

February 24, 2025

**Attention: Andrew Stephens**

Beverage Container Management Board  
1165 Clark Builders Place  
5555 Calgary Trail NW  
Edmonton, AB

Dear Mr. Stephens,

RE: Return Margin Expert Draft RFP and Proponent List

Attached you will find the draft return margin RFP for final comment by the Designated Registered Participants (DRPs) and Registered Participants (RPs) to the HCR. In addition, we would ask that DRPs and RPs review the distribution list below and provide comment on any companies that may be conflicted. We would also invite DRPs and RPs to submit companies not on this list that may have the necessary qualifications for this project.

Yours truly,

**Chris Lavin**

National Consulting Leader, MNP LLP

## APPENDIX A: DISTRIBUTION LIST

### COMPANY

The Brattle Group

Catalyst Consulting LLC

Charles River Associates (CRA)

Concentric Energy Advisors

Economic Research Associates Limited

Energy and Environmental Economics (E3)

Exeter Associates, Inc.

FCS Group

InterGroup Consultants

London Economics Int'l

Pacific Economics Group

Power Advisory LLC

Queens School of Business

ScottMadden Management Consultants

## **APPENDIX B: RETURN MARGIN DRAFT RFP**



**MNP**

# Return Margin Expert

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Prepared for Beverage Container Management Board

February 24, 2025

Prepared by MNP

**Chris Lavin** FCMC

National Consulting Leader

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# Background

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MNP LLP (MNP) has been retained by the Beverage Container Management Board (BCMB) as its Data Collection Agent (“DCA”) for the purpose of analyzing the costs associated with operating approximately 219 Alberta based beverage container return depots (Depots) and providing recommended Handling Commissions (HC). The HC is a payment per empty beverage container (Container) to Depots to take Containers from consumers, repay to consumers the Deposit paid when the Container was purchased, sort the Containers by material type, and store the sorted Containers until they are retrieved by a manufacturer’s agent to be re-used or recycled. Designated Registered Participants (DRPs) to the HCR typically include Depots, manufacturers and their representatives.

Alberta Depots are regulated by the BCMB, and HCs are set based on regulatory cost of service principles. Traditional infrastructure utilities are cost of service regulated and earn a return on un-depreciated equity invested (rate base). In contrast, Depots have relatively small capital investments. The provision of a return on equity invested was deemed in the Court of the Queen’s Bench of Alberta Judicial District of Edmonton by Honourable Madam Justice Myra B. Bielby to be inadequate compensation for Depots to effectively operate. A Return Margin Methodology Policy (the “Policy”) has been approved for use by the BCMB. The Policy prescribes a Methodology based on the general premise that, in the case of Depots, pre-tax return is analogous to profit in a non-regulated context and is calculated as a percentage (the “Pre-tax Return Margin”) of revenue. The Policy directs the DCA to retain an expert who will use the prescribed Methodology to make a recommendation on the quantum of the Pre-tax Return Margin to use in the calculation of HCs. The expert is further asked to direct the DCA on how the Pre-tax Return Margin recommended should be applied to determine the Pre-tax Return for the Depots.

This RFP is seeking a consulting firm to be the Return Margin Expert and provide well supported and defensible recommendations on the appropriate total Pre-tax Return Margin as well as Pre-tax Return Margins for operating costs and deposits to apply from 2025 to 2027 for Alberta Depots.

# Confidentiality

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MNP reserves the right to share RFP responses with the BCMB to the extent required to make an informed decision. Additionally, MNP reserves the right to share RFP responses with BCMB staff after the completion of the process. All such persons will have appropriate confidentiality obligations. RFP responses will not be shared with other RFP Respondents or with DRPs.

## Terms of Reference

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- The Return Margin recommendations will comply with the BCMB's Return Margin Methodology Policy document (see Project Description section for listing of documents to be reviewed).
- The Return Margin recommendations will be determined in a manner consistent with current regulatory precedents in Canada and the United States of America.
- The Return Margin Expert's Report will be of a depth and quality expected if it were to be filed with a public utility regulatory authority.
- The Return Margin recommendations will provide Depot owners (as a whole) with an opportunity to earn a fair return consistent with similar businesses in terms of size, capital invested, business risks, revenue fluctuations (e.g., seasonality), availability of labour, corporate structures, and services offered.
- The Return Margin recommendations will not consider the ownership of Depots (e.g., sole proprietors, private corporations and registered charities).
- The Return Margin Expert will review and understand information from the 2019, 2016, and 2013 HC review processes (see Section 5 for a list of historical documents).

## RFP Documents

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Documents referenced in this RFP document will be made available to Respondents through a secure website and upon request to MNP. Copies of all documents referenced in this RFP will also be made available to the successful RFP Respondent.

## Project Description

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The Return Margin Expert will be required to review and understand the following documents. Please note that these documents are for information purposes only and are not indicative of the requirements, expectations, form, or methodology to be used in the delivery of this contract.

- The current BCMB policy document entitled *Return Margin Methodology Policy*.
- Historical data on Total Depot System operating parameters and statistics that may be required for analysis.
- Review the 2019 HC documents to the determination of the Return Margins:
  - DCA Phase I Report
    - i. Doc 111: DCA 2019, Phase 1 Report Reissued; 2020
  - Return Margin Recommendations

- I. Doc 41 – 52: Return Margin Expert Final Report, 2019
    - o Return Margin Related Information Requests and Responses
      - I. Docs 53 – 54, Docs, 56 – 74, 2019
- Review the 2016 HC documents to the determination of the Return Margins:
  - o DCA Phase I Report
    - i. Doc 461: DCA 2016 Phase I Report; 2016
  - o Return Margin Recommendations
    - i. Doc 026 – 034: Return Margin Expert Final Report
  - o Return Margin Related Information Requests and Responses
    - i. Documents 483 – 487
- Review the 2013 HC documents related to the determination of the Return Margins:
  - o DCA Phase I Report
    - i. Doc 25: DCA 2013 Phase I Report, November 30, 2013, pages 97 – 98, 123.
  - o Return Margin Recommendations
    - i. Doc 19: Return Margin Expert Final Report, 131 pages.
    - ii. Doc 19A: Return Margin Expert Final Report – App A10+, 74 pages.
  - o Return Margin Related Information Requests and Responses:
    - i. Doc 45: Return Margin Calculation Options.
    - ii. Doc 68: HCR 2013-2014 Written Statement and Evidence of ABCC and ABCRC, pages 1 – 88.
    - iii. Doc 73: HCR 2013 ABDA Rebuttal Statement April 4, 2014, pages 1 – 63.
    - iv. Doc 78: 2013 BCMB HCR – Facilitator’s Report FINAL April 30, 2104, pages 3 – 4.

The BCMB’s Return Margin Methodology Policy requires that the Pre-tax Return Margin rely on analysis of the Return Margin of Risk Comparable Entities. The Return Margin Expert will provide deliverables and participate in activities that include:

- A report with recommended Pre-tax Return Margin for the period 2025 to 2027.
  - o A working sensitivity model for the calculation of the Pre-tax Return Margins (form and function of the model to be determined after discussions with the successful proponent).
- Written responses to information requests from Designated Registered Participants (DRPs).
- Meetings with MNP, the facilitator, the BCMB and/or DRPs as requested (likely conference calls).
- Support for arbitration if required, availability to be cross examined by DRPs and at any panel, arbitration or hearing if required.

The report and recommendations should include:

- A discussion of:



- The theoretical basis for awarding a Pre-tax Return Margin for the Depot System.
- The Pre-tax Return Margin should be calculated from a “top down” perspective – that is deriving the Pre-tax Return Margin for the overall Depot System.
- A section outlining the methodology used, historical data considered, and the associated assumptions made in the calculation of the Pre-tax Return Margin (e.g., Canadian and United States precedence considered, rationale for the data selected, etc.).
- The recommended Pre-tax Return Margin must be derived as one Pre-tax Return Margin for the overall Depot System. The recommendation should include discussion of the following:
  - The basis for awarding a total Pre-tax Return Margin for the overall Depot System.
  - The comparable industries used as a basis of deriving the total Pre-tax Return Margin, including addressing the suitability of retail, wholesale, and / or other industries.
  - An explanation of reasons to include or exclude data from US firms.
  - An explanation of the time frame for the sample of firm data.
  - The difference between risks for the Depot System and the firms or the industry that the Depot System is compared with; and, to propose an approach to quantify the impacts of such differences on the recommended Pre-tax Return Margin.

## RFP Response Requirements

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In your response, please provide the following:

- Methodological Approach
  - A description of the approach to the required scope of work, the data to be used, the method(s) of data analysis to be employed, etc.
  - A detailed work plan.
  - A work schedule and deliverable dates.
- Qualifications
  - Description, timing and scope of similar work assignments.
  - Listing of key personnel to be used, qualifications to complete the work and resumes.
- Schedule
  - Statement committing to the schedule noted in the Schedule Section below.
- Pricing
  - Pricing proposal, as per the Pricing Section below.

# Pricing

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Please provide a price that outlines a fixed fee for all work performed up to the delivery of the final report with recommended Pre-tax Return Margins and the working sensitivity model (see the Schedule Section below) plus an hourly fee schedule for all work performed subsequent to the delivery of the report and model.

# Schedule

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The following are the key dates for this assignment:

RFP issued to Vendors	March 11, 2025
RFP Respondents request to access RFP Documents	March 18, 2025
RFP questions from Vendors	March 18, 2025
MNP response to questions	Within three business days
RFP response submissions to MNP	March 25, 2025
Contract award	April 8, 2025
Draft Report submitted to MNP	May 17, 2025
MNP feedback received	May 24, 2025
Meeting to discuss MNP feedback , if required	May 29, 2025
Final Report submitted to MNP	June 3, 2025
Designated Registered Participants (DRPs) and Registered Participants (RPs) provide Information Requests (IRs) to the Return Margin Expert	June 19, 2025
Return Margin Expert Responds to IRs	July 9, 2025
Review of DCA Phase I Report	October 30, 2025
Respond to Information Requests	November 27, 2025 – December 12, 2025
Hearings / arbitration, if required	April 2026 – December 2026

# Contact Information

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All correspondence related to this RFP should be directed to:

Chris Hartman, MNP LLP  
10235 101 Street NW Suite 1700  
Edmonton, AB T5J 3G1  
780-733-8617  
chris.hartman@mnp.ca

# Terms and Conditions

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1. All questions and any form of communications with MNP regarding the RFP must be in writing via e-mail and only be directed to Mr. Hartman unless otherwise advised in writing by MNP.
2. The RFP Respondent, its employees, subcontractors, and agents shall keep strictly confidential all information concerning the RFP or any of the business or activities of MNP, the BCMB, or third parties acquired as a result of participation in the RFP.
3. The RFP Respondent must fully disclose, in writing to MNP on or before the closing date of the RFP, the circumstances of any possible conflict of interest or what could be perceived as a possible conflict of interest if the RFP Respondent were to become a contracting party pursuant to the RFP. In particular, the RFP Respondent needs to disclose if any work has been completed for any beverage manufacturers in Canada as well as any of the following organizations or their affiliates: Alberta Beverage Container Recycling Corporation (ABCRC), Alberta Bottle Depot Association (ABDA), Brewers Distributor Ltd. (BDL), Canada's National Brewers (CNB), and Alberta Beer Container Corporation (ABCC).
4. The RFP Respondent is responsible for all costs of preparing, delivering and explaining its RFP Response and, if applicable, all costs associated with negotiating and finalizing a contract with MNP.
5. The RFP Respondent shall not have any claim for compensation of any kind as a result of participating in this RFP's process, and by submitting a RFP response each RFP Respondent shall be deemed to have waived its right to make a claim.
6. RFP responses shall be final and binding on the RFP Respondent for 30 days from the RFP's closing date.
7. Prices quoted shall be in Canadian dollars and exclusive of the Goods and Services Tax.
8. RFP responses shall be delivered by e-mail. MNP will provide a confirmation e-mail acknowledging receipt.
9. RFP responses are limited to a maximum of 10 pages (excluding resumes).
10. The RFP Respondent consents and has obtained the written consent from any individuals identified in the RFP response, to the use of their Personal Information in the RFP response by MNP's employees, subcontractors and agents, to enable MNP to evaluate the RFP responses.
11. MNP reserves the right to publish the name of the RFP Respondents and the name of the RFP Respondent who is awarded the contract.
12. MNP may reject the lowest cost RFP response, or any or all RFP responses.

# Evaluation of RFP Responses

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MNP will evaluate and select a successful RFP response based on the following information:

1. MNP will evaluate each RFP response separately against the RFP's requirements.
2. During the evaluation process, RFP Respondents may be required to provide additional information to clarify statements made in their RFP response.
3. MNP will rate each RFP response on a scale of 1 (unacceptable) to 10 (exceeds) and will use the following weightings:
  - Relevance and Breadth of Experience / Qualifications 50%
  - Methodological Approach / Work Plan 25%
  - Price / Budget 25%
4. Notwithstanding the evaluation process, MNP may reject the lowest cost RFP response, or reject any or all RFP responses. MNP reserves the right to publish the name of the RFP Respondents and the name of the RFP Respondent who is awarded the contract.

## Contract

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The contract will be between MNP and the party awarded the contract and will include as appendices:

- This RFP document
- The RFP response

The draft contract is provided in the Appendix A: MNP Return Margin Expert Draft Contract. Respondents should review this contract and indicate its acceptability as part of their response. Changes to the contract may be considered but this will be at the sole discretion of MNP.

# Appendix A - MNP Return Margin Expert Draft Contract

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THIS SUBCONTRACTOR AGREEMENT, made and entered into as of [DATE].

BETWEEN:

**MNP LLP**

a limited liability partnership under Alberta law, with its principal office in Calgary, Alberta  
(hereinafter "MNP")

- and -

[Full Legal Name of Company Subcontractor/Individual Subcontractor],  
a [body corporate, incorporated and continued pursuant to the laws of Alberta / an individual, resident in  
[City], in the Province of Alberta]  
(hereinafter the "Subcontractor")

**WHEREAS** the Subcontractor has represented that it possesses expertise with respect to return margin rate setting, including, but not limited to providing a defensible recommendation on the appropriate Pre-tax Return Margins for operating costs and deposits for Alberta Bottle Depots;

**NOW THEREFORE**, in consideration of the foregoing and of the mutual promises contained herein, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

## 1. SERVICES AND WARRANTIES

- 1.1 MNP engages the Subcontractor to provide the services specified in Exhibit "A", attached to and forming part of this Agreement (the "Services"), during the Term (as defined below).
- 1.2 Nothing in this Agreement shall be deemed to preclude MNP from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the Subcontractor or from independently developing or acquiring materials or programs that are similar to, or competitive with the Services provided hereunder.
- 1.3 Subcontractor shall not subcontract any of the Services without the prior written approval of MNP.
- 1.4 The Subcontractor will not, without the prior written consent of MNP, remove any person from performing Services until completion of the Services and will ensure that each such person continues to perform Services hereunder unless MNP requests the removal of such person or such person ceases to be employed by the Subcontractor. The Subcontractor will use all commercially reasonable efforts to effectuate an efficient transition if there are any changes in personnel assigned to perform Services under this Agreement.
- 1.5 If MNP requests the removal of any Subcontractor personnel, the Subcontractor will provide MNP

with a suitable replacement at substantially the same level of experience and at the same billing rates as the person being replaced, and the Subcontractor shall not charge MNP for the services provided by the replacement personnel during the time it takes such replacement to transition onto the project.

- 1.6 The Subcontractor will advise any of personnel who are assigned to perform the Services of the applicable terms of this Agreement and ensure each such person's compliance with such terms.
- 1.7 The Subcontractor represents, warrants and covenants that:
  - 1.7.1 the Subcontractor shall have the necessary knowledge, abilities, skills, and experience and availability to provide the Services in accordance with this Agreement and the Services will be performed in a diligent and workmanlike manner consistent with standards generally observed in the industry for the same or similar services and in accordance with applicable law;
  - 1.7.2 the Subcontractor and the individual(s) performing the services for the Subcontractor shall be members in good standing of their professional licensing or regulatory body, if applicable;
  - 1.7.3 the Subcontractor shall familiarize itself and comply with MNP's Code of Conduct, and its policy respecting Independence; and
- 1.8 The Subcontractor represents, warrants and covenants that it has no and shall have no agreements with or obligations to others in conflict with its obligations to provide the Services and agrees that during the Term, the Subcontractor, its directors, officers, authorized representatives and its employees involved in the provision of the Services, will not:
  - 1.8.1 engage in any activity that may constitute a conflict of interest or materially detract from the full performance of the Services without the prior written consent of MNP;
  - 1.8.2 be employed by or act as a director or officer of the client of MNP to which the Services relate (the "Client") or to any entity related to such Client;
  - 1.8.3 acquire any financial interests in the Client or any entity related to the Client, or dispose of any interests in such entities that are held at the commencement of the Services during the Term. If the Services relate to audit or assurance services that are being provided to the Client, the Subcontractor shall disclose in advance to MNP any financial or other interests in the Client held by the Subcontractor, its directors, officers, authorized representatives and its employees to be involved in the Services. Such interests shall be disposed prior to the commencement of the Services. MNP will advise the Subcontractor if the Services relate to audit or assurance services and whether disclosure of financial interests is required in the circumstances; and
  - 1.8.4 be a director or officer of any audit or assurance client of MNP, or any entity related to an audit or assurance client of MNP, without the prior written consent of MNP. The Subcontractor, its directors, officers, authorized representatives and its employees involved in the Services will disclose to MNP the names of entities in which they hold such positions to permit MNP to research its databases to determine whether the entities are audit or assurance clients, or related to audit or assurance clients.
- 1.9 The Subcontractor represents, warrants, and covenants that each person that performs Services has and will have at all times while assigned to perform the Services as a full-time employee of the Subcontractor (unless the Subcontractor gives MNP advance written notice to the contrary with respect to any specific person assigned to perform the Services hereunder). The Subcontractor represents, warrants, and covenants that each person that performs Services is not, and will not be

at any time while assigned to perform Services, restricted by contract or otherwise in any way from performing the Services.

- 1.10 The Subcontractor agrees to keep such records in respect of the provision of its Services under this Agreement as MNP may from time to time require, and agrees to make such records available during regular business hours for inspection by MNP's representative. The Subcontractor agrees that all such records shall form part of the Materials (defined at Section 4 hereof). The Subcontractor agrees not to disclose such records to any third parties without the prior written consent of MNP.

## 2. PROJECT MANAGEMENT

- 2.1 MNP, or others whom MNP may designate, will supervise and direct the performance of the Services, including, without limitation, assigning specific duties to the Subcontractor, fixing time schedules in which the duties are to be performed, and establishing or approving standard hours (reporting time and working hours). All Services provided by the Subcontractor and its personnel will be performed at locations approved in advance in writing by MNP. The Subcontractor and each of its personnel will be required to follow reasonable work rules established by MNP.
- 2.2 The Subcontractor will not interfere with or impede the contractual relationship between MNP and its clients or suggest or cause any clients to modify, cancel, or fail to renew or extend their contractual relationships with MNP, or enter into additional contracts with MNP. The Subcontractor will not make any public announcements, media releases, or other forms of public disclosure relating to the Services without the advance written consent of MNP.

## 3. FEES

- 3.1 MNP will pay the Subcontractor its hourly fees at the rates stated, or the fixed price stated (in Canadian Dollars), in Exhibit "A". Unless otherwise specified in Exhibit "A", such fees will be all-inclusive of professional fees, travel and other expenses, and taxes of every kind. The Subcontractor shall not incur any overtime hours, nor shall the Subcontractor allow any of its personnel to incur any overtime hours, unless expressly authorized in advance by MNP. MNP will not be responsible for paying overtime rates unless such overtime rates are expressly agreed to in Exhibit "A". At no time during the term of this Agreement will the rates stated in Exhibit "A" be increased.
  - 3.2 Invoices in a form approved by MNP will be submitted by the Subcontractor to MNP each month for Services rendered during the preceding month and, unless otherwise agreed by the parties, will be based upon the hours worked. In support of the invoice, the Subcontractor will submit, in a form approved by MNP, a detailed statement of hours worked by each of the Subcontractor's personnel assigned to perform Services, a description of the specific Services performed by each such person, and other information reasonably requested by MNP. The Subcontractor agrees to preserve these records for three years from the date of the payment of the last invoice hereunder, during which period MNP will have the right to recover from the Subcontractor any unwarranted time charges.
  - 3.3 The deliverables will be subject to the complete review and approval of MNP. All Services to be performed by the Subcontractor will be done in a manner acceptable to MNP. Any Services or deliverables that, in MNP's reasonable discretion, are deemed unacceptable, will result in MNP's rejection of the Subcontractor's invoices for such unacceptable Services or deliverables.
  - 3.4 Notwithstanding anything herein to the contrary, MNP reserves the right of offset against payment due to the Subcontractor, any and all claims arising from this Agreement which MNP may have
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against the Subcontractor.

#### 4. OWNERSHIP

- 4.1 "Background Intellectual Property" means, with respect to each party, such intellectual property, and all or part of the intellectual property rights therein, which are developed by, owned by or licensed to such party either prior to, or independent of any services being provided pursuant to this Agreement. Each party shall retain all rights in their Background Intellectual Property.
- 4.2 The Subcontractor agrees that all rights, including, without limitation, all intellectual and other proprietary rights, in and to any reports, materials, data, or information, including all computer programs (in source code or object code) and documentation related thereto, which have been provided by MNP to the Subcontractor in connection with the performance of any of the Services and delivery of any deliverables are owned and shall continue to be owned by MNP. The Subcontractor shall deliver any or all such materials, data and information to MNP immediately upon the request of MNP. MNP shall have unrestricted access to all such materials, data and information at all times.
- 4.3 Subject to the rights of the Subcontractor in its Background Intellectual Property, the Subcontractor agrees that all reports, materials, data or information generated or developed by the Subcontractor under this Agreement (collectively, the "Materials") shall be the property of MNP, and are hereby assigned to MNP. MNP shall have unrestricted access to all the Materials at all times.
- 4.4 Without limiting any other rights in intellectual property granted to MNP herein, the Subcontractor specifically agrees that all copyrightable material generated or developed under this Agreement shall be owned exclusively by MNP and the Subcontractor hereby assigns to MNP the ownership of copyright in such Materials, and the Subcontractor represents and warrants that it has obtained all waivers of moral rights in connection with such deliverables, in each case without the necessity of any further consideration and MNP shall be entitled to obtain and hold in its own name all copyrights in respect of such Materials.
- 4.5 If and to the extent the Subcontractor may, under applicable law, be entitled to claim any ownership interest in the Materials, the Subcontractor hereby transfers, grants, conveys assigns and relinquishes to MNP all of the Subcontractor's right, title and interest in and to such Materials under patent, copyright, trade secret and trade-mark law, in perpetuity or for the longest period otherwise permitted by law.
- 4.6 The Subcontractor shall perform any acts that may be deemed necessary or desirable by MNP to evidence more fully the transfer of ownership of all Materials to MNP to the fullest extent possible, including without limitation, the making of further written assignments in a form determined by MNP.
- 4.7 To the extent that any pre-existing rights including without limitation Background Intellectual Property are embodied or reflected in the Materials, the Subcontractor hereby grants to MNP, the irrevocable, perpetual, non-exclusive, world-wide, royalty-free right and license to: (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such pre-existing rights and any derivative works thereof; and (ii) authorize others to do any or all of the foregoing.
- 4.8 The Subcontractor hereby represents and warrants that it has full right and authority to perform its obligations and grant the rights and licenses herein granted, and that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title or

interest to any intellectual property right that would conflict with its obligations hereunder. The Subcontractor covenants and agrees that it shall not enter into any such agreements.

- 4.9 The Subcontractor agrees that it shall have and maintain, during performance of this Agreement, written agreements with all employees, Subcontractors or agents engaged by the Subcontractor in performance hereunder, granting the Subcontractor rights sufficient to support all performance and grants of rights by the Subcontractor.

#### 4. CONFIDENTIALITY

- 4.1 All information and data, including without limitation, all business, planning, performance, financial, product, trade secret, technical, sales, marketing, contractual, employee, supplier and client information and data, disclosed orally, in writing or electronically to the Subcontractor by MNP or by MNP's client to which the Services relate, whether expressly identified as proprietary or confidential or not, is proprietary and confidential information (the "Confidential Information"). The Subcontractor agrees to use such Confidential Information solely as necessary in connection with fulfilling its obligations under this Agreement, and to protect the confidentiality of such Confidential Information and not to disclose it to any third party without MNP's prior, written consent. The terms of this Agreement shall also be considered Confidential Information.
- 4.2 Confidential Information shall not include information which (i) shall have otherwise become publicly available (other than as a result of disclosure by the receiving party in breach hereof), (ii) was disclosed to the receiving party on a nonconfidential basis from a source other than the disclosing party, which the receiving party believes is not prohibited from disclosing such information as a result of an obligation in favour of the disclosing party, (iii) is developed by the receiving party independently of, or was known by the receiving party prior to, any disclosure of such information made by the disclosing party, or (iv) is disclosed with the written consent of the disclosing party. A receiving party also may disclose Confidential Information to the extent required by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or other administrative or legal process, or by applicable regulatory or professional standards, or in connection with any judicial or other proceeding involving the parties relating to the Services or this Agreement.
- 4.3 The Subcontractor shall maintain the confidentiality of all Confidential Information disclosed to it and shall take all necessary precautions against unauthorised disclosure of the Confidential Information. The Subcontractor, its directors, officers, authorized representatives and its employees shall not directly or indirectly disclose, allow access to, transmit or transfer any Confidential Information to any third party without the prior written consent of MNP. The Subcontractor, its directors, officers, authorized representatives and its employees shall not use or copy any Confidential Information except as may be reasonably required to provide the Services.
- 4.4 Upon the request of MNP, and in any event upon the termination or expiration of this Agreement, the Subcontractor shall use its commercially reasonable efforts to destroy or return to MNP all records and materials, including all copies in whatever form, containing any Confidential Information which are in the Subcontractor's possession or under its control.

#### 5. TERM AND TERMINATION

- 5.1 This Agreement will be effective on the date stated above and, unless terminated sooner in accordance with its provisions, will terminate upon the completion the Services (the "Term").
- 5.2 MNP or the Subcontractor may terminate this Agreement, for any reason, on fifteen (15) days'

notice without further liability to the other Party.

- 5.3 This Agreement may be terminated by either party, without further liability, if the other party ceases to conduct business in the normal course, becomes insolvent or bankrupt or makes an assignment for the benefit of its creditors, or if a receiver is appointed in respect of the other party's property, or if the other party is otherwise unable to carry on business.
- 5.4 Notwithstanding the foregoing, MNP may immediately terminate this Agreement upon written notice to the Subcontractor, and without further liability:
  - 5.4.1 where MNP receives notification from a Client that the Subcontractor is unacceptable, or direction by a Client to use an alternative to Subcontractor, as a subcontractor for the Services;
  - 5.4.2 in the event the Subcontractor is in material breach of this Agreement;
  - 5.4.3 in the event the Subcontractor is in breach of the confidentiality obligations hereunder, whether the breach is material or not; or
  - 5.4.4 upon written notice to the Subcontractor where (i) the Subcontractor becomes an audit or assurance client of MNP or a director or officer of same, or any entity related to an audit or assurance client of MNP; or (ii) termination is required due to independence rules, rules of professional conduct or other applicable laws, rules and regulations in effect or hereafter adopted that govern the profession or the business of MNP.
- 5.5 Unless otherwise agreed in writing, upon expiry, or receipt of a notice of termination, of this Agreement:
  - 5.5.1 the Subcontractor shall promptly refund on a pro rata basis all Fees paid in advance to Subcontractor by MNP;
  - 5.5.2 the Subcontractor shall provide all reasonable co-operation to MNP in good faith in the orderly wind down of such work in which the Subcontractor is involved under this Agreement; and
  - 5.5.3 each Party shall cease using the intellectual property of the other; and shall not publicly hold itself out as an associate or former associate of the other without the prior written consent of the other.

## 6. INDEMNITY

- 6.1 The Subcontractor shall defend, indemnify and hold MNP, its affiliates and each of their respective partners, directors, officers, employees, agents and Subcontractors (each a "MNP Indemnified Party") harmless from and against all claims, actions, liabilities, damages, losses, awards, judgments, settlements, proceedings, demands and expenses (including reasonable legal fees) charges and penalties (collectively, the "Losses"): (a) arising from or in connection with any claim of infringement or misappropriation made against MNP in respect of any copyright, patent, trade-mark, trade name, trade secret or similar proprietary rights conferred by statute, contract or other law, alleged to have occurred because of the use or disclosure in connection with the Services of systems, products or other resources or deliverables to be provided to MNP by the Subcontractor in accordance with this Agreement; (b) assessed, claimed or demanded against MNP in connection with the breach, non-performance or defective performance of the terms of this Agreement by or on behalf of the Subcontractor; or (c) in respect of personal injury, including death, or loss of, damage to, tangible property or loss of data related to, arising out of or in connection with this

Agreement. Subcontractor's liability under this section shall be limited to the amount paid under this contract, plus the amount of the Subcontractor's insurance.

- 6.2 The Subcontractor shall defend, indemnify and hold the MNP Indemnified Parties harmless from and against all Losses which may be claimed by any federal or provincial tax authority requiring MNP to pay income tax under the *Income Tax Act* (Canada) or any other tax law in respect of income tax payable by the Subcontractor, and in respect of any and all Losses which may be made on behalf of or related to the Employment Insurance Commission, the Ministry of Labour, the Canada Pension Commission or any other government or statutory authority, with respect to the failure of the Subcontractor to remit any taxes, fees or payments to such authority in relation to the provision of Services.
- 6.3 The Subcontractor shall defend, indemnify and hold the MNP Indemnified Parties harmless from and against all Losses which may be claimed by any agent or employee of the Subcontractor, claiming from any MNP Indemnified Party any compensation for provision of the Services.

## 7. NO RECRUITMENT OR SOLICITATION

- 7.1 During the Term and for a period of one (1) year thereafter, the Subcontractor will not directly or indirectly, either alone or in conjunction with any individual, firm, corporation, association or other entity, without the prior written consent of MNP, solicit or attempt to solicit the employment of, or hire, employ, contract, hire, retain or engage, or make an offer in respect of same to, any officer, director, partner, employee, subcontractor or consultant of MNP (other than following a general offer of employment in the usual media).
- 7.2 The Subcontractor agrees that during the Term and for a period of one (1) year thereafter, it will not directly or indirectly, either alone or in conjunction with any individual, firm, corporation, association or other entity, without the prior written consent of MNP, solicit, or attempt to divert to any competitor of MNP, any client or customer of MNP by direct or indirect inducement or otherwise. For greater certainty, the Subcontractor may deal with clients or customers with whom it had a business relationship prior to entering this Agreement.

## 8. GENERAL CLAUSES

- 8.1 Non-Exclusivity. Nothing contained in this Agreement will be construed to obligate MNP to use the Subcontractor's services, or that of any personnel of the Subcontractor, in any guaranteed quantity or for any guaranteed period of time. The quantity and duration of service will be determined by MNP in its sole discretion.
- 8.2 Assignment. The Subcontractor will not delegate or assign any of its interests in or duties hereunder without the advance written consent of MNP, which consent MNP may withhold in its sole discretion. MNP may assign its rights and duties hereunder without the Subcontractor's consent.
- 8.3 Independent Subcontractor. The Subcontractor agrees that it shall be acting as an independent Subcontractor and shall not be considered or deemed to be an agent, partner, employee or joint-venturer of MNP. The Subcontractor is not and shall not represent itself, its directors, officers, authorized representatives, employees, or subcontractors to be an agent of MNP unless a specific, written authorization to do so has been provided in advance by MNP's representative. The Subcontractor's employees, Subcontractors and agents shall have no status as employees of MNP of any right to any benefits that MNP grants to its employees.

- 8.4 Facilities and Equipment. In the performance of the Services the Subcontractor shall provide its own equipment and where required its own office space. The Subcontractor may rent space or equipment or both from MNP, upon mutually agreed terms, from time to time as needed.
- 8.5 Force Majeure. Neither party shall be deemed in default of this Agreement to the extent that performance of their obligations or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, nature disaster, accident, act of government, shortages of materials or supplies, or any other cause beyond the control of such party ("Force Majeure") provided that such party gives the other party written notice
- 8.6 Insurance. The Subcontractor represents and warrants that it has in force, and will maintain in force worker's compensation, commercial general liability, errors and omissions, and other forms of insurance sufficient to protect and indemnify MNP and Client, and each of their officers, directors, members, partners, principals, employees and agents, from any losses resulting from the conduct, acts or omissions of the Subcontractor, its officers, agents, servants and personnel, but in any event no less than the forms of insurance coverages set forth in the Exhibits hereto, if any. The Subcontractor will forward to MNP, prior to commencing the Services, a certificate of insurance verifying that the Subcontractor is insured in policy amounts of not less than the amounts set forth in the Exhibits hereto for all matters relating to the Services. Such certificates will indicate that the insurance may not be cancelled before the expiration of a thirty (30) day notification period and that MNP will be immediately notified in writing of any such notice of termination.
- 8.7 Right to Injunction. The Subcontractor acknowledges that monetary damages alone will not adequately compensate MNP in the event of the Subcontractor's breach of Sections 4 or 7 of this Agreement. Therefore, in addition to all other remedies available at law or in equity, in the event of breach of Sections 4 or 7 hereof, MNP will be entitled to injunctive relief for the enforcement thereof (without the need to post any bond or other undertaking), as well as to an accounting and payment by the Subcontractor to MNP of any and all receipts received by the Subcontractor as a result of such breach.
- 8.8 Entire Agreement. This Agreement, including its Exhibits, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all other oral or written representations, understandings or agreements relating to the subject matter hereof.
- 8.9 Survival. The Subcontractor's representations and warranties herein and the provisions of Sections 4, 4, 6, and 7 hereof will survive the termination of this Agreement.
- 8.10 Severability. If any provision of this Agreement is declared or found by a court of competent jurisdiction to be illegal, unenforceable, or void, then such provision will be null and void, but each other provision hereof not so affected will be enforced to the full extent permitted by applicable law.
- 8.11 Waiver. No delay or omission by MNP in enforcing any of its rights or remedies hereunder will impair such right or remedy or be deemed to be a waiver thereof. No waiver by MNP of any right or remedy hereunder with respect to any occurrence or event on one occasion will be deemed a waiver by MNP of such right or remedy with respect to such occurrence or event on any other occasion. No amendment or waiver will be valid unless in writing and signed by both parties.
- 8.12 Notice. Whenever under this Agreement one party is required or permitted to give notice to the other, such notice will be in writing and deemed given upon the earlier of delivery or five (5) calendar days after such notice is mailed by registered or certified mail, return receipt requested,

postage prepaid, and addressed to the addressee at its address stated below:

If to MNP: Suite 1700  
10235 101 Street NW  
Edmonton, AB T5J 3G1  
PH. 780.429.5874  
Fax. 780.454.1908

If to Subcontractor: **[Insert Address of Subcontractor]**  
**[Contact fax/phone numbers]**

Either party may change its address for notice by giving the other party advance written notice of the new address in conformity with the foregoing and the date upon which such new address will become effective.

1. Governing Law. This Agreement will be governed by, and construed in accordance with, the laws of the Province of Alberta (without giving effect to the choice of law principles thereof).
2. Applicable Laws. The Subcontractor will abide by all applicable laws, rules and regulations in connection with its performance of the Services hereunder.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed and entered into by their respective duly authorized representatives as of the date first set forth above.

**MNP** LLP

**[SUBCONTRACTOR, ENTITY OR INDIVIDUAL'S  
FULL LEGAL NAME]**

By:  
Name:  
Title: \_\_\_\_\_

By:  
Name:  
Title: \_\_\_\_\_

**EXHIBIT "A"**

Exhibit A of the contract is to include the Request for Proposal: Return Margin Expert – Consulting Services.

**EXHIBIT "B"**

Exhibit B of the contract is to include the Response to the Request for Proposal: Return Margin Expert – Consulting Services that is included in Exhibit A.



## EXHIBIT “C”

“Designated Registered Participants (DRPs) and Registered Participants (RPs)” for the purposes of this Request for Proposal: Return Margin Expert – Consulting Services include but are not limited to:

- Beverage Container Management Board (BCMB)
- Alberta Bottle Depot Association (ABDA)
- Alberta Beverage Container Recycling Corporation (ABCRC)
- Alberta Beer Container Corporation (ABCC)
- All employees of the above named entities
- All Depot Owners
- All persons specifically identified in the BCMB confirmation of DRP & RP process as part of the Handling Commission Review process; to be determined January 6, 2025

These persons shall not be contacted by the Return Margin Expert. Under no circumstances should the expert engage in discussion with any Designated Registered Participants (DRPs) and Registered Participants (RPs) regarding the methodology, process, or outcomes of the study except in written documents submitted to MNP to be part of the official record of the Handling Commission Review Process or when specifically requested / schedules by the BCMB.



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