Requirements:

3.1.1 ITEM: LOTTERY IN-COUNTER GLASS

Finished Size: 18 1/8" x 18 1/8" x 5/32"
Material: Clear tempered glass
Finishing Cut: Square Cut, free of sharp edges.
Packaging: Wrap 2 per pack, or best method for protecting glass and safe handling. 4 stacks of 100 pieces per pallet. Free of debris or powders.
Shipping: To be shipped directly to Lottery warehouse.

3.1.2 ESTIMATED QUANTITIES:

The quantity of In-counter Glass below is an estimate only and is intended to serve only as a guide and is not to be construed as a guaranteed order quantity. The Lottery makes no guarantee as to the minimum or maximum amount of In-counter Glass to be purchased under the Price Agreement and any resulting Contract(s). In-counter Glass is typically purchased twice a year. Each order of In-counter Glass is approximately a quantity of 1200.

3.2 Order Instructions:

3.2.1 For each order, Lottery shall issue a purchase order via email (in pdf. format) that details item description, quantity and delivery date.

3.2.2 Contractor will be required to acknowledge purchase orders via email to Lottery within one (1) Business Day of Lottery notification.

3.3 Reserved.

3.4 Delivery and Packaging Requirements:

3.4.1 Contractor shall be responsible for providing adequate interior and exterior packaging methods which will meet industry standards.

3.4.2 Shipping containers shall be of a material type that will protect the contents from being crushed or damaged in any way.

3.4.3 Contractor shall provide a packing slip that indicates purchase order number, product description(s) and quantity or quantities, with each delivery.

3.4.4 Contractor shall deliver In-counter Glass on reinforced standard forty inch (40") wooden pallets. Each pallet shall be shrink wrapped and strapped to the pallet to ensure stability.

3.4.5 All deliveries will be made to:
Oregon Lottery Office
500 Airport Rd SE
Salem OR 97301

TERMS & CONDITIONS

3.5 Change Notices:

3.5.1 Contractor shall be required to notify Lottery of any change charge that may be incurred during production of all items, prior to completing the change. Contractor notification of change charge shall include description and cost of the change. Contractor shall not proceed with any changes that incur a charge without receiving prior written approval from the Lottery.

3.5.2 Charges for changes that are performed by Contractor without prior written approval from Lottery may result in non-payment of the additional charges.

3.6 Transportation Charges and Proof of Delivery:

All items as referenced in this Invitation to Bid shall be shipped FOB Lottery, 500 Airport Road SE, Salem, OR 97301, with all transportation and handling charges paid by Contractor. Responsibility and liability loss or damage shall remain with Contractor until final inspection and acceptance by Lottery.

3.7 Overruns/Underruns:

The Lottery will only accept the exact quantity of ordered materials as specified on the purchase order. No overruns or underruns will be accepted unless otherwise approved in advance by Lottery.

3.8 Invoices:

Each invoice submitted by Contractor shall reference the applicable purchase order number. Contractor shall invoice upon delivery and acceptance of the entire order. Contractor shall mail invoices to: Oregon State Lottery, Attn: Accounts Payable, PO Box 12649, Salem, OR 97309-0649; OR email invoices to: Lottery.AP@lottery.oregon.gov.

3.9 Compliance with Tax Laws:

By signature on this Agreement, Contractor certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor, and that Contractor is, to the best of undersigned's knowledge, is not in violation of any Oregon tax laws. For purposes of this certification, "Oregon tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

SECTION 4 PRICING SUBMITTAL FORM

4.0 PRICING SUBMITTAL INSTRUCTIONS.

Bidders must enter the pricing and all other information requested in this Section 4, for In-counter Glass as described in Section 3, Specifications/Requirements. The Overall Project Total shall include all costs, including freight and delivery charges as necessary to meet all requirements found in this ITB.

If this Pricing Submittal Form is replaced by Addenda, then Bidders shall use the Addenda forms to provide pricing and other required information. If the Pricing Submittal Form is only modified by Addenda, then Bidders shall follow the instructions in the Addenda for making modifications to the Pricing Submittal Form. Failure to supply the required information in the Pricing Submittal Form or subsequent Addenda may result in Bid rejection as non-responsive.

	ITEM NAME	UOM:	INITIAL ORDER QUANTITY:	COST EACH:	COST EXTENDED
4.1	IN-COUNTER GLASS	EA	1,100	\$	\$
OVERALL PROJECT TOTAL					\$
Confirmed date Contractor will deliver Goods based on award of Price Agreement and final Lottery approved pre-production sample: _____.					
Bidder shall provide the following information. This information will not be included in Method of Award.					
<p>DELIVERY: Indicate method of Delivery (check one): <input type="checkbox"/> Owned vehicle <input type="checkbox"/> Commercial / Common Carrier</p> <p>Indicate number of Business Days for delivery from receipt of purchase order _____.</p>					
<p>Additional Quantities/Reorders. Bidder shall provide pricing for additional In-counter Glass that shall include freight and delivery charges as requested by Lottery during the term of the Price Agreement. The pricing below will not be used as part of the Method of Award for this ITB, however, pricing for the additional quantities shall be included as part of the resulting Price Agreement if Bidder is selected for award by Lottery.</p>					

Quantity:	500-999	1,000 – 1,200	1,201-1,400
Reorder Pricing (each)	\$	\$	\$

**SECTION 5
BID SIGNATURE PAGE**

Certifications and Signature of Contractor’s Authorized Representative.

Bidder’s authorized representative must sign this Bid in ink. The undersigned certifies under penalty of perjury both individually and on behalf of Bidder that:

- A.** The undersigned has read and understands all instructions, specifications, terms and conditions contained in this ITB and agrees that Lottery is not liable for any claims or subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidder’s failure to understand all instructions, specifications, terms and conditions of this ITB;
- B.** The undersigned is a duly authorized representative of Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and to execute this Bid on behalf of Contractor.
- C.** The undersigned is authorized to act on behalf of Bidder and that Bidder is, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 401.792 to 401.816 and ORS chapters 118, 314, 316, 317, 318, 320, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706, and local taxes administered by the Department of Revenue under ORS 305.620.
- D.** To the best of the undersigned’s knowledge, Bidder has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225, in obtaining any required subcontracts and is not in violation of any anti-discrimination laws.
- E.** Bidder and Bidder’s employees and agents are not included on the list titled “Specially Designated Nationals and Blocked Persons” maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>.
- F.** If selected for Price Agreement Award, the Bidder will provide to Lottery as part of the Price Agreement signing process Bidder’s Federal Employee Identification Number and a completed and signed W-9 Form.
- G.** Bidder agrees to be bound by and comply with all requirements, terms and conditions of the Price Agreement; and

H. Bidder ___ is / ___ is not a nonresident alien as defined in 26 USC § 7701(b)(1) (check one).

I. Bidder is an independent contractor as defined in ORS 670.600.

J. Bidder ___ is ___ is not a joint venture or partnership. If yes, indicate which one and provide the name of the contact person and the names of all joint venturers or partners.

Lottery is an Equal Employment Opportunity and Affirmative Action employer and encourages its contractors and their subcontractors to follow EEO/AA practices in their performance of contract with Lottery.

The undersigned hereby acknowledges having received and duly considered the following to this ITB:

Bidder (COMPANY) Name

Bidder Address

Authorized Signature

Date

Title of Authorized Representative

Contact Person

Phone

Fax

Email



EXHIBIT A
SAMPLE PRICE AGREEMENT
OREGON STATE LOTTERY PRICE AGREEMENT #XXXX
FOR LOTTERY IN-COUNTER GLASS

This price agreement #XXXX (“Price Agreement”) is between the State of Oregon, acting by and through its Oregon State Lottery Commission (“Lottery”) and XXXXXXXXX (“Contractor”), collectively the “Parties”.

RECITALS

Lottery conducted a competitive solicitation process (ITB #20680) which resulted in Lottery selecting Contractor. Lottery desires to enter into a Price Agreement with Contractor for the purchase of In-counter glass.

Contractor desires to enter into a Price Agreement with Lottery for In-counter Glass.

This Price Agreement is a General Procurement as defined in OAR 177-038-0000.

In consideration of the foregoing recitals and mutual covenants contained in this Price Agreement, the sufficiency of which the parties acknowledge, the Lottery and Contractor agree as follows:

1. All references to “Goods” in this document mean In-counter glass (“In-counter Glass”).
2. **Purchases/Method of Ordering:** During the term of the Price Agreement, Lottery makes no guarantee as to the amount of Goods to be purchased under this Price Agreement. Lottery intends to issue purchase orders under this Price Agreement (“Purchase Orders”), each of which creates a contract (“Contract”) that is subject to and incorporates the terms and conditions below. For each order, Lottery may consider one (1) or more of the following factors to determine ordering frequency: usage, manufacturing lead time, and economic shipping quantity requirements. No language in a Purchase Order shall vary, amend, modify, or add terms or conditions to this Price Agreement. Operative provisions in Purchase Orders shall be limited to order quantities and delivery schedules in accordance with the terms of this Price Agreement.
3. **Effective Date and Duration.**

a. This Price Agreement shall become effective on the date this Price Agreement has been signed by every party hereto and, when required, approved by the Oregon Department of Justice (“Effective Date”).

Unless terminated or extended, this Price Agreement shall expire upon Lottery’s acceptance of all Goods, or _____, whichever occurs last. Neither expiration nor termination shall extinguish or prejudice Lottery’s right to enforce this Price Agreement with respect to any breach of a Contractor warranty or any default or defect in Contractor’s performance that has not been cured.

b. This Price Agreement may be extended for additional one-year term(s), subject to an agreement by the Parties, on the term and price of the Goods hereunder. The maximum term for this Price Agreement will not exceed five (5) years unless further extension is deemed in Lottery’s best interest and documented by Lottery.

4. Price Agreement Documents.

This Price Agreement consists of the following documents which shall be interpreted in the following order of precedence: (1) the Agreement less exhibits; (2) Exhibit A-Specifications/Requirements.

5. Amendments.

No waiver, consent, modification or change to the terms of this Price Agreement shall bind either party unless in writing and signed by both parties and all approvals by law have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

6. Delivery/Risk of Loss:

- a. Time is of the essence. The Goods shall be delivered F.O.B. destination to Oregon Lottery, 500 Airport RD SE, Salem, OR 97301 (“Lottery Headquarters”) in accordance with the delivery schedule specified in the Purchase Order. Contractor delivery lead time shall not exceed 45 Business Days.
- b. Contractor shall provide delivery notification to Michelle Svejkovsky via email at michelle.svejkovsy@lottery.oregon.gov, no less than 24 hours prior to delivering each Purchase Order.
- c. Title to the Goods and risk of loss or damage to the Goods shall pass to Lottery upon delivery of the Goods to Lottery Headquarters. Contractor shall assume responsibility for all packing, crating, and standard delivery transportation charges. In the event Lottery requests expedited delivery Lottery and Contractor shall negotiate any additional freight charges.
- d. In the event Contractor fails to deliver the Goods in accordance with the delivery schedule, in addition to any other remedies afforded elsewhere, Lottery may in its sole discretion (i) notwithstanding Section 2 of the Price Agreement, purchase the Goods from another source and recover from Contractor the difference in cost as provided in ORS 72.7120, together with any incidental and consequential damages as provided in ORS 72.7120; (ii) reject all or any portion of the Goods; or (iii) accept all or any portion of the Goods at a reduced price.

- e. **Overruns/Underruns:** Lottery will only accept the exact quantity of In-counter Glass ordered as specified in the Purchase Order(s). If Contractor manufactures quantities over the order, Contractor understands and agrees that it shall be at their sole expense and responsibility. Contractor may, however, contact the Lottery in writing, within five (5) business days before receipt of initial order, indicating that over-runs were manufactured and available for purchase. Lottery may or may not elect to purchase the additional Napkins.

7. Inspection; Acceptance: Upon delivery of the Goods to Lottery, Lottery shall have ten (10) Business Days to sample and inspect the Goods for quality assurance. In the event the Goods do not meet the Specifications or if there are visual defects found during the inspection, Lottery will provide written notification to Contractor explaining the reason(s) for rejection of the order. If Lottery must use some of the defective Goods during the period between the rejection of an order and the delivery of a replacement order, Contractor shall not charge Lottery for such use. Additionally, since the Goods are imprinted with Lottery information, Lottery will destroy and recycle rejected Goods. All costs associated with the manufacturing, destruction and recycling of the rejected Goods and the replacement of the rejected Goods shall be the responsibility of Contractor, at no additional charge to the Lottery. Lottery shall invoice Contractor for actual costs of destruction of such rejected Goods and Contractor shall pay Lottery within thirty (30) calendar days of receipt of invoice. Nothing contained in this Section 7 precludes Lottery from obtaining any other remedies to which it may be entitled.

8. Pricing

- a. Contractor's pricing established in Attachment One is firm for the initial term following the Effective Date of this Price Agreement. If the Price Agreement is extended beyond the initial term, the parties may negotiate a price adjustment. Contractor may submit a request for a price adjustment within 45 calendar days prior to expiration of the then-current Price Agreement term.
- b. Lottery may require Contractor to present acceptable documentation verifying the affected increase. Lottery will determine what constitutes acceptable documentation. The Parties shall mutually agree to any price adjustment by written amendment to this Price Agreement.
- c. If Lottery rejects Contractor's proposed price increase, or proposes a lesser amount of increase, Contractor may either agree to extend the term with no price increase, or at the lesser price increase, or allow the Price Agreement to expire.
- d. Lottery shall be given the immediate benefit of any price decrease. Contractor shall promptly notify Lottery's Purchasing Analyst listed in Section 25 of the amount and effective date of each decrease. Decreases shall apply to Goods on or after the effective date of the decrease.

9. Invoicing and Payment.

- a. **Submission.**

Contractor shall only invoice Lottery for the Goods accepted by Lottery. Invoice shall be submitted to Lottery's electronic mailbox: lottery.ap@lottery.oregon.gov or via US mail to: Oregon State Lottery, Attn.: Accounts Payable Dept., PO Box 12649, Salem, OR, 97309.

b. Payment Terms.

Lottery's payment terms are NET 30 days from receipt of an accurate invoice.

c. Late Charges.

Contractor may assess late payment charges to the extent permitted by ORS 293.462.

d. Conditions Precedent to Payment.

As a condition precedent to Lottery's obligation to pay Contractor, Contractor shall, upon execution of this Price Agreement, deliver to Lottery the applicable Internal Revenue Service form, whether a W-9 form, W-8 form, 8233 form or other similar form, based upon Contractor's status as a United States person, resident alien or nonresident alien, as those terms are defined in 26 USC §7701. These forms are currently available at <http://www.irs.gov>. Lottery may withhold payments to Contractor pending Lottery's receipt from Contractor of the applicable, completed and signed form.

10. Material Safety Data Sheet:

Contractor shall provide Lottery at time of delivery of the Goods with a Material Safety Data Sheet as defined by the Occupational Safety and Health Administration (OSHA) for any Goods provided under the Agreement which may release or otherwise result in exposure to a hazardous chemical under normal conditions of use. In addition, Contractor shall properly label, tag or mark such Goods.

11. Subcontracts and Assignment; Successors and Assigns.

a. Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under the Price Agreement, in whole or in part, without the prior written approval of Lottery. Further, no such written approval shall relieve Contractor of any obligations under the Price Agreement, and any assignee, transferee, or delegate shall be considered the agent of Contractor. Any purported assignment or delegation by Contractor without Lottery's prior written approval shall be deemed a breach of the Price Agreement and shall be void.

b. The provisions of this Price Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

12. No Third-Party Beneficiaries.

Lottery and Contractor are the only Parties to this Price Agreement and are the only Parties entitled to enforce its terms. Nothing in this Price Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Price Agreement.

13. Funds Available and Authorized; Payments.

Article XV, section 4(4)(d) of the Oregon Constitution provides that Lottery is a self-supporting, revenue-raising agency and that no appropriations, loans, or other transfers of state funds shall be made to it. Accordingly, all amounts payable by Lottery under this Price Agreement are the sole responsibility of Lottery, and not the State, and are payable only from: (1) Revenues received by Lottery from lottery games; and (2) other miscellaneous revenues generated by Lottery. Lottery certifies that, as of the effective date of this Price Agreement, sufficient funds are available and authorized for expenditure to finance the costs of this Price Agreement within Lottery's current financial plan. Notwithstanding this certification, Lottery's payments under this Price Agreement, together with all of Lottery's other obligations incurred under ORS 461.510(4), are limited by Article XV, section 4(4)(d) of the Oregon Constitution and ORS 461.500(2). If Lottery's authority or ability to conduct lottery games is removed or diminished, or if Lottery reasonably determines that expending the amounts payable by Lottery under this Price Agreement would be in violation of the 16% (sixteen percent) limitation under ORS 461.500(2), Lottery may terminate this Price Agreement.

14. Governing Law; Venue; Consent to Jurisdiction.

This Price Agreement is governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws. Any claim, action, suit or proceeding (collectively, "**Proceeding**") between State and Contractor that arises from or relates to this Price Agreement shall be brought and conducted solely and exclusively within the Circuit Court of the State of Oregon for Marion County; provided, however, if a Proceeding must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THE FORUM IS AN INCONVENIENT FORUM. Nothing in these provisions shall be construed as a waiver of State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or jurisdiction based thereon.

15. Representations and Warranties.

a. Contractor's General Representations and Warranties.

Contractor represents and warrants to Lottery that:

- i. Contractor has the power and authority to enter into the Price Agreement, and that the Price Agreement is a valid and binding obligation of Contractor enforceable in accordance with its terms;
- ii. All Goods are new and are free from defects in materials, design and workmanship;
- iii. All Goods are in compliance with and meet or exceed all applicable Specifications;
- iv. All services, if any, shall be performed in a good and workmanlike manner, and in the event that such services are covered by professional or industry standards, then the services shall be performed according to the highest applicable professional or industry standards;

v. Goods are free and clear of any liens or encumbrances, Contractor has full legal title to the Goods, and no other person has any right, title or interest in the Goods which are superior to or infringe upon the rights granted to Lottery hereunder;

vi. When used as authorized by this Price Agreement, no Goods delivered by Contractor to Lottery infringes, nor will Lottery's use or transfer of such Goods infringe, any copyright, patent, trade secret, or other proprietary right of any third party; and

vii. Goods comply with all applicable federal health and safety standards, including but not limited to, Occupational Safety and Health Administration (OSHA), and all Oregon safety and health requirements, including, but not limited to, those of the State Workers' Compensation Division.

b. Warranties Cumulative: The warranties set forth in this Section 15 are in addition to, and not in lieu of, any other warranties provided in the Price Agreement. All warranties provided in the Price Agreement shall be cumulative, and shall be interpreted expansively so as to afford Lottery the broadest warranty protection available. All implied and express warranty provisions of the UCC are incorporated in the Price Agreement.

c. Manufacturer Warranties: Contractor shall have all manufacturer warranties covering the Goods and component parts, if any, transferred to Lottery at time of delivery at no charge.

d. Non-Compliance. If any Goods or component parts are recalled by a regulatory body or the manufacturer, or discovered by Contractor not to comply with applicable regulatory standards or the Specifications, Contractor shall immediately notify Lottery of the recall or non-compliance, and shall provide copies of the recall notice or notice of non-compliance, as applicable, and all other supporting documentation for the recall or non-compliance determination. Lottery may elect to (a) reject Goods in whole or in part, or (b) revoke its acceptance of Goods in whole or in part. If Lottery rejects Goods or revokes its acceptance of Goods, Contractor shall remove the particular Goods from Lottery's possession at no cost to Lottery and shall reimburse Lottery for all payments made for those Goods.

16. Ownership of Work Product.

a. Definitions.

As used in this Section, and elsewhere in this Price Agreement, the following terms have the meanings set forth below:

i. "Intellectual Property" means any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right.

ii. "Contractor Intellectual Property" means any Intellectual Property owned by Contractor and developed independently from the Services.

iii. "Third Party Intellectual Property" means any Intellectual Property owned by parties other than Lottery or Contractor.

iv. "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to Lottery pursuant to the Services.

b. Original Works.

All Work Product created by Contractor pursuant to the Services in whatever form, shall be the exclusive property of Lottery. Lottery and Contractor agree that such original works of authorship are "work made for hire" of which Lottery is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Services is not "work made for hire," Contractor hereby irrevocably assigns to Lottery any and all of its rights, title, and interest in all original Work Product created pursuant to the Services, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Lottery's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Lottery. Contractor agrees that Contractor shall not, and is estopped to, assert against Lottery and the State of Oregon, or any of their assignees, any and all rights relating to original Work Product created pursuant to the Services, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

c. Contractor Intellectual Property.

In the event that Work Product is Contractor Intellectual Property, Contractor hereby grants to Lottery an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on Lottery's behalf.

d. Third Party Intellectual Property.

In the event that Work Product is Third Party Intellectual Property, Contractor shall secure on Lottery's behalf, and in the name of Lottery, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third-Party Intellectual Property and to authorize others to do the same on Lottery's behalf.

17. Indemnity.

a. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS AND INDEMNIFY THE LOTTERY AND THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL THIRD PARTY CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, STATUTORY PENALTIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THE WORK ORDER CONTRACT, INCLUDING: (I) ANY CLAIM THAT CONTRACTOR, A SUBCONTRACTOR, OR CONTRACTOR'S STAFF OR A SUBCONTRACTOR'S STAFF ARE EMPLOYEES OF THE STATE OR LOTTERY FOR ANY REASON, AND (II) ANY CLAIM AGAINST THE STATE OR LOTTERY, WHICH, IF TRUE, WOULD CONSTITUTE A BREACH BY CONTRACTOR OF ANY OF THE REPRESENTATIONS, WARRANTIES, OR COVENANTS SET FORTH IN THIS WORK ORDER CONTRACT. WITHOUT LIMITING

THE GENERALITY OF THE FOREGOING, CONTRACTOR WILL HAVE NO OBLIGATION TO INDEMNIFY LOTTERY OR THE STATE OF OREGON FROM AND AGAINST ANY CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS, AND EXPENSES ATTRIBUTABLE SOLELY TO THE ACTS OR OMISSIONS OF LOTTERY OR THE STATE OF OREGON, AND THEIR OFFICERS, EMPLOYEES, OR AGENTS.

- b. PROVIDED, HOWEVER, THE OREGON ATTORNEY GENERAL MUST GIVE WRITTEN AUTHORIZATION TO ANY LEGAL COUNSEL PURPORTING TO ACT IN THE NAME OF, OR REPRESENT THE INTEREST OF, THE STATE OR ITS OFFICERS, EMPLOYEES AND AGENTS PRIOR TO SUCH ACTION OR REPRESENTATION. FURTHER, THE STATE, ACTING BY AND THROUGH ITS DEPARTMENT OF JUSTICE, MAY ASSUME ITS OWN DEFENSE, INCLUDING THAT OF ITS OFFICERS, EMPLOYEES AND AGENTS, AT ANY TIME WHEN IN THE STATE'S SOLE DISCRETION IT DETERMINES THAT (i) PROPOSED COUNSEL IS PROHIBITED FROM THE PARTICULAR REPRESENTATION CONTEMPLATED; (ii) COUNSEL IS NOT ADEQUATELY DEFENDING OR ABLE TO DEFEND THE INTERESTS OF THE STATE, ITS OFFICERS, EMPLOYEES AND AGENTS; (iii) IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE; OR (iv) THE BEST INTERESTS OF THE STATE ARE SERVED THEREBY, CONTRACTOR'S OBLIGATION TO PAY FOR ALL COSTS AND EXPENSES SHALL INCLUDE THOSE INCURRED BY THE STATE IN ASSUMING ITS OWN DEFENSE AND THAT OF ITS OFFICERS, EMPLOYEES, OR AGENTS UNDER (i) AND (ii) ABOVE.

- c. IP INDEMNITY. IN ADDITION TO AND WITHOUT LIMITING THE GENERALITY OF SECTION A, CONTRACTOR EXPRESSLY AGREES TO, INDEMNIFY, DEFEND AND HOLD THE STATE OF OREGON AND ITS AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS HARMLESS FROM ANY AND ALL THIRD PARTY CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER RESULTING FROM, ARISING OUT OF OR RELATING TO ANY CLAIMS THAT THE GOODS INFRINGE ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT (COLLECTIVELY, "INTELLECTUAL PROPERTY RIGHTS") OF ANY THIRD PARTY. IF CONTRACTOR BELIEVES AT ANY TIME THAT THE GOODS INFRINGE A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS, CONTRACTOR MAY UPON RECEIPT OF LOTTERY'S PRIOR WRITTEN CONSENT, WHICH LOTTERY SHALL NOT UNREASONABLY WITHHOLD, (I) REPLACE AN INFRINGING ITEM WITH A NON-INFRINGING ITEM THAT MEETS OR EXCEEDS THE PERFORMANCE AND FUNCTIONALITY OF THE REPLACED ITEM; OR (II) OBTAIN FOR LOTTERY THE RIGHT TO CONTINUE TO USE THE INFRINGING ITEM; OR (III) MODIFY THE INFRINGING ITEM TO BE NON-INFRINGING, PROVIDED THAT, FOLLOWING ANY REPLACEMENT OR MODIFICATION MADE PURSUANT TO THE FOREGOING, THE GOODS CONTINUES TO FUNCTION IN CONFORMANCE WITH THE SPECIFICATIONS SET FORTH IN THIS PRICE AGREEMENT. CONTRACTOR'S FAILURE OR INABILITY TO ACCOMPLISH ANY OF THE FOREGOING SHALL BE DEEMED A MATERIAL BREACH OF THIS PRICE AGREEMENT, AND LOTTERY MAY PURSUE ANY RIGHTS AND REMEDIES AVAILABLE TO IT UNDER THIS PRICE AGREEMENT, INCLUDING TERMINATION.

18. Termination.

a. Parties' Right to Terminate for Convenience. This Price Agreement may be terminated at any time by mutual written consent of the Parties.

b. Lottery's Right to Terminate for Convenience. Lottery may, at its sole discretion, terminate this Price Agreement, in whole or in part, upon thirty (30) calendar days' written notice to Contractor.

c. Lottery's Right to Terminate for Cause. Lottery may terminate this Price Agreement immediately upon notice to Contractor, or at such later date as Lottery may establish in such notice, upon the occurrence of any of the following events:

i. If Lottery funding from sales sources is not obtained and continued at levels sufficient to allow for compensation for the Goods, in Lottery's sole administrative discretion, the Price Agreement may be modified to accommodate a reduction in funds;

ii. If federal or state laws, regulations or guidelines are modified, or interpreted in such a way that the services are prohibited, or Lottery is prohibited from paying for such services from the planned funding source;

iii. If the State of Oregon enacts a statute, a court decision is issued, or an initiative passes that removes the authority or ability of Lottery to conduct lottery games;

vi. If any license or certificate required by law or regulations to be held by Contractor to provide the Goods required by this Price Agreement is for any reason denied, revoked, or not renewed;

v. If any control person, as defined in ORS 461.410, of Contractor is convicted of any crime;

vi. If the Lottery discovers that Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis of the type made subject of the Price Agreement, or is in default for failure to pay taxes or any other amount owed to a government entity;

vii. Contractor commits any material breach or default of any covenant, warranty, obligation or certification under this Price Agreement, fails to perform the services under this Price Agreement within the time specified herein or any extension thereof, or so fails to pursue the services as to endanger Contractor's performance under this Price Agreement in accordance with its terms, and such breach, default or failure is not cured within ten (10) Business Days after the date of Lottery's notice of default, or such longer period as Lottery may specify in such notice.

d. Contractor's Right to Terminate for Cause.

Contractor may terminate this Price Agreement upon thirty (30) calendar days written notice of intent to terminate to Lottery if Lottery fails to pay Contractor pursuant to the terms of this Price Agreement and Lottery fails to cure within ten (10) Business Days after receipt of Contractor's written notice, or such longer period of cure as Contractor may specify in such notice.

e. Remedies.

i. In the event of Price Agreement termination pursuant to Section 18(a), (b), (c)(i), (c)(ii), (c)(iii), or (d), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the services multiplied by the percentage of services completed and accepted by Lottery, less previous amounts paid and any claim(s) which Lottery has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this Subsection, Contractor shall immediately pay any excess to Lottery upon demand.

ii. In the event of Price Agreement termination pursuant to Section 18(c)(iv), (c)(v), (c)(vi), or (c)(vii), Lottery shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under 18(c)(iv), (c)(v), (c)(vi), or (c)(vii), the rights and obligations of the Parties shall be the same as if the Price Agreement was terminated pursuant to Section 18(b).

f. Contractor's Tender Upon Termination.

Upon receiving a notice of termination of this Price Agreement, Contractor shall immediately cease all activities under this Price Agreement unless Lottery expressly directs otherwise in such notice of termination. Upon termination of this Price Agreement, Contractor shall deliver to Lottery all documents, information, works-in-progress, and other property that are or would be deliverables had the Price Agreement been completed. Upon Lottery's request, Contractor shall surrender to anyone Lottery designates all documents, objects, or other tangible things required to complete the purchase of Goods.

19. Insurance.

Contractor shall have in effect, and maintain throughout the term of this Price Agreement, the following insurance:

- a. **Workers' Compensation** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.
- b. **General Liability.** Contractor shall obtain and maintain, at its own expense, for the duration of this Price Agreement, Commercial General Liability insurance covering Bodily Injury, Death and Property Damage. It must include contractual liability coverage for the indemnity provided under this Price Agreement. The policy shall be endorsed to name State of Oregon, the Oregon State Lottery Commission and its members, its officers and employees as Additional Insureds but only with respect to the Contractor's commercial services to be provided under the Price Agreement. Contractor shall provide proof of insurance of not less than the following amounts:

Bodily Injury/Death:

Per occurrence limit for any single claimant: \$1,000,000.

Per occurrence limit for multiple claimants: \$2,000,000.

- c. **Professional Liability Insurance. Not required.**

- d. **Automobile Liability. Not required.**

- e. **Notice of Cancellation or Change.** There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) calendar days' written notice from this Contractor or its insurer(s) to

Lottery. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the Price Agreement and may be grounds for immediate termination of this Price Agreement by Lottery.

- f. **Certificates of Insurance.** Contractor shall provide to Lottery Certificate(s) of Insurance for all required insurance before performing any Services required under this Price Agreement. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

20. Records Maintenance; Access.

Contractor shall maintain all fiscal records relating to the subject matter of this Agreement and Contractor's performance hereunder, in accordance with Generally Accepted Accounting Principles. In addition, Contractor shall maintain any other records pertinent to this Price Agreement in such a manner as to clearly document Contractor's performance of its duties under the Price Agreement. Contractor acknowledges and agrees that the Lottery and the Oregon Secretary of State's Office, the Oregon Department of Revenue, the Oregon Department of Justice and their duly authorized representatives shall have access to such records and other books, documents, papers, plans and writings of Contractor that are pertinent to this Price Agreement to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination or expiration of this Price Agreement or until the conclusion of any audit, controversy or litigation arising out of or related to this Price Agreement, whichever date is later.

21. Compliance with Tax Laws. By signature on this Price Agreement for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321, and 323, and any local taxes administered by the Department of Revenue under ORS 305.620.

22. Compliance with Applicable Law.

Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Work Order Contract and the Services provided hereunder. Contractor shall comply with all applicable provisions of Title VI of the Civil Rights Act of 1964, with Section V of the Rehabilitation Act of 1973, and with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Contractor shall also comply with all applicable provisions of the Americans with Disabilities Act of 1990 (Pub L. No. 101-336), including Title II of that Act, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor shall also comply with the Oregon Lottery Act, ORS Chapter 461, as it may be amended from time to time, and the Lottery's Administrative Rules, OAR Chapter 177, as they may be amended from time to time.

23. Force Majeure.

Neither Lottery nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, terrorism, war or any other like cause which is beyond the party's

reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Price Agreement. Lottery may terminate this Price Agreement upon written notice to Contractor after it determines that such delay or default will likely prevent successful performance of the Price Agreement.

24. Survival.

All terms of this Price Agreement, which by their nature are intended to survive Price Agreement termination or expiration and Sections 3, 13, 14, 16, 17, 18.e, 18.f, 20, 21, 22, 24, and 27, shall survive Price Agreement termination or expiration.

25. Notices.

Except as otherwise expressly provided in this Price Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, facsimile, or mailing the same, postage prepaid, to Contractor or Lottery at the addresses or number set forth below, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section, Any communication or notice so addressed and mailed shall be deemed to be received on the fifth (5th) Business Day after the date of post mark. Any communication or notice delivered by facsimile shall be deemed to be received when receipt of the transmission is generated by the transmitting machine. Any communication or notice delivered by email shall be deemed to be received when received in the recipients email inbox. Any communication or notice by personal delivery shall be deemed to be given when actually delivered to the recipient’s current address.

For Contractor:

Email:
Phone:

For Lottery:

Oregon State Lottery
500 Airport Road SE
P.O. Box 12649
Attention: Elyse Castillo
Email: elyse.castillo@lottery.oregon.gov
Phone: 503-540-1367

26. Severability.

The Parties agree that if any term or provision of this Price Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Price Agreement did not contain the particular term or provision held to be invalid.

27. Counterparts.

This Price Agreement may be executed in several counterparts, all of which when taken together shall constitute one Price Agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Price Agreement so executed shall constitute an original.

28. Merger Clause; Waiver, Amendment.

This Price Agreement constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Price Agreement. No waiver, consent, modification or change to the terms of this Price Agreement shall bind either party unless in writing and signed by all Parties and all approvals required by law have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Lottery to enforce any provision of this Price Agreement shall not constitute a waiver by Lottery of that or any other provision.

IN WITNESS WHEREOF, this Agreement has been executed, as of the date provided below, by a duly authorized representative of XXXXXX and the Oregon State Lottery Commission.

FOR CONTRACTOR

By: _____
Authorized Signatory

Title: _____ Date: _____

FOR LOTTERY

The State of Oregon acting by and through its Oregon State Lottery Commission

By: _____
Authorized Signatory

Title: _____ Date: _____

**ATTACHMENT ONE
SPECIFICATIONS/REQUIREMENTS**

1.1 Specifications/Requirements:

1.1.1 ITEM: LOTTERY IN-COUNTER GLASS

- Finished Size:** 18 1/8" x 18 1/8" x 5/32"
- Material:** Clear tempered glass
- Finishing Cut:** Square Cut, free of sharp edges.
- Packaging:** Wrap 2 per pack, or best method for protecting glass and safe handling. 4 stacks of 100 pieces per pallet. Free of debris or powders.
- Shipping:** To be shipped directly to Lottery warehouse.

1.2 Order Instructions:

- 1.2.1** For each order, Lottery shall issue a purchase order via email (in pdf. format) that details item description, quantity and delivery date.
- 1.2.2** Contractor will be required to acknowledge purchase orders via email to Lottery within one (1) Business Day of Lottery notification.

1.3 Delivery and Packaging Requirements:

- 1.3.1** Contractor shall be responsible for providing adequate interior and exterior packaging methods which will meet industry standards.
- 1.3.2** Shipping containers shall be of a material type that will protect the contents from being crushed or damaged in any way.
- 1.3.3** Contractor shall provide a packing slip that indicates purchase order number, product description(s) and quantity or quantities, with each delivery.
- 1.3.4** Contractor shall deliver In-counter Glass on reinforced standard forty inch (40") wooden pallets. Each pallet shall be shrink wrapped and strapped to the pallet to ensure stability.
- 1.3.5** All deliveries will be made to:
Oregon Lottery Office
500 Airport Rd SE
Salem OR 97301

2. Price:

The prices set forth below shall apply to all Faceplate orders during the initial term of the Agreement.

2.1	INITIAL ORDER		
	Option and Quantity:	Cost Per In-counter Glass (each)	

	1,100	\$	

2.2	PRICING FOR REORDERS		
	Quantity:	Unit Cost per Faceplate Option A	
	500-999	\$xx.xx /each	
	1,000 – 1,200	\$xx.xx/each	
	1,201-1,400	\$xx.xx/each	