



The following individuals will lead the operation in New Hampshire.

Director of Operations: Robert Maclellan
Account Director Role: Paul Ledger
General Manager: Marc Belanger
Operations Manager: Norm Hollingsworth
Operations Manager: Frank Ayala
Warehouse Supervisor: Mike Shay
Warehouse Supervisor: Juan Rivera
Human Resources Support Role: Laurie Parent

Question:

Please identify your redundant warehouse site

Answer:

It is very expensive to have vacant warehouse space, idle material handling equipment, and dormant IT infrastructure. Thus, it is our perspective that it is unrealistic to have a truly redundant warehouse site. We do have clients in the pharmaceutical industry that maintain duplicate inventory in the same building on either side of a fire wall, but that is the extent of what we see in terms of permanent redundancy.

What we recommend is having a target list of sites that are temporarily vacant that may be utilized on short notice until the permanent site is repaired or a suitable permanent alternative is found. It is too early to identify redundant warehouse space. The operation does not go live for another 15 months. Too much will change regarding vacant space in this timeframe.

Through our Business Continuity Planning (BCP) process we will identify multiple sites as potential redundant warehouses. Our BCP for this operation will be completed before the first case is received as part of the start-up phase of the operation. Then as part of our BCP we will review and update our list of candidate sites for redundancy on a quarterly basis.

In preparation to respond to this question we completed a market survey of New Hampshire and found 14 sites with between 50,000 and 200,000 square feet available. Though not suitable as permanent sites for this operation many of them could be suitable in the case of a disaster.

At this point in time, we would identify this site as a good candidate to be a redundant site: 59 Daniel Webster Highway, Merrimack, NH 03054.

- We considered this site as a permanent option, but when we toured it we found it demised multiple times.
- 280,000 square feet are available
- Most of it is 32 feet clear
- 26 dock doors
- Centrally located in New Hampshire

Exel is in a unique position to provide redundancy options. We have a very capable real estate team, and given our credit worthiness we can act very quickly. We have a very large client base in the North Eastern United states. A number of these sites may be options for



redundancy. As these sites are in operation they have IT systems, material handling equipment, and established management and team members. For example currently we have,

- 3 sites in Albany NY
- 11 site in Boston MA
- 26 sites in North Eastern PA
- 9 sites in New York NY
- 2 sites in Rochester NY

VI. Current & Future Data Requirements

Question:

Please confirm that you will be responsible for your costs to make modifications and updates to your environment to stay current with the future system.

Answer:

We can confirm that we are responsible for our costs to make modifications and updates to our environment to stay current with future system at the NHSLC. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS.

If you have any questions regarding this Best and Final Offer, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Lyons".

Scott Lyons
Senior Director

Craig W. Bulkley

From: Craig W. Bulkley
Sent: Thursday, August 09, 2012 7:43 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel BAFO Clarification

received



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, August 08, 2012 5:39 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); George P. Tsiopras
Subject: RE: Exel BAFO Clarification

We withdraw our qualification that the rates will remain constant for 30 months.

Our BAFO will now be \$2.02 on an aggregate cost per case basis (previously \$1.98).

We will submit a revised rate sheet tomorrow with updated rates for each service that will aggregate to \$2.02.

Please confirm receipt.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, August 08, 2012 3:33 PM
To: Scott Lyons (EXEL CA)
Subject: Exel BAFO Clarification

Scott:

The Evaluation Committee has tried to be clear that it wants the rates for the first 30 months to remain constant. When we asked you to confirm this issue in the BAFO, you stated that your rates will not change. Consistent with your prior positions, you then qualified this statement by suggesting that either party should have the opportunity to request a review of rates if the actual volumes or profile of work vary by 10% from the data provided by the NHSLC in the RFP.

The data provided by the NHSLC has always been identified as estimates. Even if we could agree on some workable review process, the NHSLC does not want to take the risk that volumes will decrease below the estimates. The NHSLC appreciates your point that it could enhance its revenue if volumes are greater than the estimates. Nevertheless, it does not want to take the risk.

By 10 AM tomorrow, please withdraw your qualification that the rates will remain constant for 30 months.



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Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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FAX (603) 271-3897
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Craig W. Bulkley

From: Craig W. Bulkley
Sent: Friday, August 10, 2012 2:58 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer Follow-Up

Scott:

The following is the NHSLC's effort to fine tune the proposals in order to identify the proposal(s) that best meet the needs of the State. **Your response is due by noon, Monday, August 13, 2012.**

1. Financial

Using the template from your BAFO, indicate whether you can reduce your Grand Total to \$25,500,000. You may not change any other financial terms. You do not need to recalculate each rate that will support this number.

2. RFP / Standard Contract

We have resolved issues regarding the Transition Bond, the Performance Bond, and IT issues in Appendix K. We understand your proposal regarding Section 1.10.4 – Rate Changes – Page 11 and, during the next phase, Contract Negotiation, are prepared to negotiate that item. We are also prepared, during that phase, to discuss the requirements in Appendix E, Section 14.3 – Insurance – in regard to the requirement that the insurer provide notice no less than ten days prior to cancellation or modification of the policy.

In consultation with the Office of the Attorney General, the Commission makes the following clarifications. All other exceptions are rejected.

- Section 1.9 – Contract Performance Bond – Page 10 – The NHSLC understands that the proposed rates are based on a \$1 million performance bond. If the NHSLC requires a higher bond, the NHSLC will engage in a good-faith negotiation of the proposed rates.
- Section 3.0.2 – Location of Product – Vendor-owned product produced by a vendor with a NH manufacturing license shall be stored at the Concord warehouse
- Appendix E – Exhibit C – Paragraph 14.1.2 and 14.1.3 – Insurance – The NHSLC will allow the equivalent of \$2 million coverage of 100% of acquisition cost for all liquor and wine product owned by the NHSLC for all risks and, fire and extended coverage.
- Appendix E – Paragraph 16 – Waiver of Breach – The phrase “Event of Default” where it occurs in this paragraph is amended to read “Material Breach.”
- Appendix E – Exhibit C – Paragraph 26 – In sub-paragraph 4, (which begins “All costs associated...”) strike the phrase “...as provided in Paragraph 8.”

You may discuss these clarifications and rejected exceptions by telephone with Steve Judge and Craig Bulkley at 10:00 AM, Monday, August 13, 2012. If you wish to have a discussion, at least ½ hour prior to that time, please provide us with a contact phone number and email Mr. Bulkley a list of the sections of the RFP that you wish to discuss including the page numbers. This will be an opportunity for you to understand why the Commission has made this decision. It is not an opportunity to argue about the wisdom of the Commission's decision.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, September 05, 2012 11:11 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Contract Award Extension

We do require additional time to respond to this question. Would end of day be acceptable?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 31, 2012 4:18 PM
To: Fred Takavitz (Exel US); Scott Lyons (EXEL CA)
Subject: Contract Award Extension

Fred:

The Evaluation Committee has a question that you need to answer.

The question is: What additional costs would be incurred if the contract was not awarded until November 14, 2012? What would be the impact on your grand total costs over the initial 30-month term?

We would like a response by 12:00 noon on Wednesday, September 5, 2012. If, however, a small amount of additional time is required, please let us know.

Thank you.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, September 05, 2012 12:35 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); Maria Tzagournis (EXEL US); Greg Foreman (EXEL US)
Subject: Contract Question

In our meeting yesterday I thought I heard Steve Judge indicate that if we could not agree on new rate at any 30 month interval that this would be a material breach and lead to early termination. I am not able to follow this perspective in the current contract language. There appears to be a contract protest process that would come into play, and this process does not appear to lead to a material breach. Can you confirm for us whether it is the NHSLC's perspective that failure to agree on a rate leads to a material breach, and if so how that result would be reached?

Thanks,
Scott Lyons

Exel
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Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, September 05, 2012 1:14 PM
To: Craig W. Bulkley
Subject: RE: Contract Question

Thanks for the note. It will help us with drafting our language.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, September 05, 2012 12:52 PM
To: Scott Lyons (EXEL CA)
Cc: George P. Tsiopras; John D. Bunnell; Hastings, Peter; Stephen J. Judge; Judge, Steve
Subject: RE: Contract Question

Scott:

This is why what we say doesn't count; it's what we put in writing. You are correct that there is a contract protest process contained on Page 66 of the RFP. There is also a rate changes provision at Section 1.10.4 on Page 11 of the RFP. Section 1.10.4 provides for termination of the contract if either party fails to negotiate in good faith. You are correct, that is not the scenario we were discussing.

To be more exact, if there is no agreement on rates, it is possible that there will be no resolution through the contract protest process. At that point, we are left with a standoff or a party could seek judicial intervention or some other remedy.

As we discuss this, we are not quite sure how we arrive at the scenario where Exel is able to get out of the contract thus creating the need for some entity to assume the lease.

If we have accurately captured your quandry, the language you propose should create the ability for Exel to get out of the contract under certain circumstances. It should then go on to describe how the lease will be assumed by some other party. As we write this, the possibility of the Attorney General agreeing to such a provision becomes less likely. But, let's see what you can do.



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Craig W. Bulkley
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Cell: (603) 490-1559

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www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, September 05, 2012 5:37 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Contract Award Extension

We see three options for the NHSLC regarding not awarding the contract until November 14, 2012.

Option 1 – Extend your current contract with the incumbent provider until February 28, 2014.

- We do not recommend starting up the new operation during the holiday season. February 28, 2014 provides the month of January to stock the new facility, and the month of February to ramp-up services to the stores from the new facility
- Construction would commence in the spring time
- There are no additional costs from Exel under this option
- Based on the difference in the rates Exel is proposing and the rates the incumbent will be charging as of January 1, 2013 this represents a cost to the industry of approximately \$1,100,000 across the 5 month extension

Option 2 – Sign an Reimbursement Indemnification Agreement authorizing Exel to expend funds towards key tasks needed to protect the current timeline

- The customer pledges to reimburse us for any authorized expenditures that we make if we do not reach agreement on a contract
 - The expenditures between September 14th and October 14th will be \$100,000 for environmental studies, soils analysis, and civil engineering work
 - The expenditures between October 15th and November 14th will be \$150,000 for structural steel and architectural drawings
- There are no additional costs from Exel under this option

Option 3 – Begin construction in the winter

- Studies, drawings and permitting activities will start as of November 15th
- We would commence construction once permits received likely in mid-January
- This represents a \$500,000 increase to the building costs which will equate to an \$80,000 increase in our grand total costs over the initial 30-month term. This \$80,000 would also be factored into future 30-month term rates
- The time frame for studies, drawing, and permitting is 2 months in this option. This is less time than originally estimated. We believe it is doable, but does carry some risk
- We will be operating in winter conditions and fast tracking the construction work. Again, we believe we will still finish on time, but does carry additional risk. We still are maintaining weather delay days in the schedule
- The timeframe to transfer product and fully ramp-up services to stores from the new facility is 7 weeks. This will require coordination and cooperation from the incumbent provider and the staff at your Concord facility

We trust this adequately answers your question. Please do not hesitate to contact us if you have further questions.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 31, 2012 4:18 PM
To: Fred Takavitz (Exel US); Scott Lyons (EXEL CA)
Subject: Contract Award Extension

Fred:

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The question is: What additional costs would be incurred if the contract was not awarded until November 14, 2012? What would be the impact on your grand total costs over the initial 30-month term?

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Thank you.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, September 06, 2012 10:17 AM
To: Craig W. Bulkley
Subject: RE: Contract Award Extension

My savings figure for option 1 should be approximately \$3 million not the lower figure from my earlier email.

We thought this option and the associated cost figure would be helpful in your discussions.

Cheers,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Thursday, September 06, 2012 8:01 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Contract Award Extension

Received; thank you



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Craig W. Bulkley
Director
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- The customer pledges to reimburse us for any authorized expenditures that we make if we do not reach agreement on a contract
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- The timeframe to transfer product and fully ramp-up services to stores from the new facility is 7 weeks. This will require coordination and cooperation from the incumbent provider and the staff at your Concord facility

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Sincerely,
Scott Lyons

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Mobile: 416 [REDACTED]

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Sent: Friday, August 31, 2012 4:18 PM
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Subject: Contract Award Extension

Fred:

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The question is: What additional costs would be incurred if the contract was not awarded until November 14, 2012? What would be the impact on your grand total costs over the initial 30-month term?

We would like a response by 12:00 noon on Wednesday, September 5, 2012. If, however, a small amount of additional time is required, please let us know.

Thank you.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, September 07, 2012 8:30 AM
To: Craig W. Bulkley
Subject: RE: Exel - Contract Award Extension

Regarding option 1

- You are correct – the correct timeframe is four months
- The calculation assumes the grand total costs across the 30 month period for Exel of \$25,500,000, and the rates that are scheduled to go into effect as of January 1, 2013 which equate to a grand total cost of \$34,723,428. The difference across the 30 months is \$9,223,428. For four months this equates to \$1,229,790. To the extent the rates under the extension are different than the rates that will go in effect January 1, 2013, or the final pricing agreed to between the NHSLC and Exel is different, the potential costs estimate will vary. Our goal here was to show an order of magnitude impact for an extension to February 28, 2014.

Regarding option 3

- All transfers will be completed, and all functions will be operating in a smooth production mode at the new warehouse by October 31, 2013

I trust this clarifies our response. If you have further questions please do not hesitate to contact us.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Thursday, September 06, 2012 3:36 PM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Contract Award Extension

Scott:

I need you to clarify your response in Option 1 and Option 3:

Option 1:

Extending the current contract from November 1, 2013 to February 28, 2014 is four months, not five. So, your last bullet under this option is not showing the correct timeframe. Further, we are not clear how you are making your calculation as you don't know what the new rates will be under this four month extension.

Please clarify your calculations, provide a specific total amount and how you arrived at the cost for the four-month extension. You can not assume that the current vendor's rates will not change from the rates in effect at the end of the current contract (October 31, 2013). His rates will undoubtedly go up from the rates that go into effect on January 1, 2013.

Option 3:

In your fifth bullet, you indicate that you believe you will finish on time with some risk involved. We need a specific statement that says when you will finish based on the factors identified in this option.

Please get a response to us by noon tomorrow, 9/7. Thanks.



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Cheers,
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Mobile: 416 [REDACTED]

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Sent: Thursday, September 06, 2012 8:01 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Contract Award Extension

Received; thank you



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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]

Sent: Wednesday, September 05, 2012 5:37 PM

To: Craig W. Bulkley

Cc: Fred Takavitz (Exel US)

Subject: RE: Contract Award Extension

We see three options for the NHSLC regarding not awarding the contract until November 14, 2012.

Option 1 – Extend your current contract with the incumbent provider until February 28, 2014.

- We do not recommend starting up the new operation during the holiday season. February 28, 2014 provides the month of January to stock the new facility, and the month of February to ramp-up services to the stores from the new facility
- Construction would commence in the spring time
- There are no additional costs from Exel under this option
- Based on the difference in the rates Exel is proposing and the rates the incumbent will be charging as of January 1, 2013 this represents a cost to the industry of approximately \$1,100,000 across the 5 month extension

Option 2 – Sign an Reimbursement Indemnification Agreement authorizing Exel to expend funds towards key tasks needed to protect the current timeline

- The customer pledges to reimburse us for any authorized expenditures that we make if we do not reach agreement on a contract
 - The expenditures between September 14th and October 14th will be \$100,000 for environmental studies, soils analysis, and civil engineering work
 - The expenditures between October 15th and November 14th will be \$150,000 for structural steel and architectural drawings
- There are no additional costs from Exel under this option

Option 3 – Begin construction in the winter

- Studies, drawings and permitting activities will start as of November 15th
- We would commence construction once permits received likely in mid-January
- This represents a \$500,000 increase to the building costs which will equate to an \$80,000 increase in our grand total costs over the initial 30-month term. This \$80,000 would also be factored into future 30-month term rates
- The time frame for studies, drawing, and permitting is 2 months in this option. This is less time than originally estimated. We believe it is doable, but does carry some risk
- We will be operating in winter conditions and fast tracking the construction work. Again, we believe we will still finish on time, but does carry additional risk. We still are maintaining weather delay days in the schedule
- The timeframe to transfer product and fully ramp-up services to stores from the new facility is 7 weeks. This will require coordination and cooperation from the incumbent provider and the staff at your Concord facility

We trust this adequately answers your question. Please do not hesitate to contact us if you have further questions.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 31, 2012 4:18 PM
To: Fred Takavitz (Exel US); Scott Lyons (EXEL CA)
Subject: Contract Award Extension

Fred:

The Evaluation Committee has a question that you need to answer.

The question is: What additional costs would be incurred if the contract was not awarded until November 14, 2012? What would be the impact on your grand total costs over the initial 30-month term?

We would like a response by 12:00 noon on Wednesday, September 5, 2012. If, however, a small amount of additional time is required, please let us know.

Thank you.

 Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
 (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
 cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, September 11, 2012 1:59 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Revenue Sharing

We wish to confirm that our systems are capable of maintaining two rates for each warehouse service. One rate will be the amount charged to the industry, and the second rate will be the compensation Exel keeps for providing the service. Our systems will track the revenues charged to the industry, track the associated revenues that should be held by Exel, and calculate the difference that will be payable by Exel to the NHSLC as revenue sharing. Further, our systems provide the ability to adjust the rates charged to industry as per direction from the NHSLC.

I trust this answers your question. Please do not hesitate to contact me for further clarification if required.

Sincerely,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, September 13, 2012 5:25 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Follow-up from Monday's call

From my notes I believe we owed the NHSLC the following four items:

- Contract language we normally require for traditional asset backing, an outline of the rent to own option, and the events that lead to early termination
- Suggested language for an indirect and consequential damages waiver
- A note confirming our ability to revenue share
- Update on the real estate

I sent a note earlier this week confirming our ability to revenue share

In terms of the real estate – T.F. Moran completed the preliminary topo and boundary worksheet including wetlands location that can be used for starting civil design. Pro Con and possibly T.F. Moran will also be presenting the site plan on behalf of an 'anonymous' tenant next Thursday (Sep 20th) at the Planning Commission meeting. This will help protect the timeline.

Asset Backing

Asset Backing Option #1 (aka Traditional Model) - Exel has entered into this type of arrangement in place for the majority of business opportunities that it has with its customers. At the end of the agreed contract period the facility lease is renewed or, if not renewed, the facility is turned back to a landlord. In those scenarios where Exel owns the facility, the agreement is either renewed (including the facility) or the facility is turned back to Exel.

In the event of a early termination event, the language that follows would apply: "The parties acknowledge and agree that Exel has either specifically leased, owned or otherwise dedicated the Facility in order to provide Services to the NHSLC, and as a result has incurred certain obligations for the period of the Agreement under its leases or ownership obligations. In consideration of Exel leasing, owning or otherwise dedicating the Facility, the parties agree that upon the early termination of this Agreement prior to its stated term, for any reason whatsoever, unless a Lease terminates concurrently with such early termination (such as because of a damage or destruction of the Facility or a taking by expropriation), then, subject to its own or a landlord's consent, Exel shall assign and NHSLC shall assume such lease together with all of Exel's obligations thereunder from and after the effective date of such termination (which effective date shall be the date of such early termination) together with any vendor contracts relating to the Facility (such as HVAC and fire protection maintenance contracts, trash removal, etc.)"

Asset Backing Option #2 (aka Lease to Own) - In a lease to own arrangement, the NHSLC wishes to own the facility at the end of the 20 year contract term. The NHSLC would lease the facility from Exel or another party. The NHSLC would sign a Lease Agreement with Exel or another party and obligate itself to a 20 year lease commitment that could not be terminated. At the end of the 20 year period, the NHSLC would own the facility. The lease amounts that are due each month will be paid by Exel, either to Exel or to another party, on behalf of the NHSLC through the fees paid to Exel by the suppliers or 'industry'. At the end of the 20 year lease term the NHSLC would own the facility, the racking and mechanization within the facility, and the IT interfaces built to facilitate communications between our respective systems.

If the Operating Agreement with Exel should terminate early for any reason including events such as (1) a bankruptcy by either party, (2) either party fails to negotiate in good faith, (3) failure by the parties to agree on

rates,(4) uncured material breach, e.g. failure to deliver services adequately, or (5) New Hampshire chooses to privatize in the same manner as the state of Washington, i.e. permitting direct sales of products from suppliers and vendors to privately owned stores, the obligations that the NHSLC has under the Lease Agreement with Exel or another party would remain.

Specific contract language covering this arrangement will be offered by Exel if the NHSLC elects to proceed with this Lease to Own option.

Disclaimer of Indirect and Consequential Damages

Our proposed language here is as follows: "Notwithstanding any other provision of this agreement to the contrary, neither party, in the performance of their obligations under this agreement shall be liable to the other for any indirect or consequential damages (such as, but not limited to: loss of profits, loss of business, loss of customer goodwill or punitive or exemplary damages or the costs and expenses in providing or securing substitute revenues even if the parties have been advised of the possibility of the same, and without regard to the nature of the claim or the underlying theory or cause of action (whether in contract, tort or otherwise))."

I trust this covers off what we committed in our discussion earlier this week. Again, if what we wrote generates any questions please don't hesitate reach back out to us.

Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
LSR 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, September 14, 2012 1:39 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Exel - Follow-up from Monday's call

Would you have 10 minutes for a quick discussion with Fred and I this afternoon at 2:30. We want to ensure there are no questions from our note on Thursday evening, and get an understanding of the next steps.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Friday, September 14, 2012 10:58 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Follow-up from Monday's call

Received; thank you



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Sent: Thursday, September 13, 2012 5:25 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Exel - Follow-up from Monday's call

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- Contract language we normally require for traditional asset backing, an outline of the rent to own option, and the events that lead to early termination

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- Update on the real estate

I sent a note earlier this week confirming our ability to revenue share

In terms of the real estate – T.F. Moran completed the preliminary topo and boundary worksheet including wetlands location that can be used for starting civil design. Pro Con and possibly T.F. Moran will also be presenting the site plan on behalf of an ‘anonymous’ tenant next Thursday (Sep 20th) at the Planning Commission meeting. This will help protect the timeline.

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In the event of a early termination event, the language that follows would apply: “The parties acknowledge and agree that Exel has either specifically leased, owned or otherwise dedicated the Facility in order to provide Services to the NHSLC, and as a result has incurred certain obligations for the period of the Agreement under its leases or ownership obligations. In consideration of Exel leasing, owning or otherwise dedicating the Facility, the parties agree that upon the early termination of this Agreement prior to its stated term, for any reason whatsoever, unless a Lease terminates concurrently with such early termination (such as because of a damage or destruction of the Facility or a taking by expropriation), then, subject to its own or a landlord’s consent, Exel shall assign and NHSLC shall assume such lease together with all of Exel’s obligations thereunder from and after the effective date of such termination (which effective date shall be the date of such early termination) together with any vendor contracts relating to the Facility (such as HVAC and fire protection maintenance contracts, trash removal, etc.)”

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If the Operating Agreement with Exel should terminate early for any reason including events such as (1) a bankruptcy by either party, (2) either party fails to negotiate in good faith, (3) failure by the parties to agree on rates, (4) uncured material breach, e.g. failure to deliver services adequately, or (5) New Hampshire chooses to privatize in the same manner as the state of Washington, i.e. permitting direct sales of products from suppliers and vendors to privately owned stores, the obligations that the NHSLC has under the Lease Agreement with Exel or another party would remain.

Specific contract language covering this arrangement will be offered by Exel if the NHSLC elects to proceed with this Lease to Own option.

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Our proposed language here is as follows: “Notwithstanding any other provision of this agreement to the contrary, neither party, in the performance of their obligations under this agreement shall be liable to the other

for any indirect or consequential damages (such as, but not limited to: loss of profits, loss of business, loss of customer goodwill or punitive or exemplary damages or the costs and expenses in providing or securing substitute revenues even if the parties have been advised of the possibility of the same, and without regard to the nature of the claim or the underlying theory or cause of action (whether in contract, tort or otherwise)).

I trust this covers off what we committed in our discussion earlier this week. Again, if what we wrote generates any questions please don't hesitate reach back out to us.

Cheers,
Scott Lyons

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Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, September 14, 2012 2:10 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Exel - Follow-up from Monday's call

Thank-you and we look forward to speaking on Monday. Have a nice weekend.

Cheers,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Friday, September 14, 2012 1:46 PM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Follow-up from Monday's call

Scott:

Our team will not be available this afternoon. I will work to arrange a call on Monday, 9/17 in the PM. I will get back to you on Monday – hopefully A.M.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, September 14, 2012 10:58 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Follow-up from Monday's call

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Cc: Fred Takavitz (Exel US)
Subject: Exel - Follow-up from Monday's call

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Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, October 25, 2012 4:56 PM
To: Stephen J. Judge
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tsiopras
Subject: RE: Financial BAFO w/ extension

I received both your notes today. I will be back with confirmation by tomorrow.

Thanks!
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Thursday, October 25, 2012 4:44 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tsiopras
Subject: Financial BAFO w/ extension

Scott,

For the record, I want to confirm that your financial offer is \$28,080,000 for the first 30 months. This includes \$80,000 that will be used to begin to recover a cost of \$500,000 for the later contract award. Is this correct?

I believe we were clear that you intended to recover the \$500,000 and no more. Therefore you would recover the balance over the next seven, thirty month periods. The remaining amount will be \$420,000. Over seven periods this works out to \$60,000 a period. Is this correct?

Steve

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018
Web: www.wadleighlaw.com
E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, October 26, 2012 5:18 PM
To: Stephen J. Judge
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tsiopras
Subject: RE: Financial BAFO w/ extension

We are considering a reduction to our \$28,000,000 figure. Prior to being able to do so we would like the opportunity to discuss the contract dispute process. In particular, is there an opportunity to have a step between the NHSLC Commissioner and going to court, and what happens if there is a dramatic reduction in volumes.

Would Monday be an option?

Thanks and have a wonderful weekend.
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Thursday, October 25, 2012 4:44 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tslopras
Subject: Financial BAFO w/ extension

Scott,

For the record, I want to confirm that your financial offer is \$28,080,000 for the first 30 months. This includes \$80,000 that will be used to begin to recover a cost of \$500,000 for the later contract award. Is this correct?

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Steve

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E-mail: stephen.j.judge@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, October 26, 2012 5:13 PM
To: Stephen J. Judge
Cc: John D. Bunnell; Craig W. Bulkley; Fred Takavitz (Exel US); Maria Tzagournis (EXEL US)
Subject: RE: Performance bond

Yes you have accurately captured our discussion.

Thank-you.
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Thursday, October 25, 2012 3:43 PM
To: Scott Lyons (EXEL CA)
Cc: John D. Bunnell; Craig W. Bulkley
Subject: RE: Performance bond

Dear Scott,

I want to sharpen our conversation from yesterday. I failed to make a crucial point during our discussion. I am the AG's legal consultant to the Evaluation Committee. The AG, however, has the final say on all legal issues. I will recommend to the AG's office that the P-37 contract (RFP Exhibit E) be modified in two ways.

One, the parties mutually agree to waive consequential and indirect damages.

Two, In the event of a material breach that involves the payment of a penalty, the Vendor shall pay the penalty. If the Vendor fails to pay the penalty within a reasonable time, the NHSLC shall recover the penalty from the performance bond, provided, however, that the Vendor restores the bond to its original or any increased amount within a reasonable time.

I expect that the terms will be clarified to a specific time. Let me know if I have accurately captured the discussion. In addition, I will recommend that RFP section 1.10.4 and Paragraph 25 on pages 65-67 of the RFP be clarified so that the parties have access to the contract protest process in the event of a good faith impasse on rate negotiations and that the protest process may continue past the Chairman of the NHSLC to include the Merrimack County Superior Court and the New Hampshire Supreme Court.

Again, let me know, if I have accurately captured the discussion.

Steve

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018

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E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, October 24, 2012 4:45 PM
To: Stephen J. Judge
Cc: Maria Tzagournis (EXEL US); Craig W. Bulkley
Subject: Performance bond

Hi Steve,

We are looking for confirmation that we will add wording to the contract to clarify that the performance bond would be drawn upon in the event of a material breach for the amount of damages owed. Please confirm our conversation in writing.

Thanks!
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, October 26, 2012 5:19 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); John D. Bunnell; Stephen J. Judge; Maria Tzagournis (EXEL US)
Subject: RE: P-37 amendments

Received and thank-you. This is very helpful.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, October 26, 2012 12:31 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US); John D. Bunnell; Craig W. Bulkley; Stephen J. Judge
Subject: P-37 amendments

Dear Scott,

Following consultation with the AG's Office, the EC is authorized to amend the P-37 as follows.

One, the parties shall mutually agree to waive consequential and indirect damages.

Two, In the event of a material breach that involves the payment of a penalty, the Vendor shall pay the penalty. If the Vendor fails to pay the penalty within a reasonable time, the NHSLC shall recover the penalty from the performance bond, provided, however, that the Vendor restores the bond to its original or any increased amount within a reasonable time.

I expect that the terms will be clarified to a specific time.

Steve Judge on behalf of



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, October 30, 2012 6:13 PM
To: Craig W. Bulkley; Stephen J. Judge
Cc: Fred Takavitz (Exel US)
Subject: Just checking in

Just wanted to send a note to make sure you and your families are safe. Turned out to be a very nasty storm! Hopefully it only delivered a glancing blow to New Hampshire. I checked in with my brother in Winchester and they are okay. They had a lot of rain, and some power outages, but that was it.

Scott Lyons

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Mobile: 416 [REDACTED]

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, October 31, 2012 12:19 PM
To: Craig W. Bulkley
Subject: RE: Just checking in

I am glad to hear it.

My prayers are with the folks in NY and NJ.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, October 31, 2012 8:01 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Just checking in

Lots of rain and heavy wind. Lots of people without power in my town, although I was lucky this time and didn't lose power. Overall, NH was just grazed by this storm – nothing like what we're seeing in NY or NJ. Based on the extent of damage there, we have nothing to complain about.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Tuesday, October 30, 2012 6:13 PM
To: Craig W. Bulkley; Stephen J. Judge
Cc: Fred Takavitz (Exel US)
Subject: Just checking in

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Scott Lyons

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, October 31, 2012 4:17 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Discussion

Fred and I are wondering if you and Steve would have time tomorrow afternoon after 2:00 pm to finish our discussion from Monday that got cut a bit short by Sandy.

Thanks,
Scott Lyons

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 01, 2012 12:50 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Discussion

Thanks I will send it momentarily.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Thursday, November 01, 2012 12:27 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US)
Subject: RE: Discussion

Please send us a conference call number and password. We can talk today at 4 PM.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, October 31, 2012 4:17 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Discussion

Fred and I are wondering if you and Steve would have time tomorrow afternoon after 2:00 pm to finish our discussion from Monday that got cut a bit short by Sandy.

Thanks,

Scott Lyons

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 01, 2012 3:33 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)

As we finished our call on Monday - you had asked us for an understanding of what we mean by fixed costs.

Here are the categories of costs that we consider fixed – recognizing that even fixed costs become variable depending on the nature of the volume change:

- Salaried labor
- Facility expense
- Some operational administration expenses, .e.g. phones
- Depreciation costs

In terms of relative value of the fixed costs they would rise from 0.4% of product revenues to 0.5% of product revenues or 0.8% of the cost of products to 1.1% of the cost of products if volumes fall by 50%.

Look forward to speaking to you at 4.

Cheers,
Scott Lyons

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 9:16 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Rate changes in the first 30 months
Attachments: RE: Exel BAFO Clarification; Best & Final Offer Follow-Up; ~\$st and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012.docx

Just a quick explanation of how we had drawn the conclusion that rates could change in the first 30 months if the actual data varies by more than 10% from the RFP data provided – just to show there was some logic to our thinking.

On August 3rd we went the attached Best and Final Offer. In this letter we stated:

(Page 2 of the letter)

We can confirm that our rates will not change over the first 30 months of the contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

(page 8 of the letter)

Paragraph 5.2

As per the answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP.

As per the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to enable the parties to review rates if the actual volumes or profile of work change materially over the contract life. As our rates for the first 30 month period are based on the data provided by the NHSLC through the RFP process, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

On August 8th we sent the attached email confirming that our rates would not change in the first 30 months (Exel BAFO Clarification).

On August 10th we received the attached email Best & Final Offer Follow-up. In this note it says “We understand your proposal regarding Section 1.10.4 – Rate Changes – Page 11 and, during the next phase, Contract Negotiation, are prepared to negotiate that item.

We wanted to review this point on our call yesterday to ensure that we both have clarity. This is a good example of the transparent and open manner in which we like to operate with our customers.

We understand your need to be able to compare like offers and will proceed under the condition that our rates will not change in the first 30 months.

Cheers,
Scott Lyons

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90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
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Canada

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 11:48 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Financial BAFO w/ extension

As the evaluation committee points out, if the contract does not terminate prior to expiry then there is no need for asset backing. We appreciate the NHSLC's efforts to help us better understand the scenarios under which the contract may terminate early, and as appropriate clarify the contract to better articulate the situations that lead could lead to material default and/or breach. These include:

- The parties will have access to the contract protest process in the event of a good faith impasse on rate negotiations. This process ultimately finishes at the New Hampshire Supreme Court, and therefore does not end in contract termination. We have also discussed adding mediation (non-binding) into the process, and we will finalize how this might work in the contract negotiation phase
- In addition to inflation, the rate review will consider changes in profile and volumes at every 30 month interval. The mechanics will be agreed in the contract negotiation process
- Confirmation that our agreement with the NHSLC is exclusive for the distribution of wine and spirits in the State of New Hampshire except for wines produced in New Hampshire, and products purchased by the NHSLC. We may wish to maintain additional work in the state warehouse for a period of time and we will work together on this issue
- We also clarified that service issues do not lead to material default and/or breach, but that there is an opportunity to more robustly define the metrics that describe an appropriate service level and associated penalties to the compel the provider to exceed the targets
- We will be able to add language in the rate negotiation clause that acknowledges the impact of fixed costs to the rates. This is not a guarantee that they will be covered in all circumstances, just a recognition that fixed costs do not change in step with volumes. Of course, this is the case for volume increases and decreases

The NHSLC also agreed to mutually waive consequential and indirect damages, and we clarified the conditions for drawing on the performance bond.

As you have pointed out, price is less than half the consideration for choosing a partner for the next twenty years. We feel we are uniquely qualified to assist the NHSLC achieve its goals across the 20 year term for the following reasons:

- Maximizing Net Income – Our role is to assist the Commission with maximizing its disbursements to the State
 - We would suggest that our customers are our best example of our ability to provide consistently high quality and low cost service. Exel provides innovative distribution services to market leaders like Proctor & Gamble, Walmart, Ford, Dell... , and many of these relationships have existed for more than 20 years.
 - We have a disciplined, quantifiable and repeatable process to drive and achieve continuous improvement. We conducted 410 Continuous Improvement Process workshops in 2011 – resulting in annual savings of over \$61 million for our customers.
 - Our revenue sharing proposal provides the NHSLC an opportunity to generate profits from the operation of the private warehouse much as it does today with the state run facility.
 - We will utilize best practices such as labor management systems, and mechanization / automation from our other operations both within the adult beverage industry and beyond.
- Creating Certainty – the NHSLC can depend on Exel to consistently deliver high quality service
 - Exel has extensive experience in the beverage alcohol industry. Some of our customers in this sector include the Alberta Gaming and Liquor Commission (AGLC), Diageo, 7-Eleven and Pernod Ricard. We believe you have had the opportunity to speak with the AGLC to better understand the quality of our operations.

- We feel that there are 6 key consistent disciplines that are critical to our creating certainty for our customers. The overriding concept across these disciplines is that we constantly measure our performance, review our results for opportunities to improve, develop and implement action plans, and follow-up to ensure the improvement sticks.
 - Performance measurement
 - Process improvement
 - Project management
 - Quality assurance
 - Customer satisfaction
 - Employee engagement
 - Our solution is predicated on utilizing tier one IT systems. These systems are best in class and facilitate consistent and low cost operations
 - Exel has the financial capability and stability to fulfill a long-term deal and to make investments in buildings, mechanization, and IT systems that increase efficiency and lower costs.
 - Exel has extensive functional resources. They are experts in their respective fields, and available to optimize the performance of this operation
 - The management team who will manage this operation have greater than 20 years experience in the beverage alcohol industry.
- Providing Flexibility – Your business will change across the next 20 years and we will work alongside you to make the most of these changes
 - Our solution incorporates a custom built facility designed for the unique needs of the NHSLC across the next 20 years
 - We are building our solution around the needs of the NHSLC. Your operation does not have to fit into our business model or any of our current operations. When your needs change we will work with you to make certain our solution changes with you
 - If at some point across the 20 year term the NHSLC wishes to change to a more transparent commercial model we would be open to those discussions

We appreciate your working with us to better qualify the risks associated with this contract. We especially value the collaborative nature of our discussions. In recognition of these efforts we would like to amend our offer to \$27,000,000. It is correct that we estimated that it would cost an additional \$500,000 if the contract was not awarded by mid-September. Assuming the NHSLC signs the contract by November 14th, 2012, Exel will absorb the additional construction costs associated with the late contract award. This will save the Commission another \$500,000.

We are very excited about the prospect of working with the Commission and are hopeful that you will entrust us with your business.

Please confirm receipt.

Sincerely,
Scott Lyons

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90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 12:20 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Our current customers
Attachments: List of Exel Customers - Nov 2, 2012.pptx

Just following up on your question about a list of some of our current customers. We presented several slides to this effect in the two presentations we gave: The July 24th presentation to the Evaluation Committee, and our August 23rd presentation to the Commissioners.

I captured the three slides into the attached powerpoint file.

I trust this answers your question. Please let me know if you have any further questions.

Thanks,
Scott Lyons

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, November 06, 2012 8:08 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Real Estate

Hi Craig,

Fred and I would appreciate the opportunity to speak with yourself, and other members of the evaluation committee as you see fit today. Ideally 11:30 to 2:00 or 4:00 to 5:00, but we will make any time work that suits you and your team.

We have been making investments in certain activities regarding the real estate to protect our commitment to have the operation running by October 31, 2013.

There are a couple we need to make again this week and we would appreciate the opportunity to share the details.

Thanks,
Scott Lyons

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Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, November 07, 2012 12:24 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Urgent Request

Thanks Craig – I got your note. We will be back to you shortly.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, November 07, 2012 12:21 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US)
Subject: Urgent Request
Importance: High

Dear Scott,

We are coming closer to the finish line. We need one more visit to the rate calculation template. For the last several rounds we have asked you to reduce your grand total without having you change your rates. In order to be certain that we are on the same page, we need you to take your BAFO of \$27,000,000 and convert your rates using the volume estimates we have provided to support the BAFO number. We also want to make doubly certain that the rate calculation sheet you produce will contain all the costs for the first 30 months. **We need this ASAP, no later than 8 AM tomorrow, 11/8.**

Please call if you have any questions.



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Craig W. Bulkley
Chief of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 09, 2012 11:45 AM
To: Craig W. Bulkley
Subject: Email record

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Scott Lyons (EXEL CA)
Sent: Monday, July 16, 2012 12:44 PM
To: 'George P. Tsiopras'; Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

That is fine. We will take the afternoon timeslot.

Can you please confirm the attendees from the Commission for me. I assume the following, but at there others?

- Craig Bulkley
- George Tsiopras
- John Bunnell
- Stephen Judge

Thanks and we look forward to see you again
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: George P. Tsiopras [mailto:george.tsiopras@liquor.state.nh.us]
Sent: Monday, July 09, 2012 4:08 PM
To: Scott Lyons (EXEL CA); Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

Sorry Scott the morning timeslot is not available.

George P. Tsiopras

Chief Financial Officer
New Hampshire State Liquor Commission
50 Storrs Street, Concord NH 03301
Tel: 603.230.7017 Fax: 603.271.3897

**Please note: My email has changed to

george.tsiopras@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [mailto:Scott.Lyons@exel.com]
Sent: Sunday, July 08, 2012 11:47 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: RE: Proposal Presentation

Thank-you.

We would like to confirm our attendance at this presentation on the 24th of July. We wish to ask if a morning timeslot might be possible. If not will attend the time of 1:30 – 3:30 pm (EST). Please let us know if this might be an option.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Friday, July 06, 2012 9:08 AM
To: Scott Lyons (EXEL CA)
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: Proposal Presentation

Scott:

We are scheduling time during the week of July 23rd for an opportunity for your team to present any additional information to the Evaluation Committee. Please be prepared to discuss the specifics of your proposal as well as to discuss the most recent rate template information. The committee may have additional questions at this time.

We would like your Exel team to join us on Tuesday, July 24th from 1:30 – 3:30 PM (EDT) at our headquarters at 50 Storrs Street, Concord. Please acknowledge and confirm your attendance, and **please copy George Tsiopras** when you email me. Thank you.

 Please consider the environment before printing this e-mail.

Craig W. Bulkley
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FAX (603) 271-3897
Cell: (603) 490-1559

 cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [mailto:Scott.Lyons@exel.com]
Sent: Thursday, July 05, 2012 11:35 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Tentative Schedule

We will respond to the Commission's latest questions by Monday afternoon.

In the meantime, we would like to schedule our first opportunity to meet during the week of July 16th. Are there particular dates and times you are considering?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Tuesday, June 26, 2012 1:27 PM
To: Scott Lyons (EXEL CA)
Subject: Tentative Schedule

Scott:

Thank you for spending time with us last week. The Evaluation Committee is still in its initial phase. We wanted to let you know that our first opportunity to meet with you will be during the week of July 16th.

We expect to send you an email tomorrow that will require you to use numbers that we will provide to perform financial cost projections based on specific volumes and your proposed rates. I understand that this is a bit vague, but tomorrow's email will clarify things.

Please confirm receipt.

 Please consider the environment before printing this e-mail.

Craig W. Bulkley
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✉ cbulkley@liquor.state.nh.us

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From: Fred Takavitz (Exel US) <fred.takavitz@exel.com>
Sent: Friday, November 09, 2012 5:10 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; John D. Bunnell; Hastings, Peter; Scott Lyons (EXEL CA); Stephen J. Judge; Judge, Steve
Subject: RE: Exel-NHSLC Warehouse Services RFP Correspondence

Thank you. We too feel that it was balanced conversation and a productive day.

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, November 09, 2012 5:04 PM
To: Scott Lyons (EXEL CA); Fred Takavitz (Exel US); Stephen J. Judge; Judge, Steve
Cc: George P. Tsiopras; John D. Bunnell; Hastings, Peter
Subject: Exel-NHSLC Warehouse Services RFP Correspondence

Gentlemen:

Attached please find two documents that (hopefully) contain all correspondence that passed between Exel and the NHSLC during the course of the RFP process.

Scott/Fred – we think we had a very productive day today and look forward to further discussions next week. Have a great weekend.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Chief of Administration
NH State Liquor Commission
 (603) 230-7008
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From: Craig W. Bulkley <cbulkley@liquor.state.nh.us>
Sent: Friday, November 09, 2012 5:04 PM
To: Scott.Lyons@exel.com; fred.takavitz@dhl.com; Stephen J. Judge; Judge, Steve
Cc: George P. Tsiopras; John D. Bunnell; Hastings, Peter
Subject: Exel-NHSLC Warehouse Services RFP Correspondence - Part I & II
Attachments: Exel-NHSLC Correspondence - Part I.pdf; Exel-NHSLC Correspondence - Part II.pdf

Gentlemen:

Attached please find two documents that (hopefully) contain all correspondence that passed between Exel and the NHSLC during the course of the RFP process.

Scott/Fred – we think we had a very productive day today and look forward to further discussions next week. Have a great weekend.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, April 19, 2012 9:57 PM
To: Craig W. Bulkley
Subject: Warehouse Services for Spirits & Wine Product
Attachments: Questions for RFP 2012-14 - Warehouse Services for Spirits & Wine Product.docx

Attached please find our questions for this RFP. Please do not hesitate to contact me if you require clarification for any of our questions. We look forward to receiving the answers.

Cheers,
Scott Lyons
Vice President Business Development

Exel Americas, Retail
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
LSR 3R3
Canada

Telephone: 905 366-7691
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April 19, 2012

Mr. Craig W. Buckley
Director Division of Administration
NH State Liquor Commission
P.O. Box 503
Concord, NH, 03302-0503

VIA Email: cbulkley@liquor.state.nh.us

Reference: RFP 2012-14 – Warehouse Services for Spirits & Wine Product

Dear Mr. Buckley,

Below please find Exel's questions in regard to the above referenced RFP. We attempted to group them to facilitate your preparing answers. Please contact me with any questions the NHSLC may have in regard to answering our questions.

Finance and Legal Questions

1.7.4 Financing

- What variables does the NHSLC envision as potential methods of obtaining financing at the lowest possible cost?
- Does this mean the NHSLC will enter into an agreement with a Contractor to provide the financing?
- In the case of leases or other long-term investments does this mean the NHSLC will pledge to accept an assignment of a lease or to purchase an asset at its book value if the contract terminates before its expiry date?
- What does the NHSLC mean by "confined to the financing of the proposal"?

1.10.1 Duration of Contract

- Is there flexibility to have a shorter term?

1.10.2 Exclusive Contract

- If the NHSLC awards the contract to multiple vendors the revenues generated will likely be significantly less than anticipated, and the operation may no longer be economically viable at the price point quoted. What process will the NHSLC follow to solicit new pricing from all proponents if they choose to award the contract to multiple vendors?

1.10.4 Rate Changes



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- Clause 5.2 of Exhibit C to Appendix E can be interpreted as inconsistent with this clause in the RFP. Please confirm that the rate change provision will be included in the contract, including the provision for termination.
- Under this clause is it the intention of the NHSLC that the rate only changes every three years or can the rate change each year subject to agreement on the yearly rate changes made every three years?
- Given the volatile economic conditions recently and resulting complexity and challenges associated with predicting costs, improvements and volumes across a three year period will the NHSLC consider an annual rate review schedule?
- Recognizing that the pricing provided in this RFP will be more than one year in advance of start-up and therefore valid for a period of more than 4 years, will the successful proponent be given an opportunity to renegotiate the rates before 30 months after the contract commences?
- How does the NHSLC foresee managing changes in the volume, scope of services or operating parameters and their impact on costs and therefore rates? As an example, changes in the percentage of bottle pick will impact costs significantly. These factors may lower or raise the cost structure, or lower the total cost for the NHSLC but raise the cost to operate the warehouse.
- There are items that can affect the costs of operating the warehouse that may be poorly correlated with CPI, e.g. taxes, interest rates, utility costs. Will the NHSLC accept rate increases above the rate of the CPI throughout the term of the agreement if the proponent is able to show that costs have risen greater than the CPI?
- Recognizing that certain assets such as real estate, racking, systems development work, or start-up costs cannot be re-deployed, may take significant time to re-deploy, or may not be fully amortized, if the contract terminates before its expiry date what reasonable costs will the NHSLC reimburse to the Vendor?

1.11 Monthly Billing Summary

- Please provide a rough example of this report.

1.19 Form of Contract

- Please confirm that in the case of warehouse service charges charged to Suppliers, the Supplier pays the Vendor directly and that the Supplier does not pay the NHSLC and the NHSLC in turn pays the Vendor?
- Is it the NHSLC or the Vendor that contracts the Suppliers? Assuming it is the NHSLC, please provide the terms and conditions of the contract. In addition, what support can the Vendor expect from the NHSLC in dealing with Supplier's non-compliance with the agreement between Vendor and the NHSLC in the case the NHSLC contracts directly with the Supplier? In addition, again assuming the NHSLC executes the contracts with the Suppliers; what indemnification will the NHSLC provide to the Vendor?



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- What is meant by the invoice term "Net Due, Finance Charges apply at an annual rate of 18% for uncollected funds at the end of each calendar month"? Could you provide an example of once an invoice is issued when we would be entitled to the Finance Charge?
- What is the history of Supplier's defaulting on their obligations to the Contractor? Please provide any details as to the level of bad debt being incurred?
- If during the term of the contact the Government of New Hampshire chooses to privatize all or part of the NHSLC's current scope of services, what would happen to the Contractor's contract with the NHSLC?
- Is the NHSLC open to developing a dispute resolution process?

3.0.15 Insurance, Bond and Registration

- In order to facilitate comparison between proposals, please provide the value of Product owned by the NHSLC that all Vendors must use when determining the cost of the all risks insurance coverage. Also, please provide the value of Supplier product that all vendors must use in the pricing.
- The NHSLC is asking for all risks insurance for its Products, and in addition the NHSLC is asking for fire and extended coverage. What are the scenarios that the NHSLC envisions needing fire and extended coverage insurance when all risks insurance is in place?
- What are the Supplier's' expectations relative to recovery for loss or damage to inventory while in the warehouse / Contractor's care custody and control? Will the vendors submit claims to the NHSLC or to the Contractor directly? Will the Suppliers agree to the terms and conditions regarding loss or damage to product that are in the agreement between Vendor and the NHSLC?

Appendix C VII 8

- Will the NHSLC accept a certificate of insurance instead of a copy of the insurance policy?
- Will the NHSLC accept 30 days notice of cancellation, suspension or surrender of the insurance policy?

Appendix C VII 9b

- Should this sentence be broken into two sentences? For example, "The transportation contractor is responsible for damaged merchandise received by a store at the time of delivery. In addition, the transportation carrier is responsible for shortages from trailers arriving at stores with broken trailer seals"? As a single sentence it could be interpreted that the transport contractor is responsible for damaged merchandise received by a store at the time of delivery only if the trailer seals are broken.

Appendix C VII 10d

- What is the definition of other problems caused by the Warehouse contractor?



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- What is the definition of missing a delivery?
- Should the phrase "Three (3) scheduled deliveries within a span of a three-month period" be modified so that a single event does not trigger the liquidated damages? As an example, a system failure in the morning could lead to multiple be late deliveries throughout the day and therefore trigger multiple charges of liquidated damages.
- Would the NHSLC consider a more broad method for measuring service levels and a different approach to incentivizing attainment of these service levels?

Appendix C VII 13

- What is the NHSLC's definition of a Force Majeure event?
- What is the rationale for accessing the Contractor's insurance for an event outside of its control?

Appendix C XIV

- This clause appears to contradict clause Appendix C VII 9b. Which clause should be considered correct?

Appendix D

- What is the definition of "Code" where the handling is charged upon receipt of goods and calculated on a "per code per receipt" basis?
- Please provide the definition of Blankets?
- In order to facilitate comparisons between proposals, please provide the following figures that all vendors must use (and that the NHSLC will utilize in costing the various proposals). These will need to provided for both Nashua and Concord.
 - Percentage of inbound receipts for each code category
 - Percentage of storage for each aging category for cases, allocated inventory, unsaleable cases, pallets, and unsaleable pallets
 - Percentage of outbound order processing / reporting for each bottle category

Appendix E

- Some of our objections and proposed additions to the draft contract set forth as Appendix E have financial implications. Should this financial impact information and associated assumptions be included separate and apart from our pricing worksheets?

Engineering Questions

Are there common SKUs in Concord, and Nashua? If so, how many SKUs are common to both?

For a Product, are separate SKU numbers utilized for each unit of measure (bottle, case and pallets)?

Page 4 of 12



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Please provide these data files:

- Item Master File. For each Product please include the SKU number, shipping unit quantity and the unit of measure (bottle, case or pallet), shipping case dimensions for each Product in the warehouse, and pallet stakability (e.g., certain SKUs can only be stacked 2 high in bulk locations)
 - If the file is not available please provide:
 - Weighted average cube per case (cubic feet per case) or item dimensions
 - Those SKUs with restrictions on the number of pallets that can be stacked, and for that SKU how many pallets can be stacked
- For both an average and peak month the please provide the customer/store order files. For each order please include the date, the customer type (state stores, licensee pick up, licensee delivery), for each line on the order the SKU, and quantity.
 - If the files are not available please provide:
 - Volumes for each store location
 - Volume of pallet picks, case picks, and unit picks
 - By customer type (state stores, licensee pick up, licensee delivery) please provide the annual volume shipped, orders shipped, order lines, and units per order line.
 - Current outbound cases per pallet
 - For Unit (single bottle) Picking:
 - Is bottle pick occurring at the Concord site? If so, please provide a breakdown by location?
 - Are the 3,400 SKUs identified as bottle pick included in the total SKU count of 13,700 at Nashua or are they in addition to them?
 - Are 967,285 bottle picks included in the annual case volumes provided or are they in addition to them?

Item and volume clarifications:

- RFP provides two different volume totals for 2011. Please indicate which is correct for analysis:
 - P77 shows 4,890,479 cases for both DCs
 - P78 shows 3,298,235 cases for both DCs

Delivery clarifications:



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- Are any shipments performed on side-loader trucks? Are there any shipments that must be hand loaded for delivery? If so, what is the volume?
- The RFP states that 29 stores receive loads on pallets. How are the remaining stores receiving loads i.e. are cartons floor loaded onto outbound trucks?

Inbound Activity (Concord and Nashua DCs activity combined):

- Are inbound palletized loads all single SKU pallets? If not, can provide the percentage of mixed SKU pallets?
- What is the breakdown for inbound volume: % slip sheet vs. % pallet
- What is the breakdown for inbound loads: % FTL vs. LTL vs. Rail vs. Ocean Container
- What percentage of inbound loads are on ASNs vs POs?
- What is the breakdown on inbound cases arriving with the appropriate New Hampshire labels affixed to each case, i.e. what is the percentage of cases requiring labeling or relabeling?

Returns:

- What is the volume/activity of product returns to be handled
- Does the supplier provide quality checking of returns and damaged product?

1.1 Purpose

- Under either scenario is it a correct assumption that the NHSLC will be responsible for all costs generated in cross-docking Products from the Concord site to the Vendor's site, and that these should not be built into the pricing worksheets?
- Under either scenario is it a correct assumption that the costs to warehouse any of the Products the state chooses to keep in the Concord warehouse should not be factored into our pricing worksheets?
- Under the one warehouse scenario please provide by customer type (state stores, licensee pick up, licensee delivery) the annual volume shipped, orders shipped, order lines, and units per order line assumptions for Products that the NHSLC wishes all Vendors to assume will be handled by the Concord warehouse and therefore not to be included in the costs built into the pricing worksheets.

Operations Questions

3.0.4 Warehouse General Requirements

- What types of products will be stored in the temperature controlled area?



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- What is the expected volume of the temperature controlled products at the start of the contract term and what type of growth rate is forecast?
- Does the NHSLC envision storing any Products it owns in the temperature controlled area and is there a regulatory requirement to keep it segregated from bailment inventory?
- Is there a requirement for the inbound carrier to protect loads from temperature damages including damage to loads that occurs because the trailer cannot be unloaded before temperature damage occurs?
- Does the requirement to unload incoming road traffic typically within two hours pertain to sea containers, or floor loaded trailers?
- Is there a specific requirement for inbound and outbound pallets? If so, what are the requirements?
- Will the vendor be responsible to for managing and / or returning pallets to suppliers? If so, what have been the quantities of pallets returned to suppliers?
- Who is responsible to provide the outbound pallets? Will pallets be returning from stores and licensees?
- Will dunnage be returning from stores and licensees?
- What is the maximum height for pallets coming from Suppliers?
- Is there a maximum height for pallets going to stores and licensees? If so, what is this height?

3.0.6 Floor Capacity and Storage Strategy

- Are there specific requirements for the customs bonded warehousing area, and if so what are those requirements?

3.0.12 Warehouse Charges and Rates

- What are the environmental restrictions associated with the destruction of unsaleable Product?
- How is FIFO determined? Is it by Purchase Order or by Lot Code? Please note that Suppliers often place multiple lots on a pallet?

3.0.7 Floor Movement Capacity

- There is reference to equipment to handle slip-sheets and barrels. What is the definition of a barrel? What Product is packaged in barrels? What is the volume of these Products and do they have any special handling requirements?

3.0.10 Computer Linkage with the NHSLC



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- How are new SKU's entered into the warehousing system? Is this an automatic upload from the NHSLC or does the warehouse contractor need to play a role? If the Vendor needs to play a role what is the role?
- How many new SKU's are created on average in a month?

General

- What is the volume of emergency or special orders?
- What is the NHSLC's expectation for auditing outbound loads?
- Please describe the NHSLC's operations clock, e.g. when do orders initially begin to become visible in the system, when does the order desk close, i.e. no new orders are permitted, when are the orders built into routes, when are the orders available to be organized into batches for picking, and when must the orders arrive at the store or licensee.
- Are the New Hampshire labels required for reasons other than warehousing, i.e. is there any reason that the proposed solution could not use the use industry standard SCC barcodes?
- Do Suppliers co-mingle inbound bailment products with inbound NHSLC owned Products? If so, how are the different Products identified? Are there different receiving requirements for processing both?
- On page 33 there is reference to accepting inbound deliveries until 8 PM, and on page 49 the window for inbound shipments is until 9:30 PM. Which is correct?
- What are the requirements for securing outbound pallets/cases, e.g. must they be stretch wrapped? Do the requirements vary in any way?
- In the Feb 15 meeting minutes it's noted that the Commission has conducted an extensive review of the previous short term contracting practice. Can the commission disclose any more specifics regarding the review?
- What is the NHSLC's definition of automation? Can the NHSLC provide any reports utilized or further information gathered in confirming the savings potential that could be realized through a modern automated system?
- Will the NHSLC grant potential Vendors the opportunity to view the ordering system(s)? At minimum can screen shots be provided?
- Will the NHSLC publish the 2011 short term warehousing RFP responses?
- From a regulatory perspective can bailment inventory and NHSLC inventory be co-mingled in the warehouse or must it be segregated? This may be an issue because the bailment inventory has not been purchased from the Supplier while the NHSLC inventory has been purchased from the Supplier.
- Is the current operation at Nashua unionized and if so which union represents them?



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- What is the current run-rate for damages or losses charged back to the warehouses?
- How are the current operations performing against the following service parameters: receiving scheduled loads on time, goods available for sale on time, goods shipped on time, goods delivered on time, order completeness, order accuracy, and inventory accuracy? For the last three please provide the measure for case and bottle pick?

IT Questions

Appendix K

- Page 85: 'The Warehouse will provide the Broker and Suppliers reports via the NHSLC Web server'. Is the expectation that the Vendor or NHSLC will be responsible ("own") the Web server moving forward?
 - If NHSLC, What is the method by which the Warehouse will populate the Web server? How will the Warehouse access this server to provide requested reports?
 - If Vendor, how many users are expected to need access to the Web server?
- Page 86: In regards to all references to the 'Order Status Transaction History' and 'Perpetual Inventory': The RFP notes that this file is maintained by the warehouse
 - Is the expectation for the file to be maintained within the 'Warehouse' for auditing purpose, or sent electronically to NHSLC based on the scheduled defined in Appendix P?
 - How long is the warehouse expected to keep a record of the Order Status Transaction History?
- Page 86: 'Web customer orders will be written by the NHSLC Internet Ordering System directly into the Warehouse for immediate processing by the Warehouse's own internal systems.'
 - Please clarify expectations surrounding the On Line Orders. Is the expectation that the Warehouse provides the website or will NHSLC retain ownership with a link to the Warehouse?
 - If NHSLC retains ownership, what is the method of communication to the Warehouse to provide the required validation checks for processing?
- Page 87: 'The Warehouse is required to commit/reserve inventory for each order as it is received into their system'.
 - Will NHSLC do any level of inventory check prior to sending orders down to the Warehouse for processing?
 - What is the expected result for the quantity that is unable to be fulfilled – is the entire order rejected, just the unavailable quantity, the entire line item for the shorted item, or other criteria?



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- Page 87: 'The Warehouse will approve all Licensee orders based on their available credit.'
 - Please clarify the expectations of the warehouse regarding credit checks. APPENDIX P references credit information will be transmitted hourly. As an example, if the available credit is \$100, is it possible to receive two orders within one hour for the same licensee, one for \$50 and a second for \$75? If so, what would be the expected outcome?
- Page 88: References 'Automatic Order List' in APPENDIX P. Please send forward this transaction – did not locate within APPENDIX P.
- Page 90: 'Warehouse must verify that all stock received for distribution within the state at their location is owned by approved vendors, or by the NHSLC.'
 - Outside of a blanket PO, how else will expected receipts be communicated to the Warehouse? Who will communicate with the Warehouse the expected receipts – NHSLC or Vendors?
 - What are the expectations around blind receiving against an approved vendor?
- Page 90: 'If product is unloaded from an unapproved vendor, then Warehouses shall, within 24 hours, report to the NHSLC any Liquor or Wine arriving in, in transit through or departing from the State for distribution outside the state'.
 - What will be communicated to the Warehouse as to the expected receipts and shipment of product?
 - What is the expected method of communications for reporting activity to the NHSLC?
- Page 90: What are the expectations for processing of items that have unapproved Suppliers or brand codes? - Who will control the submission of orders on items that are not on the Approved Brand list? Is it a correct assumption that items only on the Approved Brand list can be sold to licensee?
- Page 91: 'Warehouse items not approved by the NHSLC must be suspended.'
 - What is the agreement with the Suppliers regarding compliance issues? What is the process for managing Suppliers? Would it be a correct expectation is that the warehouse should not be receiving Products that are not on the Approved Brand list? Is the process that these Products would be returned to the Supplier and never received into the warehouse?
- Page 91: 'The Warehouse will record all vendor purchases needed onto the monthly Blanket Purchase Order that is supplied by the NHSLC'. Is this statement intended to say 'received' instead of 'needed'? If not, please explain process as the Blanket Purchase Order is specified to a one directional file from NHSLC.
- Page 136: 'Summary' File is referenced only twice in the RFP in APPENDIX K as a requirement for SHIP ('Each day the Warehouse must produce a Ship File that includes all items shipped that day. Warehouse must also produce a Summary file') and PURCHASE ('Each day the warehouse



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must produce a Purchase file that includes all of the bailment items shipped that day. Warehouse must also produce a Summary file'. However, in APPENDIX K, the 'Summary' file states 'Each file transmitted must also have this summary file' and lists Key Codes for files such as Inventory, Credit, Order Header, etc. Please clarify requirements for use of Summary file. How does NHSLC use this information?

- Appendix P
- Page 92: References 'Core Detail' in APPENDIX P. Please forward this transaction – did not locate with APPENDIX P
- What is the preferred message format and transportation method for communication of files?
- Page 98: 'The Warehouse will provide methods of summarizing and presenting the Warehouse orders in a manner that is reliable, useful and supportive of ordering management.' RFP states that this information is going to be provided by the NHSLC Web site – what are the expectations of the Warehouse for 'presenting' the orders?
- Page 97: RFP references 'transfers out-of-state', are there special systems requirements for managing out-of state orders?

Overall

- Please provide the rationale for the decision to wait to issue the transportation services RFP until a warehouse vendor is chosen from the long-term warehouse RFP process? Having both transportation and warehousing in one RFP would allow all vendors to build in the potential cost savings synergies from operating both warehousing and transportation.
- The second paragraph of the General Requirements on page 42 asks the Vendors to "Use the following task descriptions as your point of departure. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. If more than one approach is possible, comment on why you chose your approach". As there are no task descriptions in General Requirements, where can we find these task descriptions?
- On page 103 Exhibit F (current warehousing pricing structure) is missing. Will this be provided?
- The RFP footer suggests that there are a total of 156 pages. The last page of the RFP is page 151. Are there pages missing?
- Within appendix D-1 the rate for storage of cases is listed at \$.25/case/14 days. Is this a mistake or is this rate the NHSLC wishes to pay for the first 30 months of the contract? Likewise, the rate for storage for pallets is listed at \$4.50 per pallet per 14 days.

Longtermwarehouseresponses.pdf

- The answer to Question 26 states that the successful bidder is responsible for all inventory losses based on the NHSLC cost per bottle. This seems to contradict the Liability and Limitation of Damages clause in Appendix D. Which is correct?



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Sincerely,

A handwritten signature in black ink, appearing to read "Scott Lyons".

Scott Lyons
Vice President

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Monday, June 25, 2012 1:22 PM
To: Craig W. Bulkley
Cc: Steve Hess (EXEL US); Greg Foreman (EXEL US); Gurjeet Singh (Exel CA); Robert Rujevcan (EXEL US); Robert Maclellan (EXEL US); Steve Turchan (EXEL US); Sally Miller (EXEL US); Fred Takavitz (Exel US)
Subject: RE: Phone Meeting Next Week

In preparation for our meeting at 2:00 here are answers to the majority of the questions listed below.

1. Real Estate, more specifics regarding our preferred site(s) and where we are in terms of securing a solution
 - We have submitted a letter of intent to the owner of the Audley site in the town Bow
2. Labeling, including how we plan to track different vintages and handle the labeling process. The suppliers cannot properly label cases
 - Exel will use the UPC (Universal Product Code) on the case to cross reference to a SKU in the WMS. This cross reference is done behind the scenes by Exel and will not access NHSLC systems – therefore, no labeling on the case will need to be done from our perspective. Bottle labeling can be done as a value added service and charged to the Agent if the labeling does not meet state requirements – we do this today at Connect. Vintages can be tracked by one of two methods – first method is to have each vintage listed as a separate SKU and sorted by vintage at the point of receiving. Once each vintage is a separate SKU we have full control over it's movement based on parameters that can be set up in the WMS. The second method is to keep the same SKU but physically locate it in a separate pick face – we can turn that pick face on and off as required by the Agent or State to ensure the cases picked and shipped are the correct vintage.
3. Systems integration, recognizing that the PA 'standard' is not desirable
 - We believe our responses to the questions provided on Jun 18th cover off systems integration, but if more discussion is required we would be happy to link up our respective IT teams
4. Communication lines into the proposed facility
 - The requirement for fiber optic cable is understood and will be included in the specifications for the building
5. Review the Concept of Operations, 'what happens when a truck backs up to the receiving dock'? How do we plan to ship mixed pallets with different case sizes? Receiving product and getting inventory into the system; can take as long as 18 hours in the existing process.
 - Prior to a truck backing up to the dock it must go through our security gate and be recorded in the WMS against an existing appointment and a Purchase Order. The Inbound truck will be assigned a door based on the load contents, considerations for door assignment include – where the product will be stored in the facility, the mix of the load (will it require a large floor area to sort the product), quantity On Hand (do we need this product immediately for picking), VAS, etc.
 - Once the trailer has been assigned a door, the receiver and unloader will work together to receive the product. In the case of mixed SKU's – each SKU will be unloaded and sorted to a separate pallet – each SKU will be verified through the Quality Control Process (checked for labeling, damage and if a new SKU go through IC) and also verified against the PO for correct quantity. Each pallet will have a generic barcode attached on 2 sides for identifying the pallet through the warehouse. Each of the pallet barcodes will be scanned with an RF Gun and all the information for that pallet will be associated to that barcode including SKU, Quantity, Ti X HI, Code Date, etc – some of this is automatically populated, other fields are confirmed by the receiver on the RF Gun and some information is manually entered into the RF Gun. Once the load is complete, the PO will be compared against the receiver inputs and a validation (Over, Short & Damage) report will be automatically generated. If there is a discrepancy – Inventory Control and the Receiving Supervisor will be notified to correct the discrepancy or make an adjustment within the system. If there is no

discrepancy, the load will be confirmed in the WMS and the PO closed. Receiving into the WMS can be done on a pallet by pallet basis or as an entire load (PO). The receiving information is uploaded into the WMS at least every 15 minute; therefore, visibility of the product will be available within 15 minutes of the load being completed and verified.

- Once the product has been received, putaway will begin. Putaway is directed by the WMS based on product requirements and parameters set up in the WMS. The putaway driver will scan the barcode on the pallet or pallets and the WMS will provide a location(s) in the warehouse to put the product away. The location could be a reserve location, a pick face or an outbound staging lane depending on certain criteria.
- Once the product is putaway the receiving cycle is completed.
- Mixed Pallets with different case sizes will be picked on a double pallet jack. Every other layer on the pallet is tied with string to ensure the product does not slide or fall while the Order Selector is building his / her pallets. Once the order(s) have been picked the Order Selector will travel to the checking area where each pallet may be confirmed for correct quantity and SKU's. This is completed by a Checker who scans all the UPC's on each pallet with an RF Gun. The audit is done by comparing the original pick assignment against what the checker has scanned. If a discrepancy exists the pallet(s) will be moved to a "trouble area" where the IC staff will work with the Order Selector to correct the pick assignment. Once the pick assignment is deemed to be correct, each pallet is machine wrapped in order to prevent load shifting and keep the integrity of the pallet and cases for shipment to the retail store.

6. Plan to handle customer pickups at the DC

- Customer pickups at the DC will be completed using a number of staging locations where each order can be staged awaiting pick up. Once an order has been picked that order will be designated a staging location where all cases / kegs will be staged awaiting pick up. Again the order is tracked through the WMS so that when a customer arrives to pick up we can easily identify where the order is staged. Depending on the quantity of cases that the order contains, different loading methods will be employed to assist the customer with loading. Each order will have a manifest that lists the SKU, description of the product and the quantity. This manifest can be used by the loader / customer to verify each case / bottle is present. Entrance and exit for customer pick will be controlled through the security gate and a separate traffic flow.

7. Review productivity assumptions in the bottle pick area

- Bottle Pick productivity is set at [REDACTED] units per productive hour. If anything, based on our experience at other operations this may be conservative for this type of operation.

8. Confirm our plans around inbound appointments

- Inbound appointments will be made by agents / carriers in order to bring product into the facility. Typically agents would be given allotments per week / day depending on volume. Exel will work with agents to ensure everything possible is done to receive the product on a timely basis in order to avoid demerge, shorts and damage to the product. The idea of appointments is to balance the receiving volume over the course of a day or week so that the warehouse can staff appropriately and turn doors as needed. Exel's objective would be to have carriers arrive within 15 minutes of their scheduled time; however, we understand that it is not always possible to do so. No carrier will be turned away; however, if a carrier misses his / her appointment they may have to wait a reasonable time to get fit into the receiving day. Exel will publish receiving reports and inform carriers / agents of their On Time Performance. We will work with the carriers / agents to help them better achieve 100% On Time Performance and eliminate driver wait time.

9. Clarity around what a driver is to do (and where he goes) when his trailer is being loaded or unloaded

- Exel has assumed a Warehouse Load / Unload process in which the driver will not participate. The drivers will be asked to wait in a Driver's lounge where seating, restrooms and vending will be available while their trailer / truck is being loaded or unloaded. The driver will have the opportunity to check his / her load prior to departure; however, for the most part Exel will ask that the Driver be in a secured area off the warehouse floor. There may be instances where a driver must visually check the unload or load of his / her vehicle. In these cases the drivers will be given an area of confinement in order to do this.

10. Review the concept of 'free storage' for product that the State may procure. Could be as much as 35,000 cases
 - On our call at 2:00 pm, we would like to discuss our alternate proposal and the benefits for the Commission from looking at the distribution operations as a profit center
11. Review the requirement for rate guarantee in the first 30 months
 - On our call at 2:00 pm, we would like to discuss our alternate proposal and what our experience is the best commercial structure to minimize the cost of running the distribution operations
12. Modify our assumption for 1.9% growth rate, use 4% annual case count growth
 - We are finalizing our models and will have revised building sizing and costs shortly
13. Revise the proposed project timeline to reflect a October 2013 shipping date
 - The project timeline presented in our proposal reflects shipping to stores commencing the first week of September. Consequently, we believe a start shipping date of October 2013 is quite doable. We would suggest updating the project timeline – and in fact establishing the actual project plan for this startup – in the coming weeks as we both commit to dates around contract execution and we gain absolute clarity on the permitting process for the build to suit

We look forward to speaking with you and you colleagues at 2:00.

Cheers,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Fred Takavitz (Exel US)
Sent: Friday, June 22, 2012 12:53 PM
To: Craig W. Bulkley
Cc: Steve Hess (EXEL US); Greg Foreman (EXEL US); Scott Lyons (EXEL CA)
Subject: Phone Meeting Next Week

Craig,
Thanks to you and others for the time spent with us in Concord yesterday. We would like to set up a call next week to answer the questions that were posed, but not sufficiently answered, in yesterday's meeting. Can you let us know when the NSHLC team would be available to meet with us on Monday, Tuesday or Wednesday next week?

We will be prepared respond to the following points and any other questions that the NSHLC team may have:

14. Real Estate, more specifics regarding our preferred site(s) and where we are in terms of securing a solution
15. Labeling, including how we plan to track different vintages and handle the labeling process. The suppliers cannot properly label cases
16. Systems integration, recognizing that the PA 'standard' is not desirable
17. Communication lines into the proposed facility
18. Review the Concept of Operations, 'what happens when a truck backs up to the receiving dock'? How do we plan to ship mixed pallets with different case sizes? Receiving product and getting inventory into the system; can take as long as 18 hours in the existing process.
19. Plan to handle customer pickups at the DC
20. Review productivity assumptions in the bottle pick area
21. Confirm our plans around inbound appointments
22. Clarity around what a driver is to do (and where he goes) when his trailer is being loaded or unloaded

23. Review the concept of 'free storage' for product that the State may procure. Could be as much as 35,000 cases
24. Review the requirement for rate guarantee in the first 30 months
25. Modify our assumption for 1.9% growth rate, use 4% annual case count growth
26. Revise the proposed project timeline to reflect a October 2013 shipping date

Have a great weekend, Craig.

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, July 03, 2012 12:08 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: Template

Greg Foreman wanted me to check and make sure you received his second email this morning. The first one was sent in error. But he was not sure the second one arrived. Please let me know. I will forward it on if need be.

Enjoy the 4th of July holiday tomorrow!

Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
LSR 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, July 03, 2012 12:50 PM
To: Craig W. Bulkley
Subject: RE: Template

Thanks.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Tuesday, July 03, 2012 12:46 PM
To: Scott Lyons (EXEL CA)
Subject: RE: Template

received



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Tuesday, July 03, 2012 12:08 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: Template

Greg Foreman wanted me to check and make sure you received his second email this morning. The first one was sent in error. But he was not sure the second one arrived. Please let me know. I will forward it on if need be.

Enjoy the 4th of July holiday tomorrow!

Cheers,

Scott Lyons

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Telephone: 905 366-7691

Mobile: 416 [REDACTED]

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, July 05, 2012 11:35 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Tentative Schedule

We will respond to the Commission's latest questions by Monday afternoon.

In the meantime, we would like to schedule our first opportunity to meet during the week of July 16th. Are there particular dates and times you are considering?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Tuesday, June 26, 2012 1:27 PM
To: Scott Lyons (EXEL CA)
Subject: Tentative Schedule

Scott:

Thank you for spending time with us last week. The Evaluation Committee is still in its initial phase. We wanted to let you know that our first opportunity to meet with you will be during the week of July 16th.

We expect to send you an email tomorrow that will require you to use numbers that we will provide to perform financial cost projections based on specific volumes and your proposed rates. I understand that this is a bit vague, but tomorrow's email will clarify things.

Please confirm receipt.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Sunday, July 08, 2012 11:42 PM
To: Craig W. Bulkley; Greg Foreman (EXEL US)
Cc: George P. Tsiopras
Subject: RE: Questions Regarding Rate Calculation Template

1. Please confirm that you are bidding on the one-warehouse solution only as we did not notice any rates or costs for the two-warehouse solution.

This is correct; we are bidding on a consolidated one-warehouse solution. It is our understanding that NHSLC asked us to consider a two warehouse option, but to only put it forward if it would be a lower cost alternative. Two warehouses are more expensive due to multiple touches, multiple infrastructure costs (buildings and systems), additional management staff, and higher inventory levels. We understand that the Commission may wish to keep its warehouse open, but it will be handling only products purchased by the NHSLC.

2. We noted there was no price in the Outbound Summary with regard to single-bottle processing. Does this mean that you do not intend to offer this service or does it mean you will offer this service at no cost to suppliers or the NHSLC?

We intend to offer this service and built the cost of bottle picking into our costs structure. Per your request, we used the originally quoted rates to complete the analysis template. As we tried to note on our response, certain rates were not provided in the original proposal as our expectation is to work collaboratively with NHSLC to determine the appropriate revenue activity streams to be offered from a rate standpoint. If a bottle rate is deemed necessary and appropriate, the related costs would be carved out of the "Outbound" rate so that in totality the Exel budget remains same, i.e. the outbound rate will fall proportionally.

3. Currently, Outbound Processing charges are borne by the NHSLC. In your proposal, it appears that you are planning to charge suppliers (e.g. – automatic orders = \$.96/case). Please confirm. Please confirm your intent to charge suppliers for this expense and not the NHSLC.

It is our recommendation that all costs of operating the distribution system be borne by the suppliers.

4. Please confirm that the rates and costs provided are fixed for the first 30 months of the contract.

We confirm that the rates and costs provided are fixed for the first 30 months of the contract.

As we state in proposal and we try to explain in our answer to question 5 below the rates quoted are based on the volumes and profile presented in the RFP. As is only fair, should this information be found to have material errors we reserve the right to re-price our solution. This could result in lower cost per unit for the Commission! As an example, the higher volumes in the most recent template (as compared to the RFP figures), would result in a lower cost per unit. Please note that as per your request, we used the originally quoted rates to complete the analysis template.

5. Section 1.10.4 of the RFP describes the negotiation of rate changes at the end of each 30-month period using the CPI for this region as it relates to the warehousing activities of the vendor. This section also limits any increase to the CPI for the previous twelve months. Please confirm your acceptance of this provision.

Beyond the proponent overly aggressively bidding or the provider poorly executing, there are three factors that can cause costs to change.

- The first is cost inflation.

- The Commission included a mechanism to allow for adjustments to the rates due to cost inflation. This mechanism is acceptable to us though as we stated in our proposal we feel a transparent commercial structure is more optimal.
- The second is volume.
 - A fully variable rate structure that cannot be altered except for cost inflation as stated in section 1.10.4 requires accurate estimates of future growth. The reason is that the fixed costs of the operation do not vary with volume. If the actual volumes are less than estimated volumes there is less revenue to cover the fixed costs and the proponent is facing poor returns and potentially losses. Vic versa, the provider receives a windfall in the form of higher than expected profitability.
 - As this is a 20 year contract these estimates must be accurate across a 20 year time horizon. Changes in volume are outside of our control. Though not completely controlled by the Commission, the NHSLC does have influence over volumes. In any event, we believe you are in a better position to forecast volumes than the provider. Though, in its answer to question 127 on May 1 the NHSLC stated "It is impossible to project growth over the next twenty years". Faced with this provision, proponents will attempt to err on the side of under estimating growth thus leading to higher costs for the Commission.
 - A fixed / variable rate structure would resolve this issue. Under this commercial structure fixed costs, for example lease costs, do not vary regardless of the volume. The variable portion of the price also does not vary on a per unit basis, but the variable cost will rise or fall as volume rises or falls. As the fixed costs and the price per unit are set the Commission is protected against the a proponents overly aggressive bidding or poor execution.
- The third is the profile of the work.
 - Again, the fully variable rate structure that cannot be altered except for cost inflation as stated in section 1.10.4 requires that the profile of the work will not change. Many of the work profile issues can be handled through the pricing structure presented to suppliers. For example, longer storage attracts higher per unit rates, or smaller supplier shipments receive a higher per unit rate,... But, many of the work profile issues are controlled by the Commission for example, if NHSLC makes the decision to increase the frequency of deliveries to the stores the order sizes would drop and hurt the productivities in the warehouse. Thus, in effect this clause means the NHSLC is committing that it will not alter how it does business for the next 20 years. We don't feel this is a reasonable expectation. The Commission will have to make changes. With this provision in place, typically what happens is that changes that positively impact a proponents profitability are readily accepted, and changes that negatively impact their profitability are naturally resisted. Certainly the proponent will not suggest opportunities that increase the warehouse costs but lower the total costs to the Commission. Again, the net result is higher costs for the NHSLC.
 - It is our recommendation that a mechanism be put in place that allows either the proponent or the commission to review rates based on changes in the profile of the work. This can only be done under a transparent commercial structure where the provider shares its results, and the proponents expenses are auditable

Our goal is to set up a commercial structure that facilitates five objectives.

- One, protect the NHSLC against increased costs from a proponent's overly aggressive bidding or poor execution.
- Two, provide the Commission flexibility and control to address changing business conditions across the 20 years of the contract.
- Three, ensure the provider does not receive windfalls from factors outside of its control such as volume variances or profile changes.
- Four, encourage the provider to work collaboratively to maximize the NHSLC's net income.
- Five, provide the proponent and the Commission an opportunity to address volumes and profile changes.

Let me apologize for this long answer, but it is not an obvious question. Our experience shows that clauses like section 1.10.4 are not in the best interest of our customers. Thus, we cannot confirm our acceptance of the provision. We believe our transparent commercial structure best achieves the five goals listed above. It also facilitates the development of a long term strategic relationship with the Commission much like we enjoy with most of our current customers including Walmart and the Alberta Gaming and Liquor Commission.

Our transparent commercial structure is more complex, and there are a number of variations that we can incorporate to best meet the Commission's unique circumstances. We would respectfully ask for an in person meeting to dialogue about our transparent commercial model and its nuances. Further, we believe it would be advantageous to host the evaluation committee in Alberta to tour the operation we run on behalf of the Alberta Gaming and Liquor Commission. This would be a good opportunity for you to discuss the transparent commercial model with the Alberta Gaming and Liquor Commission and obtain an agnostic opinion of its value.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Thursday, July 05, 2012 2:59 PM
To: Scott Lyons (EXEL CA); Greg Foreman (EXEL US)
Cc: George P. Tsiopras
Subject: Questions Regarding Rate Calculation Template

Scott/Greg:

Thank you for your final submission of the rate calculation template. Below are several questions regarding your template numbers:

6. Please confirm that you are bidding on the one-warehouse solution only as we did not notice any rates or costs for the two-warehouse solution.
7. We noted there was no price in the Outbound Summary with regard to single-bottle processing. Does this mean that you do not intend to offer this service or does it mean you will offer this service at no cost to suppliers or the NHSLC?
8. Currently, Outbound Processing charges are borne by the NHSLC. In your proposal, it appears that you are planning to charge suppliers (e.g. – automatic orders = \$.96/case). Please confirm. Please confirm your intent to charge suppliers for this expense and not the NHSLC.
9. Please confirm that the rates and costs provided are fixed for the first 30 months of the contract.
10. Section 1.10.4 of the RFP describes the negotiation of rate changes at the end of each 30-month period using the CPI for this region as it relates to the warehousing activities of the vendor. This section also limits any increase to the CPI for the previous twelve months. Please confirm your acceptance of this provision.

Please provide your response to me **with a cc to George Tsiopras** no later than Monday, 7/9 at 4:00 PM. Thank you.



Please consider the environment before printing this e-mail.

Craig W. Bulkley

December 26, 2012

Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulklev@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Sunday, July 08, 2012 11:47 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: RE: Proposal Presentation

Thank-you.

We would like to confirm our attendance at this presentation on the 24th of July. We wish to ask if a morning timeslot might be possible. If not will attend the time of 1:30 – 3:30 pm (EST). Please let us know if this might be an option.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, July 06, 2012 9:08 AM
To: Scott Lyons (EXEL CA)
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: Proposal Presentation

Scott:

We are scheduling time during the week of July 23rd for an opportunity for your team to present any additional information to the Evaluation Committee. Please be prepared to discuss the specifics of your proposal as well as to discuss the most recent rate template information. The committee may have additional questions at this time.

We would like your Exel team to join us on Tuesday, July 24th from 1:30 – 3:30 PM (EDT) at our headquarters at 50 Storrs Street, Concord. Please acknowledge and confirm your attendance, and please copy George Tsiopras when you email me. Thank you.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
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FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]

Sent: Thursday, July 05, 2012 11:35 PM

To: Craig W. Bulkley

Cc: Greg Foreman (EXEL US)

Subject: RE: Tentative Schedule

We will respond to the Commission's latest questions by Monday afternoon.

In the meantime, we would like to schedule our first opportunity to meet during the week of July 16th. Are there particular dates and times you are considering?

Thanks,
Scott Lyons

Telephone: 905 366-7691

Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]

Sent: Tuesday, June 26, 2012 1:27 PM

To: Scott Lyons (EXEL CA)

Subject: Tentative Schedule

Scott:

Thank you for spending time with us last week. The Evaluation Committee is still in its initial phase. We wanted to let you know that our first opportunity to meet with you will be during the week of July 16th.

We expect to send you an email tomorrow that will require you to use numbers that we will provide to perform financial cost projections based on specific volumes and your proposed rates. I understand that this is a bit vague, but tomorrow's email will clarify things.

Please confirm receipt.



Please consider the environment before printing this e-mail.

Craig W. Bulkley

Director

Division of Administration

NH State Liquor Commission

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, July 17, 2012 2:22 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US)
Subject: July 24th Presentation Proposed Agenda

I wanted to reach out to you with a proposed list of topics to cover in our meeting next week. This is our suggested list, and I want to ensure that we are covering off the issues that are important to the evaluation committee. Please feel free to suggest changes, or particular questions you wish covered.

- Opportunity for New Hampshire
 - An explanation of our understanding of what the NHSLC is attempting to achieve with this RFP and to a certain extent more broadly.
- Exel as a Strategic Resource
 - The experience and capabilities that Exel will bring forward to this opportunity
- Strong Fit Between Our Organizations
 - The fit we see between the NHSLC's needs and our capabilities, and how this strong fit between our organizations has the potential to develop into a long term strategic relationship
- Solution in detail
 - Discussion of our transparent commercial model
 - Concept of operations
 - Facility design (including real estate options)
 - Mechanization review
 - Concept of systems
- Next Steps

In terms of attendees we wish to bring the following folks, but wanted to ensure this was acceptable to the evaluation committee. This is an important pursuit for us and we want to ensure we have the key individuals in the room to answer any of the committees questions.

- Jim Gehr, President
- Fred Takavitz, Senior Vice President, Business Development
- Scott Lyons, Senior Director, Business Development
- Greg Foreman, Vice President of Operations
- Robert Maclellan, Director of Operations
- Steve Hess, Senior Director RE Development
- Robert Rujevcan, Director Finance Retail Americas
- Gurjeet Singh, Senior Integrated Logistics Design Engineer
- Sally Miller, VP, Retail IT or Steve Turchan, IT Program Manager

Thanks,
Scott Lyons

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90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, July 20, 2012 3:24 PM
To: Craig W. Bulkley; George P. Tsiopras
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

Will all these folks be at our site tour on Monday?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Monday, July 16, 2012 2:59 PM
To: Scott Lyons (EXEL CA); George P. Tsiopras
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

Scott:

Our Warehouse RFP Evaluation Committee will be present:

- George Tsiopras
- John Bunnell
- Peter Hastings
- Craig Bulkley

The committee's legal counsel, Steve Judge, will also be present.

 Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
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 (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
 cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [mailto:Scott.Lyons@exel.com]
Sent: Monday, July 16, 2012 12:44 PM
To: George P. Tsiopras; Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

That is fine. We will take the afternoon timeslot.

Can you please confirm the attendees from the Commission for me. I assume the following, but at there others?

- Craig Bulkley
- George Tsiopras
- John Bunnell
- Stephen Judge

Thanks and we look forward to see you again
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: George P. Tsiopras [mailto:george.tsiopras@liquor.state.nh.us]
Sent: Monday, July 09, 2012 4:08 PM
To: Scott Lyons (EXEL CA); Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

Sorry Scott the morning timeslot is not available.

George P. Tsiopras

Chief Financial Officer
New Hampshire State Liquor Commission
50 Storrs Street, Concord NH 03301
Tel: 603.230.7017 Fax: 603.271.3897

**Please note: My email has changed to
george.tsiopras@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [mailto:Scott.Lyons@exel.com]
Sent: Sunday, July 08, 2012 11:47 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: RE: Proposal Presentation

Thank-you.

We would like to confirm our attendance at this presentation on the 24th of July. We wish to ask if a morning timeslot might be possible. If not will attend the time of 1:30 – 3:30 pm (EST). Please let us know if this might be an option.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, July 06, 2012 9:08 AM
To: Scott Lyons (EXEL CA)
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: Proposal Presentation

Scott:

We are scheduling time during the week of July 23rd for an opportunity for your team to present any additional information to the Evaluation Committee. Please be prepared to discuss the specifics of your proposal as well as to discuss the most recent rate template information. The committee may have additional questions at this time.

We would like your Exel team to join us on Tuesday, July 24th from 1:30 – 3:30 PM (EDT) at our headquarters at 50 Storrs Street, Concord. Please acknowledge and confirm your attendance, and **please copy George Tsiopras** when you email me. Thank you.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Thursday, July 05, 2012 11:35 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Tentative Schedule

We will respond to the Commission's latest questions by Monday afternoon.

In the meantime, we would like to schedule our first opportunity to meet during the week of July 16th. Are there particular dates and times you are considering?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Tuesday, June 26, 2012 1:27 PM
To: Scott Lyons (EXEL CA)
Subject: Tentative Schedule

Scott:

Thank you for spending time with us last week. The Evaluation Committee is still in its initial phase. We wanted to let you know that our first opportunity to meet with you will be during the week of July 16th.

We expect to send you an email tomorrow that will require you to use numbers that we will provide to perform financial cost projections based on specific volumes and your proposed rates. I understand that this is a bit vague, but tomorrow's email will clarify things.

Please confirm receipt.

 Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
 (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
 cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, July 20, 2012 7:41 AM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Steve Hess (EXEL US); Fred Takavitz (Exel US)
Subject: RE: Exel Financial Analysis Confirmation

What we suggest is meeting at your store situated on Hwy 3A adjacent the Plourde Sand and Gravel Company. The store is within ½ mile of our site, and is accessible from both I-93 and Hwy 3A, located on the north bound side of 3A.

We will meet you there at 1:30 and then travel in tandem to the site.

Please confirm this plan works for you and your group.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Thursday, July 19, 2012 1:09 PM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel Financial Analysis Confirmation

Scott – we will try to get back to you by COB tomorrow on your suggested agenda.

Are you making any progress on a site visit for Monday PM? This site visit does not have to be anything other than one person who can explain your intentions and plans, so don't overthink it.

Thanks.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, July 20, 2012 9:51 AM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US)
Subject: Presentation for Tuesday

For some of our presentation on Tuesday we will want to use a projector to display on a screen. Will the room have a screen? Is there a projector we can use? We will bring our own projector in any event as back-up.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, July 20, 2012 11:51 AM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US)
Subject: RE: Exel Financial Analysis Confirmation

The Book5 Excel spreadsheet is correct in terms reformatting the costs provided for the rate calculation template.

As requested and as we noted in our response for the rate calculation template exercise we utilized the costs per units provided in our response against the volumes of work provided in the template.

The volumes and profile elements provided in the rate calculation template are different than those provided in the RFP. For example

- Volumes across the first 30 months are up 14% versus 2012. No growth assumption was provided in the RFP
- The inbound mix of pallets versus slip sheets versus cases changed considerably between the two data sets
- Bottle pick volumes fell considerably (63%) between the original RFP data and what was in the rate calculation template
- The peak storage level provided was 818,000 units in the RFP, and in the rate calculation template the value provided is 998,000 units in storage. Some but not all of this increase is related to the higher growth

At a high level we re-ran our models with the rate calculation template assumptions and believe our cost per unit will drop. At what point in this process will the profile and volume elements be finalized and the vendors requested to provide an updated budget?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Thursday, July 19, 2012 12:00 PM
To: Scott Lyons (EXEL CA)
Cc: George P. Tsiopras
Subject: Exel Financial Analysis Confirmation

Scott:

I have attached a financial analysis in Excel which will be the foundation for parts of our discussion on Tuesday afternoon. Please review the attached document, confirm that the numbers are correct, and provide me with any questions or comments by Noon on Friday, July 20th.

Please copy George on your response. Thanks.



Please consider the environment before printing this e-mail.

Craig W. Bulkley

Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Monday, July 23, 2012 2:56 PM
To: Stephen J. Judge
Subject: Re: Agenda

Got it.

Thanks,

Scott Lyons

Telephone: 905 366-7691

Mobile: 416 [REDACTED]

www.exel.com

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Tuesday, July 24, 2012 02:49 AM
To: Scott Lyons (EXEL CA)
Subject: FW: Agenda

Scott,

I copied your email address from the agenda you sent to Craig. When I pasted it, the S and the L got capitalized, perhaps that threw it off. A different vendor acknowledged receipt to a different email that I had to send three times. Now that I look back, I see that one of the undeliverable notices was for you.

Let me know if you get this one.

Steve

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018
Web: www.wadleighlaw.com
E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

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From: Stephen J. Judge
Sent: Friday, July 20, 2012 3:55 PM
To: 'Scott Lyons (EXEL CA)'
Cc: Craig W. Bulkley
Subject: Agenda

Scott,

Craig is out of the office today and he asked me to respond to your email regarding the agenda. Please Reply to All and Craig will pick up the thread on Monday.
You may bring all the people you have listed in your email. You may bring additional people or substitute individuals. The only restriction is the size of the room. It has 18 chairs and could hold a few more. There will be 5 of us. I went to law school to avoid having to do math, you can figure it out.
In terms of your agenda, you can skip to Solution in Detail. We will be interested in whether the spreadsheet is correct and whether there are any variables that will change the rates. We will also be interested in whether you can have an appropriate facility up and running in time. Are there any terms in the RFP and proposed contract to which you have taken an exception and why?
I am sure there will be specific substantive questions.

Steve

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018
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E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, July 26, 2012 9:03 AM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Maria Tzagournis (EXEL US); Fred Takavitz (Exel US); Greg Foreman (EXEL US)
Subject: Insurance questions

In our discussions on Tuesday a number of insurance questions came up.

It is my experience that the insurance industry has its own vocabulary and I have had good success in resolving insurance questions by putting together our insurance experts with our client's insurance experts. I spoke with Stephen after the meeting, and suggested that such a meeting would quickly clear up any of the insurance questions. He said that it might be a good idea.

Would it be acceptable for me to set up such a conversation through Stephen?

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, July 27, 2012 12:09 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US); Fred Takavitz (Exel US); Steve Hess (EXEL US)
Subject: Purchase and sale agreement
Attachments: Real Estate Purchase Agreement (00019984).DOC

Hi Craig,

Please treat this confidentially.

We wanted to forward you this copy of the purchase agreement for the site we visited earlier this week. We delivered it to the owner yesterday to begin negotiations.

We will keep you apprised of our progress in securing this site.

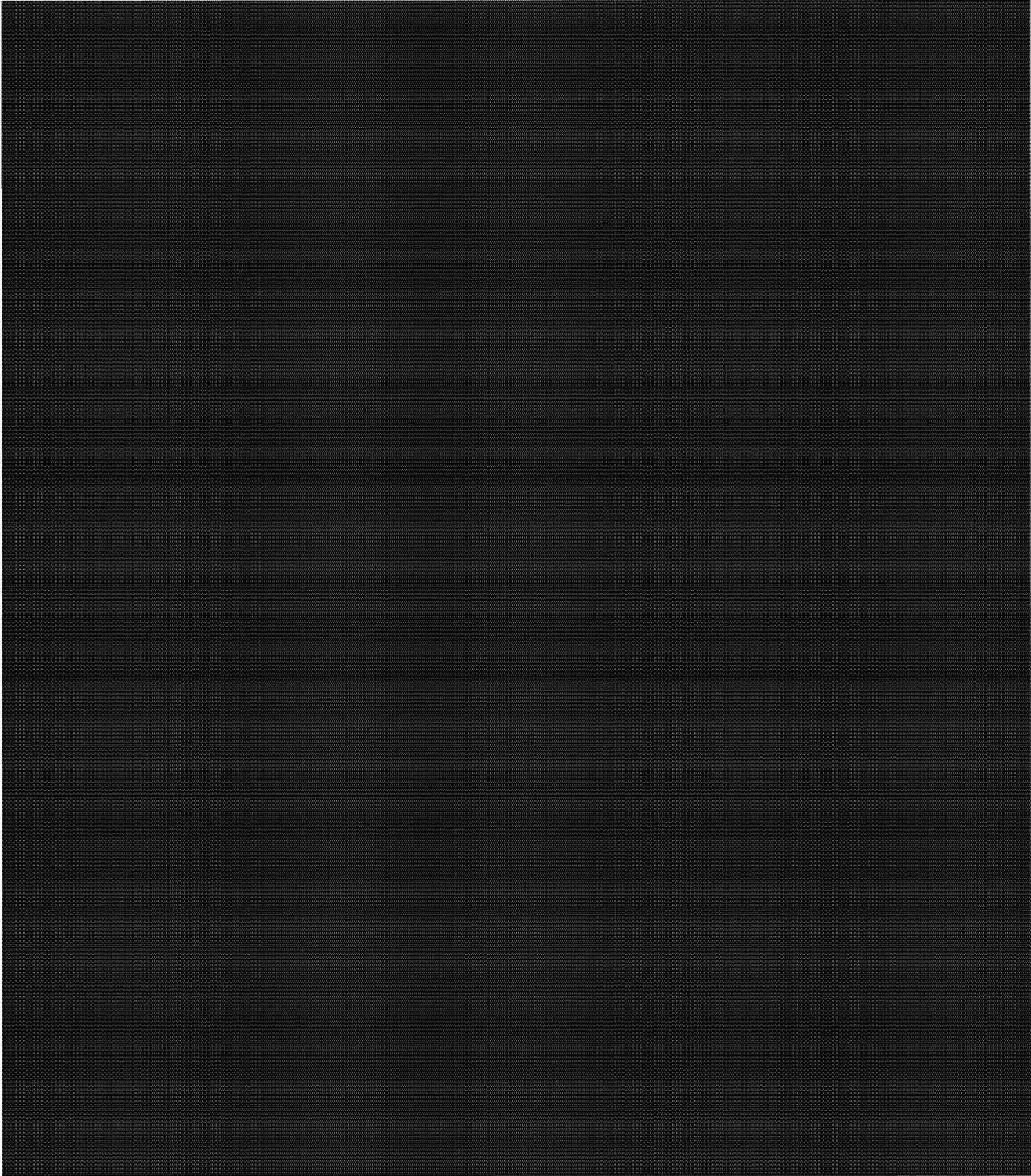
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

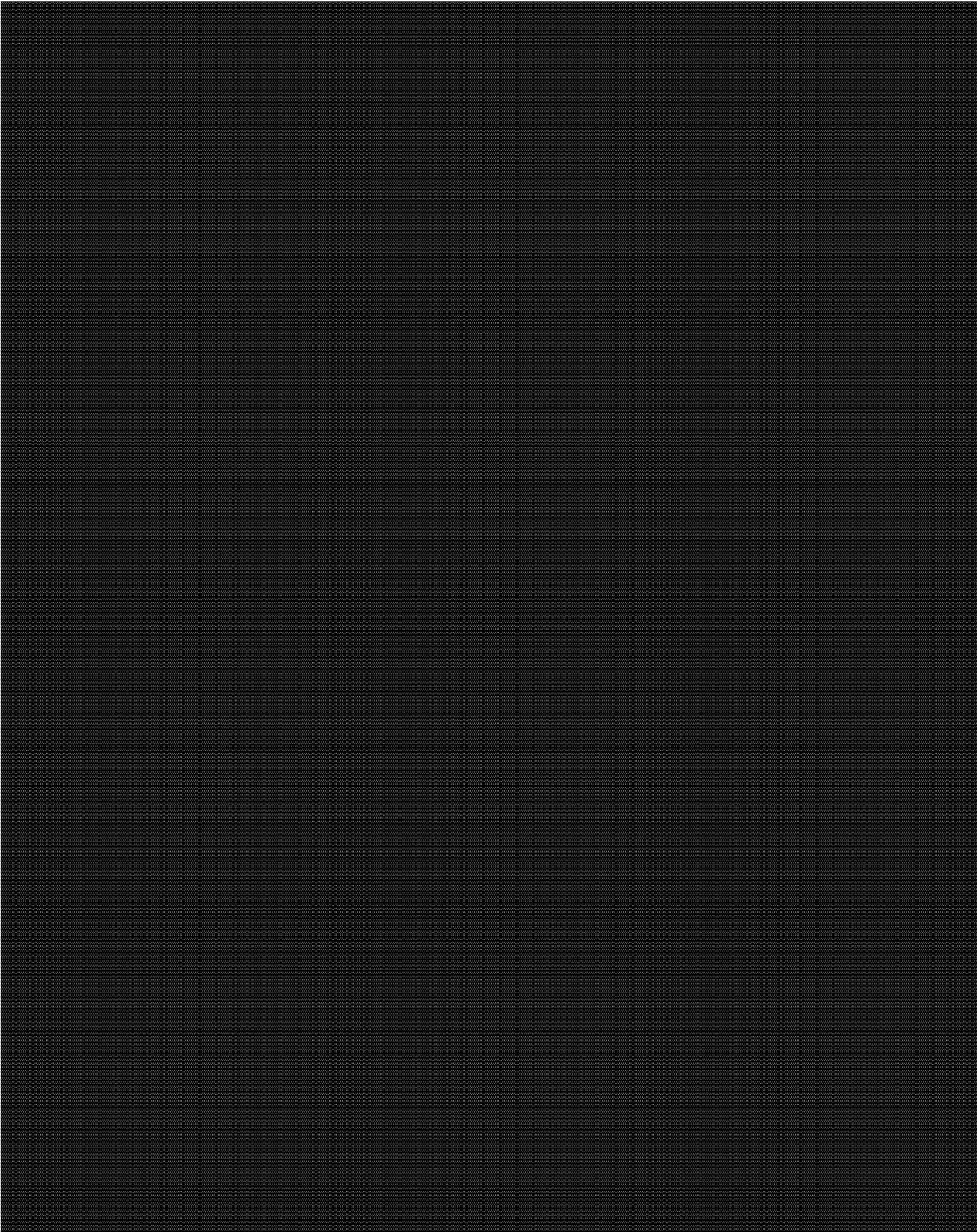
Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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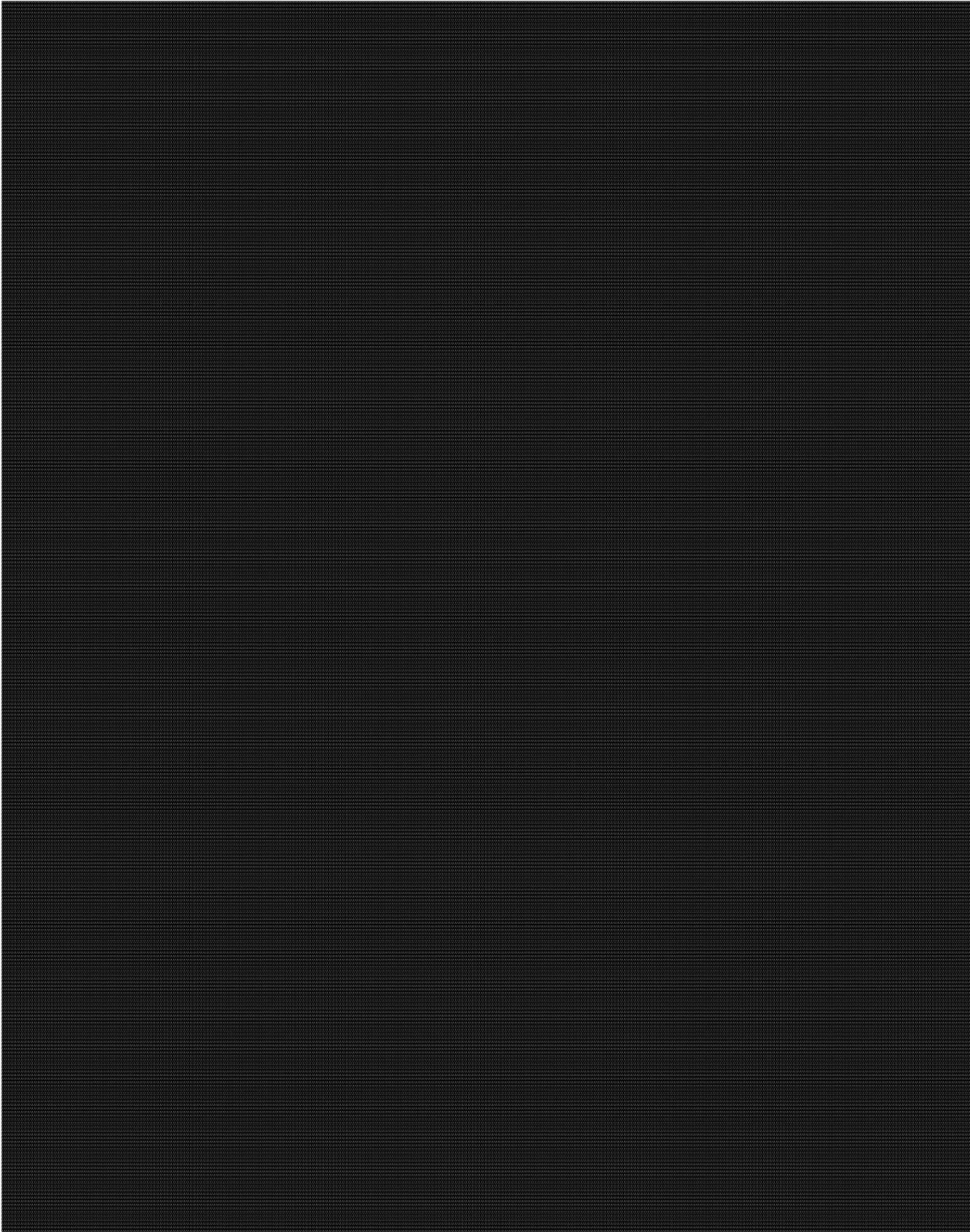
REAL ESTATE PURCHASE AGREEMENT



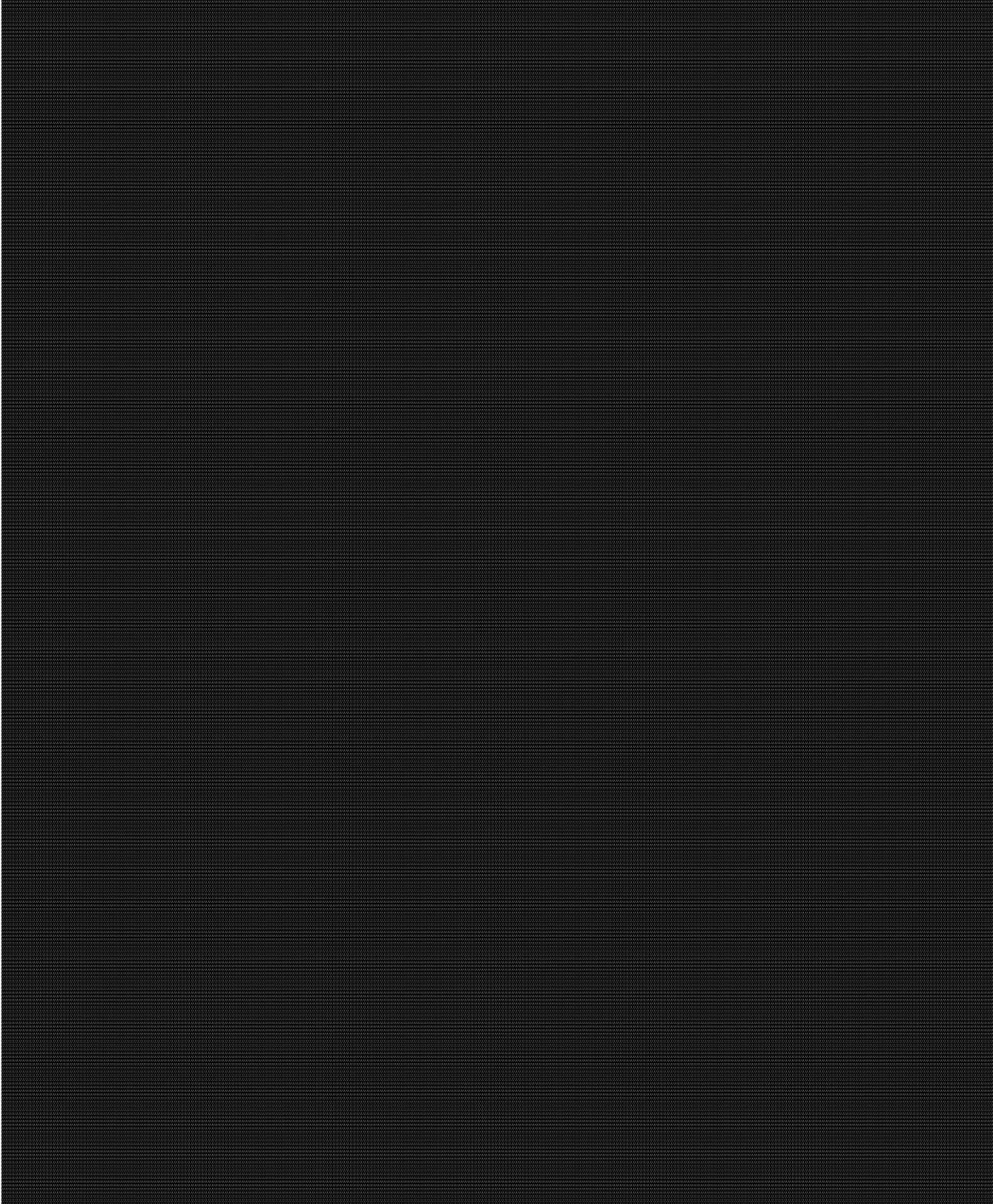
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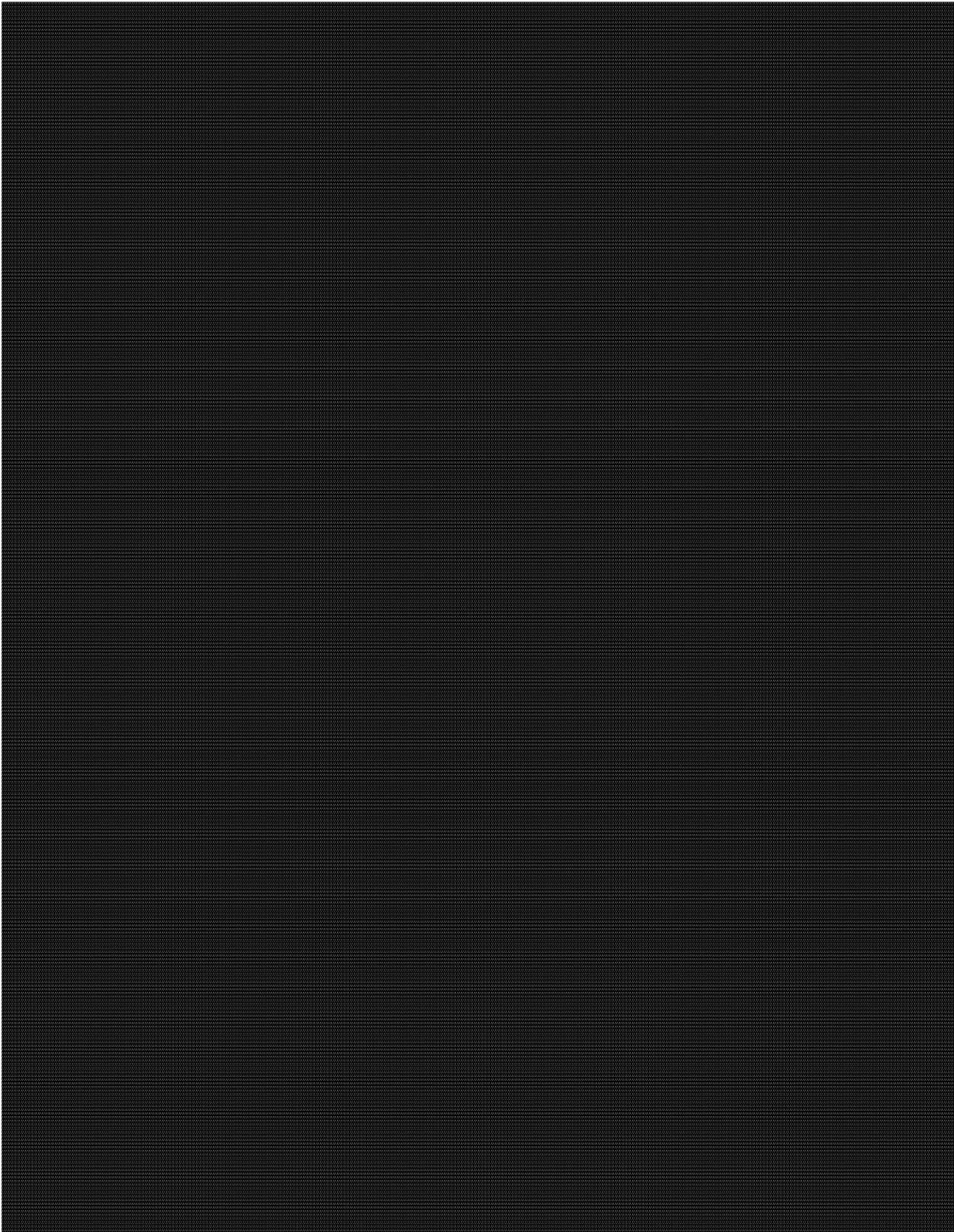


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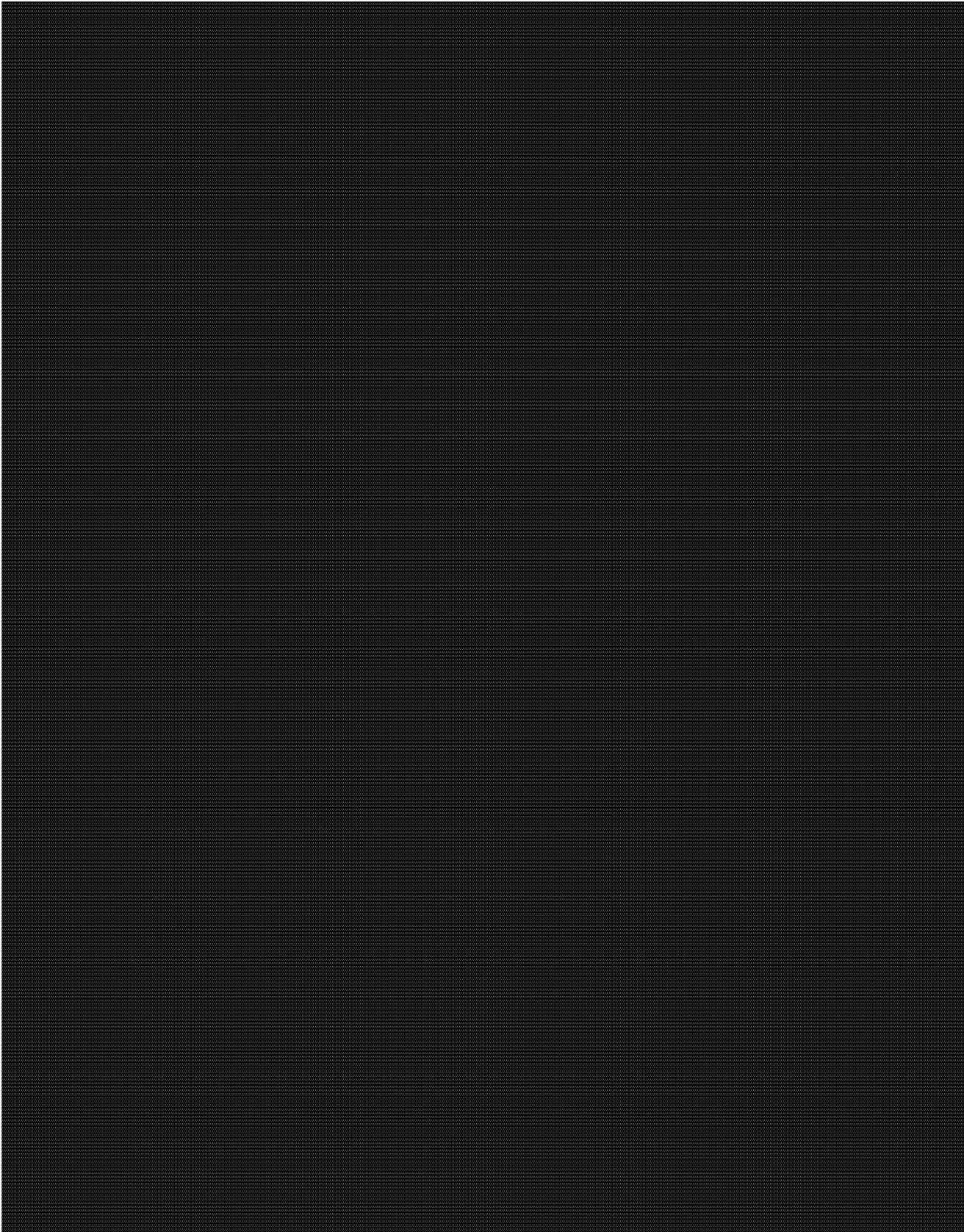


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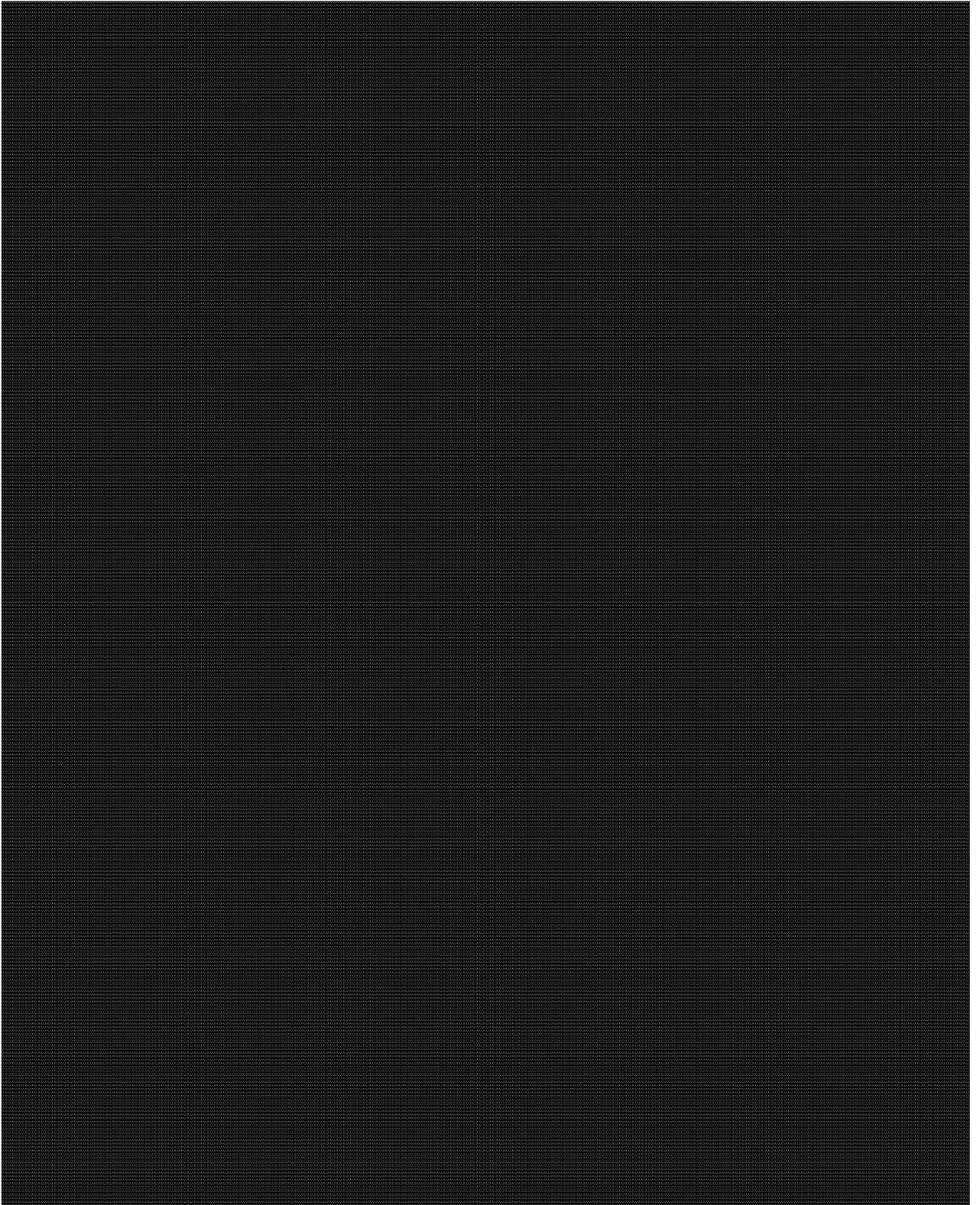
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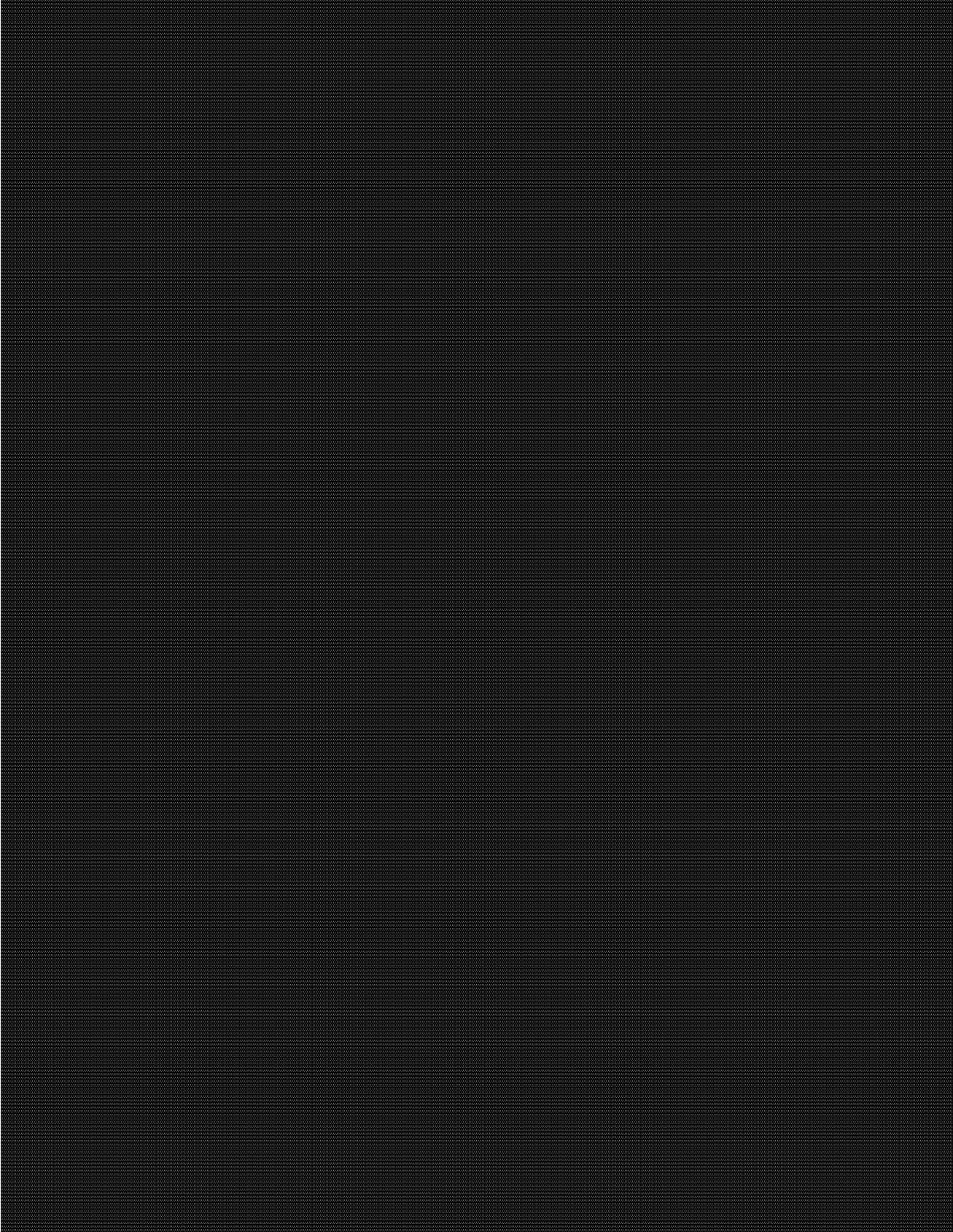
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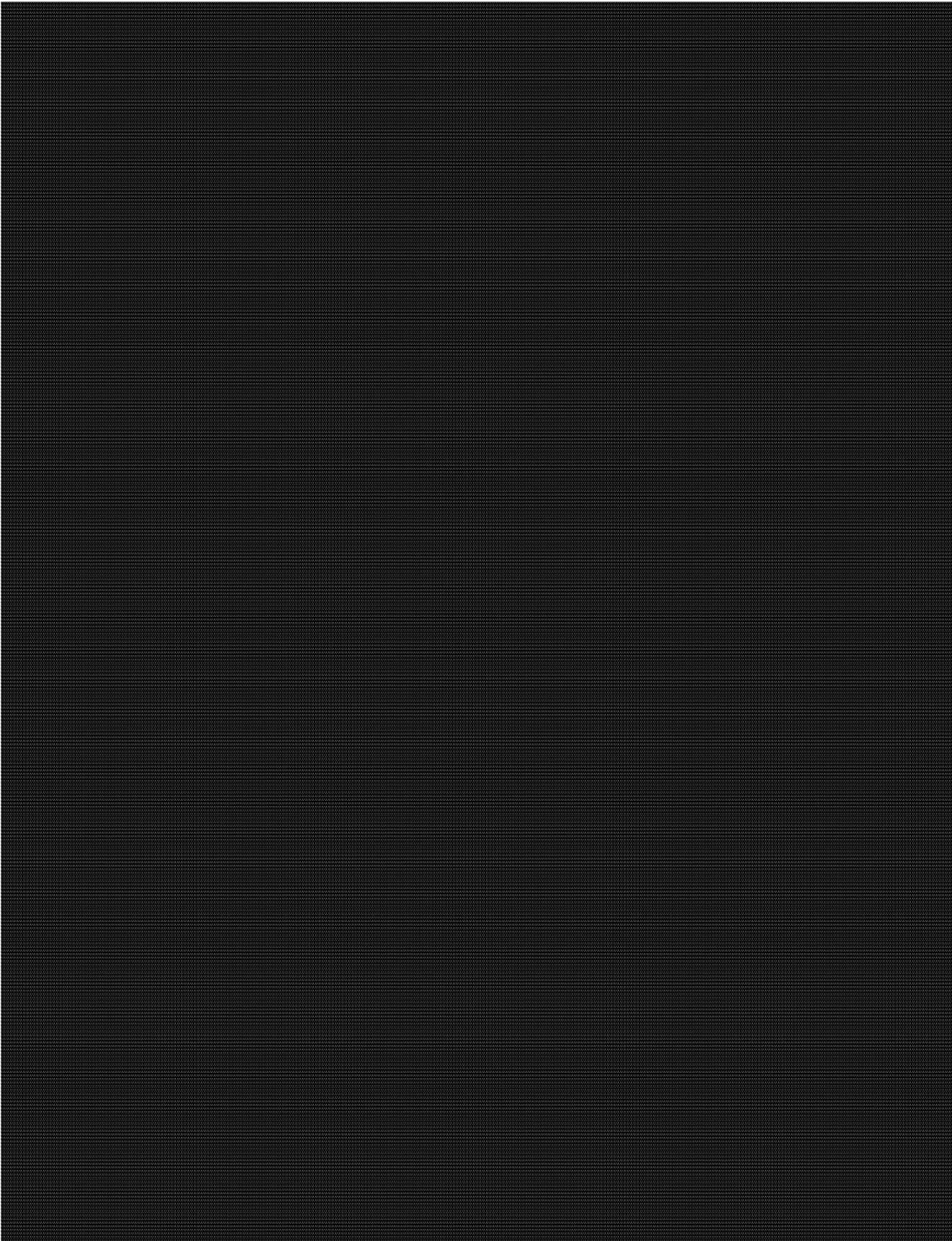
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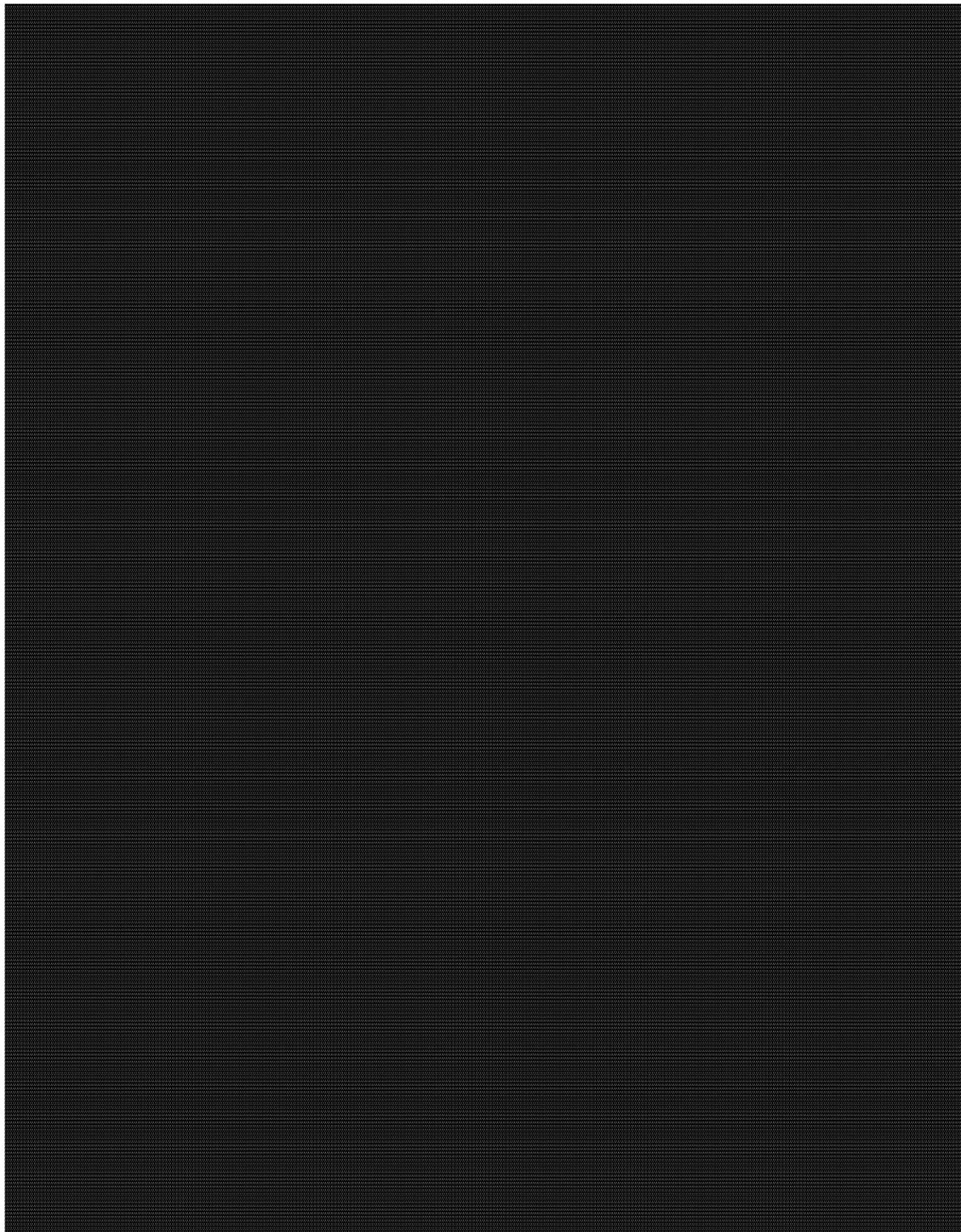
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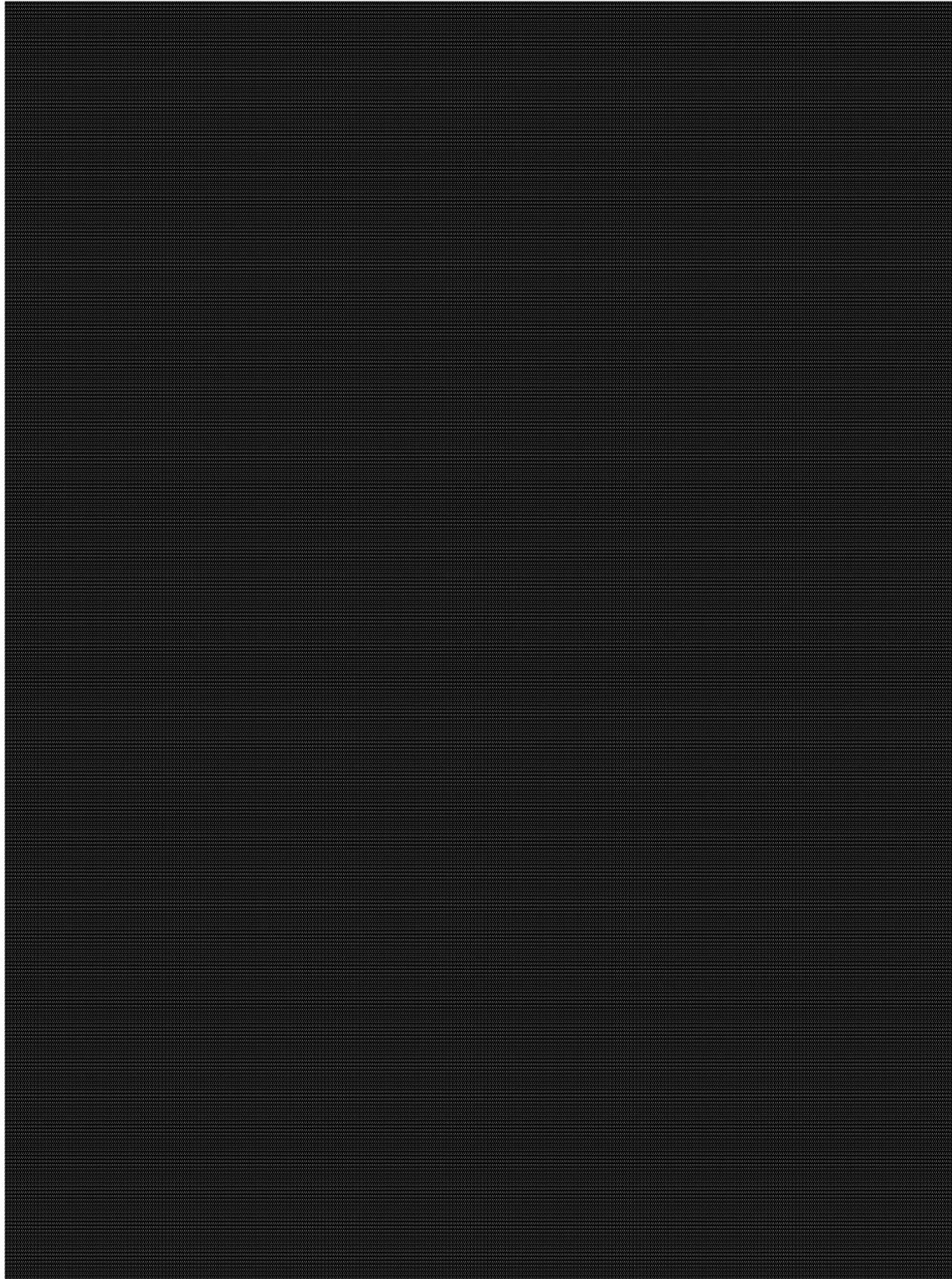
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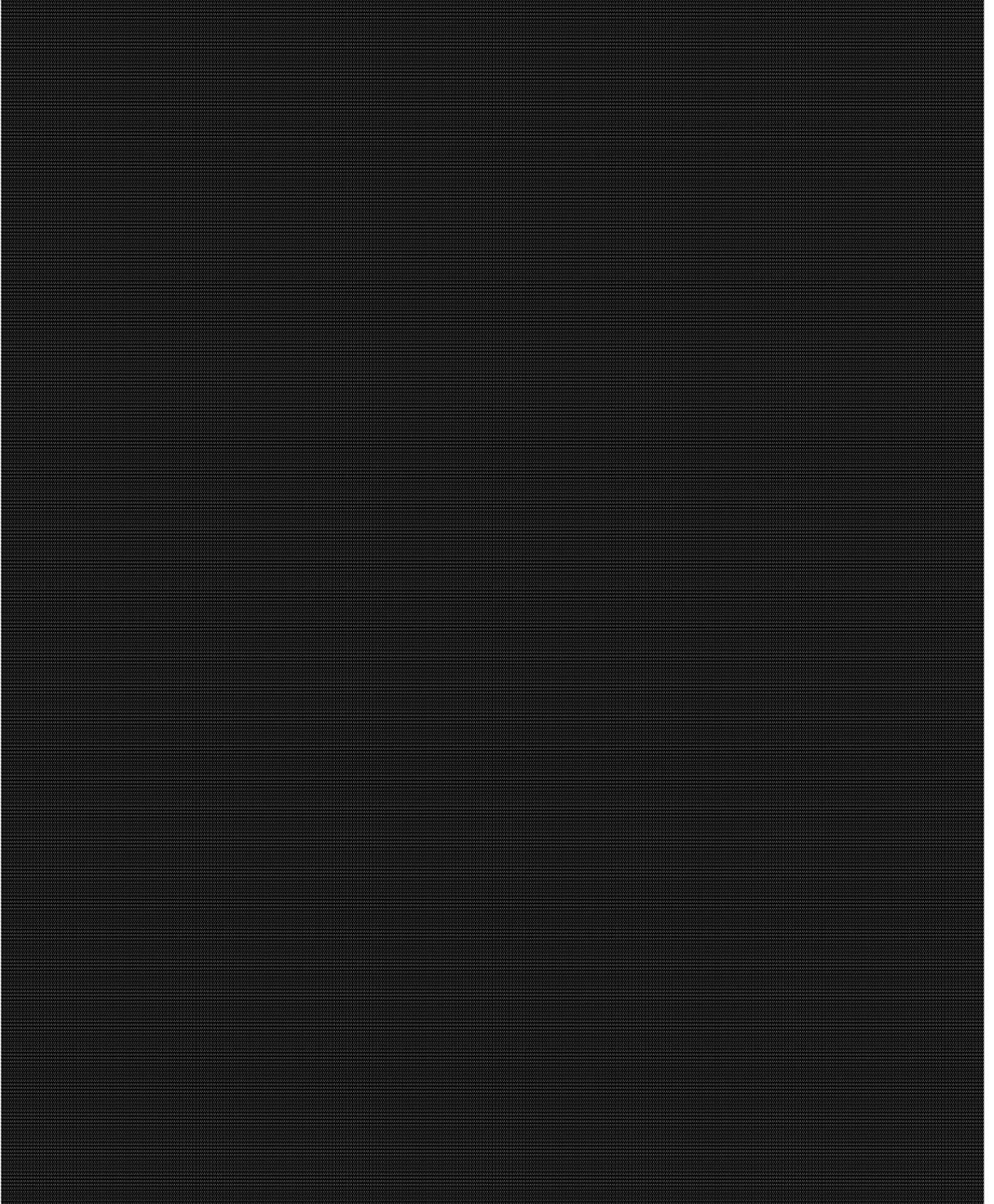
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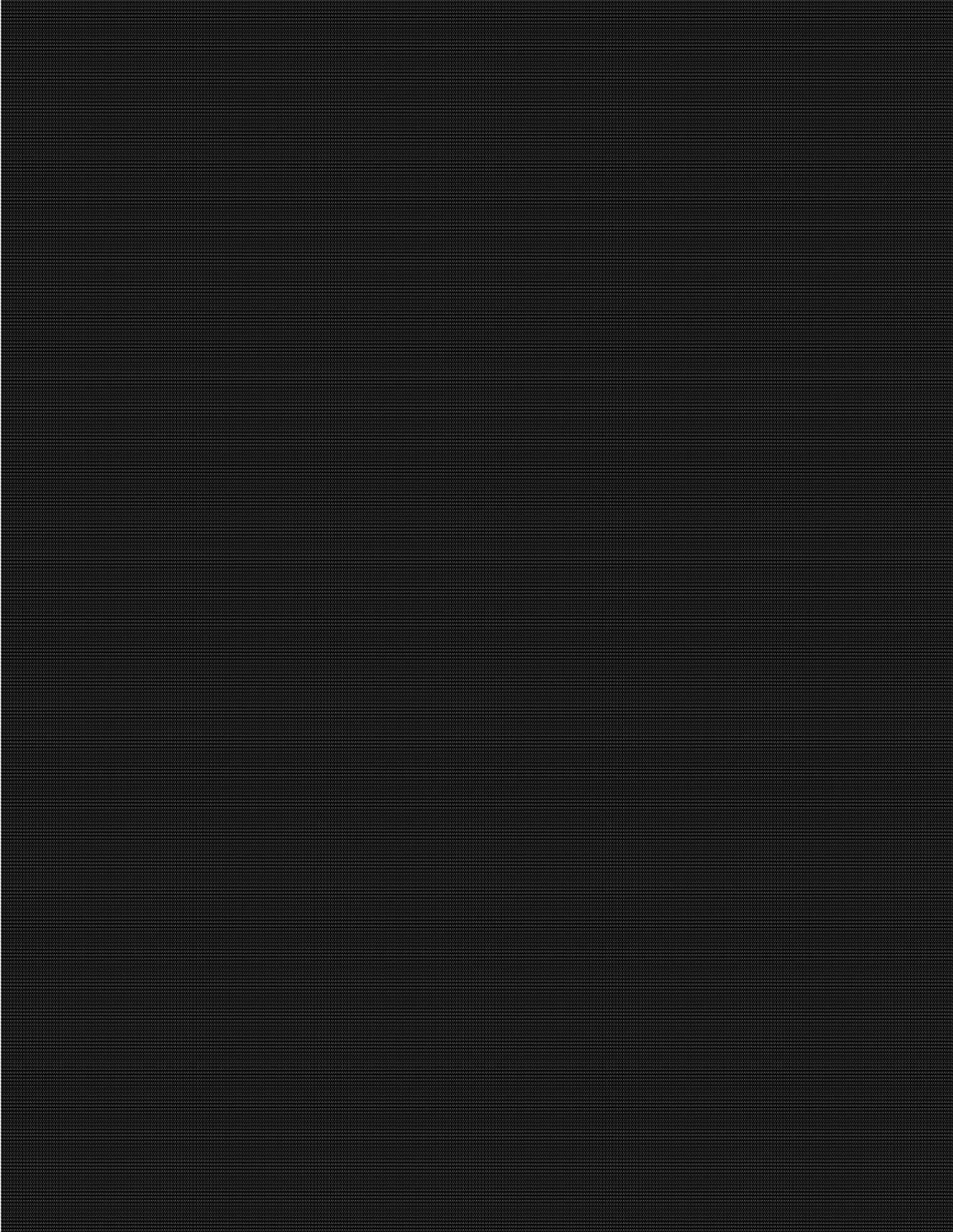
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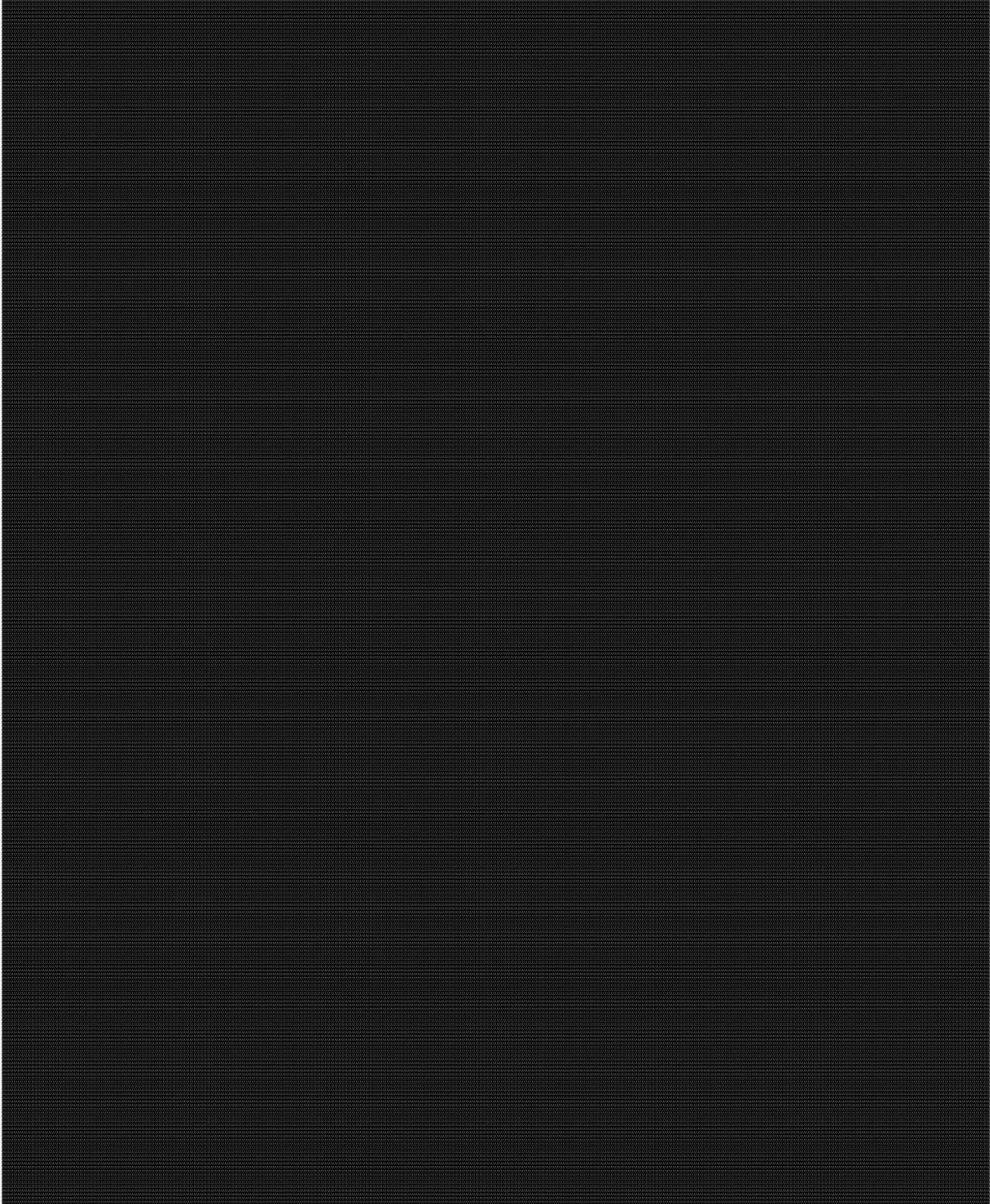
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EXHIBIT A
PROPERTY DESCRIPTION

00019984-1

EXHIBIT "B"
ESCROW AGREEMENT

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Agreement") is made and entered into this ___ day of _____, _____ by and between _____, a(n) _____ ("Seller"), and _____, a(n) _____ ("Buyer").

BACKGROUND INFORMATION

A. On _____, _____, Seller and Buyer entered into a certain Purchase Agreement ("Purchase Agreement"), whereby Seller agreed to sell and Buyer agreed to purchase a certain ___ acre parcel of real property in _____.

B. Pursuant to Section ___ of the Purchase Agreement, Buyer agreed to deposit the sum of _____ Dollars (\$_____) with an escrow agent.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Background Information and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to escrow the following sum on the terms and conditions hereinafter set forth:

1. **Appointment of Escrow Agent.** _____, with an address of _____, _____ ("Escrow Agent"), is hereby appointed Escrow Agent and is hereby authorized and empowered to effectuate this Agreement on the terms and conditions set forth herein. By acceptance hereof, Escrow Agent agrees to said appointment and agrees to perform the obligations of the Escrow Agent in accordance herewith.

2. **Deposit of Escrow Funds.** Buyer has simultaneously herewith deposited with said Escrow Agent the sum of _____ Dollars (\$_____) (said amount, together with accrued interest thereon, shall hereinafter be referred to as the "Escrow Funds"). Escrow Agent shall promptly deposit said sum in a separate money market account at a national banking association or other financial institution acceptable to Buyer and Seller.

3. **Disposition of Escrow Funds.** Escrow Agent shall hold the Escrow Funds as aforesaid until such time as any one of the following shall have occurred:

- (a) Escrow Agent shall have received, on or before _____, _____, either (1) written instructions executed by Buyer which (i) state that the Contingencies (as defined in the Purchase Agreement) have not been satisfied or waived, (ii) certifies that the notice of failure to satisfy or waive the Contingencies provided for in Section ___ of the Purchase Agreement has been given by Buyer to Seller on or prior to the date of such instructions and (iii) have attached thereto a copy of such notice of failure to satisfy or waive the Contingencies; in such event, the Escrow Agent shall promptly thereafter disburse the Escrow

Funds to Buyer, less One Hundred Dollars (\$100.00) which shall be paid to Seller as consideration for execution of the Purchase Agreement; or

(b) Escrow Agent shall have received written instructions executed by both Buyer and Seller directing Escrow Agent (i) to whom the Escrow Funds are to be disbursed, (ii) the manner and all pertinent instructions pursuant to which the Escrow Funds are to be disbursed and (iii) when the Escrow Funds are to be disbursed (such written instructions shall hereinafter be referred to as "Joint Instructions"); in such event, Escrow Agent shall disburse the Escrow Funds as directed by the Joint Instructions; or

(c) Escrow Agent shall have received written instructions executed by either Buyer or Seller (the "Requesting Party"), pursuant to which such Requesting Party asserts that it is entitled under the Purchase Agreement to receive the Escrow Funds and pursuant to which the information set forth in subparagraph (a) above is provided to Escrow Agent (such written instructions shall hereinafter be referred to as the "Unilateral Instructions"); in such event, the following shall apply:

(i) Escrow Agent shall, within three (3) business days after receipt of such Unilateral Instructions, give written notice to the other party hereto (the "Other Party") that Escrow Agent has received such Unilateral Instructions from the Requesting Party and that Escrow Agent will disburse the Escrow Funds in accordance therewith unless, within ten (10) business days following the date of Escrow Agent's notice, said Other Party gives written notice to Escrow Agent that (A) said Other Party disagrees with the Requesting Party's assertion that it is entitled under the Purchase Agreement to receive the Escrow Funds, (B) states the reason(s) for such disagreement and (C) objects to disbursement of the Escrow Funds by Escrow Agent in accordance with the Unilateral Instructions.

(ii) In the event that Escrow Agent does not receive any such written objection to disbursement of the Escrow Funds in accordance with the Unilateral Instructions from the Other Party within ten (10) business days following the date of the Escrow Agent's notice to the Other Party, Escrow Agent shall disburse the Escrow Funds as directed by the Unilateral Instructions.

(iii) In the event that Escrow Agent does receive such written objection to disbursement of the Escrow Funds in accordance with the Unilateral Instructions from the Other Party within ten (10) business days following the date of Escrow Agent's notice to the Other Party, Escrow Agent shall continue to hold the Escrow Funds hereunder until such time as (A) it receives Joint Instructions pertaining to disposition of the Escrow Funds, (B) it is ordered to make specific disposition of the Escrow Funds by a court of competent jurisdiction or (C) it deposits the Escrow Fund with a proper court as provided in Paragraph 5 hereof.

Disbursement of the Escrow Funds by Escrow Agent as hereinabove provided will result in the termination of the terms and conditions of this Agreement.

4. **Indemnification of Escrow Agent.** Buyer and Seller hereby agree that in consideration for the services to be performed by Escrow Agent, Escrow Agent shall not be held liable for misfeasance or

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nonfeasance. Further, Buyer and Seller agree to indemnify and save harmless Escrow Agent against all liabilities, claims, losses, damages, expenses, suits and actions whatsoever which might be brought against Escrow Agent arising out of said escrow unless such actions or failure to act arise out of gross negligence, willful misconduct and/or fraud of Escrow Agent.

5. Interpleader.

(a) Buyer and Seller specifically agree that Escrow Agent is not obligated to disburse the Escrow Funds except as provided in Paragraph 3 hereof. If any question exists as to the disposition of the Escrow Funds, Escrow Agent may demand from Buyer and Seller Joint Instructions as to the disposition of such fund. If no such Joint Instructions are received by Escrow Agent within fifteen (15) business days of such demand, Escrow Agent may, at its sole discretion, either continue to hold the Escrow Fund hereunder, without liability to any party for so doing, or act in accordance with the following subparagraph (b).

(b) If, after request therefor, as provided in the foregoing subparagraph 5(a), Escrow Agent does not timely receive Joint Instructions pertaining to the disposition of the Escrow Fund, Escrow Agent may, by written notice to Buyer and Seller demand that Buyer and Seller enter binding arbitration or litigation to determine to whom the Escrow Fund should be delivered. Alternatively, Escrow Agent may file suit in interpleader in the proper court for the purpose of having the respective rights of Buyer and Seller adjudicated. Escrow Agent, upon initiation of such suit, may deposit with the court the Escrow Fund and upon giving notice thereof to Buyer and Seller, Escrow Agent shall be fully released and discharged from all further obligations hereunder with respect to the Escrow Fund.

(c) Buyer and Seller agree to pay to Escrow Agent, in equal shares, all reasonable costs and reasonable attorney's fees incurred by Escrow Agent in connection with this Agreement, including but not limited to, those incurred in the resolution of disputes over the Escrow Funds or incurred in connection with any said interpleader action.

6. Miscellaneous.

(a) Buyer's Federal Tax Identification Number is _____. The account in which the Escrow Funds are deposited shall be opened using the Tax Identification Number of Buyer. All accrued interest shall be a part of the Escrow Fund and shall be disbursed to the party(ies) as provided herein.

(b) The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(c) This Agreement shall be construed, interpreted, and governed by the law of the State of Texas without reference to conflict of law principles. The parties agree that any dispute arising under this Agreement and any lawsuit involving this Agreement to which the Escrow Agent is a party shall be heard only by a court of competent jurisdiction in Harris County, Texas. The parties waive any right to object to venue in Harris County, Texas for any reason whatsoever, including, but not limited to, forum non conveniens, lack of personal jurisdiction, or improper venue.

(d) This Agreement is binding upon and shall inure to the benefit of the respective parties hereto, and their respective heirs, legal representatives, successors and assigns.

(e) For purposes hereof, a "business day" shall mean a day of the year, other than (i) a Saturday; (ii) a Sunday; or (iii) any day upon which national banks in the State of Texas are required or authorized by law to remain closed.

(f) Any notices required hereunder shall be in writing, shall be transmitted by registered or certified mail, postage prepaid, return receipt requested. Notice shall be deemed given when so deposited in the United States Postal Service, addressed to the parties as set forth below:

If intended for Seller, to:

ATTN: _____

If intended for Buyer, to:

ATTN: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SELLER:

BUYER:

a(n) _____

a(n) _____

BY: _____
ITS: _____
Date: _____

BY: _____
ITS: _____
Date: _____

The undersigned accepts the appointment as Escrow Agent under the foregoing Agreement and agrees to undertake and perform the obligations imposed upon Escrow Agent thereunder. The undersigned further acknowledges receipt of the aforesaid Escrow Funds and a copy of the Purchase Agreement referred to therein.

Executed this ___ day of _____, _____.

ESCROW AGENT:

BY: _____

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, July 27, 2012 12:18 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Maria Tzagournis (EXEL US); Fred Takavitz (Exel US); Greg Foreman (EXEL US)
Subject: RE: Insurance questions

Our risk subject matter expert is traveling back from brazil today. It will be Monday before we are able to brief them, and we will send their information over at that time.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Thursday, July 26, 2012 10:28 AM
To: Scott Lyons (EXEL CA)
Cc: George P. Tsiopras; Maria Tzagournis (EXEL US); Fred Takavitz (Exel US); Greg Foreman (EXEL US)
Subject: RE: Insurance questions

Scott:

Please give us the contact information for your insurance expert and we will have our insurance expert contact that person. Thanks.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Thursday, July 26, 2012 9:03 AM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Maria Tzagournis (EXEL US); Fred Takavitz (Exel US); Greg Foreman (EXEL US)
Subject: Insurance questions

In our discussions on Tuesday a number of insurance questions came up.

It is my experience that the insurance industry has its own vocabulary and I have had good success in resolving insurance questions by putting together our insurance experts with our client's insurance experts. I spoke with Stephen after the meeting, and suggested that such a meeting would quickly clear up any of the insurance questions. He said that it might be a good idea.

Would it be acceptable for me to set up such a conversation through Stephen?

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
LSR 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Monday, July 30, 2012 3:12 PM
To: Stephen J. Judge
Subject: Re: BAFO Exel

I got it!

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Tuesday, July 31, 2012 03:03 AM
To: Scott Lyons (EXEL CA)
Subject: FW: BAFO Exel

Scott, Please acknowledge receipt of my email.

From: Stephen J. Judge
Sent: Monday, July 30, 2012 2:54 PM
To: 'scott.lyons@exel.com'
Subject: BAFO Exel

Dear Scott

Craig is unavailable and asked me to set out the process for this week. The NHSLC Commissioners have selected you to participate in the Best and Final Offer (BAFO) phase of the RFP. The Evaluation Committee is authorized to enter into pre-selection discussions. RFP Section 4.7 a. 1. p. 36.

This phase will begin with a written request. This request may be the only opportunity to improve your proposal. You may revise your proposal as a result of this request. RFP page 36.

The written request will be an email from Craig. The current plan is to send out the email by cob tomorrow with your response due by noon on Friday.

Steve

Stephen J. Judge

AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018
Web: www.wadleighlaw.com
E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Monday, July 30, 2012 3:12 PM
To: Stephen J. Judge
Subject: Re: BAFO Exel

Wonderful news. We look forward to responding.

Cheers,

Scott Lyons

Telephone: 905 366-7691

Mobile: 416 [REDACTED]

www.exel.com

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Tuesday, July 31, 2012 02:54 AM
To: Scott Lyons (EXEL CA)
Subject: BAFO Exel

Dear Scott

Craig is unavailable and asked me to set out the process for this week. The NHSLC Commissioners have selected you to participate in the Best and Final Offer (BAFO) phase of the RFP. The Evaluation Committee is authorized to enter into pre-selection discussions. RFP Section 4.7 a. 1. p. 36.

This phase will begin with a written request. This request may be the only opportunity to improve your proposal. You may revise your proposal as a result of this request. RFP page 36.

The written request will be an email from Craig. The current plan is to send out the email by cob tomorrow with your response due by noon on Friday.

Steve

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018

Web: www.wadleighlaw.com

E-mail: sjudge@wadleighlaw.com

E-mail: stephen.j.judge@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, July 31, 2012 7:16 AM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Maria Tzagournis (EXEL US); Fred Takavitz (Exel US); Greg Foreman (EXEL US); Kathleen Davies (DHL US)
Subject: RE: Insurance questions

Kathleen Davies, Vice President, Insurance and Risk Management is our key person to discuss the insurance questions.

She can be reached at 614.865.8596. Her email address is Kathleen.Davies@dhl.com.

Please have your insurance expert contact her. They can organize a time to discuss the contract terms. Kathleen will work to include Maria Tzagournis and myself on the call if possible. We will just be listening, but since Maria and I have responsibility to manage any recommended changes to the contract language our participation on the call will facilitate the contracting process.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Thursday, July 26, 2012 10:28 AM
To: Scott Lyons (EXEL CA)
Cc: George P. Tsiopras; Maria Tzagournis (EXEL US); Fred Takavitz (Exel US); Greg Foreman (EXEL US)
Subject: RE: Insurance questions

Scott:

Please give us the contact information for your insurance expert and we will have our insurance expert contact that person. Thanks.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]

Sent: Thursday, July 26, 2012 9:03 AM

To: Craig W. Bulkley

Cc: George P. Tsiopras; Maria Tzagournis (EXEL US); Fred Takavitz (Exel US); Greg Foreman (EXEL US)

Subject: Insurance questions

In our discussions on Tuesday a number of insurance questions came up.

It is my experience that the insurance industry has its own vocabulary and I have had good success in resolving insurance questions by putting together our insurance experts with our client's insurance experts. I spoke with Stephen after the meeting, and suggested that such a meeting would quickly clear up any of the insurance questions. He said that it might be a good idea.

Would it be acceptable for me to set up such a conversation through Stephen?

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691

Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, July 31, 2012 9:11 AM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US); Fred Takavitz (Exel US); Maria Tzagournis (EXEL US)
Subject: Draft Agreement
Attachments: Appendix E updated for Exhibit C Jul 31, 2012.docx

I know we are getting ahead of ourselves, but in order to hit the August 10th contract execution timeframe we need to get started on the contract discussions.

As a first step, we attempted to merge together Appendix E and its Exhibit C into one document. This would be the base document from which we would recommend any changes – which will be few.

Can you have Steve confirm that we completed this task correctly. I redlined all the changes made in merging the Appendix and the Exhibit. If he could just accept them or make corrections and send us back the document in its final form that would be quite helpful.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

**APPENDIX E
GENERAL STANDARDS AND REQUIREMENTS
AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATIONS.

1.1 State Agency Name New Hampshire State Liquor Commission		1.2 State Agency Address P.O. Box 503, 50 Stone St., Concord, NH 03302-0503	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Number	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency George P. Tsiopras, CFO		1.10 State Agency Telephone Number 603-230-7010	
1.11 Contractor Signature		1.12 Name & Title of Contractor Signatory	
1.13 Acknowledgment: State of _____, County of _____ On, _____, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace (Seal)			
1.13.2 Name and Title of Notary Public or Justice of the Peace			
1.14 State Agency Signature		1.15 Name/Title of State Agency Signatory Joseph W. Mollica, Chairman Mark M. Bodt, Commissioner Michael R. Milligan, Commissioner	
1.16 Approval by the NH Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by Attorney General (Form, Substance, and Execution) By: _____ On: _____			
1.18 Approval by Governor and Council By: _____ On: _____			

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2. **EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. **EFFECTIVE DATE/ COMPLETION OF SERVICES.**

~~3.1. Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the New Hampshire State Liquor Commission, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Attorney General approves this Agreement as to form, substance and execution ("Effective Date"). Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date")~~

3.2. If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

3.3 ~~If a new contractor is not selected to provide the Services by the Completion Date specified in Block 1.7 of the Form P-37 (General Provisions) (the "Completion Date"), the Agreement may be extended up to an additional six (6) months from the Completion Date (the "Transition Period") provided that:~~

~~3.3.1.1 NHSLC provides Contractor a minimum of six (6) months written notice prior to the Completion Date of the State's request to extend the Agreement for a transition period, specifying the definitive and exact period of the Transition Period which shall not exceed six (6) months;~~

~~3.3.1.2 The parties reach mutual agreement on the rates that will apply to the Services during the Transition Period; and~~

3.3.1.3 During any such Transition Period, Contractor shall not be required to purchase or maintain any bonding, and the State shall have no rights to any Contractor bonds.

3.3.1.4 If a new Contractor is selected and the parties agree to extending the agreement for the Transition Period as described above, Contractor will provide NHSLC with reasonable assistance to transition services to a new contractor during the Transition Period such as the transfer of NHSLC product to the warehouse of the new contractor, provided that all costs and expenses incurred by Contractor and any costs and expenses associated with any such transition services shall be borne by NHSLC or the new contractor. NHSLC shall determine in its reasonable discretion the timing of any such transfer of product which shall occur within normal working hours of Contractor, unless otherwise agreed by Contractor. Net overages and shortages by Supplier shall be used to determine any financial obligation between Contractor and the supplier. Net shortages will be paid to each Supplier at the Supplier's cost upon invoicing by each Supplier. NHSLC will require the new contractor to reasonably cooperate and work with Contractor, including, but not limited to, performing cycle counts as necessary to verify any discrepancies.

4. STATE FUNDING.

4.1. In the event the State has insufficient funds available to itself make continued payments under the Agreement for any Services for which the State is responsible for payment, including but not limited to, Services that carry fees to the State such as bottle picking and handling of NHSLC product, the State will immediately:

4.1.1. Fully exercise all authority to transfer funds within NHSLC's budget and any other funds available to NHSLC, including without limitation, NHSLC's authority to transfer funds under N.H. RSA 176:16, V and any revolving accounts or funds; and

4.1.2. Use best efforts and in good faith seek the necessary funding from the General Court and other governmental authorities to fulfill its obligation to make continued payments under the Agreement; and,

4.1.3. The State must immediately provide Contractor with written notice of any such funding shortfall.

4.2. Contractor may cease providing Services to the State for which the State cannot or fails to make payment, and will not be obligated to resume provision of Services to the State if funding for continued payments under the Agreement is not obtained, including without limitation, funding for any arrearages.

4.3. Notwithstanding the foregoing or any provision of this Agreement to the contrary, the Agreement will remain in effect for the full term of the Agreement, and any extensions thereof, and Contractor may continue to provide Services to others such as Licensees, Suppliers, and Vendors.

4. — ~~CONDITIONAL NATURE OF AGREEMENT.~~ Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, ~~are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor~~

notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1. The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2. ~~Except as otherwise provided herein or as otherwise agreed by NHSLC, rates shall not change until the Completion Date. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.~~

5.3. The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80.7 through RSA 80.7-c or any other provision of law.

~~5.4. Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payment authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.~~

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1. In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2. During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action as required by applicable law to prevent such discrimination.

6.3. If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulation and guidelines as the State New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1. The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2. Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other persons, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3. The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State. Notwithstanding the foregoing or any provision of the Agreement to the contrary, Contractor retains the right to pursue any of its remedies, both at law and in equity.

8. EVENT OF DEFAULT/REMEDIES.

Either party may terminate the Agreement and pursue its remedies at law and in equity for the material breach of the Agreement by the other party, provided that the injured party has given the other party prior written notice of such material breach, and there has been a failure to cure such material breach within thirty (30) business days after receipt of such notice by the other party provided, however, in the event of a material breach of the Agreement which necessitates the State to obtain temporary substitute warehouse services, the notice requirement shall be no less than twenty-four (24) hours. ~~8.1. Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):~~

~~8.1.1. failure to perform the Services satisfactorily or on schedule;~~

~~8.1.2. failure to submit any report required hereunder; and/or~~

~~8.1.3. failure to perform any other covenant, term or condition of this Agreement.~~

~~8.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:~~

~~8.2.1. give the contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice, and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;~~

~~8.2.2. give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;~~

~~8.2.3. set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or~~

~~8.2.4. treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.~~

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda papers, and documents, all whether finished or unfinished.

9.2. All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3. Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

~~10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.~~

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the New Hampshire State Liquor Commission ~~NH Department of Administrative Services~~. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. **INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. **INSURANCE.**

14.1. The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1. Comprehensive general liability insurance with the State named as an additional insured against all claims of bodily injury, death or property damage in amounts of not less than \$250,00 per claim and \$2,000,000 per occurrence; and

Paragraph 14.1.2 fire and extended coverage insurance for 100% of acquisition cost of any and all liquor and wine products owned by the NHSLC up to a total of two million dollars (\$2,000,000). ~~14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 14.2 herein, in an amount not less than 88% of the whole replacement value of the property.~~

14.1.3 Contractor shall have and maintain for all premises used to provide services to NHSLC pursuant to this Agreement an all risks insurance policy which shall provide 100 % acquisition cost coverage of any and all liquor and wine products owned by the NHSLC up to a

total of two million dollars (\$2,000,000). Policies shall name the NHSLC as a loss payee. A certificate of insurance demonstrating compliance with the requirements of this Paragraph 14 shall be provided to NHSLC prior to execution of the Agreement.

14.1.4 Performance Bond. Upon final approval of this Agreement, Contractor shall provide to NHSLC in form satisfactory to NHSLC, a performance bond in the amount of One Million Dollars (\$1,000,000.00), which shall be retained by the NHSLC until the Completion Date.

14.1.5 The Contractor Warehouse shall be fully bonded and registered with the State of New Hampshire as a public warehouse to the extent required by applicable state law. A copy of such registration shall be provided to NHSLC upon request.

14.1.6 Contractor shall maintain a warehouse license to the extent required by applicable law.

14.2. The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance and issued by insurers licensed in the State of New Hampshire.

14.3. The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under the Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modified of the policy

15. WORKER'S COMPENSATION.

15.1. By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance, with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*")

15.2. To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement

16. **WAIVER OF BREACH** No failure by the State or Contractor to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express

failure to enforce any Event of Default shall be deemed a waiver of the right of the State or Contractor to enforce each and all of

the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. **NOTICE** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto ~~and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire~~

19. **CONSTRUCTION OF AGREEMENT AND TERMS.** This agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. **SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

25 Contract Protest Process

The Issuing Officer, or his or her successor, shall be the NHSLC's representative.

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by this Agreement.

The parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute;

Dispute Resolution Responsibility and Schedule Table

<u>LEVEL</u>	<u>CONTRACTOR</u>	<u>THE NHSLC</u>	<u>CUMULATIVE ALLOTTED TIME</u>
<u>Primary</u>	<u>Name</u>	<u>Director</u>	<u>5 Business Days</u>

	Title	Division of Marketing, Merchandising & Warehousing	
<u>Second</u>	Name Title	NHSLC Chairman	<u>15 Business Days</u>

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

The decision of the Chairman shall be final for the State.

26. Contract Transition Period

If this contract expires or is terminated before a Vendor is selected and prepared to provide Warehouse services to the NHSLC, Contractor agrees to continue the services described under the current contract for up to 6 months at the prices to be negotiated by the parties.

Contractor also agrees, at the discretion of the NHSLC, to assist the NHSLC in all transition services including, but not limited to the following:

Before transition can begin, the new Vendor must meet all the specifications of the future RFP in actuality and/or demonstrate the ability, using dummy transactions provided by the NHSLC, to interface with the NHSLC's computer and business systems on a magnitude consistent with actual conditions.

All costs associated with the transfer of Product and control from the existing Warehouse (s) ("old") to the Warehouse of the successful Vendor ("new"), including, but not limited to, shipping, handling and transportation, shall be borne by the NHSLC or the defaulted Contractor as provided in Paragraph 8. In an effort to avoid charging the NHSLC or Suppliers duplicate storage fees, storage charges for transferred Product shall not accrue until the first day of the month following the transfer.

The NHSLC, in conjunction with both "old" and "new" Warehouses, shall establish a deadline for the transfer of all Product to the "new" Warehouse. The NHSLC will, if possible, select a period during a time of slow sales (such as January-March) and schedule as short a period as is practical for the transfer of all Product from the "old" to the "new" Warehouse. Notification of the deadline will be given within a reasonable period, to be arranged with the Vendor and existing Contractor at award.

The NHSLC shall determine when Product is to be transferred. At no time during transfer shall the same brand code be distributed from more than one Warehouse.

As Product is depleted or transferred from the "old" Warehouse, Product overs and shorts shall be reconciled to determine a net financial obligation between the NHSLC, the "old" Warehouse and the "new" Warehouse. The NHSLC shall observe and audit the transfer proceedings. Overages will be transferred to the "new" Warehouse as normal inventory or to the Product Vendor if the code is no longer a baitment item. Shortages shall be resolved between the Warehouse and the Product Vendor, or NHSLC if the Product is owned by the NHSLC.

27 Assignment Provision

Contractor hereby agrees that it will assign all causes of action that it may acquire under the antitrust laws of the State of New Hampshire and the United States as a result of conspiracies, combinations, or contracts in restraint of trade which affect the price of goods or services obtained by the NHSLC under this contract if so requested by the State of New Hampshire.

28 News Releases

After award and final approval, the Vendor may make public the existence of the contract and the business relationship with the NHSLC. All other information must be approved by the NHSLC before it is made public, such approval not to be unreasonably withheld.

29 Confidentiality/Sensitive Information

Contractor may have access to confidential/sensitive information in the course of performing its obligations under the contract, and may be required to sign a mutually agreed upon confidentiality agreement.

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, July 31, 2012 2:31 PM
To: Craig W. Bulkley
Cc: Stephen J. Judge; Judge, Steve; Kathleen Davies (DHL US); Maria Tzagournis (EXEL US); Fred Takavitz (Exel US)
Subject: RE: Exel Conference call: Insurance

I sent out the meeting invitation with the call in number and password. Here they are as well: 877.777.1345 or 617.614.3333 / Passcode 65064697 (you will need to press 1 to tell the system you wish to join the conference, enter the passcode and then press # after the passcode for the system to recognize it)

Also, please forward the invite to Rebecca as I do not have her email address or send me her email address and I will add her to the invite list.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Tuesday, July 31, 2012 2:12 PM
To: Scott Lyons (EXEL CA)
Cc: Stephen J. Judge; Judge, Steve
Subject: FW: Exel Conference call: Insurance

Scott:

As you can see below, we are expecting to conduct a conference call regarding insurance issues on Thursday, 8/2 at 1 PM. Since folks at our end will be at different locations, can you set up a conference call with a toll-free number and password so we can all access? Thanks.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Stephen J. Judge
Sent: Tuesday, July 31, 2012 1:32 PM
To: Craig W. Bulkley
Subject: Exel Conference call: Insurance

Thursday at 1PM our time. Rebecca White and I will participate. You are welcome to join us. Can you let Scott know and get him to provide the contact info.

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018
Web: www.wadleighlaw.com
E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

Please do not print this email unless necessary

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, July 31, 2012 3:09 PM
To: Stephen J. Judge
Subject: Re: Exel Conference call: Insurance

Great.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Wednesday, August 01, 2012 02:57 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel Conference call: Insurance

Rebecca has the contact number.

From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Tuesday, July 31, 2012 2:31 PM
To: Craig W. Bulkley
Cc: Stephen J. Judge; Judge, Steve; Kathleen Davies (DHL US); Marla Tzagournis (EXEL US); Fred Takavitz (Exel US)
Subject: RE: Exel Conference call: Insurance

I sent out the meeting invitation with the call in number and password. Here they are as well: 877.777.1345 or 617.614.3333 / Passcode 65064697 (you will need to press 1 to tell the system you wish to join the conference, enter the passcode and then press # after the passcode for the system to recognize it)

Also, please forward the invite to Rebecca as I do not have her email address or send me her email address and I will add her to the invite list.

Scott Lyons

Telephone: 905 366-7691
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Cc: Stephen J. Judge; Judge, Steve
Subject: FW: Exel Conference call: Insurance

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As you can see below, we are expecting to conduct a conference call regarding insurance issues on Thursday, 8/2 at 1 PM. Since folks at our end will be at different locations, can you set up a conference call with a toll-free number and password so we can all access? Thanks.



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Craig W. Bulkley
Director
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NH State Liquor Commission
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Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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AG Legal Consultant for NHS Liquor Commission
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Tel: 603-669-4140
Fax: 603-669-6018
Web: www.wadleighlaw.com
E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

Please do not print this email unless necessary

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, August 01, 2012 9:23 AM
To: Craig W. Bulkley
Subject: RE: Best & Final Offer

We received your email.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Tuesday, July 31, 2012 3:43 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer

Dear Scott:

As you were previously informed, the NHSLC Commissioners have selected you to participate in the Best and Final Offer (BAFO) phase of the RFP. The Evaluation Committee is authorized to enter into pre-selection discussions (RFP Section 4.7 a. 1. p. 36). This phase will begin with a written request. **This request may be the only opportunity to improve your proposal.** You may revise your proposal as a result of this request (RFP page 36).

We must receive written answers by **Friday, August 3, 2012.**

You are encouraged to review your entire proposal and improve it to the advantage of the State. There are several areas on which we are specifically focused in order to identify the Proposal that is the most advantageous to the State of New Hampshire.

I. Financial

This issue is highlighted in the Vendor pricing and Innovation Criterion, an area valued at 40 points. The desired end result is that Product will be available in a timely manner and in the necessary amount at every state store and for every Licensee. RFP p. 34. It is also a portion of the Vendor Overall Solution criterion in the requirement that the solution be, among other things, cost effective.

Using the template reviewed at your Phase II presentation, please provide your lowest possible rates.

Please confirm that those rates will not change for the first 30 months of the contract.

If possible, please submit an alternative rate structure that provides for rates over the entire twenty-year contract.

Please confirm that the twenty-year rates will not change.

II. Transition

This issue is highlighted in the Vendor Experience & Qualifications/Transition Criterion, an area valued at 20 points. It is also a portion of the Vendor Overall Solution in the requirement that the Vendor demonstrate suitable financial strength, stability and capacity to undertake a sophisticated and capital intensive Warehouse operation with a very high degree of performance and in a timely manner.

Please confirm that the facility in your proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

Please confirm the identity of those individuals who will be located in New Hampshire during the construction of or transition to the proposed facility (Appendix C, III, p. 43).

If you have constructed or transitioned to a facility similar to the facility in your proposal please identify the project and provide contact information for your client (Appendix C, II, page 43 of the RFP).

The RFP requires a separate transition bond to cover any and all costs related to the transition. (RFP Section, 1.9, p. 10 as clarified by the April 18, 2012 clarifications).

Please confirm that you will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013.

The amount of the bond will be discussed with any Vendor that is selected for contract negotiations.

III Contract performance bond

A contract performance bond is required by Section 1.9, page 11 of the RFP. \$1,000,000 was provided as an example of the amount of the contract performance bond. The amount of the bond will be discussed with any vendor that is selected for contract negotiations.

IV. Final Contract

The General Criterion provides for a review of whether the Vendor's exceptions to the RFP are acceptable to the NHSLC. Section 1.19 provides for cancellation of selection for contract award based on a failure to reach agreement on contractual terms, etc. The NHSLC wants to move as quickly as possible to contract award. To that end, a rather full description of the final contract is set out below. The current short-term warehouse services contract is attached to this email. Because it is a short-term contract, the State agreed to certain terms that it may not agree to in a long-term contract. The point is that the fewer exceptions that have been taken to either the RFP or the standard state contract, the more quickly a final document can be executed.

The Standard State Contract is contained in Exhibit E of the RFP. It is more frequently identified as Form P-37 and we will refer to it as such throughout this item but it is the same document that is contained in RFP Exhibit E. The P-37 cannot be changed on its face. At the end of this process, a P-37 will be signed by the parties. It will contain Exhibits A-F.

If you look at Paragraph 2 of the P-37, you will see that Exhibit A is required to contain a particular description of the work to be performed by the Vendor. Exhibit A will incorporate by reference the RFP and the Proposal. The fewer exceptions taken to the RFP, the easier it will be to craft Exhibit A. Paragraph 5 of the P-37 requires Exhibit B to describe the method of payment and terms of payment. It will incorporate the template that best suits the needs of the NHSLC. [This template will be contained in Exhibit F.]

Paragraph 22 of the P-37 allows changes to the P-37 if they are set forth in Exhibit C. That is why Appendix E in the RFP is modified by Exhibit C. Perhaps our effort to be consistent with the final product has caused more confusion than clarity.

Other documents required by the RFP will be part of the contract such as certificates of insurance, the transition bond, the performance bond, a certificate of vote, a certificate of good standing, and a warehouse license.

Exhibit D will be the RFP with all amendments and clarifications.

Exhibit E will be the winning proposal.

Exhibit F will be the price template.

Even if you have done so before, please identify and explain every exception that you intend to take.

V Performance of contract

Any Vendor selected for contract discussions will be required to submit to a standard background check performed by Liberty Screening Services, LTD. A sample form is attached. The background check will be performed for all the individuals who will participate in the transition phase as well as the first 30 months of operation. It will also be performed for parent organizations, if you are a new entity.

Please confirm that you and your employees will submit to the background check

Appendix C, III. P. 43 of the RFP requested the physical location of each person during the time they will be working on the project.

Please confirm the identity of the persons who will be located in New Hampshire to run the proposed facility for the first 30 months.

The Vendor is required to identify a redundant warehouse site in the event of natural or man-made disasters (RFP APP C XIII, P.48)

Please identify your redundant warehouse site.

If you have any questions regarding this email, please contact me. Thank you.



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Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, August 02, 2012 11:04 AM
To: Craig W. Bulkley
Subject: Question regarding Vintages

Hi Craig,

Can the NHSLC answer the following question regarding Vintages for us. We are following up on a question raised in our presentation.

"Can the NHSLC tell us if each vintage (year of production) is currently tracked as a separate SKU? If so, are these SKU's included in the approx. 10,000 SKU's in the data supplied? If not, can you tell us how many SKU's have multiple vintages associated with a single SKU and the total number of vintages across those SKU's."

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, August 02, 2012 11:09 AM
To: Craig W. Bulkley
Subject: Question regarding ordering products

Hi Craig,

One further question to assist us with our B&FO.

We just want to confirm that the state place orders with suppliers for product and as such has the ability to manage the risk of too much inventory on hand. This would be in comparison to a vendor managed inventory model where the Product Suppliers determine the level of inventory.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, August 02, 2012 1:47 PM
To: Craig W. Bulkley
Subject: RE: Best & Final Offer

Can you confirm the time the Best & Final Offer is due.

Steve's note indicated noon.

This note seems to suggest end of business.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Tuesday, July 31, 2012 3:43 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer

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Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, August 03, 2012 1:30 PM
To: Craig W. Bulkley
Subject: RE: Background Check

Thanks for the clarification.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 03, 2012 11:13 AM
To: Scott Lyons (EXEL CA)
Subject: Background Check

We have received a question from a Vendor regarding the background check requirement in the BAFO for employees of the warehouse vendor and the vendor's parent. A form was attached as an example. The form, on its face, applies to state employees. The form that will be used will be modified to require a reasonable background check. The request for confirmation in the BAFO is amended to read:

Please confirm that you and your employees will submit to a reasonable background check.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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FAX (603) 271-3897
Cell: (603) 490-1559
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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, August 03, 2012 3:10 PM
To: Craig W. Bulkley
Subject: RE: Questions Posed by Vendors

Received - Thanks

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 03, 2012 10:20 AM
To: Scott Lyons (EXEL CA)
Subject: Questions Posed by Vendors

In response to the BAFO, the following questions were posed yesterday and this morning by vendors:

Question #1:

Can the NHSLC tell us if each vintage (year of production) is currently tracked as a separate SKU? If so, are these SKUs included in the approx. 10,000 SKUs in the data supplied? If not, can you tell us how many SKU's have multiple vintages associated with a single SKU and the total number of vintages across those SKUs?

Answer:

Yes, however, the State only tracks the basic SKU/state code. There are approximately 300 SKUs that are tracked by the warehouse by SKU/vintage by adding a vintage identifier to the SKU. For example, SKU/state code 4800 may become 4800-2008. These are typically the high-priced wines.

Question #2:

Please confirm that the state places orders with suppliers for product and as such has the ability to manage the risk of too much inventory on hand. This would be in comparison to a vendor managed inventory model where the Product Suppliers determine the level of inventory.

Answer:

We can not confirm your statement. The NHSLC tracks the sale of product. At the end of the month, the NHSLC finalizes a report that is put online and available to the suppliers. The suppliers use the report to charge the NHSLC for the sale of product. It may also be used by the suppliers to calculate the amount of product which will be sent to the warehouse by the suppliers. Note that there is a legal requirement that a 30-day supply of each product be available in the warehouse. At Concord, the minimum is a case. At the new warehouse, which will be able to perform single-bottle picks, the minimum requirement for a very slow-moving product may be less than a case. Typically, the warehouse

receives advanced notice of a shipment. Because of the bailment system, there is a disincentive for a supplier to send excess product to either warehouse.

Question #3:

The RFP references a bond of \$1,000,000. As we finalize our best and final offer we are basing our financials on a realistic range of the bond around that figure. Last week Steve Judge referenced a \$20,000,000 Bond.....was this figure real or inflated?

Answer:

The \$20 million number was chosen to drive home the point that the cost of failure is enormous. Your financials should be based on the \$1 million bond. As we stated in the BAFO sent to you on July 31, 2012, the amount of the bond will be discussed with a Vendor(s) selected for contract negotiations.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
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Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, August 03, 2012 4:07 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US)
Subject: Exel's Best and Final Offer
Attachments: Robert MacLellan.doc; Becky Ross.doc; CREA - Our Team.12.pdf; John Flanagan.pptx; Laurie Parent Bio.docx; Michael Hecker Profile.docx; Mike Shea.doc; Norm Hollingsworth.doc; Paul Ledger.doc; Profile - Omer Rashid (Jul 2011).docx; Resume Marc Belanger.doc; NH BAFO Summary Final - Aug 3 2012.xlsx; Best and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012.docx

Attached please find a number of files.

The file titled Best and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012 provides the response to the questions posed in your email note.

The Exel file lists our rates referred to in our response.

The remaining word and power point slides are the Bios and resumes of our team members who will be delivering our solution if we are successful.

Thank-you for your consideration.

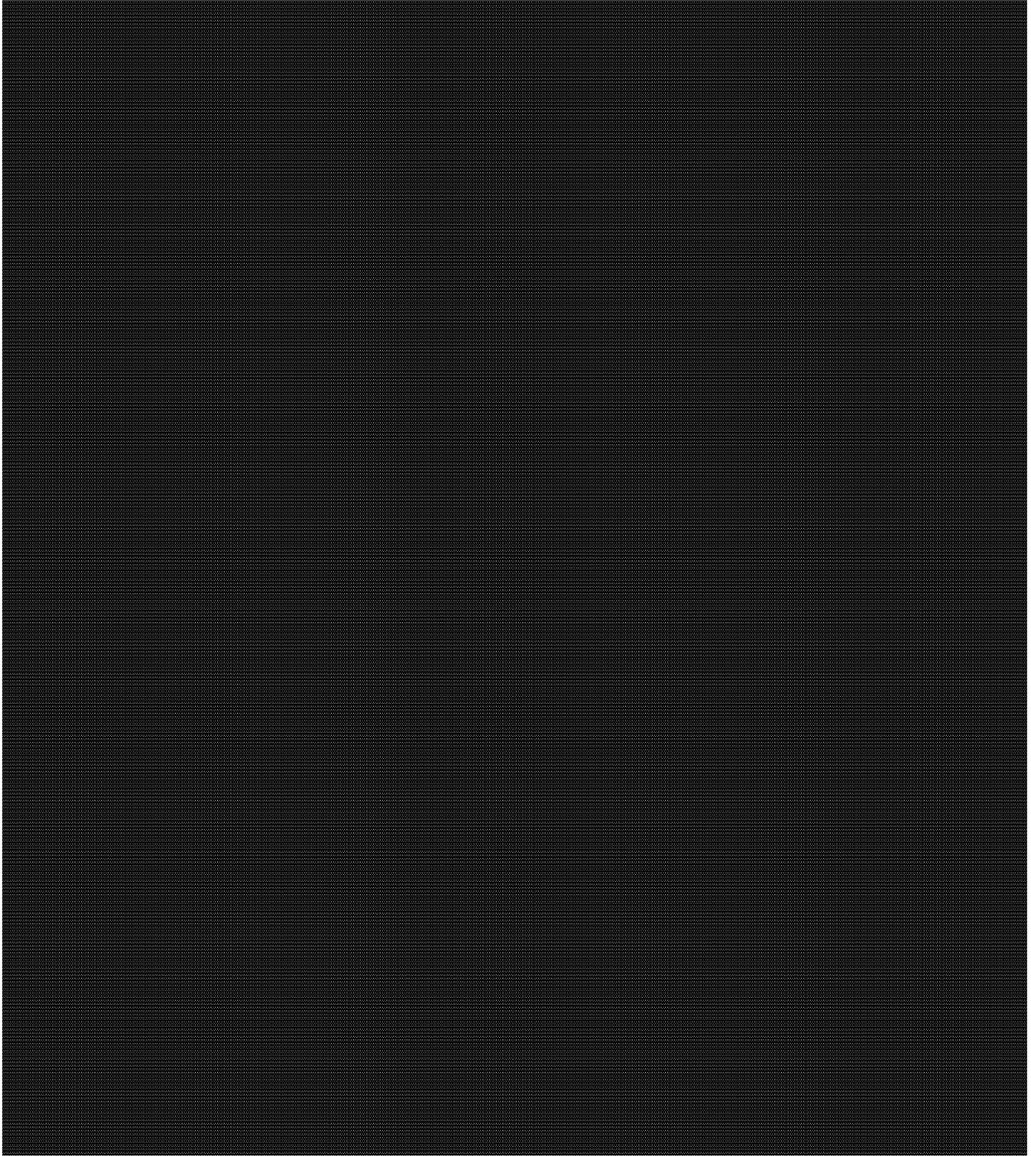
Scott Lyons

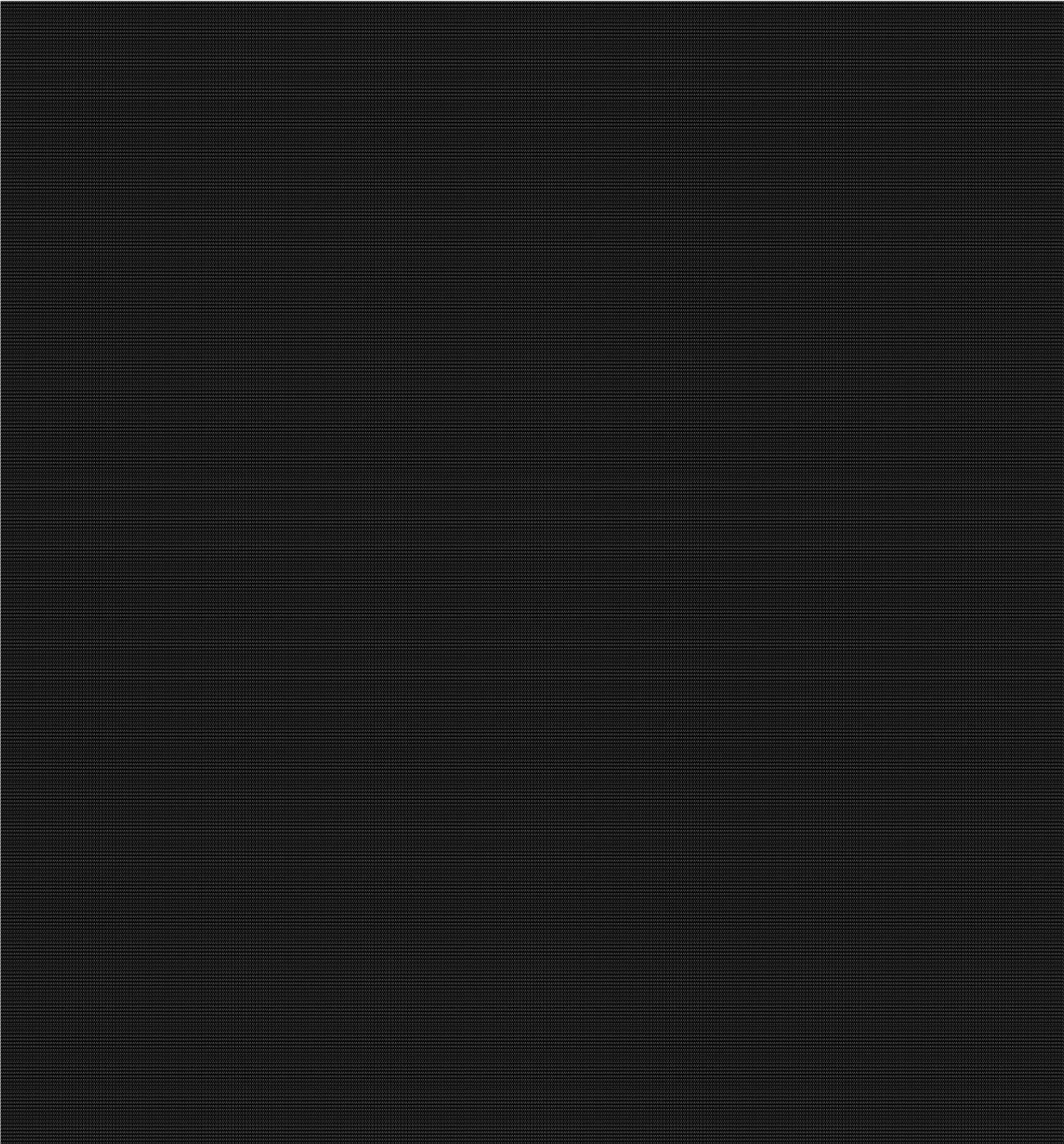
Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

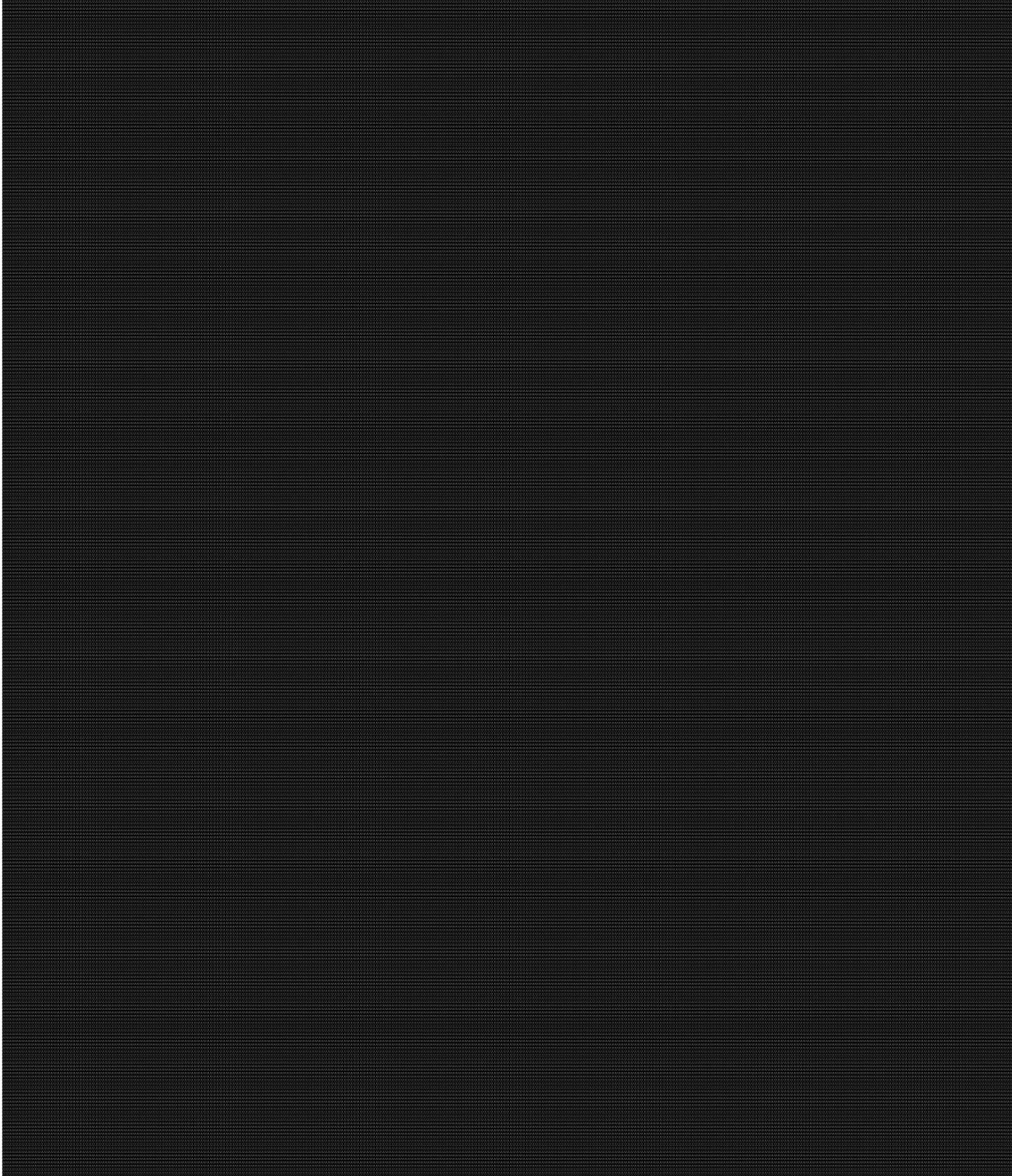
Telephone: 905 366-7691
Mobile: 416 [REDACTED]

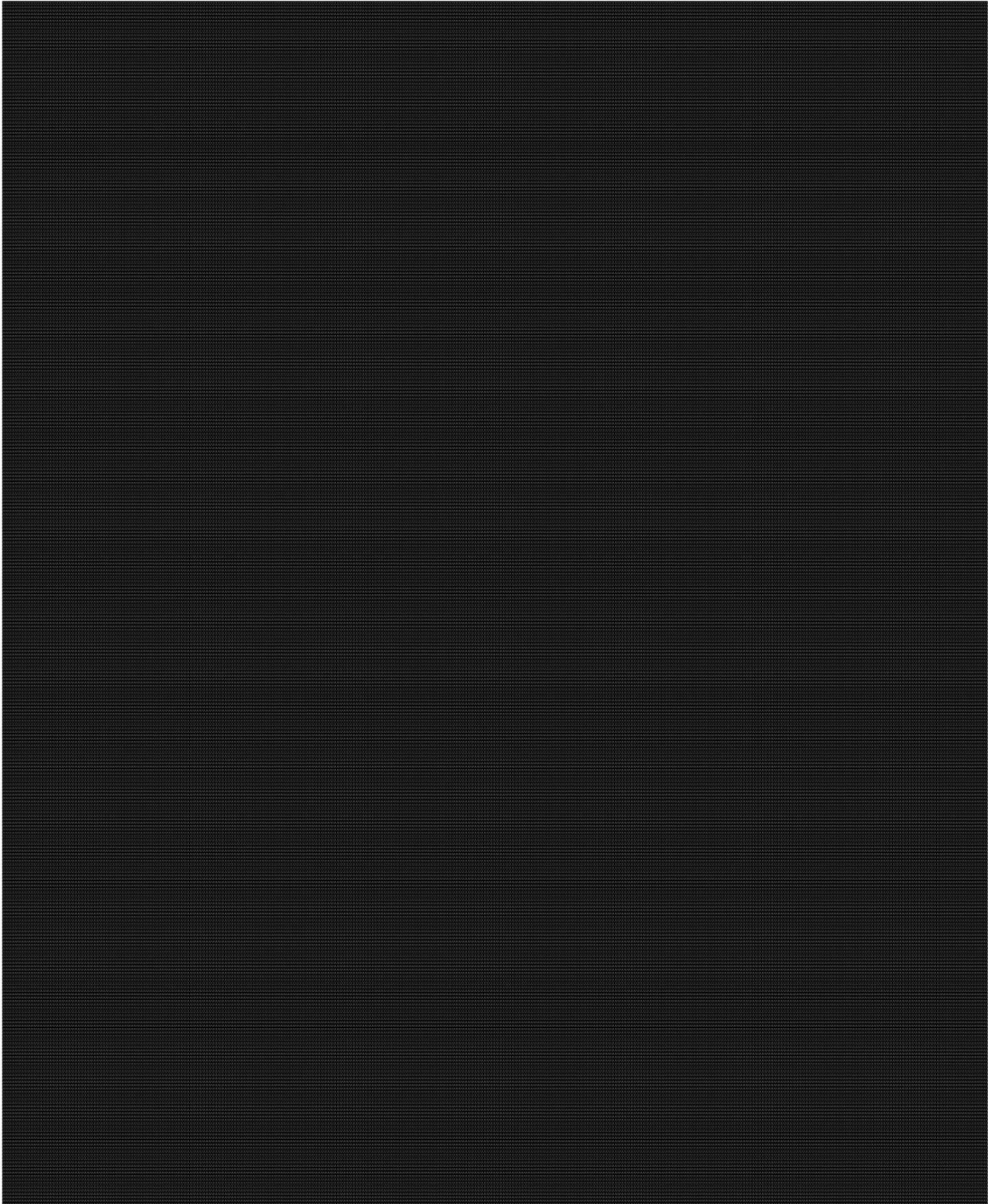
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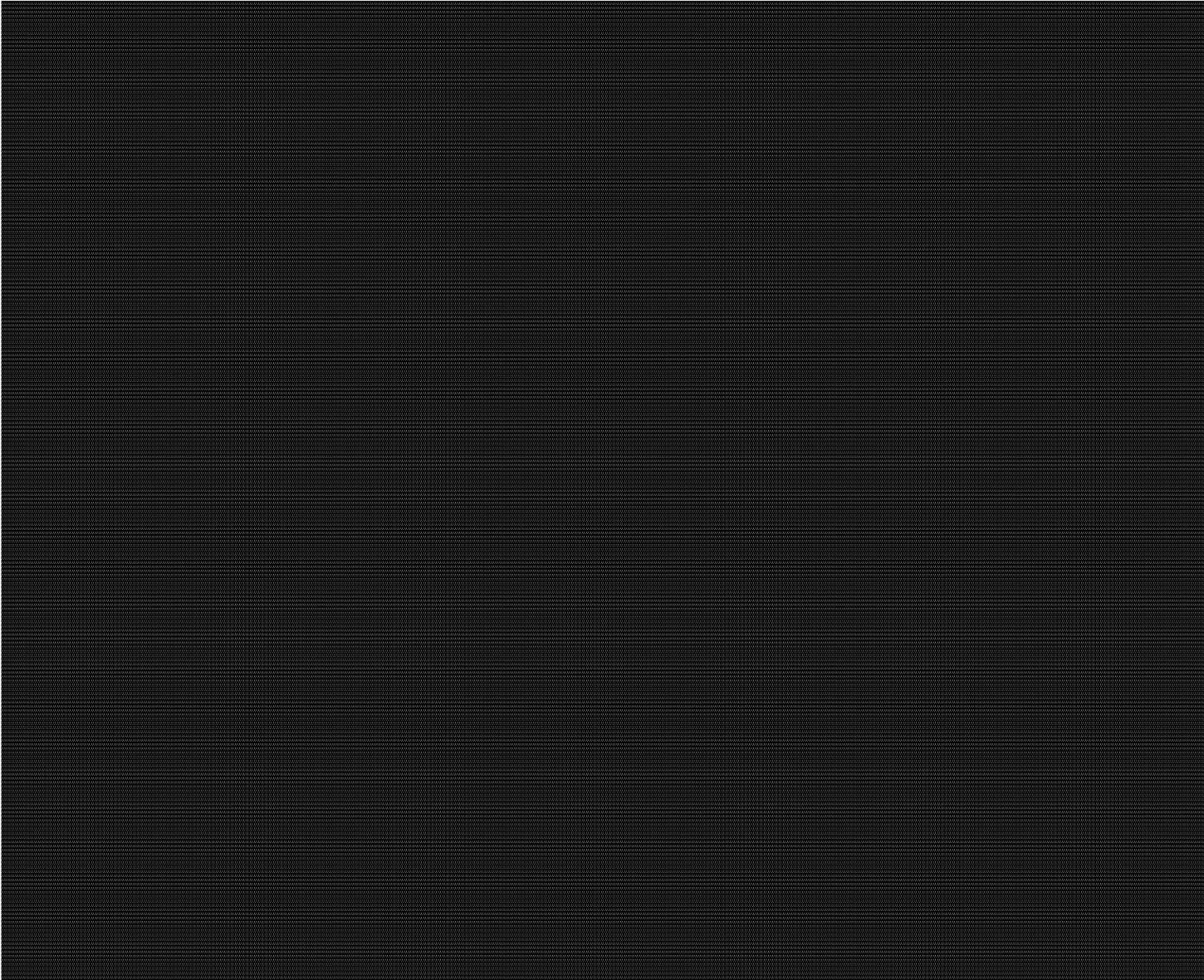
Resume









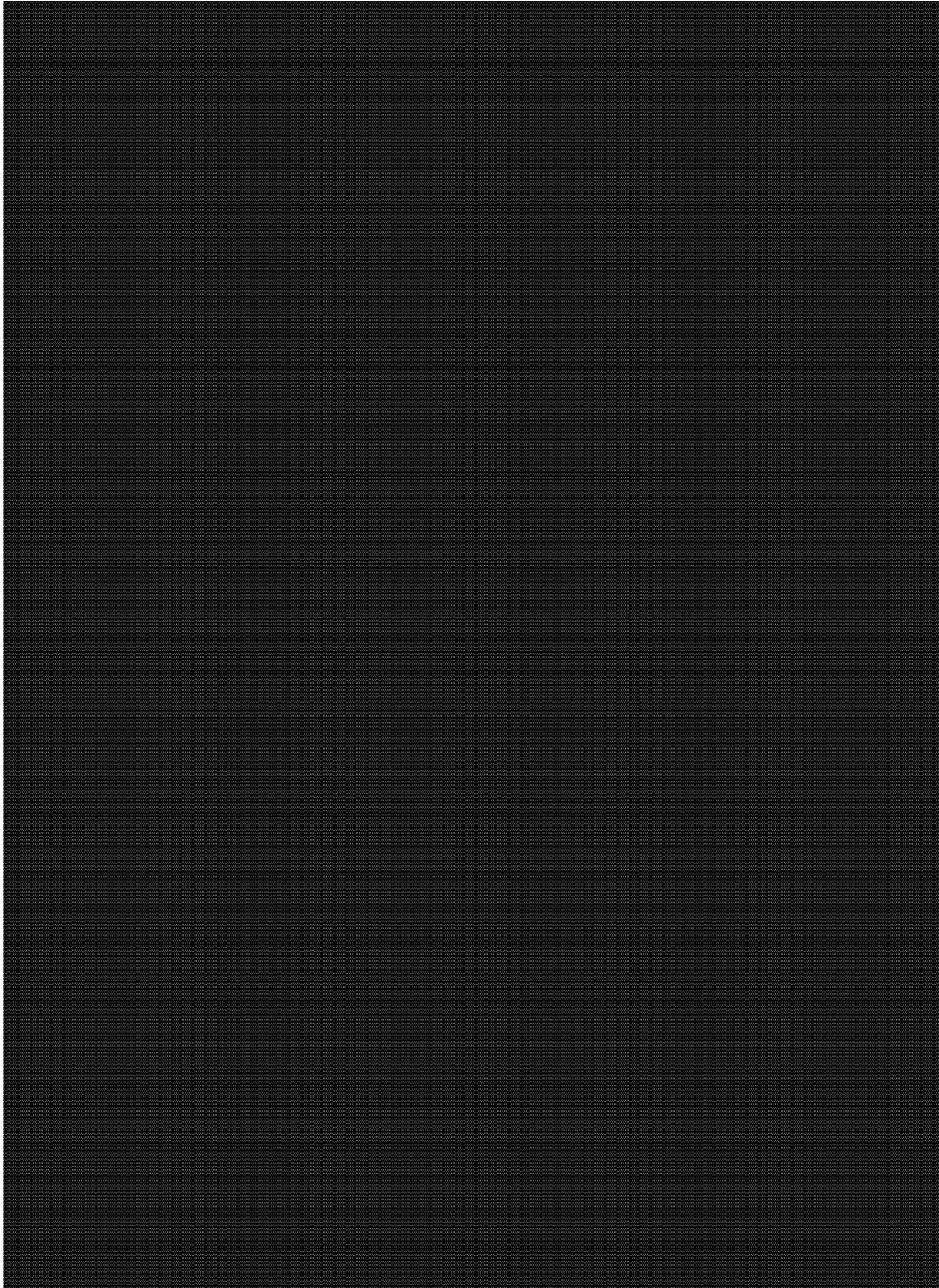


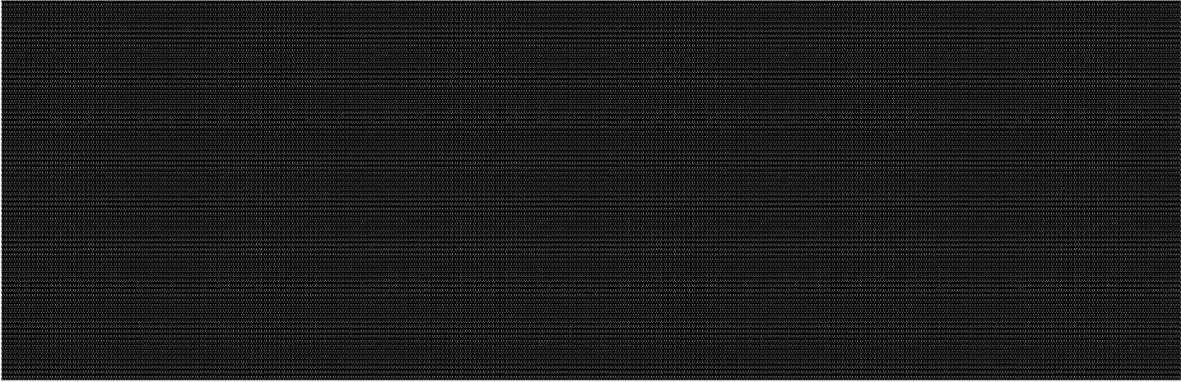
Our Team



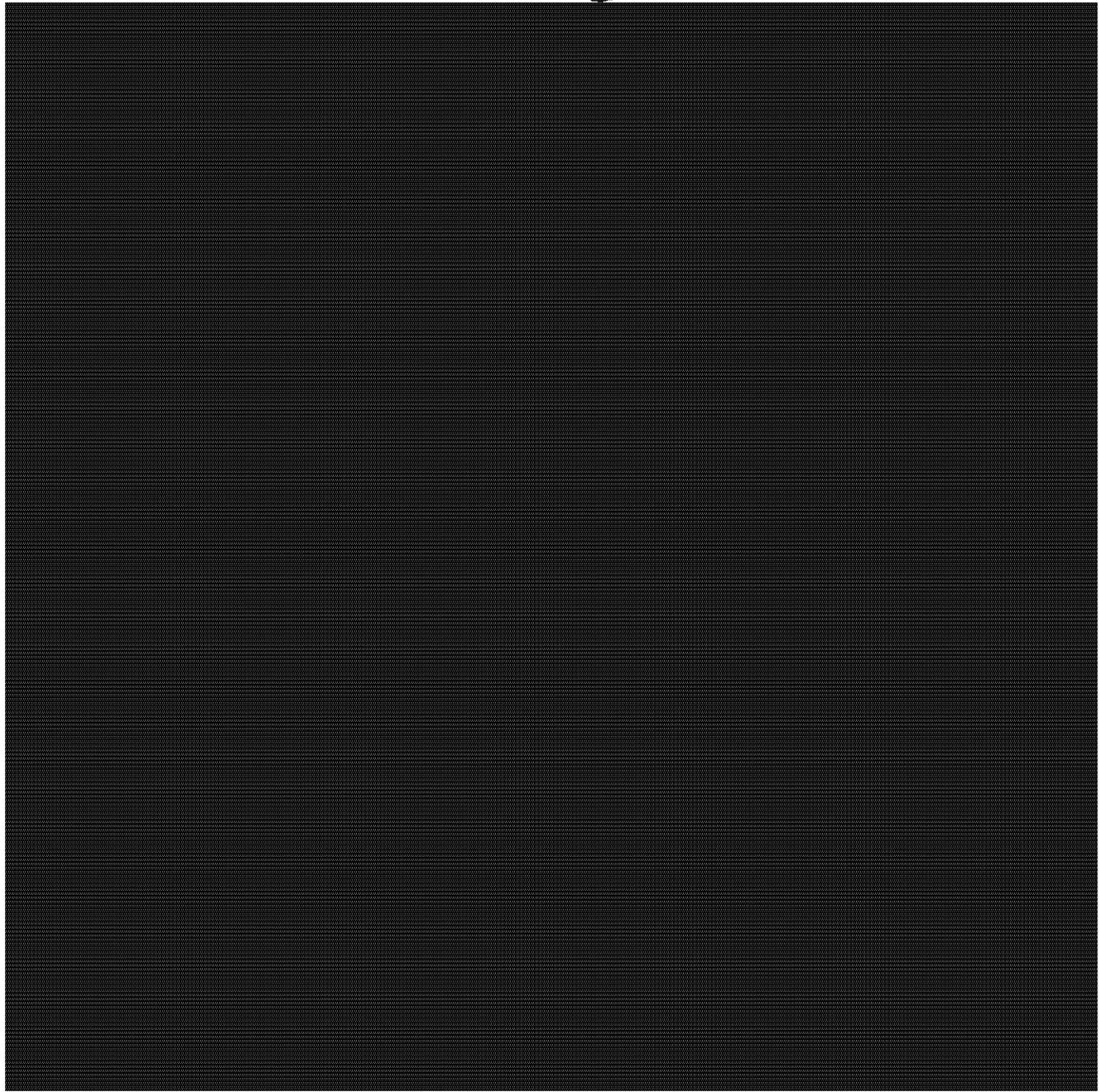
December 26, 2012

Exel 000511

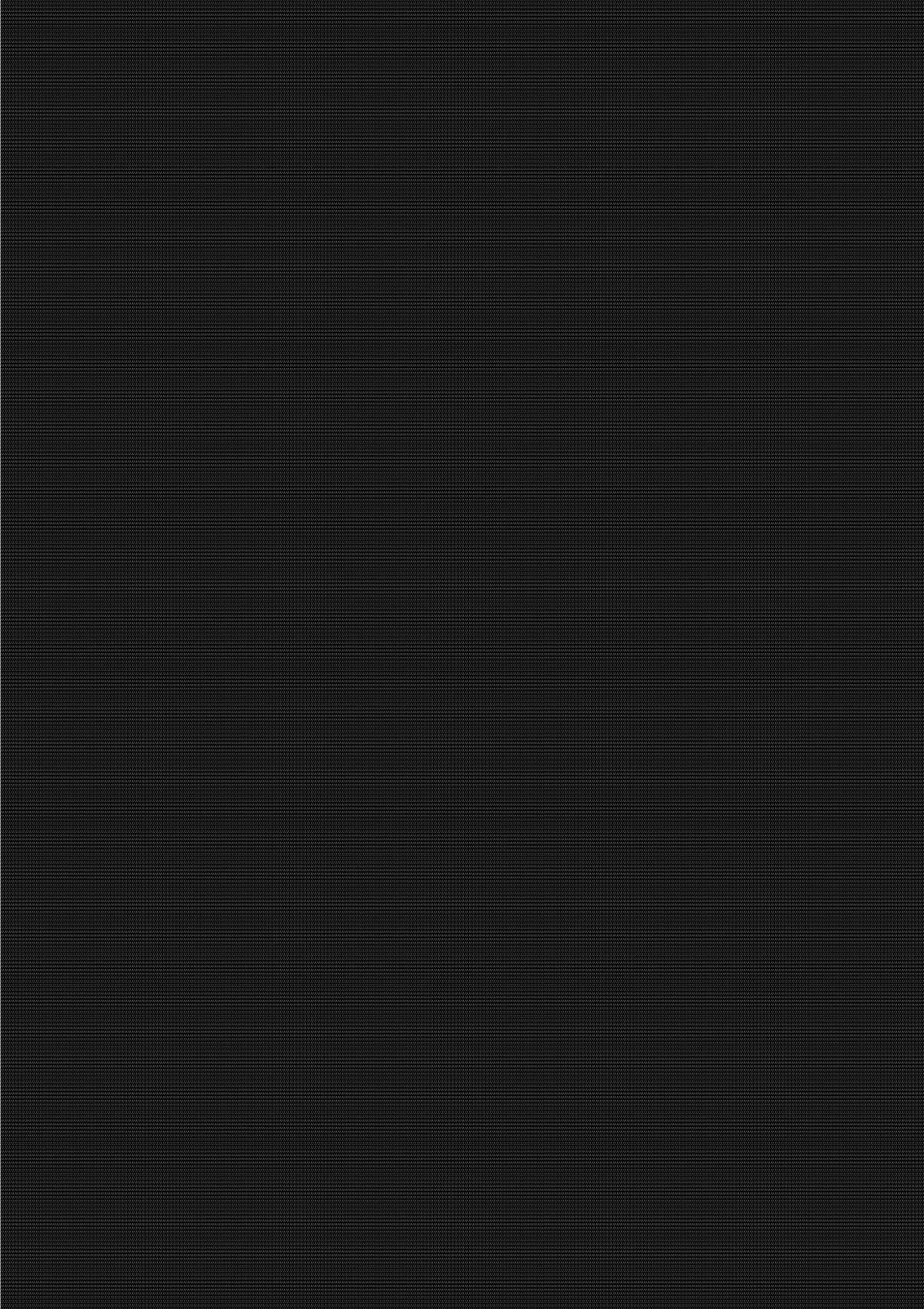


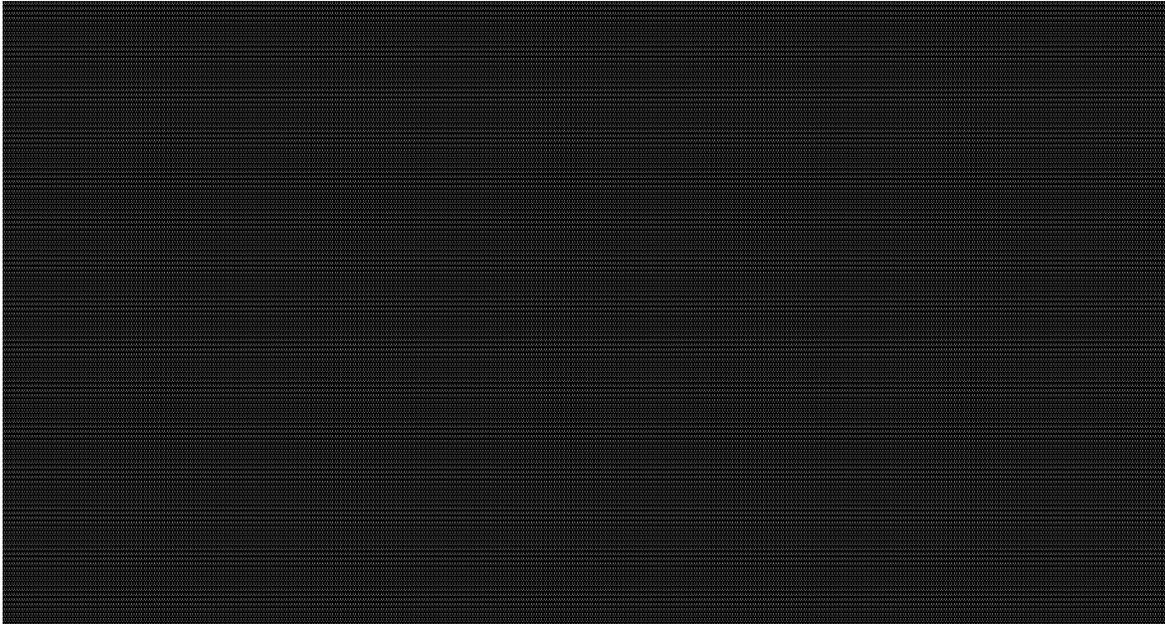


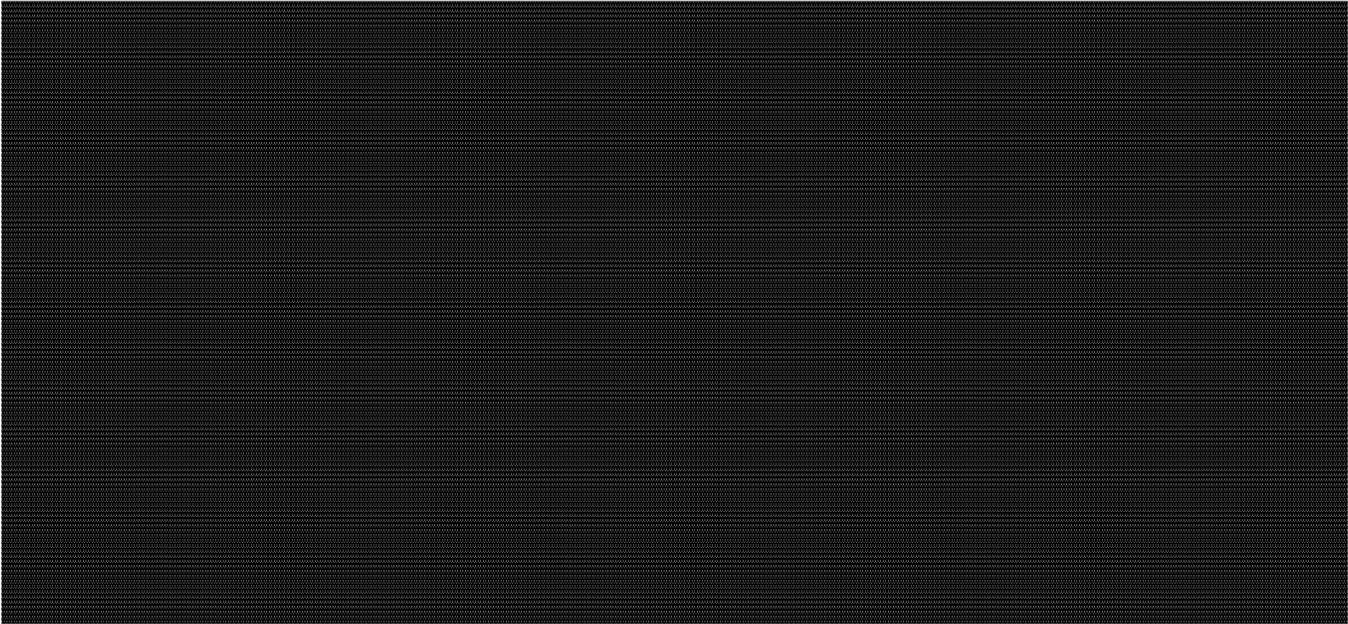














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43082
Telephone: 905 366-7691
Mobile: 416 417-2537
www.exel.com

August 3, 2012

Mr. Craig W. Bulkley
Director Division of Administration
NH State Liquor Commission
P.O. Box 503
Concord, NH, 03302-0503

VIA Email: cbulkley@liquor.state.nh.us

Reference: RFP 2012-14 – Warehouse Services for Spirits & Wine Product

Dear Mr. Buckley,

Below please find Exel's Best and Final Offer (BAFO) and response to the questions on the several areas where the Commission is specifically focused. We would appreciate the opportunity to present our Best and Final Offer as we believe our commercial model is unique, and we believe there will still be questions even though we have done our best to explain it below.

I. Financial

Question:

Using the template reviewed at your phase II presentation, please provide your lowest possible rates.

Answer:

It is our proposal that the cost of warehousing should be fully funded by the Product Suppliers. Therefore, there are no rates for the NHSLC under our proposal. To minimize change we recommend maintaining the categories of services that are in place today. Only the rates for each service will change.

Under our proposal warehousing will become a profit center for the NHSLC. The Commission will set the Warehouse Service Charges for the Product Suppliers. Exel will pay the NHSLC the difference between the revenues collected from Product Suppliers, and the rates listed in Column Y of the attached spreadsheet "NH BAFO Summary Final - Aug 3 2012".

According to the Exel Financial Analysis Confirmation spreadsheet provided by the NHSLC, the Commission will save \$3.1 M over the initial 30 month term compared to the rates that will be coming into effect on January 1, 2013.

Again utilizing the Exel Financial Analysis Confirmation spreadsheet provided by the NHSLC, the Commission could generate as much as \$4.0 M in additional net income over the initial 30 month term. This assumes the NHSLC maintains the rates coming into effect on January 1, 2013 for Product Suppliers. It would be our recommendation that the NHSLC roll back some of the planned 14% increase in rates to the Product Suppliers. In any event, our rates represent a reduction in cost to the industry of \$7.1 M, and depending on the NHSLC a potential total improvement to its net income of \$7.1 M.

Question:

December 26, 2012

Exel 000531



Please confirm that those rates will not change for the first 30 months of the contract.

Answer:

We can confirm that our rates will not change over the first 30 months of the contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process than either of us should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

Question:

If possible, please submit an alternative rate structure that provides for rates over the entire twenty-year contract

Answer:

Our proposal for rates over the entire twenty-year contract is that we maintain the Warehouse Service Charges for Product Suppliers scheduled to come into effect on January 1, 2013. Every five years these rates will rise by 5%. Please see the rates listed in Columns AE - AG of the attached spreadsheet "NH BAFO Summary Final - Aug 3 2012". We would like the opportunity to discuss these rates as over the twenty years it would make sense to have them more representative of the costs incurred to deliver the services.

Again, our proposal is that there are no costs for the NHSLC. The commission will save \$26 M over the contract life of 20 years, and Product Suppliers will have certainty of costs over the term of our agreement. Similar, to the 30 month rates, the NHSLC could choose to set up the warehouse as a profit center.

Question:

Please confirm that the twenty-year rates will not change.

Answer:

We can confirm that our rates will not change other than the scheduled increases over the entire twenty-year contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process than either of us should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%. Also, our commitment is contingent on inflation staying at historic (last 15 year) levels.

II. Transition

Question:

Please confirm that the facility in your proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

Answer:

We confirm that the facility in our proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

As stated in Exhibit C, paragraph 26 to Appendix E, p.67, all costs associated with the transfer of Product and control... shall be borne by the NHSLC... As a result, we have not



included these costs in our rates. We respectfully point out that the cost of transition includes duplicated fixed costs while the new facility ramps up to handling all products and shipments to all stores, and the old facilities similarly ramp down.

Question:

Please confirm the identity of those individuals who will be located in New Hampshire during the construction of or transition to the proposed facility (Appendix C, III p.43).

Answer:

The following individuals will be on the ground in New Hampshire to support the construction and transition. We attached bios for the majority of them.

Account Management Role: Paul Ledger

General Contractor role:

- Paul Roy from Pro Con Construction
- There will also be a full time site supervisor from Pro Con Construction

Exel Real Estate:

- Steve Hess
- Larry Wright

Exel Construction: Mike Hecker

- This role ensures that the building design and improvements are exactly suitable for operational functions. They represent operations with the General Contractor and the Real Estate team

Project Management: John Flanagan

IT Systems: Becky Ross

Industrial Engineering: Omer Rashid

Question:

If you have constructed or transitioned to a facility similar to the facility in your proposal please identify the project and provide contact information for your client (Appendix C, II page 43 of the RFP)

Answer:

We have extensive experience with both constructing new facilities, and transitioning into existing facilities.

In terms of constructing new facilities we offer the following projects

LION INDUSTRIAL TRUST

We have developed over 3 million square feet of distribution facilities partnering with Lion Industrial Trust, based in Dallas, Texas.

- A pair of 250,000 square foot buildings known as Hardy Distribution Center, located in Houston, TX
- Three buildings in the Carlisle Distribution Center (575,000 square feet, 800,000 square feet, and 310,000 square feet) located in Carlisle, PA
- A 736,000 square foot building at Laraway Distribution Center, in Joliet, IL
- A 700,000 square foot building in Byhalia, MS occupied by Carrier Corporation

Mr. Jim Hendricks
214-647-4902

In terms of transitioning into new facilities we offer the following projects



Since 2007, Exel transitioned into 7 facilities, and out of 3 facilities in order to maintain services during an economic boom in the province of Alberta

Mr. Alain Maisonneuve
Director, Liquor and Strategic Services
alain.maisonneuve@aglc.ca
780-447-8731

Question:

Please confirm that you will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013.

Answer:

We will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013. It is our perspective that the transition bond covers situations where we are at fault for the facility not being fully operational on or before October 31, 2013.

III. Contract performance bond

Comment:

A contract performance bond is required by Section 1.9, page 11 of the RFP. \$1,000,000 was provided as an example of the amount of the contract performance bond. The amount of the bond will be discussed with any vendor that is selected for contract negotiations.

Response:

Acknowledged and understood.

IV. Final Contract

Question:



Even if you have done so before, please identify and explain every exception that you intend to take.

Answer:

The following are the paragraphs we wish to discuss with the NHSLC and the reasoning for wanting to make a change. As per your guidance these paragraph references relate to Exhibit C of the P-37

Paragraph 5.2

As per the answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP.

As per the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to enable the parties to review rates if the actual volumes or profile of work change materially over the contract life. As our rates for the first 30 month period are based on the data provided by the NHSLC though the RFP process, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process than either of us should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

Paragraph 14.1.2

As further clarified in the answer to question 33 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS the NHSLC requires the maximum coverage from all perils to its product. This answer further invites vendors to propose an alternative to using all perils property insurance fire and extended coverage insurance to achieve maximum coverage. Exel will provide coverage through its warehouse legal liability policy. This policy is designed to meet the unique needs of all our clients across North America. As such, our warehouse legal liability insurance is written to provide whatever level of coverage is listed in our contract with our client. Therefore, if our contract states Exel is liable for all risks for 100% of the acquisition cost of any and all liquor and wine products owned by the NHSLC up to a total of two million dollars (\$2,000,000), that is what the policy will cover. In this case, all risks include fire and floods; therefore a separate fire and extended coverage policy would not be required. Please note that we believe the NHSLC inventory value to be \$6,000,000. This includes the inventory in the Concord warehouse and the private provider warehouse. If this is the case our insurance policy will cover the \$6,000,000 figure.

Paragraph 14.1.3

As stated in the paragraph above Exel will provide coverage through its warehouse legal liability policy, not a property policy. As a warehouse legal liability insurance policy it covers Exel's liability for loss or damage to the goods. In the event of loss or damage to the goods, the NHSLC would make a claim to Exel and Exel would pay that claim to the Commission. Exel would then recover from its insurance company. The benefit for the NHSLC is that it does not have to deal with Exel's insurance company. This also negates the need to have the NHSLC named as a loss payee

Paragraph 14.1.4

We would like to add a sentence clarifying that the performance bond can be drawn upon in the event of a material breach for the amount of damages owed.

Paragraph 14.3



This paragraph requires the insurer to endeavor to provide the NHSLC written notice of cancellation or modified of the policy. This paragraph is inconsistent with Appendix C, VII, 8, page 45. Additionally, in accordance with the new Accord standards insurance companies no longer provide this type of notice. The insurance company will only provide notice to Exel. As suggested in the answer to question 36 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS Exel would like to recommend that that upon receiving notice from its insurance company Exel will in turn to provide notice to the NHSLC. The notice period from our insurance company is 30 days.

Paragraph 16

We believe that the references to "Event of Default" should read "material breach". This is merely a tidying up of the agreement language and is needed to mesh with the changes in Paragraph 8 of Exhibit C.

New Paragraph

It is our perspective that we should have a mutual exclusion of indirect and consequential damages. These are not an insurable item, and committing to cover these damages is not a good business practice. Unless a vendor is large enough it is likely they could not stand behind this commitment. If we cannot completely exclude these damages we would like to agree on the events that trigger these types of damages and maximum liability levels.

New Paragraph

As we discussed in our presentation, the NHSLC should have security and continuity in its business. To ensure this the NHSLC or a new provider should be able to continue operations in the facility, and after purchasing appropriate licenses utilize the IT systems integrated with the NHSLC's IT systems.

To this end we wish to add a paragraph outlining that in the case of early termination the NHSLC has the obligation to take an assignment of the lease, and purchase assets tied to the building (e.g. racking), and IT interface development costs at their net book value. Exel will redeploy all material handling equipment and other mobile assets or make them available to the NHSLC at their Net Book Value. Further, upon the contract expiring all the assets will be available to the NHSLC free of charge.

V. Performance of contract

Question:

Please confirm that you and your employees will submit to reasonable background checks

Answer:

We confirm that our employees working on this account will submit to reasonable background checks.

Question:

Please confirm the identity of the persons who will be located in New Hampshire to run the proposed facility for the first 30 months

Answer:



The following individuals will lead the operation in New Hampshire.

Director of Operations: Robert Maclellan
Account Director Role: Paul Ledger
General Manager: Marc Belanger
Operations Manager: Norm Hollingsworth
Operations Manager: Frank Ayala
Warehouse Supervisor: Mike Shay
Warehouse Supervisor: Juan Rivera
Human Resources Support Role: Laurie Parent

Question:

Please identify your redundant warehouse site

Answer:

It is very expensive to have vacant warehouse space, idle material handling equipment, and dormant IT infrastructure. Thus, it is our perspective that it is unrealistic to have a truly redundant warehouse site. We do have clients in the pharmaceutical industry that maintain duplicate inventory in the same building on either side of a fire wall, but that is the extent of what we see in terms of permanent redundancy.

What we recommend is having a target list of sites that are temporarily vacant that may be utilized on short notice until the permanent site is repaired or a suitable permanent alternative is found. It is too early to identify redundant warehouse space. The operation does not go live for another 15 months. Too much will change regarding vacant space in this timeframe.

Through our Business Continuity Planning (BCP) process we will identify multiple sites as potential redundant warehouses. Our BCP for this operation will be completed before the first case is received as part of the start-up phase of the operation. Then as part of our BCP we will review and update our list of candidate sites for redundancy on a quarterly basis.

In preparation to respond to this question we completed a market survey of New Hampshire and found 14 sites with between 50,000 and 200,000 square feet available. Though not suitable as permanent sites for this operation many of them could be suitable in the case of a disaster.

At this point in time, we would identify this site as a good candidate to be a redundant site: 59 Daniel Webster Highway, Merrimack, NH 03054.

- We considered this site as a permanent option, but when we toured it we found it demised multiple times.
- 280,000 square feet are available
- Most of it is 32 feet clear
- 26 dock doors
- Centrally located in New Hampshire

Exel is in a unique position to provide redundancy options. We have a very capable real estate team, and given our credit worthiness we can act very quickly. We have a very large client base in the North Eastern United states. A number of these sites may be options for



redundancy. As these sites are in operation they have IT systems, material handling equipment, and established management and team members. For example currently we have,

- 3 sites in Albany NY
- 11 site in Boston MA
- 26 sites in North Eastern PA
- 9 sites in New York NY
- 2 sites in Rochester NY

VI. Current & Future Data Requirements

Question:

Please confirm that you will be responsible for your costs to make modifications and updates to your environment to stay current with the future system.

Answer:

We can confirm that we are responsible for our costs to make modifications and updates to our environment to stay current with future system at the NHSLC. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS.

If you have any questions regarding this Best and Final Offer, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Lyons".

Scott Lyons
Senior Director

Craig W. Bulkley

From: Craig W. Bulkley
Sent: Thursday, August 09, 2012 7:43 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel BAFO Clarification

received



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, August 08, 2012 5:39 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); George P. Tsiopras
Subject: RE: Exel BAFO Clarification

We withdraw our qualification that the rates will remain constant for 30 months.

Our BAFO will now be \$2.02 on an aggregate cost per case basis (previously \$1.98).

We will submit a revised rate sheet tomorrow with updated rates for each service that will aggregate to \$2.02.

Please confirm receipt.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, August 08, 2012 3:33 PM
To: Scott Lyons (EXEL CA)
Subject: Exel BAFO Clarification

Scott:

The Evaluation Committee has tried to be clear that it wants the rates for the first 30 months to remain constant. When we asked you to confirm this issue in the BAFO, you stated that your rates will not change. Consistent with your prior positions, you then qualified this statement by suggesting that either party should have the opportunity to request a review of rates if the actual volumes or profile of work vary by 10% from the data provided by the NHSLC in the RFP.

The data provided by the NHSLC has always been identified as estimates. Even if we could agree on some workable review process, the NHSLC does not want to take the risk that volumes will decrease below the estimates. The NHSLC appreciates your point that it could enhance its revenue if volumes are greater than the estimates. Nevertheless, it does not want to take the risk.

By 10 AM tomorrow, please withdraw your qualification that the rates will remain constant for 30 months.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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Cell: (603) 490-1559
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Craig W. Bulkley

From: Craig W. Bulkley
Sent: Friday, August 10, 2012 2:58 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer Follow-Up

Scott:

The following is the NHSLC's effort to fine tune the proposals in order to identify the proposal(s) that best meet the needs of the State. **Your response is due by noon, Monday, August 13, 2012.**

1. Financial

Using the template from your BAFO, indicate whether you can reduce your Grand Total to \$25,500,000. You may not change any other financial terms. You do not need to recalculate each rate that will support this number.

2. RFP / Standard Contract

We have resolved issues regarding the Transition Bond, the Performance Bond, and IT issues in Appendix K. We understand your proposal regarding Section 1.10.4 – Rate Changes – Page 11 and, during the next phase, Contract Negotiation, are prepared to negotiate that item. We are also prepared, during that phase, to discuss the requirements in Appendix E, Section 14.3 – Insurance – in regard to the requirement that the insurer provide notice no less than ten days prior to cancellation or modification of the policy.

In consultation with the Office of the Attorney General, the Commission makes the following clarifications. All other exceptions are rejected.

- Section 1.9 – Contract Performance Bond – Page 10 – The NHSLC understands that the proposed rates are based on a \$1 million performance bond. If the NHSLC requires a higher bond, the NHSLC will engage in a good-faith negotiation of the proposed rates.
- Section 3.0.2 – Location of Product – Vendor-owned product produced by a vendor with a NH manufacturing license shall be stored at the Concord warehouse
- Appendix E – Exhibit C – Paragraph 14.1.2 and 14.1.3 – Insurance – The NHSLC will allow the equivalent of \$2 million coverage of 100% of acquisition cost for all liquor and wine product owned by the NHSLC for all risks and, fire and extended coverage.
- Appendix E – Paragraph 16 – Waiver of Breach – The phrase “Event of Default” where it occurs in this paragraph is amended to read “Material Breach.”
- Appendix E – Exhibit C – Paragraph 26 – In sub-paragraph 4, (which begins “All costs associated...”) strike the phrase “...as provided in Paragraph 8.”

You may discuss these clarifications and rejected exceptions by telephone with Steve Judge and Craig Bulkley at 10:00 AM, Monday, August 13, 2012. If you wish to have a discussion, at least ½ hour prior to that time, please provide us with a contact phone number and email Mr. Bulkley a list of the sections of the RFP that you wish to discuss including the page numbers. This will be an opportunity for you to understand why the Commission has made this decision. It is not an opportunity to argue about the wisdom of the Commission's decision.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, September 05, 2012 11:11 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Contract Award Extension

We do require additional time to respond to this question. Would end of day be acceptable?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 31, 2012 4:18 PM
To: Fred Takavitz (Exel US); Scott Lyons (EXEL CA)
Subject: Contract Award Extension

Fred:

The Evaluation Committee has a question that you need to answer.

The question is: What additional costs would be incurred if the contract was not awarded until November 14, 2012? What would be the impact on your grand total costs over the initial 30-month term?

We would like a response by 12:00 noon on Wednesday, September 5, 2012. If, however, a small amount of additional time is required, please let us know.

Thank you.



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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, September 05, 2012 12:35 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); Maria Tzagournis (EXEL US); Greg Foreman (EXEL US)
Subject: Contract Question

In our meeting yesterday I thought I heard Steve Judge indicate that if we could not agree on new rate at any 30 month interval that this would be a material breach and lead to early termination. I am not able to follow this perspective in the current contract language. There appears to be a contract protest process that would come into play, and this process does not appear to lead to a material breach. Can you confirm for us whether it is the NHSLC's perspective that failure to agree on a rate leads to a material breach, and if so how that result would be reached?

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, September 05, 2012 1:14 PM
To: Craig W. Bulkley
Subject: RE: Contract Question

Thanks for the note. It will help us with drafting our language.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, September 05, 2012 12:52 PM
To: Scott Lyons (EXEL CA)
Cc: George P. Tsiopras; John D. Bunnell; Hastings, Peter; Stephen J. Judge; Judge, Steve
Subject: RE: Contract Question

Scott:

This is why what we say doesn't count; it's what we put in writing. You are correct that there is a contract protest process contained on Page 66 of the RFP. There is also a rate changes provision at Section 1.10.4 on Page 11 of the RFP. Section 1.10.4 provides for termination of the contract if either party fails to negotiate in good faith. You are correct, that is not the scenario we were discussing.

To be more exact, if there is no agreement on rates, it is possible that there will be no resolution through the contract protest process. At that point, we are left with a standoff or a party could seek judicial intervention or some other remedy.

As we discuss this, we are not quite sure how we arrive at the scenario where Exel is able to get out of the contract thus creating the need for some entity to assume the lease.

If we have accurately captured your quandry, the language you propose should create the ability for Exel to get out of the contract under certain circumstances. It should then go on to describe how the lease will be assumed by some other party. As we write this, the possibility of the Attorney General agreeing to such a provision becomes less likely. But, let's see what you can do.



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Cell: (603) 490-1559

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Canada

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www.exel.com

Craig W. Bulkley

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To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Contract Award Extension

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Option 1 – Extend your current contract with the incumbent provider until February 28, 2014.

- We do not recommend starting up the new operation during the holiday season. February 28, 2014 provides the month of January to stock the new facility, and the month of February to ramp-up services to the stores from the new facility
- Construction would commence in the spring time
- There are no additional costs from Exel under this option
- Based on the difference in the rates Exel is proposing and the rates the incumbent will be charging as of January 1, 2013 this represents a cost to the industry of approximately \$1,100,000 across the 5 month extension

Option 2 – Sign an Reimbursement Indemnification Agreement authorizing Exel to expend funds towards key tasks needed to protect the current timeline

- The customer pledges to reimburse us for any authorized expenditures that we make if we do not reach agreement on a contract
 - The expenditures between September 14th and October 14th will be \$100,000 for environmental studies, soils analysis, and civil engineering work
 - The expenditures between October 15th and November 14th will be \$150,000 for structural steel and architectural drawings
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Option 3 – Begin construction in the winter

- Studies, drawings and permitting activities will start as of November 15th
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- The time frame for studies, drawing, and permitting is 2 months in this option. This is less time than originally estimated. We believe it is doable, but does carry some risk
- We will be operating in winter conditions and fast tracking the construction work. Again, we believe we will still finish on time, but does carry additional risk. We still are maintaining weather delay days in the schedule
- The timeframe to transfer product and fully ramp-up services to stores from the new facility is 7 weeks. This will require coordination and cooperation from the incumbent provider and the staff at your Concord facility

We trust this adequately answers your question. Please do not hesitate to contact us if you have further questions.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 31, 2012 4:18 PM
To: Fred Takavitz (Exel US); Scott Lyons (EXEL CA)
Subject: Contract Award Extension

Fred:

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The question is: What additional costs would be incurred if the contract was not awarded until November 14, 2012? What would be the impact on your grand total costs over the initial 30-month term?

We would like a response by 12:00 noon on Wednesday, September 5, 2012. If, however, a small amount of additional time is required, please let us know.

Thank you.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, September 06, 2012 10:17 AM
To: Craig W. Bulkley
Subject: RE: Contract Award Extension

My savings figure for option 1 should be approximately \$3 million not the lower figure from my earlier email.

We thought this option and the associated cost figure would be helpful in your discussions.

Cheers,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Thursday, September 06, 2012 8:01 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Contract Award Extension

Received; thank you



Please consider the environment before printing this e-mail.

Craig W. Bulkley
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- We do not recommend starting up the new operation during the holiday season. February 28, 2014 provides the month of January to stock the new facility, and the month of February to ramp-up services to the stores from the new facility
- Construction would commence in the spring time
- There are no additional costs from Exel under this option
- Based on the difference in the rates Exel is proposing and the rates the incumbent will be charging as of January 1, 2013 this represents a cost to the industry of approximately \$1,100,000 across the 5 month extension

Option 2 – Sign an Reimbursement Indemnification Agreement authorizing Exel to expend funds towards key tasks needed to protect the current timeline

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We trust this adequately answers your question. Please do not hesitate to contact us if you have further questions.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 31, 2012 4:18 PM
To: Fred Takavitz (Exel US); Scott Lyons (EXEL CA)
Subject: Contract Award Extension

Fred:

The Evaluation Committee has a question that you need to answer.

The question is: What additional costs would be incurred if the contract was not awarded until November 14, 2012? What would be the impact on your grand total costs over the initial 30-month term?

We would like a response by 12:00 noon on Wednesday, September 5, 2012. If, however, a small amount of additional time is required, please let us know.

Thank you.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, September 07, 2012 8:30 AM
To: Craig W. Bulkley
Subject: RE: Exel - Contract Award Extension

Regarding option 1

- You are correct – the correct timeframe is four months
- The calculation assumes the grand total costs across the 30 month period for Exel of \$25,500,000, and the rates that are scheduled to go into effect as of January 1, 2013 which equate to a grand total cost of \$34,723,428. The difference across the 30 months is \$9,223,428. For four months this equates to \$1,229,790. To the extent the rates under the extension are different than the rates that will go in effect January 1, 2013, or the final pricing agreed to between the NHSLC and Exel is different, the potential costs estimate will vary. Our goal here was to show an order of magnitude impact for an extension to February 28, 2014.

Regarding option 3

- All transfers will be completed, and all functions will be operating in a smooth production mode at the new warehouse by October 31, 2013

I trust this clarifies our response. If you have further questions please do not hesitate to contact us.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Thursday, September 06, 2012 3:36 PM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Contract Award Extension

Scott:

I need you to clarify your response in Option 1 and Option 3:

Option 1:

Extending the current contract from November 1, 2013 to February 28, 2014 is four months, not five. So, your last bullet under this option is not showing the correct timeframe. Further, we are not clear how you are making your calculation as you don't know what the new rates will be under this four month extension.

Please clarify your calculations, provide a specific total amount and how you arrived at the cost for the four-month extension. You can not assume that the current vendor's rates will not change from the rates in effect at the end of the current contract (October 31, 2013). His rates will undoubtedly go up from the rates that go into effect on January 1, 2013.

Option 3:

In your fifth bullet, you indicate that you believe you will finish on time with some risk involved. We need a specific statement that says when you will finish based on the factors identified in this option.

Please get a response to us by noon tomorrow, 9/7. Thanks.



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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, September 11, 2012 1:59 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Revenue Sharing

We wish to confirm that our systems are capable of maintaining two rates for each warehouse service. One rate will be the amount charged to the industry, and the second rate will be the compensation Exel keeps for providing the service. Our systems will track the revenues charged to the industry, track the associated revenues that should be held by Exel, and calculate the difference that will be payable by Exel to the NHSLC as revenue sharing. Further, our systems provide the ability to adjust the rates charged to industry as per direction from the NHSLC.

I trust this answers your question. Please do not hesitate to contact me for further clarification if required.

Sincerely,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, September 13, 2012 5:25 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Follow-up from Monday's call

From my notes I believe we owed the NHSLC the following four items:

- Contract language we normally require for traditional asset backing, an outline of the rent to own option, and the events that lead to early termination
- Suggested language for an indirect and consequential damages waiver
- A note confirming our ability to revenue share
- Update on the real estate

I sent a note earlier this week confirming our ability to revenue share

In terms of the real estate – T.F. Moran completed the preliminary topo and boundary worksheet including wetlands location that can be used for starting civil design. Pro Con and possibly T.F. Moran will also be presenting the site plan on behalf of an 'anonymous' tenant next Thursday (Sep 20th) at the Planning Commission meeting. This will help protect the timeline.

Asset Backing

Asset Backing Option #1 (aka Traditional Model) - Exel has entered into this type of arrangement in place for the majority of business opportunities that it has with its customers. At the end of the agreed contract period the facility lease is renewed or, if not renewed, the facility is turned back to a landlord. In those scenarios where Exel owns the facility, the agreement is either renewed (including the facility) or the facility is turned back to Exel.

In the event of a early termination event, the language that follows would apply: "The parties acknowledge and agree that Exel has either specifically leased, owned or otherwise dedicated the Facility in order to provide Services to the NHSLC, and as a result has incurred certain obligations for the period of the Agreement under its leases or ownership obligations. In consideration of Exel leasing, owning or otherwise dedicating the Facility, the parties agree that upon the early termination of this Agreement prior to its stated term, for any reason whatsoever, unless a Lease terminates concurrently with such early termination (such as because of a damage or destruction of the Facility or a taking by expropriation), then, subject to its own or a landlord's consent, Exel shall assign and NHSLC shall assume such lease together with all of Exel's obligations thereunder from and after the effective date of such termination (which effective date shall be the date of such early termination) together with any vendor contracts relating to the Facility (such as HVAC and fire protection maintenance contracts, trash removal, etc.)"

Asset Backing Option #2 (aka Lease to Own) - In a lease to own arrangement, the NHSLC wishes to own the facility at the end of the 20 year contract term. The NHSLC would lease the facility from Exel or another party. The NHSLC would sign a Lease Agreement with Exel or another party and obligate itself to a 20 year lease commitment that could not be terminated. At the end of the 20 year period, the NHSLC would own the facility. The lease amounts that are due each month will be paid by Exel, either to Exel or to another party, on behalf of the NHSLC through the fees paid to Exel by the suppliers or 'industry'. At the end of the 20 year lease term the NHSLC would own the facility, the racking and mechanization within the facility, and the IT interfaces built to facilitate communications between our respective systems.

If the Operating Agreement with Exel should terminate early for any reason including events such as (1) a bankruptcy by either party, (2) either party fails to negotiate in good faith, (3) failure by the parties to agree on

rates,(4) uncured material breach, e.g. failure to deliver services adequately, or (5) New Hampshire chooses to privatize in the same manner as the state of Washington, i.e. permitting direct sales of products from suppliers and vendors to privately owned stores, the obligations that the NHSLC has under the Lease Agreement with Exel or another party would remain.

Specific contract language covering this arrangement will be offered by Exel if the NHSLC elects to proceed with this Lease to Own option.

Disclaimer of Indirect and Consequential Damages

Our proposed language here is as follows: "Notwithstanding any other provision of this agreement to the contrary, neither party, in the performance of their obligations under this agreement shall be liable to the other for any indirect or consequential damages (such as, but not limited to: loss of profits, loss of business, loss of customer goodwill or punitive or exemplary damages or the costs and expenses in providing or securing substitute revenues even if the parties have been advised of the possibility of the same, and without regard to the nature of the claim or the underlying theory or cause of action (whether in contract, tort or otherwise))."

I trust this covers off what we committed in our discussion earlier this week. Again, if what we wrote generates any questions please don't hesitate reach back out to us.

Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
LSR 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, September 14, 2012 1:39 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Exel - Follow-up from Monday's call

Would you have 10 minutes for a quick discussion with Fred and I this afternoon at 2:30. We want to ensure there are no questions from our note on Thursday evening, and get an understanding of the next steps.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Friday, September 14, 2012 10:58 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Follow-up from Monday's call

Received; thank you



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [mailto:Scott.Lyons@exel.com]
Sent: Thursday, September 13, 2012 5:25 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Exel - Follow-up from Monday's call

From my notes I believe we owed the NHSLC the following four items:

- Contract language we normally require for traditional asset backing, an outline of the rent to own option, and the events that lead to early termination

- Suggested language for an indirect and consequential damages waiver
- A note confirming our ability to revenue share
- Update on the real estate

I sent a note earlier this week confirming our ability to revenue share

In terms of the real estate – T.F. Moran completed the preliminary topo and boundary worksheet including wetlands location that can be used for starting civil design. Pro Con and possibly T.F. Moran will also be presenting the site plan on behalf of an ‘anonymous’ tenant next Thursday (Sep 20th) at the Planning Commission meeting. This will help protect the timeline.

Asset Backing

Asset Backing Option #1 (aka Traditional Model) - Exel has entered into this type of arrangement in place for the majority of business opportunities that it has with its customers. At the end of the agreed contract period the facility lease is renewed or, if not renewed, the facility is turned back to a landlord. In those scenarios where Exel owns the facility, the agreement is either renewed (including the facility) or the facility is turned back to Exel.

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Asset Backing Option #2 (aka Lease to Own) - In a lease to own arrangement, the NHSLC wishes to own the facility at the end of the 20 year contract term. The NHSLC would lease the facility from Exel or another party. The NHSLC would sign a Lease Agreement with Exel or another party and obligate itself to a 20 year lease commitment that could not be terminated. At the end of the 20 year period, the NHSLC would own the facility. The lease amounts that are due each month will be paid by Exel, either to Exel or to another party, on behalf of the NHSLC through the fees paid to Exel by the suppliers or ‘industry’. At the end of the 20 year lease term the NHSLC would own the facility, the racking and mechanization within the facility, and the IT interfaces built to facilitate communications between our respective systems.

If the Operating Agreement with Exel should terminate early for any reason including events such as (1) a bankruptcy by either party, (2) either party fails to negotiate in good faith, (3) failure by the parties to agree on rates, (4) uncured material breach, e.g. failure to deliver services adequately, or (5) New Hampshire chooses to privatize in the same manner as the state of Washington, i.e. permitting direct sales of products from suppliers and vendors to privately owned stores, the obligations that the NHSLC has under the Lease Agreement with Exel or another party would remain.

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for any indirect or consequential damages (such as, but not limited to: loss of profits, loss of business, loss of customer goodwill or punitive or exemplary damages or the costs and expenses in providing or securing substitute revenues even if the parties have been advised of the possibility of the same, and without regard to the nature of the claim or the underlying theory or cause of action (whether in contract, tort or otherwise)).

I trust this covers off what we committed in our discussion earlier this week. Again, if what we wrote generates any questions please don't hesitate reach back out to us.

Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, September 14, 2012 2:10 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Exel - Follow-up from Monday's call

Thank-you and we look forward to speaking on Monday. Have a nice weekend.

Cheers,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Friday, September 14, 2012 1:46 PM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Follow-up from Monday's call

Scott:

Our team will not be available this afternoon. I will work to arrange a call on Monday, 9/17 in the PM. I will get back to you on Monday – hopefully A.M.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Thanks,
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Telephone: 905 366-7691
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From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, September 14, 2012 10:58 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel - Follow-up from Monday's call

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Craig W. Bulkley
Director
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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Thursday, September 13, 2012 5:25 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Exel - Follow-up from Monday's call

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Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, October 25, 2012 4:56 PM
To: Stephen J. Judge
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tsiopras
Subject: RE: Financial BAFO w/ extension

I received both your notes today. I will be back with confirmation by tomorrow.

Thanks!
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Thursday, October 25, 2012 4:44 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tsiopras
Subject: Financial BAFO w/ extension

Scott,

For the record, I want to confirm that your financial offer is \$28,080,000 for the first 30 months. This includes \$80,000 that will be used to begin to recover a cost of \$500,000 for the later contract award. Is this correct?

I believe we were clear that you intended to recover the \$500,000 and no more. Therefore you would recover the balance over the next seven, thirty month periods. The remaining amount will be \$420,000. Over seven periods this works out to \$60,000 a period. Is this correct?

Steve

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
Tel: 603-669-4140
Fax: 603-669-6018
Web: www.wadleighlaw.com
E-mail: sjudge@wadleighlaw.com
E-mail: stephen.j.judge@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, October 26, 2012 5:18 PM
To: Stephen J. Judge
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tsiopras
Subject: RE: Financial BAFO w/ extension

We are considering a reduction to our \$28,000,000 figure. Prior to being able to do so we would like the opportunity to discuss the contract dispute process. In particular, is there an opportunity to have a step between the NHSLC Commissioner and going to court, and what happens if there is a dramatic reduction in volumes.

Would Monday be an option?

Thanks and have a wonderful weekend.
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Thursday, October 25, 2012 4:44 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US); John D. Bunnell; George P. Tslopras
Subject: Financial BAFO w/ extension

Scott,

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Steve

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E-mail: stephen.j.judge@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, October 26, 2012 5:13 PM
To: Stephen J. Judge
Cc: John D. Bunnell; Craig W. Bulkley; Fred Takavitz (Exel US); Maria Tzagournis (EXEL US)
Subject: RE: Performance bond

Yes you have accurately captured our discussion.

Thank-you.
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Stephen J. Judge [<mailto:stephen.j.judge@liquor.state.nh.us>]
Sent: Thursday, October 25, 2012 3:43 PM
To: Scott Lyons (EXEL CA)
Cc: John D. Bunnell; Craig W. Bulkley
Subject: RE: Performance bond

Dear Scott,

I want to sharpen our conversation from yesterday. I failed to make a crucial point during our discussion. I am the AG's legal consultant to the Evaluation Committee. The AG, however, has the final say on all legal issues. I will recommend to the AG's office that the P-37 contract (RFP Exhibit E) be modified in two ways.

One, the parties mutually agree to waive consequential and indirect damages.

Two, In the event of a material breach that involves the payment of a penalty, the Vendor shall pay the penalty. If the Vendor fails to pay the penalty within a reasonable time, the NHSLC shall recover the penalty from the performance bond, provided, however, that the Vendor restores the bond to its original or any increased amount within a reasonable time.

I expect that the terms will be clarified to a specific time. Let me know if I have accurately captured the discussion. In addition, I will recommend that RFP section 1.10.4 and Paragraph 25 on pages 65-67 of the RFP be clarified so that the parties have access to the contract protest process in the event of a good faith impasse on rate negotiations and that the protest process may continue past the Chairman of the NHSLC to include the Merrimack County Superior Court and the New Hampshire Supreme Court.

Again, let me know, if I have accurately captured the discussion.

Steve

Stephen J. Judge
AG Legal Consultant for NHS Liquor Commission
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, New Hampshire 03101
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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, October 24, 2012 4:45 PM
To: Stephen J. Judge
Cc: Maria Tzagournis (EXEL US); Craig W. Bulkley
Subject: Performance bond

Hi Steve,

We are looking for confirmation that we will add wording to the contract to clarify that the performance bond would be drawn upon in the event of a material breach for the amount of damages owed. Please confirm our conversation in writing.

Thanks!
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, October 26, 2012 5:19 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); John D. Bunnell; Stephen J. Judge; Maria Tzagournis (EXEL US)
Subject: RE: P-37 amendments

Received and thank-you. This is very helpful.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, October 26, 2012 12:31 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US); John D. Bunnell; Craig W. Bulkley; Stephen J. Judge
Subject: P-37 amendments

Dear Scott,

Following consultation with the AG's Office, the EC is authorized to amend the P-37 as follows.

One, the parties shall mutually agree to waive consequential and indirect damages.

Two, In the event of a material breach that involves the payment of a penalty, the Vendor shall pay the penalty. If the Vendor fails to pay the penalty within a reasonable time, the NHSLC shall recover the penalty from the performance bond, provided, however, that the Vendor restores the bond to its original or any increased amount within a reasonable time.

I expect that the terms will be clarified to a specific time.

Steve Judge on behalf of



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, October 30, 2012 6:13 PM
To: Craig W. Bulkley; Stephen J. Judge
Cc: Fred Takavitz (Exel US)
Subject: Just checking in

Just wanted to send a note to make sure you and your families are safe. Turned out to be a very nasty storm! Hopefully it only delivered a glancing blow to New Hampshire. I checked in with my brother in Winchester and they are okay. They had a lot of rain, and some power outages, but that was it.

Scott Lyons

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Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, October 31, 2012 12:19 PM
To: Craig W. Bulkley
Subject: RE: Just checking in

I am glad to hear it.

My prays are with the folks in NY and NJ.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, October 31, 2012 8:01 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Just checking in

Lots of rain and heavy wind. Lots of people without power in my town, although I was lucky this time and didn't lose power. Overall, NH was just grazed by this storm – nothing like what we're seeing in NY or NJ. Based on the extent of damage there, we have nothing to complain about.



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Craig W. Bulkley
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✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Tuesday, October 30, 2012 6:13 PM
To: Craig W. Bulkley; Stephen J. Judge
Cc: Fred Takavitz (Exel US)
Subject: Just checking in

Just wanted to send a note to make sure you and your families are safe. Turned out to be a very nasty storm! Hopefully it only delivered a glancing blow to New Hampshire. I checked in with my brother in Winchester and they are okay. They had a lot of rain, and some power outages, but that was it.

Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, October 31, 2012 4:17 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Discussion

Fred and I are wondering if you and Steve would have time tomorrow afternoon after 2:00 pm to finish our discussion from Monday that got cut a bit short by Sandy.

Thanks,
Scott Lyons

Exel
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Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905.366-7691
Mobile: 416 [REDACTED]

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 01, 2012 12:50 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Discussion

Thanks I will send it momentarily.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Thursday, November 01, 2012 12:27 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US)
Subject: RE: Discussion

Please send us a conference call number and password. We can talk today at 4 PM.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Chief of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Scott Lyons

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Telephone: 905 366-7691

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 01, 2012 3:33 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)

As we finished our call on Monday - you had asked us for an understanding of what we mean by fixed costs.

Here are the categories of costs that we consider fixed – recognizing that even fixed costs become variable depending on the nature of the volume change:

- Salaried labor
- Facility expense
- Some operational administration expenses, .e.g. phones
- Depreciation costs

In terms of relative value of the fixed costs they would rise from 0.4% of product revenues to 0.5% of product revenues or 0.8% of the cost of products to 1.1% of the cost of products if volumes fall by 50%.

Look forward to speaking to you at 4.

Cheers,
Scott Lyons

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90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 9:16 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Rate changes in the first 30 months
Attachments: RE: Exel BAFO Clarification; Best & Final Offer Follow-Up; ~\$st and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012.docx

Just a quick explanation of how we had drawn the conclusion that rates could change in the first 30 months if the actual data varies by more than 10% from the RFP data provided – just to show there was some logic to our thinking.

On August 3rd we went the attached Best and Final Offer. In this letter we stated:

(Page 2 of the letter)

We can confirm that our rates will not change over the first 30 months of the contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

(page 8 of the letter)

Paragraph 5.2

As per the answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP.

As per the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to enable the parties to review rates if the actual volumes or profile of work change materially over the contract life. As our rates for the first 30 month period are based on the data provided by the NHSLC through the RFP process, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

On August 8th we sent the attached email confirming that our rates would not change in the first 30 months (Exel BAFO Clarification).

On August 10th we received the attached email Best & Final Offer Follow-up. In this note it says “We understand your proposal regarding Section 1.10.4 – Rate Changes – Page 11 and, during the next phase, Contract Negotiation, are prepared to negotiate that item.

We wanted to review this point on our call yesterday to ensure that we both have clarity. This is a good example of the transparent and open manner in which we like to operate with our customers.

We understand your need to be able to compare like offers and will proceed under the condition that our rates will not change in the first 30 months.

Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 11:48 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Financial BAFO w/ extension

As the evaluation committee points out, if the contract does not terminate prior to expiry then there is no need for asset backing. We appreciate the NHSLC's efforts to help us better understand the scenarios under which the contract may terminate early, and as appropriate clarify the contract to better articulate the situations that lead could lead to material default and/or breach. These include:

- The parties will have access to the contract protest process in the event of a good faith impasse on rate negotiations. This process ultimately finishes at the New Hampshire Supreme Court, and therefore does not end in contract termination. We have also discussed adding mediation (non-binding) into the process, and we will finalize how this might work in the contract negotiation phase
- In addition to inflation, the rate review will consider changes in profile and volumes at every 30 month interval. The mechanics will be agreed in the contract negotiation process
- Confirmation that our agreement with the NHSLC is exclusive for the distribution of wine and spirits in the State of New Hampshire except for wines produced in New Hampshire, and products purchased by the NHSLC. We may wish to maintain additional work in the state warehouse for a period of time and we will work together on this issue
- We also clarified that service issues do not lead to material default and/or breach, but that there is an opportunity to more robustly define the metrics that describe an appropriate service level and associated penalties to the compel the provider to exceed the targets
- We will be able to add language in the rate negotiation clause that acknowledges the impact of fixed costs to the rates. This is not a guarantee that they will be covered in all circumstances, just a recognition that fixed costs do not change in step with volumes. Of course, this is the case for volume increases and decreases

The NHSLC also agreed to mutually waive consequential and indirect damages, and we clarified the conditions for drawing on the performance bond.

As you have pointed out, price is less than half the consideration for choosing a partner for the next twenty years. We feel we are uniquely qualified to assist the NHSLC achieve its goals across the 20 year term for the following reasons:

- Maximizing Net Income – Our role is to assist the Commission with maximizing its disbursements to the State
 - We would suggest that our customers are our best example of our ability to provide consistently high quality and low cost service. Exel provides innovative distribution services to market leaders like Proctor & Gamble, Walmart, Ford, Dell... , and many of these relationships have existed for more than 20 years.
 - We have a disciplined, quantifiable and repeatable process to drive and achieve continuous improvement. We conducted 410 Continuous Improvement Process workshops in 2011 – resulting in annual savings of over \$61 million for our customers.
 - Our revenue sharing proposal provides the NHSLC an opportunity to generate profits from the operation of the private warehouse much as it does today with the state run facility.
 - We will utilize best practices such as labor management systems, and mechanization / automation from our other operations both within the adult beverage industry and beyond.
- Creating Certainty – the NHSLC can depend on Exel to consistently deliver high quality service
 - Exel has extensive experience in the beverage alcohol industry. Some of our customers in this sector include the Alberta Gaming and Liquor Commission (AGLC), Diageo, 7-Eleven and Pernod Ricard. We believe you have had the opportunity to speak with the AGLC to better understand the quality of our operations.

- We feel that there are 6 key consistent disciplines that are critical to our creating certainty for our customers. The overriding concept across these disciplines is that we constantly measure our performance, review our results for opportunities to improve, develop and implement action plans, and follow-up to ensure the improvement sticks.
 - Performance measurement
 - Process improvement
 - Project management
 - Quality assurance
 - Customer satisfaction
 - Employee engagement
 - Our solution is predicated on utilizing tier one IT systems. These systems are best in class and facilitate consistent and low cost operations
 - Exel has the financial capability and stability to fulfill a long-term deal and to make investments in buildings, mechanization, and IT systems that increase efficiency and lower costs.
 - Exel has extensive functional resources. They are experts in their respective fields, and available to optimize the performance of this operation
 - The management team who will manage this operation have greater than 20 years experience in the beverage alcohol industry.
- Providing Flexibility – Your business will change across the next 20 years and we will work alongside you to make the most of these changes
 - Our solution incorporates a custom built facility designed for the unique needs of the NHSLC across the next 20 years
 - We are building our solution around the needs of the NHSLC. Your operation does not have to fit into our business model or any of our current operations. When your needs change we will work with you to make certain our solution changes with you
 - If at some point across the 20 year term the NHSLC wishes to change to a more transparent commercial model we would be open to those discussions

We appreciate your working with us to better qualify the risks associated with this contract. We especially value the collaborative nature of our discussions. In recognition of these efforts we would like to amend our offer to \$27,000,000. It is correct that we estimated that it would cost an additional \$500,000 if the contract was not awarded by mid-September. Assuming the NHSLC signs the contract by November 14th, 2012, Exel will absorb the additional construction costs associated with the late contract award. This will save the Commission another \$500,000.

We are very excited about the prospect of working with the Commission and are hopeful that you will entrust us with your business.

Please confirm receipt.

Sincerely,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 12:20 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Our current customers
Attachments: List of Exel Customers - Nov 2, 2012.pptx

Just following up on your question about a list of some of our current customers. We presented several slides to this effect in the two presentations we gave: The July 24th presentation to the Evaluation Committee, and our August 23rd presentation to the Commissioners.

I captured the three slides into the attached powerpoint file.

I trust this answers your question. Please let me know if you have any further questions.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Tuesday, November 06, 2012 8:08 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Real Estate

Hi Craig,

Fred and I would appreciate the opportunity to speak with yourself, and other members of the evaluation committee as you see fit today. Ideally 11:30 to 2:00 or 4:00 to 5:00, but we will make any time work that suits you and your team.

We have been making investments in certain activities regarding the real estate to protect our commitment to have the operation running by October 31, 2013.

There are a couple we need to make again this week and we would appreciate the opportunity to share the details.

Thanks,
Scott Lyons

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Mississauga, Ontario
L5R 3R3
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Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, November 07, 2012 12:24 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Urgent Request

Thanks Craig – I got your note. We will be back to you shortly.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, November 07, 2012 12:21 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US)
Subject: Urgent Request
Importance: High

Dear Scott,

We are coming closer to the finish line. We need one more visit to the rate calculation template. For the last several rounds we have asked you to reduce your grand total without having you change your rates. In order to be certain that we are on the same page, we need you to take your BAFO of \$27,000,000 and convert your rates using the volume estimates we have provided to support the BAFO number. We also want to make doubly certain that the rate calculation sheet you produce will contain all the costs for the first 30 months. **We need this ASAP, no later than 8 AM tomorrow, 11/8.**

Please call if you have any questions.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Chief of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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Craig W. Bulkley

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 09, 2012 11:45 AM
To: Craig W. Bulkley
Subject: Email record

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Scott Lyons (EXEL CA)
Sent: Monday, July 16, 2012 12:44 PM
To: 'George P. Tsiopras'; Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

That is fine. We will take the afternoon timeslot.

Can you please confirm the attendees from the Commission for me. I assume the following, but at there others?

- Craig Bulkley
- George Tsiopras
- John Bunnell
- Stephen Judge

Thanks and we look forward to see you again
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: George P. Tsiopras [mailto:george.tsiopras@liquor.state.nh.us]
Sent: Monday, July 09, 2012 4:08 PM
To: Scott Lyons (EXEL CA); Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Proposal Presentation

Sorry Scott the morning timeslot is not available.

George P. Tsiopras

Chief Financial Officer
New Hampshire State Liquor Commission
50 Storrs Street, Concord NH 03301
Tel: 603.230.7017 Fax: 603.271.3897

**Please note: My email has changed to

george.tsiopras@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [mailto:Scott.Lyons@exel.com]
Sent: Sunday, July 08, 2012 11:47 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: RE: Proposal Presentation

Thank-you.

We would like to confirm our attendance at this presentation on the 24th of July. We wish to ask if a morning timeslot might be possible. If not will attend the time of 1:30 – 3:30 pm (EST). Please let us know if this might be an option.

Sincerely,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Friday, July 06, 2012 9:08 AM
To: Scott Lyons (EXEL CA)
Cc: Greg Foreman (EXEL US); George P. Tsiopras
Subject: Proposal Presentation

Scott:

We are scheduling time during the week of July 23rd for an opportunity for your team to present any additional information to the Evaluation Committee. Please be prepared to discuss the specifics of your proposal as well as to discuss the most recent rate template information. The committee may have additional questions at this time.

We would like your Exel team to join us on Tuesday, July 24th from 1:30 – 3:30 PM (EDT) at our headquarters at 50 Storrs Street, Concord. Please acknowledge and confirm your attendance, and **please copy George Tsiopras** when you email me. Thank you.

 Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
 (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559

 cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [mailto:Scott.Lyons@exel.com]
Sent: Thursday, July 05, 2012 11:35 PM
To: Craig W. Bulkley
Cc: Greg Foreman (EXEL US)
Subject: RE: Tentative Schedule

We will respond to the Commission's latest questions by Monday afternoon.

In the meantime, we would like to schedule our first opportunity to meet during the week of July 16th. Are there particular dates and times you are considering?

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Tuesday, June 26, 2012 1:27 PM
To: Scott Lyons (EXEL CA)
Subject: Tentative Schedule

Scott:

Thank you for spending time with us last week. The Evaluation Committee is still in its initial phase. We wanted to let you know that our first opportunity to meet with you will be during the week of July 16th.

We expect to send you an email tomorrow that will require you to use numbers that we will provide to perform financial cost projections based on specific volumes and your proposed rates. I understand that this is a bit vague, but tomorrow's email will clarify things.

Please confirm receipt.

 Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
 (603) 230-7008
FAX (603) 271-3897

Cell: (603) 490-1559

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 09, 2012 3:56 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: FW: Rate changes in the first 30 months
Attachments: RE: Exel BAFO Clarification; Best & Final Offer Follow-Up; Best and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012.docx

Re-sending with uncorrupted word document.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Scott Lyons (EXEL CA)
Sent: Friday, November 02, 2012 9:16 AM
To: 'Craig W. Bulkley'
Cc: Fred Takavitz (Exel US)
Subject: Rate changes in the first 30 months

Just a quick explanation of how we had drawn the conclusion that rates could change in the first 30 months if the actual data varies by more than 10% from the RFP data provided – just to show there was some logic to our thinking.

On August 3rd we went the attached Best and Final Offer. In this letter we stated:

(Page 2 of the letter)

We can confirm that our rates will not change over the first 30 months of the contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

(page 8 of the letter)

Paragraph 5.2

As per the answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP.

As per the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to enable the parties to review rates if the actual volumes or profile of work change materially over the contract life. As our rates for the first 30 month period are based on the data provided by the NHSLC through the RFP process, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

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We wanted to review this point on our call yesterday to ensure that we both have clarity. This is a good example of the transparent and open manner in which we like to operate with our customers.

We understand your need to be able to compare like offers and will proceed under the condition that our rates will not change in the first 30 months.

Cheers,
Scott Lyons

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90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Craig W. Bulkley <cbulkley@liquor.state.nh.us>
Sent: Thursday, August 09, 2012 7:43 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel BAFO Clarification

received



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, August 08, 2012 5:39 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); George P. Tsiopras
Subject: RE: Exel BAFO Clarification

We withdraw our qualification that the rates will remain constant for 30 months.

Our BAFO will now be \$2.02 on an aggregate cost per case basis (previously \$1.98).

We will submit a revised rate sheet tomorrow with updated rates for each service that will aggregate to \$2.02.

Please confirm receipt.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, August 08, 2012 3:33 PM

To: Scott Lyons (EXEL CA)
Subject: Exel BAFO Clarification

Scott:

The Evaluation Committee has tried to be clear that it wants the rates for the first 30 months to remain constant. When we asked you to confirm this issue in the BAFO, you stated that your rates will not change. Consistent with your prior positions, you then qualified this statement by suggesting that either party should have the opportunity to request a review of rates if the actual volumes or profile of work vary by 10% from the data provided by the NHSLC in the RFP.

The data provided by the NHSLC has always been identified as estimates. Even if we could agree on some workable review process, the NHSLC does not want to take the risk that volumes will decrease below the estimates. The NHSLC appreciates your point that it could enhance its revenue if volumes are greater than the estimates. Nevertheless, it does not want to take the risk.

By 10 AM tomorrow, please withdraw your qualification that the rates will remain constant for 30 months.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
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Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Craig W. Bulkley <cbulkley@liquor.state.nh.us>
Sent: Friday, August 10, 2012 2:58 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer Follow-Up

Scott:

The following is the NHSLC's effort to fine tune the proposals in order to identify the proposal(s) that best meet the needs of the State. **Your response is due by noon, Monday, August 13, 2012.**

1. Financial

Using the template from your BAFO, indicate whether you can reduce your Grand Total to \$25,500,000. You may not change any other financial terms. You do not need to recalculate each rate that will support this number.

2. RFP / Standard Contract

We have resolved issues regarding the Transition Bond, the Performance Bond, and IT issues in Appendix K. We understand your proposal regarding Section 1.10.4 – Rate Changes – Page 11 and, during the next phase, Contract Negotiation, are prepared to negotiate that item. We are also prepared, during that phase, to discuss the requirements in Appendix E, Section 14.3 – Insurance – in regard to the requirement that the insurer provide notice no less than ten days prior to cancellation or modification of the policy.

In consultation with the Office of the Attorney General, the Commission makes the following clarifications. All other exceptions are rejected.

- Section 1.9 – Contract Performance Bond – Page 10 – The NHSLC understands that the proposed rates are based on a \$1 million performance bond. If the NHSLC requires a higher bond, the NHSLC will engage in a good-faith negotiation of the proposed rates.
- Section 3.0.2 – Location of Product – Vendor-owned product produced by a vendor with a NH manufacturing license shall be stored at the Concord warehouse
- Appendix E – Exhibit C – Paragraph 14.1.2 and 14.1.3 – Insurance – The NHSLC will allow the equivalent of \$2 million coverage of 100% of acquisition cost for all liquor and wine product owned by the NHSLC for all risks and, fire and extended coverage.
- Appendix E – Paragraph 16 – Waiver of Breach – The phrase “Event of Default” where it occurs in this paragraph is amended to read “Material Breach.”
- Appendix E – Exhibit C – Paragraph 26 – In sub-paragraph 4, (which begins “All costs associated...”) strike the phrase “...as provided in Paragraph 8.”

You may discuss these clarifications and rejected exceptions by telephone with Steve Judge and Craig Bulkley at **10:00 AM**, Monday, August 13, 2012. If you wish to have a discussion, at least ½ hour prior to that time, please provide us with a contact phone number and email Mr. Bulkley a list of the sections of the RFP that you wish to discuss including the page numbers. This will be an opportunity for you to understand why the Commission has made this decision. It is **not** an opportunity to argue about the wisdom of the Commission's decision.



Please consider the environment before printing this e-mail.

Craig W. Butkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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August 3, 2012

Mr. Craig W. Bulkley
Director Division of Administration
NH State Liquor Commission
P.O. Box 503
Concord, NH, 03302-0503

VIA Email: cbulkley@liquor.state.nh.us

Reference: RFP 2012-14 – Warehouse Services for Spirits & Wine Product

Dear Mr. Buckley,

Below please find Exel's Best and Final Offer (BAFO) and response to the questions on the several areas where the Commission is specifically focused. We would appreciate the opportunity to present our Best and Final Offer as we believe our commercial model is unique, and we believe there will still be questions even though we have done our best to explain it below.

I. Financial

Question:

Using the template reviewed at your phase II presentation, please provide your lowest possible rates.

Answer:

It is our proposal that the cost of warehousing should be fully funded by the Product Suppliers. Therefore, there are no rates for the NHSLC under our proposal. To minimize change we recommend maintaining the categories of services that are in place today. Only the rates for each service will change.

Under our proposal warehousing will become a profit center for the NHSLC. The Commission will set the Warehouse Service Charges for the Product Suppliers. Exel will pay the NHSLC the difference between the revenues collected from Product Suppliers, and the rates listed in Column Y of the attached spreadsheet "NH BAFO Summary Final - Aug 3 2012".

According to the Exel Financial Analysis Confirmation spreadsheet provided by the NHSLC, the Commission will save \$3.1 M over the initial 30 month term compared to the rates that will be coming into effect on January 1, 2013.

Again utilizing the Exel Financial Analysis Confirmation spreadsheet provided by the NHSLC, the Commission could generate as much as \$4.0 M in additional net income over the initial 30 month term. This assumes the NHSLC maintains the rates coming into effect on January 1, 2013 for Product Suppliers. It would be our recommendation that the NHSLC roll back some of the planned 14% increase in rates to the Product Suppliers. In any event, our rates represent a reduction in cost to the industry of \$7.1 M, and depending on the NHSLC a potential total improvement to its net income of \$7.1 M.

Question:

December 26, 2012

Exel 000596



Please confirm that those rates will not change for the first 30 months of the contract.

Answer:

We can confirm that our rates will not change over the first 30 months of the contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

Question:

If possible, please submit an alternative rate structure that provides for rates over the entire twenty-year contract

Answer:

Our proposal for rates over the entire twenty-year contract is that we maintain the Warehouse Service Charges for Product Suppliers scheduled to come into effect on January 1, 2013. Every five years these rates will rise by 5%. Please see the rates listed in Columns AE - AG of the attached spreadsheet "NH BAFO Summary Final - Aug 3 2012". We would like the opportunity to discuss these rates as over the twenty years it would make sense to have them more representative of the costs incurred to deliver the services.

Again, our proposal is that there are no costs for the NHSLC. The commission will save \$26 M over the contract life of 20 years, and Product Suppliers will have certainty of costs over the term of our agreement. Similar, to the 30 month rates, the NHSLC could choose to set up the warehouse as a profit center.

Question:

Please confirm that the twenty-year rates will not change.

Answer:

We can confirm that our rates will not change other than the scheduled increases over the entire twenty-year contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%. Also, our commitment is contingent on inflation staying at historic (last 15 year) levels.

II. Transition

Question:

Please confirm that the facility in your proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

Answer:

We confirm that the facility in our proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

As stated in Exhibit C, paragraph 26 to Appendix E, p.67, all costs associated with the transfer of Product and control... shall be borne by the NHSLC... As a result, we have not



included these costs in our rates. We respectfully point out that the cost of transition includes duplicated fixed costs while the new facility ramps up to handling all products and shipments to all stores, and the old facilities similarly ramp down.

Question:

Please confirm the identity of those individuals who will be located in New Hampshire during the construction of or transition to the proposed facility (Appendix C, III p.43).

Answer:

The following individuals will be on the ground in New Hampshire to support the construction and transition. We attached bios for the majority of them.

Account Management Role: Paul Ledger

General Contractor role:

- Paul Roy from Pro Con Construction
- There will also be a full time site supervisor from Pro Con Construction

Exel Real Estate:

- Steve Hess
- Larry Wright

Exel Construction: Mike Hecker

- This role ensures that the building design and improvements are exactly suitable for operational functions. They represent operations with the General Contractor and the Real Estate team

Project Management: John Flanagan

IT Systems: Becky Ross

Industrial Engineering: Omer Rashid

Question:

If you have constructed or transitioned to a facility similar to the facility in your proposal please identify the project and provide contact information for your client (Appendix C, II page 43 of the RFP)

Answer:

We have extensive experience with both constructing new facilities, and transitioning into existing facilities.

In terms of constructing new facilities we offer the following projects

LION INDUSTRIAL TRUST

We have developed over 3 million square feet of distribution facilities partnering with Lion Industrial Trust, based in Dallas, Texas.

- A pair of 250,000 square foot buildings known as Hardy Distribution Center, located in Houston, TX
- Three buildings in the Carlisle Distribution Center (575,000 square feet, 800,000 square feet, and 310,000 square feet) located in Carlisle, PA
- A 736,000 square foot building at Laraway Distribution Center, in Joliet, IL
- A 700,000 square foot building in Byhalia, MS occupied by Carrier Corporation

Mr. Jim Hendricks
214-647-4902

In terms of transitioning into new facilities we offer the following projects



Since 2007, Exel transitioned into 7 facilities, and out of 3 facilities in order to maintain services during an economic boom in the province of Alberta

Mr. Alain Maisonneuve
Director, Liquor and Strategic Services
alain.maisonneuve@aglc.ca
780-447-8731

Question:

Please confirm that you will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013.

Answer:

We will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013. It is our perspective that the transition bond covers situations where we are at fault for the facility not being fully operational on or before October 31, 2013.

III. Contract performance bond

Comment:

A contract performance bond is required by Section 1.9, page 11 of the RFP. \$1,000,000 was provided as an example of the amount of the contract performance bond. The amount of the bond will be discussed with any vendor that is selected for contract negotiations.

Response:

Acknowledged and understood.

IV. Final Contract

Question:



Even if you have done so before, please identify and explain every exception that you intend to take.

Answer:

The following are the paragraphs we wish to discuss with the NHSLC and the reasoning for wanting to make a change. As per your guidance these paragraph references relate to Exhibit C of the P-37

Paragraph 5.2

As per the answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP.

As per the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to enable the parties to review rates if the actual volumes or profile of work change materially over the contract life. As our rates for the first 30 month period are based on the data provided by the NHSLC though the RFP process, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

Paragraph 14.1.2

As further clarified in the answer to question 33 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS the NHSLC requires the maximum coverage from all perils to its product. This answer further invites vendors to propose an alternative to using all perils property insurance fire and extended coverage insurance to achieve maximum coverage. Exel will provide coverage through its warehouse legal liability policy. This policy is designed to meet the unique needs of all our clients across North America. As such, our warehouse legal liability insurance is written to provide whatever level of coverage is listed in our contract with our client. Therefore, if our contract states Exel is liable for all risks for 100% of the acquisition cost of any and all liquor and wine products owned by the NHSLC up to a total of two million dollars (\$2,000,000), that is what the policy will cover. In this case, all risks include fire and floods; therefore a separate fire and extended coverage policy would not be required. Please note that we believe the NHSLC inventory value to be \$6,000,000. This includes the inventory in the Concord warehouse and the private provider warehouse. If this is the case our insurance policy will cover the \$6,000,000 figure.

Paragraph 14.1.3

As stated in the paragraph above Exel will provide coverage through its warehouse legal liability policy, not a property policy. As a warehouse legal liability insurance policy it covers Exel's liability for loss or damage to the goods. In the event of loss or damage to the goods, the NHSLC would make a claim to Exel and Exel would pay that claim to the Commission. Exel would then recover from its insurance company. The benefit for the NHSLC is that it does not have to deal with Exel's insurance company. This also negates the need to have the NHSLC named as a loss payee

Paragraph 14.1.4

We would like to add a sentence clarifying that the performance bond can be drawn upon in the event of a material breach for the amount of damages owed.

Paragraph 14.3



This paragraph requires the insurer to endeavor to provide the NHSLC written notice of cancellation or modified of the policy. This paragraph is inconsistent with Appendix C, VII, 8, page 45. Additionally, in accordance with the new Accord standards insurance companies no longer provide this type of notice. The insurance company will only provide notice to Exel. As suggested in the answer to question 36 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS Exel would like to recommend that that upon receiving notice from its insurance company Exel will in turn to provide notice to the NHSLC. The notice period from our insurance company is 30 days.

Paragraph 16

We believe that the references to "Event of Default" should read "material breach". This is merely a tidying up of the agreement language and is needed to mesh with the changes in Paragraph 8 of Exhibit C.

New Paragraph

It is our perspective that we should have a mutual exclusion of indirect and consequential damages. These are not an insurable item, and committing to cover these damages is not a good business practice. Unless a vendor is large enough it is likely they could not stand behind this commitment. If we cannot completely exclude these damages we would like to agree on the events that trigger these types of damages and maximum liability levels.

New Paragraph

As we discussed in our presentation, the NHSLC should have security and continuity in its business. To ensure this the NHSLC or a new provider should be able to continue operations in the facility, and after purchasing appropriate licenses utilize the IT systems integrated with the NHSLC's IT systems.

To this end we wish to add a paragraph outlining that in the case of early termination the NHSLC has the obligation to take an assignment of the lease, and purchase assets tied to the building (e.g. racking), and IT interface development costs at their net book value. Exel will redeploy all material handling equipment and other mobile assets or make them available to the NHSLC at their Net Book Value. Further, upon the contract expiring all the assets will be available to the NHSLC free of charge.

V. Performance of contract

Question:

Please confirm that you and your employees will submit to reasonable background checks

Answer:

We confirm that our employees working on this account will submit to reasonable background checks.

Question:

Please confirm the identity of the persons who will be located in New Hampshire to run the proposed facility for the first 30 months

Answer:



The following individuals will lead the operation in New Hampshire.

Director of Operations: Robert Maclellan

Account Director Role: Paul Ledger

General Manager: Marc Belanger

Operations Manager: Norm Hollingsworth

Operations Manager: Frank Ayala

Warehouse Supervisor: Mike Shay

Warehouse Supervisor: Juan Rivera

Human Resources Support Role: Laurie Parent

Question:

Please identify your redundant warehouse site

Answer:

It is very expensive to have vacant warehouse space, idle material handling equipment, and dormant IT infrastructure. Thus, it is our perspective that it is unrealistic to have a truly redundant warehouse site. We do have clients in the pharmaceutical industry that maintain duplicate inventory in the same building on either side of a fire wall, but that is the extent of what we see in terms of permanent redundancy.

What we recommend is having a target list of sites that are temporarily vacant that may be utilized on short notice until the permanent site is repaired or a suitable permanent alternative is found. It is too early to identify redundant warehouse space. The operation does not go live for another 15 months. Too much will change regarding vacant space in this timeframe.

Through our Business Continuity Planning (BCP) process we will identify multiple sites as potential redundant warehouses. Our BCP for this operation will be completed before the first case is received as part of the start-up phase of the operation. Then as part of our BCP we will review and update our list of candidate sites for redundancy on a quarterly basis.

In preparation to respond to this question we completed a market survey of New Hampshire and found 14 sites with between 50,000 and 200,000 square feet available. Though not suitable as permanent sites for this operation many of them could be suitable in the case of a disaster.

At this point in time, we would identify this site as a good candidate to be a redundant site: 59 Daniel Webster Highway, Merrimack, NH 03054.

- We considered this site as a permanent option, but when we toured it we found it demised multiple times.
- 280,000 square feet are available
- Most of it is 32 feet clear
- 26 dock doors
- Centrally located in New Hampshire

Exel is in a unique position to provide redundancy options. We have a very capable real estate team, and given our credit worthiness we can act very quickly. We have a very large client base in the North Eastern United states. A number of these sites may be options for



redundancy. As these sites are in operation they have IT systems, material handling equipment, and established management and team members. For example currently we have,

- 3 sites in Albany NY
- 11 site in Boston MA
- 26 sites in North Eastern PA
- 9 sites in New York NY
- 2 sites in Rochester NY

VI. Current & Future Data Requirements

Question:

Please confirm that you will be responsible for your costs to make modifications and updates to your environment to stay current with the future system.

Answer:

We can confirm that we are responsible for our costs to make modifications and updates to our environment to stay current with future system at the NHSLC. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS.

If you have any questions regarding this Best and Final Offer, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Lyons".

Scott Lyons
Senior Director

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 09, 2012 11:58 AM
To: Craig W. Bulkley
Subject: Email Record
Attachments: RE: Just checking in; RE: P-37 amendments; Discussion; RE: Discussion; Rate changes in the first 30 months; Financial BAFO w/ extension; Our current customers; RE: Urgent Request; RE: Urgent Request; Rate template; Re: Urgent Request; Transition Costs; List of Items to be Updated

Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, October 31, 2012 12:19 PM
To: Craig W. Bulkley
Subject: RE: Just checking in

I am glad to hear it.

My prays are with the folks in NY and NJ.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, October 31, 2012 8:01 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Just checking in

Lots of rain and heavy wind. Lots of people without power in my town, although I was lucky this time and didn't lose power. Overall, NH was just grazed by this storm – nothing like what we're seeing in NY or NJ. Based on the extent of damage there, we have nothing to complain about.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Chief of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Tuesday, October 30, 2012 6:13 PM
To: Craig W. Bulkley; Stephen J. Judge
Cc: Fred Takavitz (Exel US)
Subject: Just checking in

Just wanted to send a note to make sure you and your families are safe. Turned out to be a very nasty storm! Hopefully it only delivered a glancing blow to New Hampshire. I checked in with my brother in Winchester and they are okay. They had a lot of rain, and some power outages, but that was it.

Scott Lyons

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Canada

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Mobile: 416 [REDACTED]

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, October 26, 2012 5:19 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); John D. Bunnell; Stephen J. Judge; Maria Tzagournis (EXEL US)
Subject: RE: P-37 amendments

Received and thank-you. This is very helpful.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, October 26, 2012 12:31 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US); John D. Bunnell; Craig W. Bulkley; Stephen J. Judge
Subject: P-37 amendments

Dear Scott,

Following consultation with the AG's Office, the EC is authorized to amend the P-37 as follows.

One, the parties shall mutually agree to waive consequential and indirect damages.

Two, In the event of a material breach that involves the payment of a penalty, the Vendor shall pay the penalty. If the Vendor fails to pay the penalty within a reasonable time, the NHSLC shall recover the penalty from the performance bond, provided, however, that the Vendor restores the bond to its original or any increased amount within a reasonable time.

I expect that the terms will be clarified to a specific time.

Steve Judge on behalf of



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, October 31, 2012 4:17 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Discussion

Fred and I are wondering if you and Steve would have time tomorrow afternoon after 2:00 pm to finish our discussion from Monday that got cut a bit short by Sandy.

Thanks,
Scott Lyons

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Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 01, 2012 12:50 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Discussion

Thanks I will send it momentarily.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Thursday, November 01, 2012 12:27 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US)
Subject: RE: Discussion

Please send us a conference call number and password. We can talk today at 4 PM.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Chief of Administration
NH State Liquor Commission
☎ (603) 230-7008
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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, October 31, 2012 4:17 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Discussion

Fred and I are wondering if you and Steve would have time tomorrow afternoon after 2:00 pm to finish our discussion from Monday that got cut a bit short by Sandy.

Thanks,
Scott Lyons

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Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 01, 2012 3:33 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)

As we finished our call on Monday - you had asked us for an understanding of what we mean by fixed costs.

Here are the categories of costs that we consider fixed – recognizing that even fixed costs become variable depending on the nature of the volume change:

- Salaried labor
- Facility expense
- Some operational administration expenses, .e.g. phones
- Depreciation costs

In terms of relative value of the fixed costs they would rise from 0.4% of product revenues to 0.5% of product revenues or 0.8% of the cost of products to 1.1% of the cost of products if volumes fall by 50%.

Look forward to speaking to you at 4.

Cheers,
Scott Lyons

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Mobile: 416 [REDACTED]

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 9:16 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Rate changes in the first 30 months
Attachments: RE: Exel BAFO Clarification; Best & Final Offer Follow-Up; ~\$st and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012.docx

Just a quick explanation of how we had drawn the conclusion that rates could change in the first 30 months if the actual data varies by more than 10% from the RFP data provided – just to show there was some logic to our thinking.

On August 3rd we went the attached Best and Final Offer. In this letter we stated:

(Page 2 of the letter)

We can confirm that our rates will not change over the first 30 months of the contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

(page 8 of the letter)

Paragraph 5.2

As per the answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP.

As per the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to enable the parties to review rates if the actual volumes or profile of work change materially over the contract life. As our rates for the first 30 month period are based on the data provided by the NHSLC through the RFP process, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

On August 8th we sent the attached email confirming that our rates would not change in the first 30 months (Exel BAFO Clarification).

On August 10th we received the attached email Best & Final Offer Follow-up. In this note it says “We understand your proposal regarding Section 1.10.4 – Rate Changes – Page 11 and, during the next phase, Contract Negotiation, are prepared to negotiate that item.

We wanted to review this point on our call yesterday to ensure that we both have clarity. This is a good example of the transparent and open manner in which we like to operate with our customers.

We understand your need to be able to compare like offers and will proceed under the condition that our rates will not change in the first 30 months.

Cheers,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3

Canada

Telephone: 905 366-7691

Mobile: 416 [REDACTED]

www.exel.com

From: Craig W. Bulkley <cbulkley@liquor.state.nh.us>
Sent: Thursday, August 09, 2012 7:43 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel BAFO Clarification

received



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]
Sent: Wednesday, August 08, 2012 5:39 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); George P. Tsiopras
Subject: RE: Exel BAFO Clarification

We withdraw our qualification that the rates will remain constant for 30 months.

Our BAFO will now be \$2.02 on an aggregate cost per case basis (previously \$1.98).

We will submit a revised rate sheet tomorrow with updated rates for each service that will aggregate to \$2.02.

Please confirm receipt.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, August 08, 2012 3:33 PM

To: Scott Lyons (EXEL CA)
Subject: Exel BAFO Clarification

Scott:

The Evaluation Committee has tried to be clear that it wants the rates for the first 30 months to remain constant. When we asked you to confirm this issue in the BAFO, you stated that your rates will not change. Consistent with your prior positions, you then qualified this statement by suggesting that either party should have the opportunity to request a review of rates if the actual volumes or profile of work vary by 10% from the data provided by the NHSLC in the RFP.

The data provided by the NHSLC has always been identified as estimates. Even if we could agree on some workable review process, the NHSLC does not want to take the risk that volumes will decrease below the estimates. The NHSLC appreciates your point that it could enhance its revenue if volumes are greater than the estimates. Nevertheless, it does not want to take the risk.

By 10 AM tomorrow, please withdraw your qualification that the rates will remain constant for 30 months.



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Craig W. Bulkley
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From: Craig W. Bulkley <cbulkley@liquor.state.nh.us>
Sent: Friday, August 10, 2012 2:58 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer Follow-Up

Scott:

The following is the NHSLC's effort to fine tune the proposals in order to identify the proposal(s) that best meet the needs of the State. **Your response is due by noon, Monday, August 13, 2012.**

1. Financial

Using the template from your BAFO, indicate whether you can reduce your Grand Total to \$25,500,000. You may not change any other financial terms. You do not need to recalculate each rate that will support this number.

2. RFP / Standard Contract

We have resolved issues regarding the Transition Bond, the Performance Bond, and IT issues in Appendix K. We understand your proposal regarding Section 1.10.4 – Rate Changes – Page 11 and, during the next phase, Contract Negotiation, are prepared to negotiate that item. We are also prepared, during that phase, to discuss the requirements in Appendix E, Section 14.3 – Insurance – in regard to the requirement that the insurer provide notice no less than ten days prior to cancellation or modification of the policy.

In consultation with the Office of the Attorney General, the Commission makes the following clarifications. All other exceptions are rejected.

- Section 1.9 – Contract Performance Bond – Page 10 – The NHSLC understands that the proposed rates are based on a \$1 million performance bond. If the NHSLC requires a higher bond, the NHSLC will engage in a good-faith negotiation of the proposed rates.
- Section 3.0.2 – Location of Product – Vendor-owned product produced by a vendor with a NH manufacturing license shall be stored at the Concord warehouse
- Appendix E – Exhibit C – Paragraph 14.1.2 and 14.1.3 – Insurance – The NHSLC will allow the equivalent of \$2 million coverage of 100% of acquisition cost for all liquor and wine product owned by the NHSLC for all risks and, fire and extended coverage.
- Appendix E – Paragraph 16 – Waiver of Breach – The phrase “Event of Default” where it occurs in this paragraph is amended to read “Material Breach.”
- Appendix E – Exhibit C – Paragraph 26 – In sub-paragraph 4, (which begins “All costs associated...”) strike the phrase “...as provided in Paragraph 8.”

You may discuss these clarifications and rejected exceptions by telephone with Steve Judge and Craig Bulkley at **10:00 AM**, Monday, August 13, 2012. If you wish to have a discussion, at least ½ hour prior to that time, please provide us with a contact phone number and email Mr. Bulkley a list of the sections of the RFP that you wish to discuss including the page numbers. This will be an opportunity for you to understand why the Commission has made this decision. It is **not** an opportunity to argue about the wisdom of the Commission's decision.



Please consider the environment before printing this e-mail.

Craig W. Butkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
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Scott Lyons (EXEL CA)

From: Scott Lyons (EXEL CA) [Scott.Lyons@exel.com]
Sent: Friday, November 02, 2012 11:48 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Financial BAFO w/ extension

As the evaluation committee points out, if the contract does not terminate prior to expiry then there is no need for asset backing. We appreciate the NHSLC's efforts to help us better understand the scenarios under which the contract may terminate early, and as appropriate clarify the contract to better articulate the situations that lead could lead to material default and/or breach. These include:

- The parties will have access to the contract protest process in the event of a good faith impasse on rate negotiations. This process ultimately finishes at the New Hampshire Supreme Court, and therefore does not end in contract termination. We have also discussed adding mediation (non-binding) into the process, and we will finalize how this might work in the contract negotiation phase
- In addition to inflation, the rate review will consider changes in profile and volumes at every 30 month interval. The mechanics will be agreed in the contract negotiation process
- Confirmation that our agreement with the NHSLC is exclusive for the distribution of wine and spirits in the State of New Hampshire except for wines produced in New Hampshire, and products purchased by the NHSLC. We may wish to maintain additional work in the state warehouse for a period of time and we will work together on this issue
- We also clarified that service issues do not lead to material default and/or breach, but that there is an opportunity to more robustly define the metrics that describe an appropriate service level and associated penalties to the compel the provider to exceed the targets
- We will be able to add language in the rate negotiation clause that acknowledges the impact of fixed costs to the rates. This is not a guarantee that they will be covered in all circumstances, just a recognition that fixed costs do not change in step with volumes. Of course, this is the case for volume increases and decreases

The NHSLC also agreed to mutually waive consequential and indirect damages, and we clarified the conditions for drawing on the performance bond.

As you have pointed out, price is less than half the consideration for choosing a partner for the next twenty years. We feel we are uniquely qualified to assist the NHSLC achieve its goals across the 20 year term for the following reasons:

- Maximizing Net Income – Our role is to assist the Commission with maximizing its disbursements to the State
 - We would suggest that our customers are our best example of our ability to provide consistently high quality and low cost service. Exel provides innovative distribution services to market leaders like Proctor & Gamble, Walmart, Ford, Dell... , and many of these relationships have existed for more than 20 years.
 - We have a disciplined, quantifiable and repeatable process to drive and achieve continuous improvement. We conducted 410 Continuous Improvement Process workshops in 2011 – resulting in annual savings of over \$61 million for our customers.
 - Our revenue sharing proposal provides the NHSLC an opportunity to generate profits from the operation of the private warehouse much as it does today with the state run facility.
 - We will utilize best practices such as labor management systems, and mechanization / automation from our other operations both within the adult beverage industry and beyond.
- Creating Certainty – the NHSLC can depend on Exel to consistently deliver high quality service
 - Exel has extensive experience in the beverage alcohol industry. Some of our customers in this sector include the Alberta Gaming and Liquor Commission (AGLC), Diageo, 7-Eleven and Pernod Ricard. We believe you have had the opportunity to speak with the AGLC to better understand the quality of our operations.

- We feel that there are 6 key consistent disciplines that are critical to our creating certainty for our customers. The overriding concept across these disciplines is that we constantly measure our performance, review our results for opportunities to improve, develop and implement action plans, and follow-up to ensure the improvement sticks.
 - Performance measurement
 - Process improvement
 - Project management
 - Quality assurance
 - Customer satisfaction
 - Employee engagement
 - Our solution is predicated on utilizing tier one IT systems. These systems are best in class and facilitate consistent and low cost operations
 - Exel has the financial capability and stability to fulfill a long-term deal and to make investments in buildings, mechanization, and IT systems that increase efficiency and lower costs.
 - Exel has extensive functional resources. They are experts in their respective fields, and available to optimize the performance of this operation
 - The management team who will manage this operation have greater than 20 years experience in the beverage alcohol industry.
- Providing Flexibility – Your business will change across the next 20 years and we will work alongside you to make the most of these changes
 - Our solution incorporates a custom built facility designed for the unique needs of the NHSLC across the next 20 years
 - We are building our solution around the needs of the NHSLC. Your operation does not have to fit into our business model or any of our current operations. When your needs change we will work with you to make certain our solution changes with you
 - If at some point across the 20 year term the NHSLC wishes to change to a more transparent commercial model we would be open to those discussions

We appreciate your working with us to better qualify the risks associated with this contract. We especially value the collaborative nature of our discussions. In recognition of these efforts we would like to amend our offer to \$27,000,000. It is correct that we estimated that it would cost an additional \$500,000 if the contract was not awarded by mid-September. Assuming the NHSLC signs the contract by November 14th, 2012, Exel will absorb the additional construction costs associated with the late contract award. This will save the Commission another \$500,000.

We are very excited about the prospect of working with the Commission and are hopeful that you will entrust us with your business.

Please confirm receipt.

Sincerely,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 02, 2012 12:20 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Our current customers
Attachments: List of Exel Customers - Nov 2, 2012.pptx

Just following up on your question about a list of some of our current customers. We presented several slides to this effect in the two presentations we gave: The July 24th presentation to the Evaluation Committee, and our August 23rd presentation to the Commissioners.

I captured the three slides into the attached powerpoint file.

I trust this answers your question. Please let me know if you have any further questions.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com



Some of Exel's Customers

Retail						
Consumer						
Chemical / Energy						
Automotive / Industrial						
Life Sciences						
Technology						
Exel Direct						
Exel Transportation						



Our Customers are Industry Leaders





Industry Specific Experience and Knowledge



From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, November 07, 2012 12:24 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: RE: Urgent Request

Thanks Craig – I got your note. We will be back to you shortly.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, November 07, 2012 12:21 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US)
Subject: Urgent Request
Importance: High

Dear Scott,

We are coming closer to the finish line. We need one more visit to the rate calculation template. For the last several rounds we have asked you to reduce your grand total without having you change your rates. In order to be certain that we are on the same page, we need you to take your BAFO of \$27,000,000 and convert your rates using the volume estimates we have provided to support the BAFO number. We also want to make doubly certain that the rate calculation sheet you produce will contain all the costs for the first 30 months. **We need this ASAP, no later than 8 AM tomorrow, 11/8.**

Please call if you have any questions.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Chief of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 08, 2012 12:10 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); Greg Foreman (EXEL US); Robert Rujevcan (EXEL US)
Subject: RE: Urgent Request
Attachments: NH BFO Summary NHSLC - 27M - Nov 7, 2012.xls

Attached please find the rate calculation template that equates to \$27,000,000 over the 30 months.

These costs will contain all the costs for the first 30 months.

Just to be completely transparent and open there are costs associated with the transfer of product that will be incurred prior to the first 30 months. Here is what we provided in our Best and Final offer on August 3rd: "As stated in Exhibit C, paragraph 26 to Appendix E, p.67, all costs associated with the transfer of Product and control... shall be borne by the NHSLC... As a result, we have not included these costs in our rates. We respectfully point out that the cost of transition includes duplicated fixed costs while the new facility ramps up to handling all products and shipments to all stores, and the old facilities similarly ramp down." Once the transition plan is agreed we can provide an estimate of our costs associated with the transfer of product. The NHSLC will need to obtain a similar estimate from the incumbent provider.

Also, we confirm that the facility in our proposal (on Route 3A in Bow) and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013 – this assumes the NHSLC signs the contract by November 14th.

We trust this meets your needs. If you have any questions please give me a call or send me an email.

Cheers,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Wednesday, November 07, 2012 12:21 PM
To: Scott Lyons (EXEL CA)
Cc: Fred Takavitz (Exel US)
Subject: Urgent Request
Importance: High

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Please call if you have any questions.



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	ONE WAREHOUSE		CONTRACT RATES					
	APPENDIX-D		APPENDIX-D1		Jan 1, 2013 - October 31, 2013			
	Total Est. Volume	Total Est. Volume	SUPPLIER COSTS		NHSLC COSTS			
	(1st 30 Months)	(1st 30 Months)						
INBOUND HANDLING SUMMARY:								
1 - 180 cases per code	6,123,246	40,000	1.40	8,572,544	1.40	56,000		
181 - 299 cases per code	1,599,321		1.20	1,919,185	-	-		
300 - 670 cases per code	3,204,562		1.05	3,364,790	-	-		
670+ cases per code	2,976,765		0.95	2,827,927	-	-		
Pallet Packs	4,910		7.60	37,319	-	-		
Cases uncodded or unsaleable	6,929		6.00	41,572	-	-		
Case Returns	4,535	50	5.00	22,677	5.00	250		
Pallet Returns	14		15.00	207	-	-		
Bottle Returns	392		1.00	392	-	-		
TOTAL INBOUND HANDLING:	13,920,674	40,050		\$ 16,786,614		\$ 56,250		
STORAGE SUMMARY:								
Cases 1 - 84 Days	79.00%	50,450,604	12,000	0.11	5,549,566	0.11	1,320	
Cases 85 - 182 Days	12.71%	8,116,185	11,000	0.29	2,353,694	0.29	3,190	
Cases 183 - 365 Days	4.55%	2,906,996	12,000	0.80	2,325,597	0.80	9,600	
Cases 365+ Days	2.59%	1,650,772		1.40	2,311,081	-	-	
Cases on Hold Status <365	0.87%	558,688		0.80	446,950	-	-	
Cases on Hold Status >365	0.11%	72,603		1.40	101,645	-	-	
Allocated products <84	0.10%	66,904		0.11	7,359	-	-	
Allocated products>85	0.06%	35,451		0.29	10,281	-	-	
Pallet Packs 1-84	59%	19,587		5.00	97,933	-	-	
Pallet Packs 85-182	21%	6,948		12.90	89,629	-	-	
Pallet Packs 183-365	11%	3,515		36.00	126,552	-	-	
Pallet Packs 365+	6%	2,101		63.00	132,359	-	-	
Pallets on Hold Status <365	3%	1,136		36.00	40,894	-	-	
Pallets on Hold Status >365	0%	14		63.00	868	-	-	
TOTAL STORAGE:		63,891,505	35,000		\$ 13,594,408		\$ 14,110	
33,301	63,858,205							
OUTBOUND SUMMARY:								
Single Bottle		1,479,298	1,479,298		-	0.75	1,109,474	
Automatic Orders (Cases)		13,705,006	13,705,006		-	0.15	2,055,751	
Non-Automatic Orders (Cases)		62,653	62,653		-	0.25	15,663	
Automatic Orders (Cases) - out of state		85,449			0.75	64,087	-	
TOTAL OUTBOUND:		13,853,108	15,246,957		\$ 64,087		\$ 3,180,888	
ACCESSORIAL SUMMARY:								
Advertising Material								
HNDLG PER CASE - SMALL		132		1.00	132		0.74	98
HNDLG PER CASE - LARGE		477		2.50	1,192		1.94	925
STRG PER CASE - SMALL		132		1.00	132		0.50	66
STRG PER CASE - LARGE		477		4.50	2,145		3.50	1,669
REC STRG PER CASE - SMALL		132		1.00	132		0.50	66
REC STRG PER CASE - LARGE		6,413		4.50	28,859		3.50	22,446
NON-AUTO MIN UPCHARGE		85		30.00	2,564		15.00	1,282
Blankets								
HANDLING / BLANKET		1,152		37.75	43,506		24.75	28,524
STORAGE / BLANKET		1,916		8.50	16,288		6.50	12,455
Extra Labor & Equipment								
W/H LABOR - REG		910		46.20	42,035		34.65	31,526
W/H LABOR - OT		-		69.25	-		52.00	-
W/H MAN & EQUIP - REG		22		88.20	1,945		66.00	1,456
W/H MAN & EQUIP - OT		-		107.40	-		81.00	-
OFFICE - REG		11		46.20	510		34.65	382
OFFICE - OT		-		69.25	-		52.00	-
Physical Inventory								
Cases - SUPPLIERS		2,085,541		0.18	375,397		0.11	222,041
Bottle Charge		38,015		0.18	6,957		0.09	3,421
Case Charge - NHSLC		42,989	see column L	0.18	7,738		0.13	5,589
Special Reports								
PER REPORT/LIST		44		36.00	1,588		25.00	1,103
Destruction								
PER CASE (0 to 55)		3,816		5.00	19,079		3.80	14,500
PER CASE 56+		15,269		3.85	58,786		3.00	45,807
Labeling								
Cases (0 to 55)		27,861		3.10	86,368		2.50	69,652
Cases (56 to 99)		31,321		2.50	78,302		2.00	62,642
Cases (100 to 299)		56,480		1.55	87,544		1.25	70,600
Cases (300+)		47,064		0.90	42,358		0.75	35,298
Minimum (upcharge)		1,152		30.00	34,574		13.50	15,558
Relabeling								
Cases relabeled		46,339		1.75	81,093		1.00	46,339
Minimum (upcharge)		52		30.00	1,572		15.00	786
Duplicate Labels								
Duplicate labels		731		1.00	731		1.00	731
Min Invoice Chg								
Min Invoice Upcharges		185		30.00	5,542		15.00	2,771
					\$ 1,027,072		\$	697,734

SUPPLIER COSTS	\$ 31,472,100	NHSLC COSTS	\$ 3,251,248
Grand Total	\$ 34,723,428		
Cost/Case	\$ 2.51		

Alternate Rate Sheet: Costs Borne by Suppliers			
	\$1.95	Total Estimated Cost	
	0.92	5,633,386	\$
	0.92	1,471,376	\$
	0.92	2,948,197	\$
	0.92	2,738,624	\$
	10.00	49,104	\$
	5.00	34,643	\$
	5.00	22,677	\$
	10.00	138	\$
	1.00	392	\$
		\$ 12,898,537	\$
	0.11	5,549,566	\$
	0.30	2,434,856	\$
	0.80	2,325,597	\$
	1.25	2,063,465	\$
	0.80	446,950	\$
	1.25	90,754	\$
	0.11	7,359	\$
	0.30	10,635	\$
	5.00	97,933	\$
	10.00	69,480	\$
	30.00	105,460	\$
	50.00	105,047	\$
	30.00	34,078	\$
	50.00	689	\$
		\$ 13,341,870	\$
	-	-	\$
	-	-	\$
	-	-	\$
	0.75	64,087	\$
		\$ 64,087	\$
	0.74	98	\$
	1.94	925	\$
	0.50	66	\$
	3.50	1,669	\$
	0.50	66	\$
	3.50	22,446	\$
	15.00	1,282	\$
	24.75	28,524	\$
	6.50	12,455	\$
	34.65	31,526	\$
	-	-	\$
	66.00	1,456	\$
	81.00	-	\$
	34.65	382	\$
	52.00	-	\$
	0.11	222,041	\$
	0.09	3,421	\$
	0.13	5,589	\$
	25.00	1,103	\$
	3.80	14,500	\$
	3.00	45,807	\$
	2.50	69,652	\$
	2.00	62,642	\$
	1.25	70,600	\$
	0.75	35,298	\$
	13.50	15,558	\$
	1.00	46,339	\$
	15.00	786	\$
	1.00	731	\$
	15.00	2,771	\$
		\$ 697,734	\$
		\$ 27,000,000	\$
		\$ 1.95	\$
		\$ 10,800,000	\$

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 08, 2012 12:27 AM
To: Craig W. Bulkley
Subject: Rate template

I forgot to ask you to confirm receipt of our rate template in my previous note. Please let me know you received it.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 08, 2012 1:31 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Re: Urgent Request

We appreciated the opportunity to get clarity on how the transition will be handled. I captured the short summary below to ensure we are on the "same page"

- In summary, we will begin receiving product from suppliers prior to November 1st. We will charge them the inbound receiving charge, and begin calculating the storage charge from the time the product enters the warehouse. It is the supplier's responsibility to ensure there is adequate product in the warehouse to begin shipments on November 1st. We will work with the suppliers to coordinate in their shipments.
- The current plan is that we will begin shipments for all products and all stores on November 1st. As we progress our learning of your business we may wish to present an option for a graduated ramp-up of stores. We recognize that this would require the cooperation of the incumbent for the products they handle as contractually their term finishes on October 31st.
- Once the current warehouses stop shipping products there will be a requirement to move any remaining products into our warehouse. This is likely to be in the range of 35,000 cases, but this is just an estimate. The exact methodology and timing of doing so will need to be worked out. Supplier already paid an inbound receiving charge to the incumbent. Therefore we cannot charge an inbound receiving charge to the suppliers. As per your question as to how much we would charge you to receive these products into our warehouse – there will not charge you to receive the cases from the incumbent or your warehouse as part of the transition.

We would also like to point out that - though not part of the warehouse costs - you may wish to consider the relative transportation penalty from locating a warehouse outside of Concord. As we discussed in our original proposal Concord is the centre of gravity for the shipment of products to stores. A Merrimack location incurs \$28,000 in additional transportation costs annually. Nashua results in \$40,000 higher transport costs annually, and Seabrook generates \$147,000 of additional transportation cost annually (\$368,000 over 30 months).

We look forward to speaking again at 1:30.

Cheers,

Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, November 08, 2012 2:24 PM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US)
Subject: Transition Costs

We appreciated the opportunity to get clarity on how the transition will be handled. I captured the short summary below to ensure we are on the "same page"

- In summary, we will begin receiving product from suppliers prior to November 1st. We will charge them the inbound receiving charge, and begin calculating the storage charge from the time the product enters the warehouse. It is the supplier's responsibility to ensure there is adequate product in the warehouse to begin shipments on November 1st. We will work with the suppliers to coordinate in their shipments.
- The current plan is that we will begin shipments for all products and all stores on November 1st. As we progress our learning of your business we may wish to present an option for a graduated ramp-up of stores. We recognize that this would require the cooperation of the incumbent for the products they handle as contractually their term finishes on October 31st.
- Once the current warehouses stop shipping products there will be a requirement to move any remaining products into our warehouse. The exact methodology and timing of doing so will need to be worked out. Supplier will have already paid an inbound receiving charge to the incumbent. Therefore we cannot charge an inbound receiving charge to the suppliers. As per your question as to how much we would charge you to receive these products into our warehouse – we propose the following two tiered rate plan. We will work together to minimize the cases that need to be transferred by encouraging suppliers to ship their Christmas stock into our warehouse which should be available to receive products after October 1st.
 - 0 – 50,000 cases received - no charge
 - Each case above 50,000 cases received - \$0.50 per case

We would also like to point out that - though not part of the warehouse costs - you may wish to consider the relative transportation costs from locating a warehouse outside of Concord. As we discussed in our original proposal Concord is the centre of gravity for the shipment of products to stores. In our efforts to develop the ideal solution we canvassed available sites in New Hampshire and compared them to the centre of gravity as there is often a dynamic balance between the lease cost and the transportation costs as one moves away from the centre of gravity. In particular, we examined existing sites in Merrimack, Nashua, and Seabrook. Our engineers calculated the following transportation costs associated with the three locations we reviewed. Since we are building a new site as part of our proposal we focused on land in or around Concord to minimize transportation costs.

- The Merrimack location resulted in an additional transportation cost of \$28,000 annually (\$70,000 over 30 months)
- The Nashua site resulted in an additional transportation cost of \$40,000 annually (\$100,000 over 30 months)
- The Seabrook location resulted in an additional transportation cost of \$147,000 annually (\$368,000 over 30 months)

We look forward to speaking again at 2:30.

Cheers,
Scott Lyons

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90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
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Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 09, 2012 9:51 AM
To: Craig W. Bulkley
Cc: Fred Takavitz (Exel US); Greg Foreman (EXEL US); Elaine Darr (DHL US); Mick Dragash (Exel US); Robert Maclellan (EXEL US); Aaron L Granger (Exel US); Mark Smolik (EXEL US)
Subject: List of Items to be Updated
Attachments: NHSLC List of Items to be Updated in the Contract V2 Nov 9, 2012.docx

As you requested, we canvassed our emails and letters and tried to capture the list of items to be updated in the contract.

We would suggest you lead the conversation, but we can cross-tab our list at the appropriate point.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
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Telephone: 905 366-7691
Mobile: 416 [REDACTED]

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NHSLC List of Items to be Updated in the Contract V2 Nov 9 2012.docx

Items with wording complete:

1. Appendix E – Paragraph 16 – Waiver of Breach
 - See Aug 10th email from Craig Bulkley: Best & Final Offer Follow-up
2. Appendix E – Exhibit C – Paragraph 26 – In sub-paragraph 4...
 - See Aug 10th email from Craig Bulkley: Best & Final Offer Follow-up
3. last sub-paragraph of paragraph 26, page 67
 - See Aug 13th email from Craig Bulkley: BAFO Follow-Up Errata - Part II

Items with wording to be completed:

1. The parties mutually agree to waive consequential and indirect damages (Legal)
 - See Oct 26th email from Craig Bulkley: Re: P-37 amendments
 - See Sep 13th email from Scott Lyons: Exel – Follow-up from Monday's call

2. Reasonable transition bond (Legal / Business)
 - See August 8th email from Scott Lyons: Re: Transition Bond BAFO Clarification
 - See our best and final offer

3. When the performance bond will be accessed (Legal)
 - See Oct 26th email from Craig Bulkley: Re: P-37 amendments

4. Access to the contract protest process in the event of a good faith impasse on rate negotiations (Legal) / Business)
 - See Oct 25th email from Steve Judge: Re: Performance bond

5. Amount of the contract performance bond (budgeted for \$1million) (Business)
 - See Aug 10th email from Craig Bulkley: Best & Final Offer Follow-up
 - See our best and final offer

6. Appendix E – Exhibit C – Paragraph 14.1.2 and 14.1.3 – insurance (Legal)
 - See Aug 10th email from Craig Bulkley: Best & Final Offer Follow-up
 - See our best and final offer

7. Exclusivity (internal discussion point) (Legal)
 - See Nov 2nd email from Scott Lyons: Financial BAFO w/ extension
 - See our fine tuned best and final offer
 - See Aug 10th email from Craig Bulkley: Best & Final Offer Follow-up
 - See Exhibit A paragraph 3 of LAW's current agreement

8. Current & Future Data Requirements (Legal)
 - See Aug 2nd email from Craig Bulkley: Current & Future Data Requirements
 - See our best and final offer

9. Manage the risk of too much inventory on hand (business)
 - See Aug 3rd email from Craig Bulkley: Questions Posed by Vendors

10. Employees will submit to a reasonable background check (Legal)
 - See Aug 3rd email from Craig Bulkley: Background Check
 - See our best and final offer

11. Rate Changes (Legal / Business)
 - See our Best and Final Offer
 - See answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP
 - See the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS
 - First 30 months the rate does not change
 - Rate changes after the first 30 months, i.e. not just at every 30 month interval
 - See Aug 10th email from Craig Bulkley: Best & Final Offer Follow-up
 - See Nov 2nd email from Scott Lyons: Financial BAFO w/ extension
 - Importance of fixed costs to the rates
 - We have standard rate change language as a starting point
 - Operating Parameters or Scope of Service Changes. If during any year of this Agreement the Services or Operating Parameters vary to such a degree that either Party in good faith believes that a Fee adjustment(s) (whether an increase or

decrease) is/are equitable, it shall notify the other Party of the same, and the Parties shall endeavor in good faith to mutually agree upon a temporary or permanent adjustment as promptly as possible.

12. Transition Costs (Business)

- See Nov 8th email from Scott Lyons: Transition costs

13. KPIs and penalties – service failures do not lead to breach (Business)

- See Nov 2nd email from Scott Lyons: Financial BAFO w/ extension

Metric	Target Level	Minimally Acceptable Level
Goods available for sale on time	98%	<90%
Goods loaded for shipment on time	98%	<92%
Order completeness	98.5%	<90%
Order accuracy	98.5%	<92%

- Based on 60 day rolling average
- 1% of revenue per KPI for the time period where we are not achieving the minimally acceptable level
 - This arrangement commences April 1, 2014
- Establish methodology for measuring the KPIs in the first six months of operation. The measures will only include our acts or omissions.

14. Assignment provision (Legal)

- See Aug 13th email from Craig Bulkley: BAFO Follow-Up Errata
 - Do we wish to take an exception? Please note we have not so far

15. Revenue sharing (Legal)

- See Sep 11th email from Scott Lyons: Revenue sharing

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, November 09, 2012 11:56 AM
To: Craig W. Bulkley
Subject: Email record
Attachments: Question regarding Vintages; RE: Best & Final Offer; Question regarding ordering products; RE: Best & Final Offer; RE: Background Check; RE: Questions Posed by Vendors; Exel's Best and Final Offer; RE: Exel's Best and Final Offer; RE: Exel's Best and Final Offer; FW: Signed Agreement to Purchase Land; RE: Exel BAFO Clarification; RE: Transition Bond BAFO Clarification; RE: Best & Final Offers; RE: Best & Final Offers; RE: Best & Final Offers; RE: BAFO Follow-Up; Best & Final Offer Follow-up; Historical volumes; RE: Today's Request for Volume History; RE: Warehouse Services RFP 2012-14; RE: Warehouse Services RFP 2012-14; RE: Exel Meeting w/ Commissioners; RE: Exel Meeting w/ Commissioners; RE: Meeting on 8/23; RE: Warehouse Services RFP 2012-14; RE: Additional Information Requested

Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, August 02, 2012 11:04 AM
To: Craig W. Bulkley
Subject: Question regarding Vintages

Hi Craig,

Can the NHSLC answer the following question regarding Vintages for us. We are following up on a question raised in our presentation.

“Can the NHSLC tell us if each vintage (year of production) is currently tracked as a separate SKU? If so, are these SKU’s included in the approx. 10,000 SKU’s in the data supplied? If not, can you tell us how many SKU’s have multiple vintages associated with a single SKU and the total number of vintages across those SKU’s.”

Thanks,
Scott Lyons

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Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Wednesday, August 01, 2012 9:23 AM
To: Craig W. Bulkley
Subject: RE: Best & Final Offer

We received your email.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Tuesday, July 31, 2012 3:43 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer

Dear Scott:

As you were previously informed, the NHSLC Commissioners have selected you to participate in the Best and Final Offer (BAFO) phase of the RFP. The Evaluation Committee is authorized to enter into pre-selection discussions (RFP Section 4.7 a. 1. p. 36). This phase will begin with a written request. **This request may be the only opportunity to improve your proposal.** You may revise your proposal as a result of this request (RFP page 36).

We must receive written answers by **Friday, August 3, 2012.**

You are encouraged to review your entire proposal and improve it to the advantage of the State. There are several areas on which we are specifically focused in order to identify the Proposal that is the most advantageous to the State of New Hampshire.

I. Financial

This issue is highlighted in the Vendor pricing and Innovation Criterion, an area valued at 40 points. The desired end result is that Product will be available in a timely manner and in the necessary amount at every state store and for every Licensee. RFP p. 34. It is also a portion of the Vendor Overall Solution criterion in the requirement that the solution be, among other things, cost effective.

Using the template reviewed at your Phase II presentation, please provide your lowest possible rates.

Please confirm that those rates will not change for the first 30 months of the contract.

If possible, please submit an alternative rate structure that provides for rates over the entire twenty-year contract.

Please confirm that the twenty-year rates will not change.

II. Transition

This issue is highlighted in the Vendor Experience & Qualifications/Transition Criterion, an area valued at 20 points. It is also a portion of the Vendor Overall Solution in the requirement that the Vendor demonstrate suitable financial strength, stability and capacity to undertake a sophisticated and capital intensive Warehouse operation with a very high degree of performance and in a timely manner.

Please confirm that the facility in your proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

Please confirm the identity of those individuals who will be located in New Hampshire during the construction of or transition to the proposed facility (Appendix C, III, p. 43).

If you have constructed or transitioned to a facility similar to the facility in your proposal please identify the project and provide contact information for your client (Appendix C, II, page 43 of the RFP).

The RFP requires a separate transition bond to cover any and all costs related to the transition. (RFP Section, 1.9, p. 10 as clarified by the April 18, 2012 clarifications).

Please confirm that you will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013.

The amount of the bond will be discussed with any Vendor that is selected for contract negotiations.

III Contract performance bond

A contract performance bond is required by Section 1.9, page 11 of the RFP. \$1,000,000 was provided as an example of the amount of the contract performance bond. The amount of the bond will be discussed with any vendor that is selected for contract negotiations.

IV. Final Contract

The General Criterion provides for a review of whether the Vendor's exceptions to the RFP are acceptable to the NHSLC. Section 1.19 provides for cancellation of selection for contract award based on a failure to reach agreement on contractual terms, etc. The NHSLC wants to move as quickly as possible to contract award. To that end, a rather full description of the final contract is set out below. The current short-term warehouse services contract is attached to this email. Because it is a short-term contract, the State agreed to certain terms that it may not agree to in a long-term contract. The point is that the fewer exceptions that have been taken to either the RFP or the standard state contract, the more quickly a final document can be executed.

The Standard State Contract is contained in Exhibit E of the RFP. It is more frequently identified as Form P-37 and we will refer to it as such throughout this item but it is the same document that is contained in RFP Exhibit E. The P-37 cannot be changed on its face. At the end of this process, a P-37 will be signed by the parties. It will contain Exhibits A-F.

If you look at Paragraph 2 of the P-37, you will see that Exhibit A is required to contain a particular description of the work to be performed by the Vendor. Exhibit A will incorporate by reference the RFP and the Proposal. The fewer exceptions taken to the RFP, the easier it will be to craft Exhibit A. Paragraph 5 of the P-37 requires Exhibit B to describe the method of payment and terms of payment. It will incorporate the template that best suits the needs of the NHSLC. [This template will be contained in Exhibit F.]

Paragraph 22 of the P-37 allows changes to the P-37 if they are set forth in Exhibit C. That is why Appendix E in the RFP is modified by Exhibit C. Perhaps our effort to be consistent with the final product has caused more confusion than clarity.

Other documents required by the RFP will be part of the contract such as certificates of insurance, the transition bond, the performance bond, a certificate of vote, a certificate of good standing, and a warehouse license.

Exhibit D will be the RFP with all amendments and clarifications.

Exhibit E will be the winning proposal.

Exhibit F will be the price template.

Even if you have done so before, please identify and explain every exception that you intend to take.

V Performance of contract

Any Vendor selected for contract discussions will be required to submit to a standard background check performed by Liberty Screening Services, LTD. A sample form is attached. The background check will be performed for all the individuals who will participate in the transition phase as well as the first 30 months of operation. It will also be performed for parent organizations, if you are a new entity.

Please confirm that you and your employees will submit to the background check

Appendix C, III. P. 43 of the RFP requested the physical location of each person during the time they will be working on the project.

Please confirm the identity of the persons who will be located in New Hampshire to run the proposed facility for the first 30 months.

The Vendor is required to identify a redundant warehouse site in the event of natural or man-made disasters (RFP APP C XIII, P.48)

Please identify your redundant warehouse site.

If you have any questions regarding this email, please contact me. Thank you.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission

 (603) 230-7008

FAX (603) 271-3897

Cell: (603) 490-1559

 cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, August 02, 2012 11:09 AM
To: Craig W. Bulkley
Subject: Question regarding ordering products

Hi Craig,

One further question to assist us with our B&FO.

We just want to confirm that the state place orders with suppliers for product and as such has the ability to manage the risk of too much inventory on hand. This would be in comparison to a vendor managed inventory model where the Product Suppliers determine the level of inventory.

Thanks,
Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Thursday, August 02, 2012 1:47 PM
To: Craig W. Bulkley
Subject: RE: Best & Final Offer

Can you confirm the time the Best & Final Offer is due.

Steve's note indicated noon.

This note seems to suggest end of business.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Tuesday, July 31, 2012 3:43 PM
To: Scott Lyons (EXEL CA)
Subject: Best & Final Offer

Dear Scott:

As you were previously informed, the NHSLC Commissioners have selected you to participate in the Best and Final Offer (BAFO) phase of the RFP. The Evaluation Committee is authorized to enter into pre-selection discussions (RFP Section 4.7 a. 1. p. 36). This phase will begin with a written request. **This request may be the only opportunity to improve your proposal.** You may revise your proposal as a result of this request (RFP page 36).

We must receive written answers by **Friday, August 3, 2012.**

You are encouraged to review your entire proposal and improve it to the advantage of the State. There are several areas on which we are specifically focused in order to identify the Proposal that is the most advantageous to the State of New Hampshire.

I. Financial

This issue is highlighted in the Vendor pricing and Innovation Criterion, an area valued at 40 points. The desired end result is that Product will be available in a timely manner and in the necessary amount at every state store and for every Licensee. RFP p. 34. It is also a portion of the Vendor Overall Solution criterion in the requirement that the solution be, among other things, cost effective.

Using the template reviewed at your Phase II presentation, please provide your lowest possible rates.

Please confirm that those rates will not change for the first 30 months of the contract.

If possible, please submit an alternative rate structure that provides for rates over the entire twenty-year contract.

Please confirm that the twenty-year rates will not change.

II. Transition

This issue is highlighted in the Vendor Experience & Qualifications/Transition Criterion, an area valued at 20 points. It is also a portion of the Vendor Overall Solution in the requirement that the Vendor demonstrate suitable financial strength, stability and capacity to undertake a sophisticated and capital intensive Warehouse operation with a very high degree of performance and in a timely manner.

Please confirm that the facility in your proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

Please confirm the identity of those individuals who will be located in New Hampshire during the construction of or transition to the proposed facility (Appendix C, III, p. 43).

If you have constructed or transitioned to a facility similar to the facility in your proposal please identify the project and provide contact information for your client (Appendix C, II, page 43 of the RFP).

The RFP requires a separate transition bond to cover any and all costs related to the transition. (RFP Section, 1.9, p. 10 as clarified by the April 18, 2012 clarifications).

Please confirm that you will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013.

The amount of the bond will be discussed with any Vendor that is selected for contract negotiations.

III Contract performance bond

A contract performance bond is required by Section 1.9, page 11 of the RFP. \$1,000,000 was provided as an example of the amount of the contract performance bond. The amount of the bond will be discussed with any vendor that is selected for contract negotiations.

IV. Final Contract

The General Criterion provides for a review of whether the Vendor's exceptions to the RFP are acceptable to the NHSLC. Section 1.19 provides for cancellation of selection for contract award based on a failure to reach agreement on contractual terms, etc. The NHSLC wants to move as quickly as possible to contract award. To that end, a rather full description of the final contract is set out below. The current short-term warehouse services contract is attached to this email. Because it is a short-term contract, the State agreed to certain terms that it may not agree to in a long-term contract. The point is that the fewer exceptions that have been taken to either the RFP or the standard state contract, the more quickly a final document can be executed.

The Standard State Contract is contained in Exhibit E of the RFP. It is more frequently identified as Form P-37 and we will refer to it as such throughout this item but it is the same document that is contained in RFP Exhibit E. The P-37 cannot be changed on its face. At the end of this process, a P-37 will be signed by the parties. It will contain Exhibits A-F.

If you look at Paragraph 2 of the P-37, you will see that Exhibit A is required to contain a particular description of the work to be performed by the Vendor. Exhibit A will incorporate by reference the RFP and the Proposal. The fewer exceptions taken to the RFP, the easier it will be to craft Exhibit A. Paragraph 5 of the P-37 requires Exhibit B to describe the method of payment and terms of payment. It will incorporate the template that best suits the needs of the NHSLC. [This template will be contained in Exhibit F.]

Paragraph 22 of the P-37 allows changes to the P-37 if they are set forth in Exhibit C. That is why Appendix E in the RFP is modified by Exhibit C. Perhaps our effort to be consistent with the final product has caused more confusion than clarity.

Other documents required by the RFP will be part of the contract such as certificates of insurance, the transition bond, the performance bond, a certificate of vote, a certificate of good standing, and a warehouse license.

Exhibit D will be the RFP with all amendments and clarifications.

Exhibit E will be the winning proposal.

Exhibit F will be the price template.

Even if you have done so before, please identify and explain every exception that you intend to take.

V Performance of contract

Any Vendor selected for contract discussions will be required to submit to a standard background check performed by Liberty Screening Services, LTD. A sample form is attached. The background check will be performed for all the individuals who will participate in the transition phase as well as the first 30 months of operation. It will also be performed for parent organizations, if you are a new entity.

Please confirm that you and your employees will submit to the background check

Appendix C, III. P. 43 of the RFP requested the physical location of each person during the time they will be working on the project.

Please confirm the identity of the persons who will be located in New Hampshire to run the proposed facility for the first 30 months.

The Vendor is required to identify a redundant warehouse site in the event of natural or man-made disasters (RFP APP C XIII, P.48)

Please identify your redundant warehouse site.

If you have any questions regarding this email, please contact me. Thank you.



Please consider the environment before printing this e-mail.

Craig W. Bulkley

Director

Division of Administration

NH State Liquor Commission

☎ (603) 230-7008

FAX (603) 271-3897

Cell: (603) 490-1559

✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, August 03, 2012 1:30 PM
To: Craig W. Bulkley
Subject: RE: Background Check

Thanks for the clarification.

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 03, 2012 11:13 AM
To: Scott Lyons (EXEL CA)
Subject: Background Check

We have received a question from a Vendor regarding the background check requirement in the BAFO for employees of the warehouse vendor and the vendor's parent. A form was attached as an example. The form, on its face, applies to state employees. The form that will be used will be modified to require a reasonable background check. The request for confirmation in the BAFO is amended to read:

Please confirm that you and your employees will submit to a reasonable background check.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, August 03, 2012 3:10 PM
To: Craig W. Bulkley
Subject: RE: Questions Posed by Vendors

Received - Thanks

Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 03, 2012 10:20 AM
To: Scott Lyons (EXEL CA)
Subject: Questions Posed by Vendors

In response to the BAFO, the following questions were posed yesterday and this morning by vendors:

Question #1:

Can the NHSLC tell us if each vintage (year of production) is currently tracked as a separate SKU? If so, are these SKUs included in the approx. 10,000 SKUs in the data supplied? If not, can you tell us how many SKU's have multiple vintages associated with a single SKU and the total number of vintages across those SKUs?

Answer:

Yes, however, the State only tracks the basic SKU/state code. There are approximately 300 SKUs that are tracked by the warehouse by SKU/vintage by adding a vintage identifier to the SKU. For example, SKU/state code 4800 may become 4800-2008. These are typically the high-priced wines.

Question #2:

Please confirm that the state places orders with suppliers for product and as such has the ability to manage the risk of too much inventory on hand. This would be in comparison to a vendor managed inventory model where the Product Suppliers determine the level of inventory.

Answer:

We can not confirm your statement. The NHSLC tracks the sale of product. At the end of the month, the NHSLC finalizes a report that is put online and available to the suppliers. The suppliers use the report to charge the NHSLC for the sale of product. It may also be used by the suppliers to calculate the amount of product which will be sent to the warehouse by the suppliers. Note that there is a legal requirement that a 30-day supply of each product be available in the warehouse. At Concord, the minimum is a case. At the new warehouse, which will be able to perform single-bottle picks, the minimum requirement for a very slow-moving product may be less than a case. Typically, the warehouse

receives advanced notice of a shipment. Because of the bailment system, there is a disincentive for a supplier to send excess product to either warehouse.

Question #3:

The RFP references a bond of \$1,000,000. As we finalize our best and final offer we are basing our financials on a realistic range of the bond around that figure. Last week Steve Judge referenced a \$20,000,000 Bond.....was this figure real or inflated?

Answer:

The \$20 million number was chosen to drive home the point that the cost of failure is enormous. Your financials should be based on the \$1 million bond. As we stated in the BAFO sent to you on July 31, 2012, the amount of the bond will be discussed with a Vendor(s) selected for contract negotiations.



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
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FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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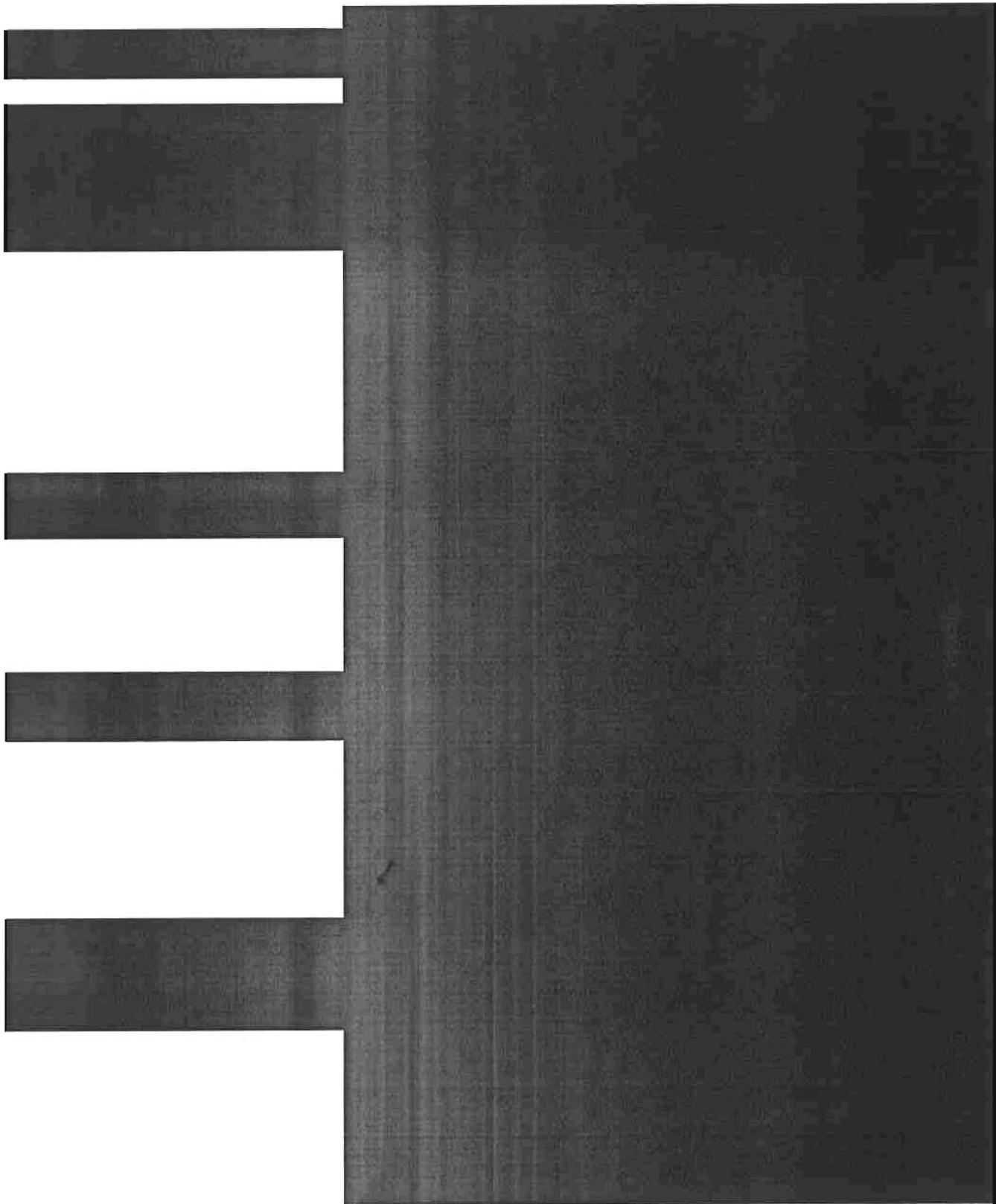
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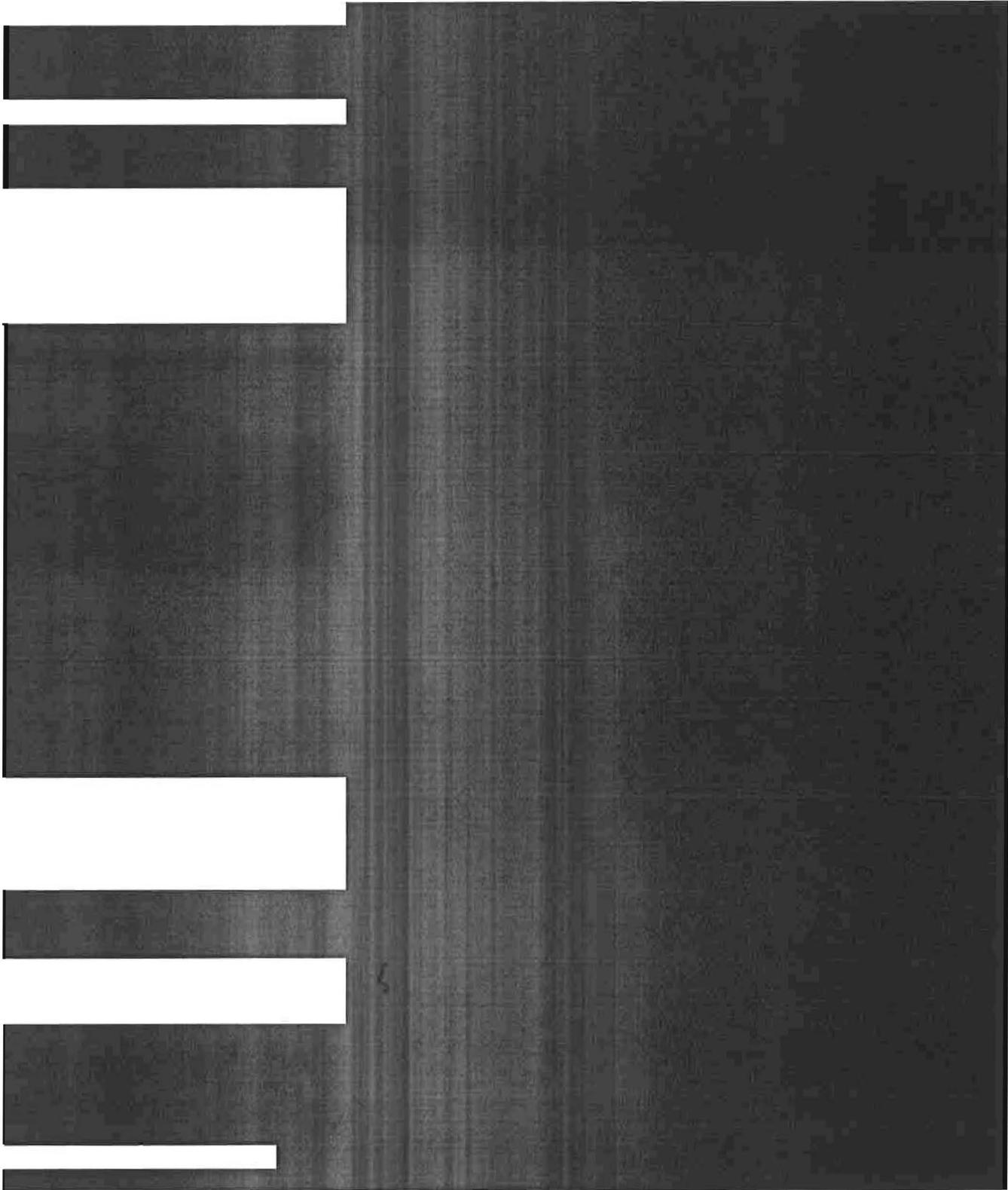
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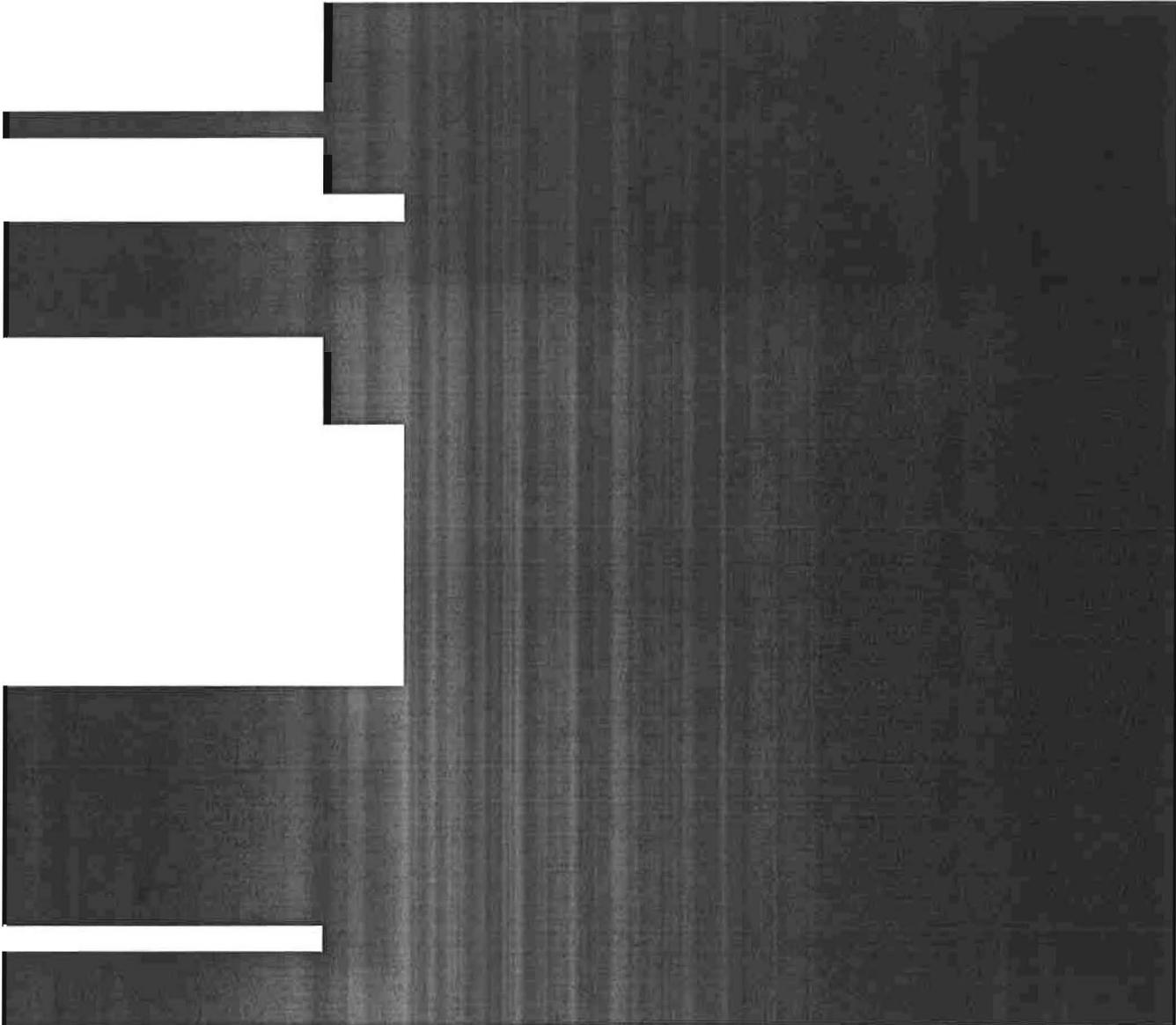
Robert



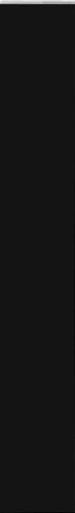




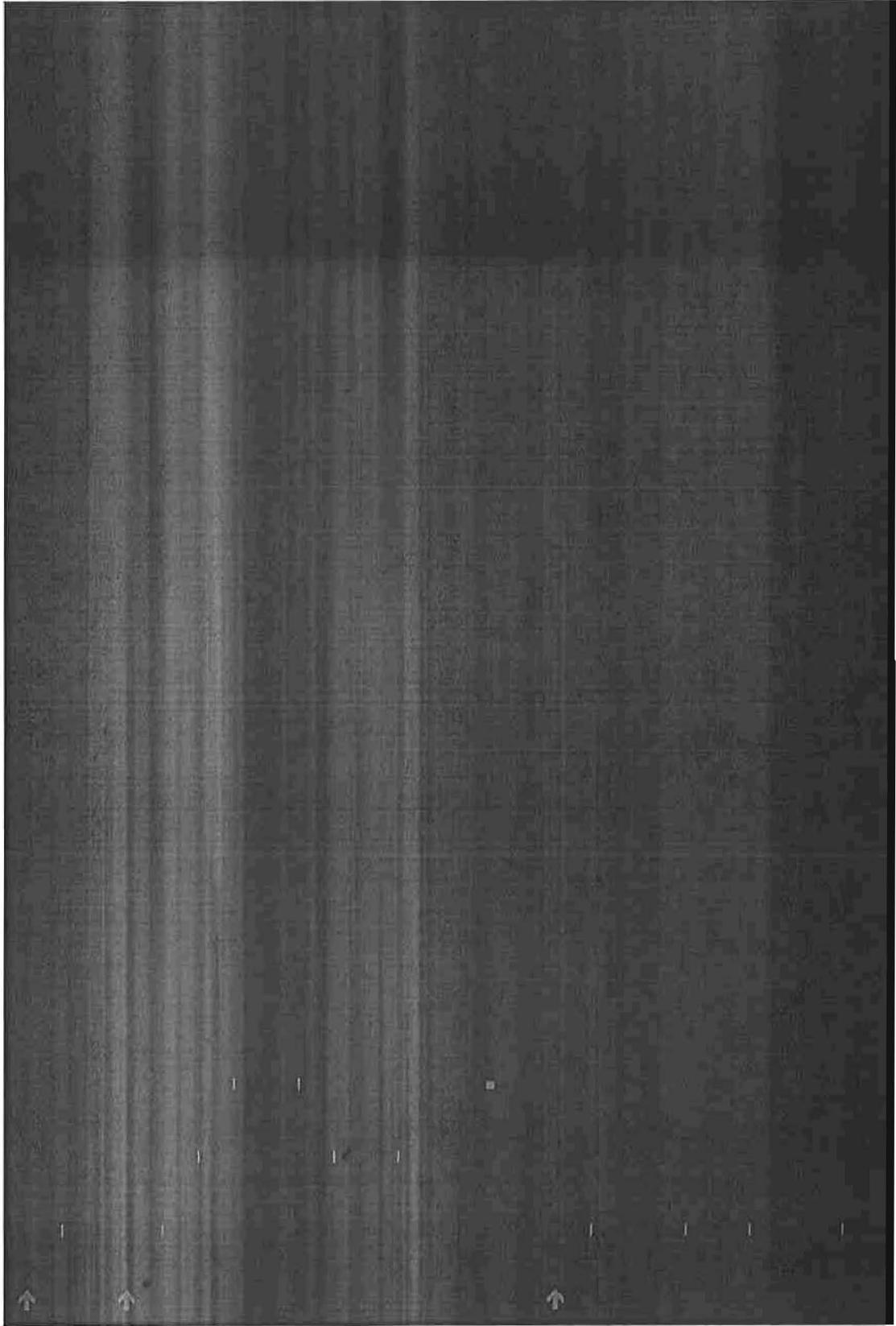




John

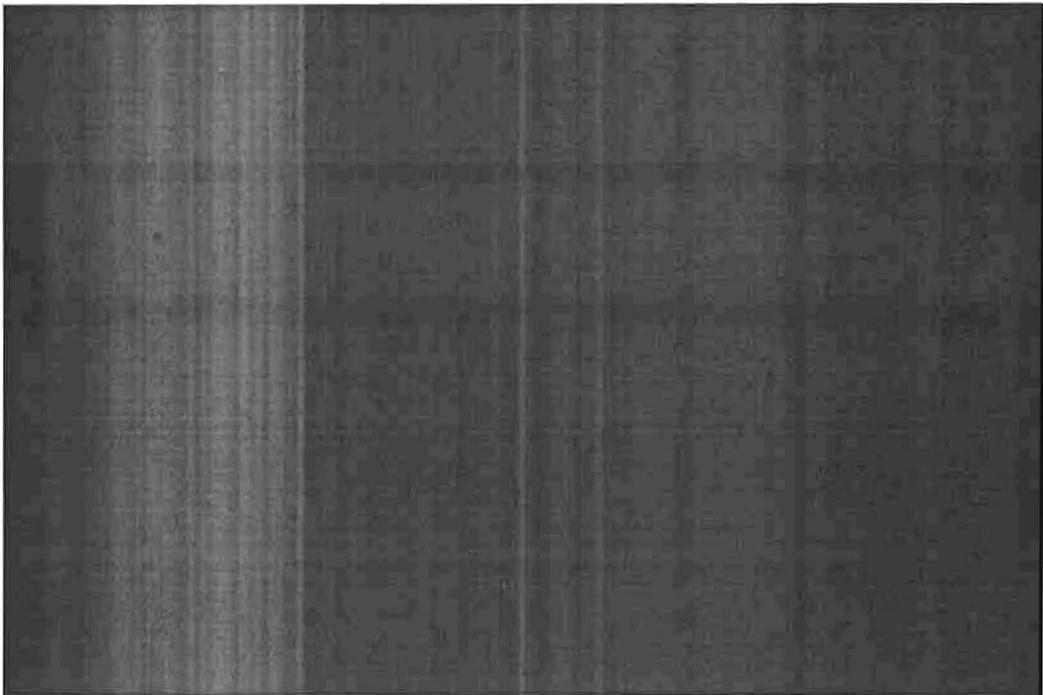
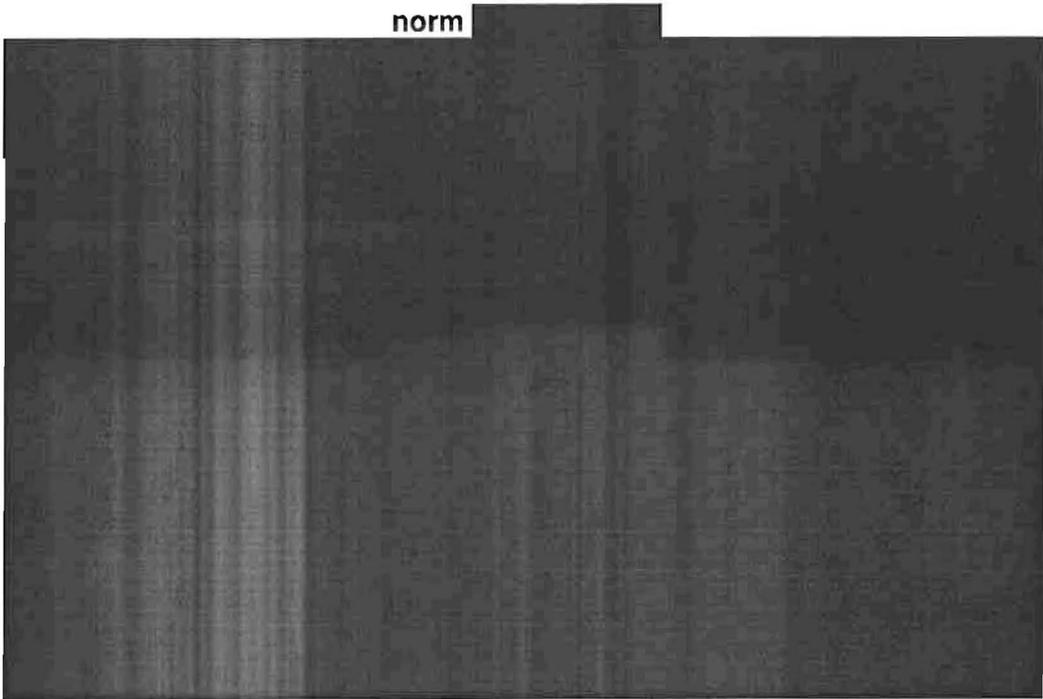


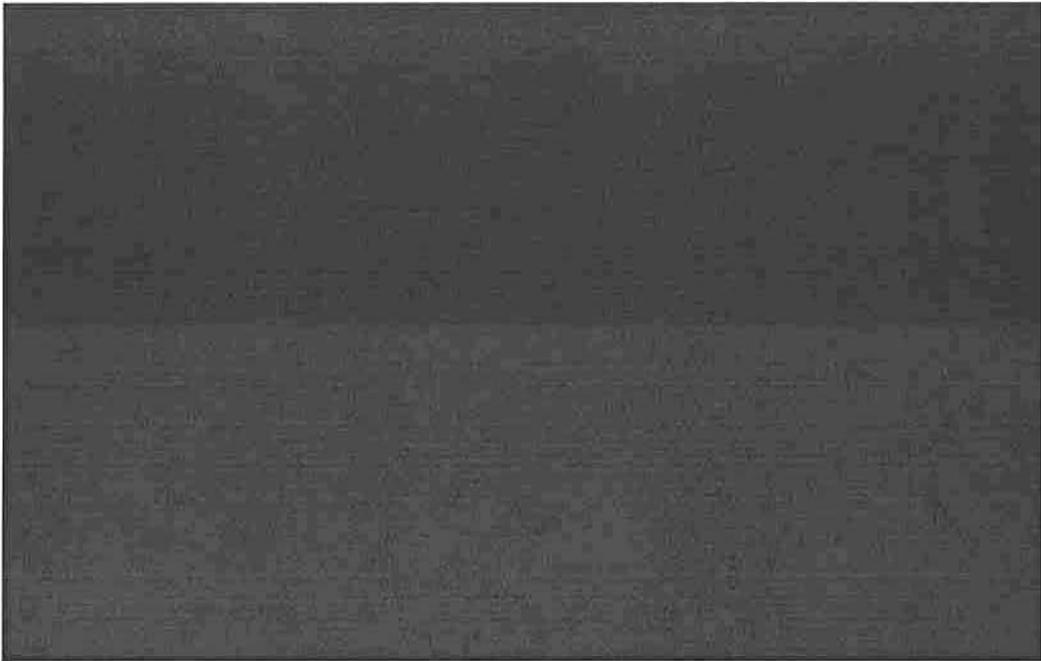
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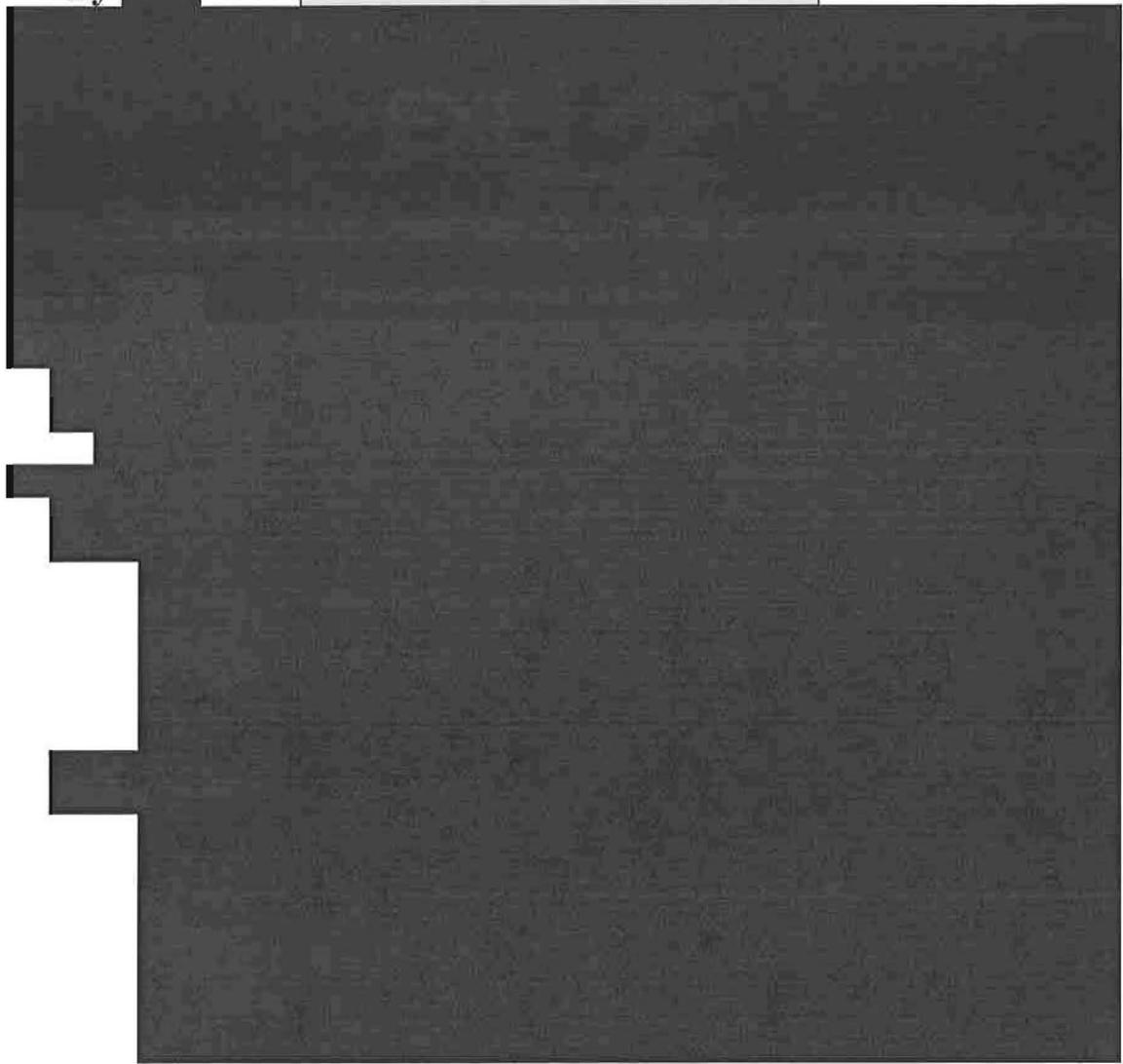






Becky

Confidential information redacted



Confidential information redacted

Laurie [REDACTED]



Confidential information redacted

PAUL [REDACTED]

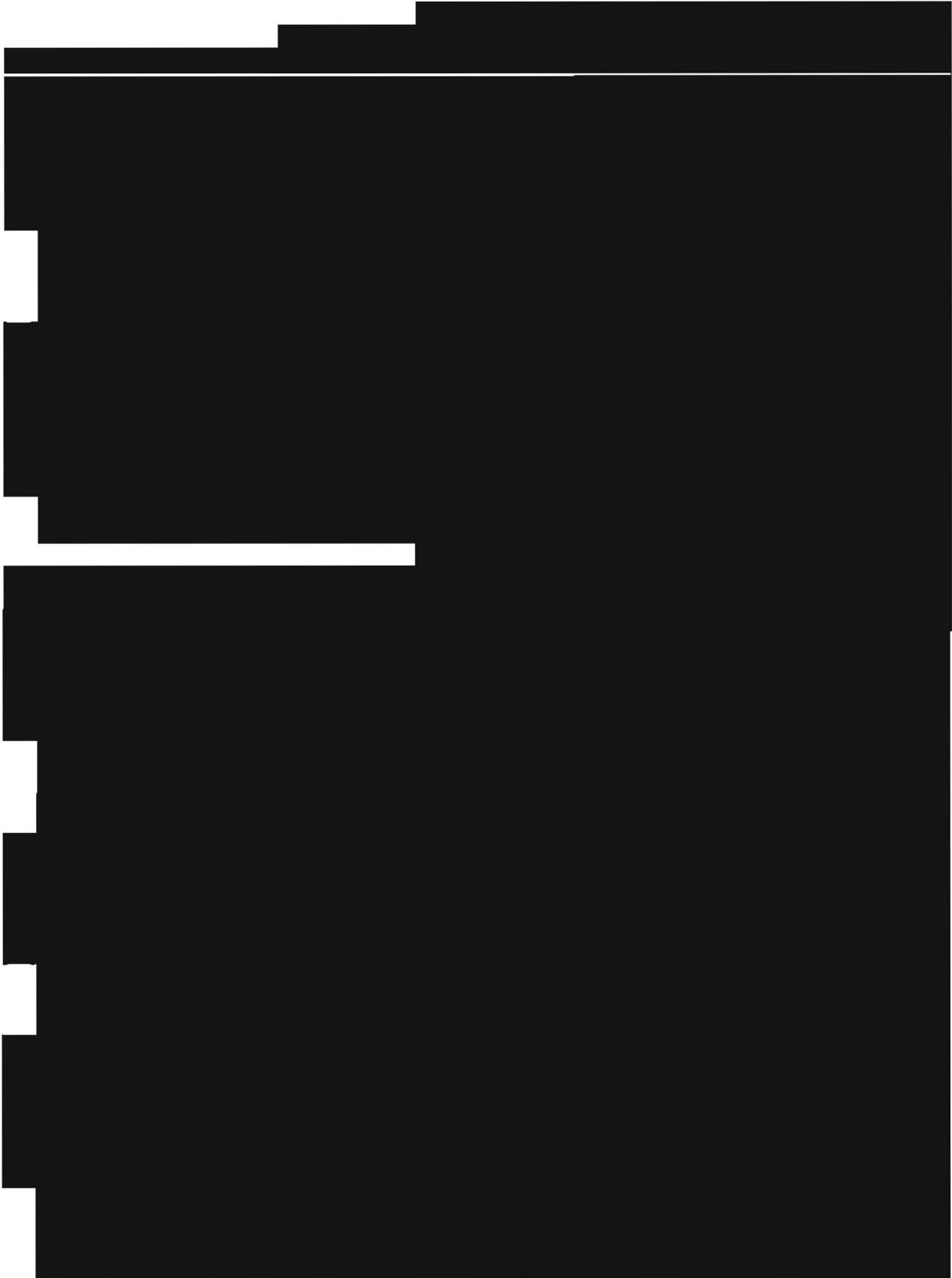
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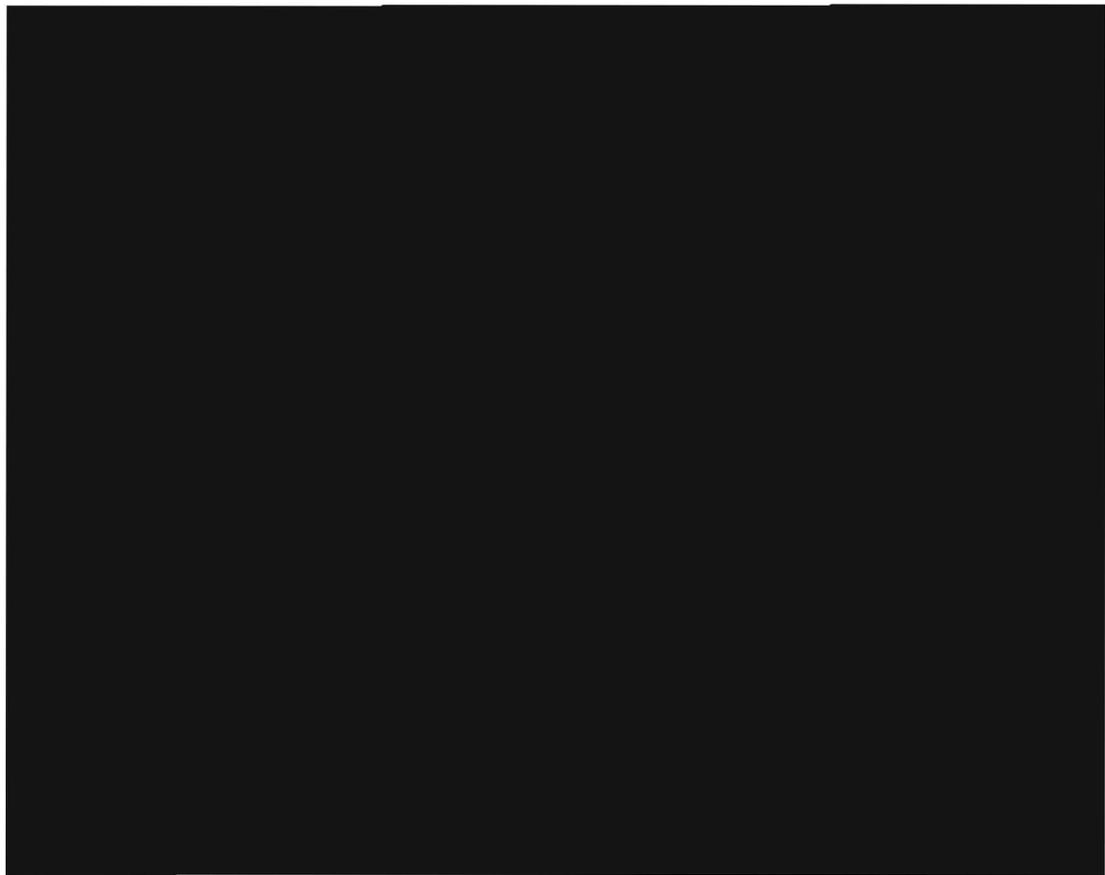


Our Team



Confidential information redacted

Michael [REDACTED]



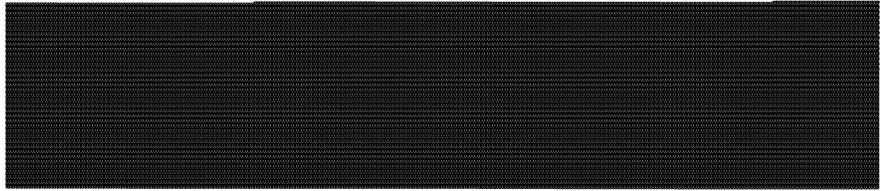
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Omer [redacted]
Email: [redacted]

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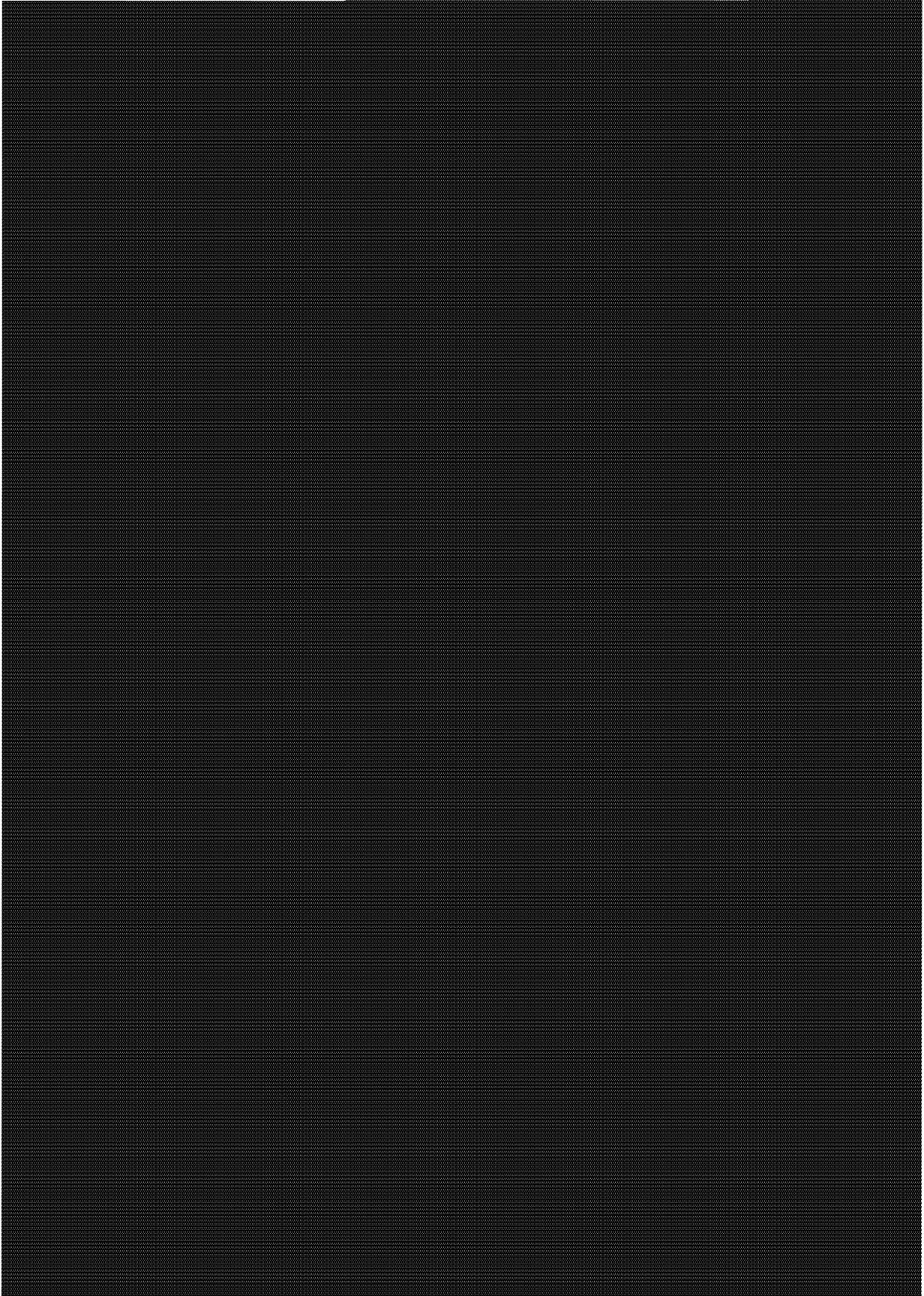


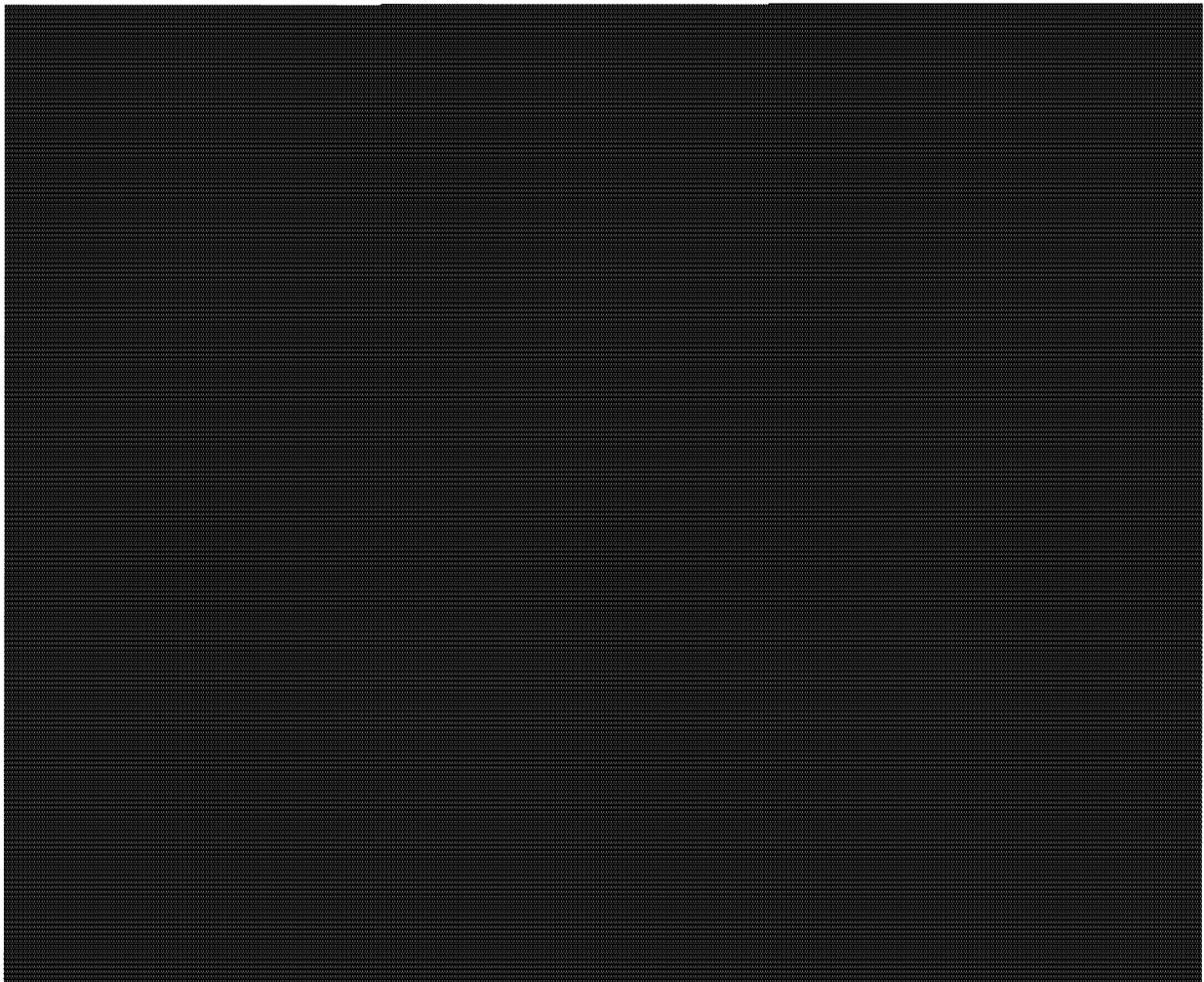
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Marc





		ONE WAREHOUSE		CONTRACT RATES			
		APPENDIX-D	APPENDIX-D1	Jan 1, 2013 - October 31, 2013			
		Total Est. Volume	Total Est. Volume	SUPPLIER COSTS		NHSLC COSTS	
		(1st 30 Months)	(1st 30 Months)				
INBOUND HANDLING SUMMARY:							
1 - 180 cases per code		6,123,246	40,000	1.40	8,572,544	1.40	56,000
181 - 299 cases per code		1,599,321		1.20	1,919,185	-	-
300 - 670 cases per code		3,204,562		1.05	3,364,790	-	-
670+ cases per code		2,976,765		0.95	2,827,927	-	-
Pallet Packs		4,910		7.60	37,319	-	-
Cases uncodded or unsaleable		6,929		6.00	41,572	-	-
Case Returns		4,535	50	5.00	22,677	5.00	250
Pallet Returns		14		15.00	207	-	-
Bottle Returns		392		1.00	392	-	-
TOTAL INBOUND HANDLING:		13,920,674	40,050		\$ 16,786,614		\$ 56,250
STORAGE SUMMARY:							
Cases 1 - 84 Days	79.00%	50,450,604	12,000	0.11	5,549,566	0.11	1,320
Cases 85 - 182 Days	12.71%	8,116,185	11,000	0.29	2,353,694	0.29	3,190
Cases 183 - 365 Days	4.55%	2,906,996	12,000	0.80	2,325,597	0.80	9,600
Cases 365+ Days	2.59%	1,650,772		1.40	2,311,081	-	-
Cases on Hold Status <365	0.87%	558,688		0.80	446,950	-	-
Cases on Hold Status >365	0.11%	72,603		1.40	101,645	-	-
Allocated products <84	0.10%	66,904		0.11	7,359	-	-
Allocated products>85	0.06%	35,451		0.29	10,281	-	-
Pallet Packs 1-84	59%	19,587		5.00	97,933	-	-
Pallet Packs 85-182	21%	6,948		12.90	89,629	-	-
Pallet Packs 183-365	11%	3,515		36.00	126,552	-	-
Pallet Packs 365+	6%	2,101		63.00	132,359	-	-
Pallets on Hold Status <365	3%	1,136		36.00	40,894	-	-
Pallets on Hold Status >365	0%	14		63.00	868	-	-
TOTAL STORAGE:		63,891,505	35,000		\$ 13,594,408		\$ 14,110
33,301	63,858,205						
OUTBOUND SUMMARY:							
Single Bottle		1,479,298	1,479,298		-	0.75	1,109,474
Automatic Orders (Cases)		13,705,006	13,705,006		-	0.15	2,055,751
Non-Automatic Orders (Cases)		62,653	62,653		-	0.25	15,663
Automatic Orders (Cases) - out of state		85,449			0.75	64,087	-
TOTAL OUTBOUND:		13,853,108	15,246,957		\$ 64,087		\$ 3,180,888
ACCESSORIAL SUMMARY:							
Advertising Material							
HNDLG PER CASE - SMALL		132		1.00	132	0.74	98
HNDLG PER CASE - LARGE		477		2.50	1,192	1.94	925
STRG PER CASE - SMALL		132		1.00	132	0.50	66
STRG PER CASE - LARGE		477		4.50	2,145	3.50	1,669
REC STRG PER CASE - SMALL		132		1.00	132	0.50	66
REC STRG PER CASE - LARGE		6,413		4.50	28,859	3.50	22,446
NON-AUTO MIN UPCHARGE		85		30.00	2,564	15.00	1,282
Blankets							
HANDLING / BLANKET		1,152		37.75	43,506	24.75	28,524
STORAGE / BLANKET		1,916		8.50	16,288	6.50	12,455
Extra Labor & Equipment							
W/H LABOR - REG		910		46.20	42,035	34.65	31,526
W/H LABOR - OT		-		69.25	-	52.00	-
W/H MAN & EQUIP - REG		22		88.20	1,945	66.00	1,456
W/H MAN & EQUIP - OT		-		107.40	-	81.00	-
OFFICE - REG		11		46.20	510	34.65	382
OFFICE - OT		-		69.25	-	52.00	-
Physical Inventory							
Cases - SUPPLIERS		2,085,541		0.18	375,397	0.11	222,041
Bottle Charge		38,015		0.18	6,957	0.09	3,421
Case Charge - NHSLC		42,989	see column L	0.18	7,738	0.13	5,589
Special Reports							
PER REPORT/LIST		44		36.00	1,588	25.00	1,103
Destruction							
PER CASE (0 to 55)		3,816		5.00	19,079	3.80	14,500
PER CASE 56+		15,269		3.85	58,786	3.00	45,807
Labeling							
Cases (0 to 55)		27,861		3.10	86,368	2.50	69,652
Cases (56 to 99)		31,321		2.50	78,302	2.00	62,642
Cases (100 to 299)		56,480		1.55	87,544	1.25	70,600
Cases (300+)		47,064		0.90	42,358	0.75	35,298
Minimum (upcharge)		1,152		30.00	34,574	13.50	15,558
Relabeling							
Cases relabeled		46,339		1.75	81,093	1.00	46,339
Minimum (upcharge)		52		30.00	1,572	15.00	786
Duplicate Labels							
Duplicate labels		731		1.00	731	1.00	731
Min Invoice Chg							
Min Invoice Upcharges		185		30.00	5,542	15.00	2,771
					\$ 1,027,072		\$ -

SUPPLIER COSTS	\$ 31,472,100	NHSLC COSTS	\$ 3,251,248
Grand Total	\$ 34,723,428		
Cost/Case	\$ 2.51		

Alternate Rate Sheet: Costs Borne by Suppliers			
		Total Estimated Cost	
		\$	
	\$ 1.96		
	0.92	\$	5,633,386
	0.92	\$	1,471,376
	0.92	\$	2,948,197
	0.92	\$	2,738,624
	10.00	\$	49,104
	5.00	\$	34,643
	5.00	\$	22,677
	10.00	\$	138
	1.00	\$	392
		\$	12,898,537
	0.11	\$	5,549,566
	0.30	\$	2,434,856
	0.80	\$	2,325,597
	1.25	\$	2,063,465
	0.80	\$	446,950
	1.25	\$	90,754
	0.11	\$	7,359
	0.30	\$	10,635
	5.00	\$	97,933
	10.00	\$	69,480
	30.00	\$	105,460
	50.00	\$	105,047
	30.00	\$	34,078
	50.00	\$	689
		\$	13,341,870
	-	\$	-
	-	\$	-
	-	\$	-
	0.75	\$	64,087
		\$	64,087
	0.74	\$	98
	1.94	\$	925
	0.50	\$	66
	3.50	\$	1,669
	0.50	\$	66
	3.50	\$	22,446
	15.00	\$	1,282
	24.75	\$	28,524
	6.50	\$	12,455
	34.65	\$	31,526
	-	\$	-
	66.00	\$	1,456
	81.00	\$	-
	34.65	\$	382
	52.00	\$	-
	0.11	\$	222,041
	0.09	\$	3,421
	0.13	\$	5,589
	25.00	\$	1,103
	3.80	\$	14,500
	3.00	\$	45,807
	2.50	\$	69,652
	2.00	\$	62,642
	1.25	\$	70,600
	0.75	\$	35,298
	13.50	\$	15,558
	1.00	\$	46,339
	15.00	\$	786
	1.00	\$	731
	15.00	\$	2,771
		\$	697,734
		\$	27,000,000
		\$	1.95
		\$	10,800,000



570 Polaris Parkway
Westerville, Ohio
43082
Telephone: 905 366-7691
Mobile: 416 [REDACTED]
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August 3, 2012

Mr. Craig W. Bulkley
Director Division of Administration
NH State Liquor Commission
P.O. Box 503
Concord, NH, 03302-0503

VIA Email: cbulkley@liquor.state.nh.us

Reference: RFP 2012-14 – Warehouse Services for Spirits & Wine Product

Dear Mr. Buckley,

Below please find Exel's Best and Final Offer (BAFO) and response to the questions on the several areas where the Commission is specifically focused. We would appreciate the opportunity to present our Best and Final Offer as we believe our commercial model is unique, and we believe there will still be questions even though we have done our best to explain it below.

I. Financial

Question:

Using the template reviewed at your phase II presentation, please provide your lowest possible rates.

Answer:

It is our proposal that the cost of warehousing should be fully funded by the Product Suppliers. Therefore, there are no rates for the NHSLC under our proposal. To minimize change we recommend maintaining the categories of services that are in place today. Only the rates for each service will change.

Under our proposal warehousing will become a profit center for the NHSLC. The Commission will set the Warehouse Service Charges for the Product Suppliers. Exel will pay the NHSLC the difference between the revenues collected from Product Suppliers, and the rates listed in Column Y of the attached spreadsheet "NH BAFO Summary Final - Aug 3 2012".

According to the Exel Financial Analysis Confirmation spreadsheet provided by the NHSLC, the Commission will save \$3.1 M over the initial 30 month term compared to the rates that will be coming into effect on January 1, 2013.

Again utilizing the Exel Financial Analysis Confirmation spreadsheet provided by the NHSLC, the Commission could generate as much as \$4.0 M in additional net income over the initial 30 month term. This assumes the NHSLC maintains the rates coming into effect on January 1, 2013 for Product Suppliers. It would be our recommendation that the NHSLC roll back some of the planned 14% increase in rates to the Product Suppliers. In any event, our rates represent a reduction in cost to the industry of \$7.1 M, and depending on the NHSLC a potential total improvement to its net income of \$7.1 M.

Question:

December 26, 2012

Exel 000676



Please confirm that those rates will not change for the first 30 months of the contract.

Answer:

We can confirm that our rates will not change over the first 30 months of the contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

Question:

If possible, please submit an alternative rate structure that provides for rates over the entire twenty-year contract

Answer:

Our proposal for rates over the entire twenty-year contract is that we maintain the Warehouse Service Charges for Product Suppliers scheduled to come into effect on January 1, 2013. Every five years these rates will rise by 5%. Please see the rates listed in Columns AE - AG of the attached spreadsheet "NH BAFO Summary Final - Aug 3 2012". We would like the opportunity to discuss these rates as over the twenty years it would make sense to have them more representative of the costs incurred to deliver the services.

Again, our proposal is that there are no costs for the NHSLC. The commission will save \$26 M over the contract life of 20 years, and Product Suppliers will have certainty of costs over the term of our agreement. Similar, to the 30 month rates, the NHSLC could choose to set up the warehouse as a profit center.

Question:

Please confirm that the twenty-year rates will not change.

Answer:

We can confirm that our rates will not change other than the scheduled increases over the entire twenty-year contract. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%. Also, our commitment is contingent on inflation staying at historic (last 15 year) levels.

II. Transition

Question:

Please confirm that the facility in your proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

Answer:

We confirm that the facility in our proposal and the solution for providing all services required by the RFP will be fully operational on or before October 31, 2013.

As stated in Exhibit C, paragraph 26 to Appendix E, p.67, all costs associated with the transfer of Product and control... shall be borne by the NHSLC... As a result, we have not



included these costs in our rates. We respectfully point out that the cost of transition includes duplicated fixed costs while the new facility ramps up to handling all products and shipments to all stores, and the old facilities similarly ramp down.

Question:

Please confirm the identity of those individuals who will be located in New Hampshire during the construction of or transition to the proposed facility (Appendix C, III p.43).

Answer:

The following individuals will be on the ground in New Hampshire to support the construction and transition. We attached bios for the majority of them.

Account Management Role: Paul Ledger

General Contractor role:

- Paul Roy from Pro Con Construction
- There will also be a full time site supervisor from Pro Con Construction

Exel Real Estate:

- Steve Hess
- Larry Wright

Exel Construction: Mike Hecker

- This role ensures that the building design and improvements are exactly suitable for operational functions. They represent operations with the General Contractor and the Real Estate team

Project Management: John Flanagan

IT Systems: Becky Ross

Industrial Engineering: Omer Rashid

Question:

If you have constructed or transitioned to a facility similar to the facility in your proposal please identify the project and provide contact information for your client (Appendix C, II page 43 of the RFP)

Answer:

We have extensive experience with both constructing new facilities, and transitioning into existing facilities.

In terms of constructing new facilities we offer the following projects

LION INDUSTRIAL TRUST

We have developed over 3 million square feet of distribution facilities partnering with Lion Industrial Trust, based in Dallas, Texas.

- A pair of 250,000 square foot buildings known as Hardy Distribution Center, located in Houston, TX
- Three buildings in the Carlisle Distribution Center (575,000 square feet, 800,000 square feet, and 310,000 square feet) located in Carlisle, PA
- A 736,000 square foot building at Laraway Distribution Center, in Joliet, IL
- A 700,000 square foot building in Byhalia, MS occupied by Carrier Corporation

Mr. Jim Hendricks
214-647-4902

In terms of transitioning into new facilities we offer the following projects



Since 2007, Exel transitioned into 7 facilities, and out of 3 facilities in order to maintain services during an economic boom in the province of Alberta

Mr. Alain Maisonneuve
Director, Liquor and Strategic Services
alain.maisonneuve@aglc.ca
780-447-8731

Question:

Please confirm that you will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013.

Answer:

We will provide a transition bond for completion of all necessary items to make the facility fully operational on or before October 31, 2013. It is our perspective that the transition bond covers situations where we are at fault for the facility not being fully operational on or before October 31, 2013.

III. Contract performance bond

Comment:

A contract performance bond is required by Section 1.9, page 11 of the RFP. \$1,000,000 was provided as an example of the amount of the contract performance bond. The amount of the bond will be discussed with any vendor that is selected for contract negotiations.

Response:

Acknowledged and understood.

IV. Final Contract

Question:



Even if you have done so before, please identify and explain every exception that you intend to take.

Answer:

The following are the paragraphs we wish to discuss with the NHSLC and the reasoning for wanting to make a change. As per your guidance these paragraph references relate to Exhibit C of the P-37

Paragraph 5.2

As per the answer to question 18 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to conform to Sections 1.10.3 and 1.10.4 of the RFP.

As per the answer to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS this clause needs to be amended to enable the parties to review rates if the actual volumes or profile of work change materially over the contract life. As our rates for the first 30 month period are based on the data provided by the NHSLC though the RFP process, if the actual volumes or profile of work vary materially from the data provided by the NHSLC in the RFP process then either party should have the opportunity to request a review of the rates. Exel proposes that materially is greater than 10%.

Paragraph 14.1.2

As further clarified in the answer to question 33 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS the NHSLC requires the maximum coverage from all perils to its product. This answer further invites vendors to propose an alternative to using all perils property insurance fire and extended coverage insurance to achieve maximum coverage. Exel will provide coverage through its warehouse legal liability policy. This policy is designed to meet the unique needs of all our clients across North America. As such, our warehouse legal liability insurance is written to provide whatever level of coverage is listed in our contract with our client. Therefore, if our contract states Exel is liable for all risks for 100% of the acquisition cost of any and all liquor and wine products owned by the NHSLC up to a total of two million dollars (\$2,000,000), that is what the policy will cover. In this case, all risks include fire and floods; therefore a separate fire and extended coverage policy would not be required. Please note that we believe the NHSLC inventory value to be \$6,000,000. This includes the inventory in the Concord warehouse and the private provider warehouse. If this is the case our insurance policy will cover the \$6,000,000 figure.

Paragraph 14.1.3

As stated in the paragraph above Exel will provide coverage through its warehouse legal liability policy, not a property policy. As a warehouse legal liability insurance policy it covers Exel's liability for loss or damage to the goods. In the event of loss or damage to the goods, the NHSLC would make a claim to Exel and Exel would pay that claim to the Commission. Exel would then recover from its insurance company. The benefit for the NHSLC is that it does not have to deal with Exel's insurance company. This also negates the need to have the NHSLC named as a loss payee

Paragraph 14.1.4

We would like to add a sentence clarifying that the performance bond can be drawn upon in the event of a material breach for the amount of damages owed.

Paragraph 14.3



This paragraph requires the insurer to endeavor to provide the NHSLC written notice of cancellation or modified of the policy. This paragraph is inconsistent with Appendix C, VII, 8, page 45. Additionally, in accordance with the new Accord standards insurance companies no longer provide this type of notice. The insurance company will only provide notice to Exel. As suggested in the answer to question 36 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS Exel would like to recommend that that upon receiving notice from its insurance company Exel will in turn to provide notice to the NHSLC. The notice period from our insurance company is 30 days.

Paragraph 16

We believe that the references to "Event of Default" should read "material breach". This is merely a tidying up of the agreement language and is needed to mesh with the changes in Paragraph 8 of Exhibit C.

New Paragraph

It is our perspective that we should have a mutual exclusion of indirect and consequential damages. These are not an insurable item, and committing to cover these damages is not a good business practice. Unless a vendor is large enough it is likely they could not stand behind this commitment. If we cannot completely exclude these damages we would like to agree on the events that trigger these types of damages and maximum liability levels.

New Paragraph

As we discussed in our presentation, the NHSLC should have security and continuity in its business. To ensure this the NHSLC or a new provider should be able to continue operations in the facility, and after purchasing appropriate licenses utilize the IT systems integrated with the NHSLC's IT systems.

To this end we wish to add a paragraph outlining that in the case of early termination the NHSLC has the obligation to take an assignment of the lease, and purchase assets tied to the building (e.g. racking), and IT interface development costs at their net book value. Exel will redeploy all material handling equipment and other mobile assets or make them available to the NHSLC at their Net Book Value. Further, upon the contract expiring all the assets will be available to the NHSLC free of charge.

V. Performance of contract

Question:

Please confirm that you and your employees will submit to reasonable background checks

Answer:

We confirm that our employees working on this account will submit to reasonable background checks.

Question:

Please confirm the identity of the persons who will be located in New Hampshire to run the proposed facility for the first 30 months

Answer:



The following individuals will lead the operation in New Hampshire.

Director of Operations: Robert Maclellan

Account Director Role: Paul Ledger

General Manager: Marc Belanger

Operations Manager: Norm Hollingsworth

Operations Manager: Frank Ayala

Warehouse Supervisor: Mike Shay

Warehouse Supervisor: Juan Rivera

Human Resources Support Role: Laurie Parent

Question:

Please identify your redundant warehouse site

Answer:

It is very expensive to have vacant warehouse space, idle material handling equipment, and dormant IT infrastructure. Thus, it is our perspective that it is unrealistic to have a truly redundant warehouse site. We do have clients in the pharmaceutical industry that maintain duplicate inventory in the same building on either side of a fire wall, but that is the extent of what we see in terms of permanent redundancy.

What we recommend is having a target list of sites that are temporarily vacant that may be utilized on short notice until the permanent site is repaired or a suitable permanent alternative is found. It is too early to identify redundant warehouse space. The operation does not go live for another 15 months. Too much will change regarding vacant space in this timeframe.

Through our Business Continuity Planning (BCP) process we will identify multiple sites as potential redundant warehouses. Our BCP for this operation will be completed before the first case is received as part of the start-up phase of the operation. Then as part of our BCP we will review and update our list of candidate sites for redundancy on a quarterly basis.

In preparation to respond to this question we completed a market survey of New Hampshire and found 14 sites with between 50,000 and 200,000 square feet available. Though not suitable as permanent sites for this operation many of them could be suitable in the case of a disaster.

At this point in time, we would identify this site as a good candidate to be a redundant site: 59 Daniel Webster Highway, Merrimack, NH 03054.

- We considered this site as a permanent option, but when we toured it we found it demised multiple times.
- 280,000 square feet are available
- Most of it is 32 feet clear
- 26 dock doors
- Centrally located in New Hampshire

Exel is in a unique position to provide redundancy options. We have a very capable real estate team, and given our credit worthiness we can act very quickly. We have a very large client base in the North Eastern United states. A number of these sites may be options for

redundancy. As these sites are in operation they have IT systems, material handling equipment, and established management and team members. For example currently we have,

- 3 sites in Albany NY
- 11 site in Boston MA
- 26 sites in North Eastern PA
- 9 sites in New York NY
- 2 sites in Rochester NY

VI. Current & Future Data Requirements

Question:

Please confirm that you will be responsible for your costs to make modifications and updates to your environment to stay current with the future system.

Answer:

We can confirm that we are responsible for our costs to make modifications and updates to our environment to stay current with future system at the NHSLC. Consistent with the answer provided to question 22 from the May 1, 2012 CLARIFICATIONS AND AMENDMENTS.

If you have any questions regarding this Best and Final Offer, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Lyons".

Scott Lyons
Senior Director

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, August 03, 2012 4:07 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US)
Subject: Exel's Best and Final Offer
Attachments: Robert MacLellan.doc; Becky Ross.doc; CREA - Our Team.12.pdf; John Flanagan.pptx; Laurie Parent Bio.docx; Michael Hecker Profile.docx; Mike Shea.doc; Norm Hollingsworth.doc; Paul Ledger.doc; Profile - Omer Rashid (Jul 2011).docx; Resume Marc Belanger.doc; NH BAFO Summary Final - Aug 3 2012.xlsx; Best and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012.docx

Attached please find a number of files.

The file titled Best and Final Offer to NHSLC for RFP 2012-14 Final Aug 3, 2012 provides the response to the questions posed in your email note.

The Exel file lists our rates referred to in our response.

The remaining word and power point slides are the Bios and resumes of our team members who will be delivering our solution if we are successful.

Thank-you for your consideration.

Scott Lyons

Exel
90 Matheson Blvd. West, Suite 111
Mississauga, Ontario
L5R 3R3
Canada

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Friday, August 03, 2012 4:32 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Patrick Bennett (EXEL US); Robert Rujevcan (EXEL US)
Subject: RE: Exel's Best and Final Offer

Two quick comments.

First, as stated in our letter - if possible we would appreciate the opportunity to discuss our BAFO either in person or by phone.

Second, regarding our twenty-year rates. We indicated that the rates will rise by 5% every 5 years and showed what the 5% increase would represent across 3 time periods. As we stated in our letter we would like to discuss migrating the rates to something more consistent with costs. We are concerned that if rates rise by 5% total revenues might rise by more than 5% which is not our intent. We only want total revenues to rise by 5% in line with what we expect with costs. We would look for the total revenue per case to follow a progression from \$2.27 to \$2.39 to \$2.51 to \$2.64. If in analyzing our numbers you find the total revenue per case not following this progression then we would appreciate the opportunity to discuss. In the meantime, we will continue our analysis of the figures.

Thanks,
Scott Lyons

Telephone: 905 366-7691
Mobile: 416 [REDACTED]

From: Craig W. Bulkley [<mailto:cbulkley@liquor.state.nh.us>]
Sent: Friday, August 03, 2012 4:12 PM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel's Best and Final Offer

Received; thank you



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
☎ (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559
✉ cbulkley@liquor.state.nh.us

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From: Scott Lyons (EXEL CA) [<mailto:Scott.Lyons@exel.com>]

Sent: Friday, August 03, 2012 4:07 PM

To: Craig W. Bulkley

Cc: George P. Tsiopras; Greg Foreman (EXEL US)

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Telephone: 905 366-7691

Mobile: 416 [REDACTED]

www.exel.com

From: Scott Lyons (EXEL CA) <Scott.Lyons@exel.com>
Sent: Monday, August 06, 2012 12:35 PM
To: Craig W. Bulkley
Cc: George P. Tsiopras; Greg Foreman (EXEL US); Fred Takavitz (Exel US)
Subject: RE: Exel's Best and Final Offer

Craig,

Further to my note sent to you last Friday afternoon, there is an error in the prices sent for the 20 year rates. Please ignore columns AE – AG in our spreadsheet.

Our goal with the 20 year rates is to receive a aggregate revenue per case of \$2.27 from Product Suppliers in the first year, and then have 5% increases in this aggregate revenue per case every 5 years. Thus, the aggregate revenue per case from Product Suppliers would be as follows:

- 2013 – 2017: \$2.27
- 2018 – 2022: \$2.39
- 2023 - 2027: \$2.51
- 2028 – 2032: \$2.64

If the state is interested in our proposal for the 20 year rates, we would be happy to complete the work necessary to propose rates per service that will result in the aggregate revenue per case figures listed above.

We would appreciate the opportunity to discuss our BAFO either in person or by phone.

Sorry for the inconvenience.

Scott Lyons

Telephone: 905 366-7691

Mobile: 416 [REDACTED]

From: Craig W. Bulkley [mailto:cbulkley@liquor.state.nh.us]
Sent: Monday, August 06, 2012 7:46 AM
To: Scott Lyons (EXEL CA)
Subject: RE: Exel's Best and Final Offer

received



Please consider the environment before printing this e-mail.

Craig W. Bulkley
Director
Division of Administration
NH State Liquor Commission
 (603) 230-7008
FAX (603) 271-3897
Cell: (603) 490-1559

✉ cbulkley@liquor.state.nh.us

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