

# DPS Schedule 6 (Order Form Template and Order Schedules)

## Order Form

ORDER REFERENCE: **prj\_3643 – Heat Network Efficiency Scheme Delivery Contract**

THE BUYER: The Secretary of State for the Department of Energy Security and Net Zero

BUYER ADDRESS 3-8 Whitehall Place, London, SW1A 2EG, United Kingdom

THE SUPPLIER: Gemserv Limited

SUPPLIER ADDRESS: 2nd Floor, 77 Gracechurch Street, London, EC3V 0AS

REGISTRATION NUMBER: 4419878

DUNS NUMBER: 42-432-2340

DPS SUPPLIER REGISTRATION SERVICE ID: 951493

### APPLICABLE DPS CONTRACT

This Order Form is for the provision of the Deliverables and dated 21<sup>st</sup> October 2024 (date of issue).

It's issued under the DPS Contract with the reference number RM6322 for the provision of grant administration services in furtherance of the Heat Network Efficiency Scheme Grant Scheme.

DPS FILTER CATEGORY(IES):  
Central Government  
Full Programme Management

### ORDER INCORPORATED TERMS

The following documents are incorporated into this Order Contract. Where numbers are missing we are not using those schedules. If the documents conflict, the following order of precedence applies:

DPS Ref: RM6322  
Project Version: v1.0  
Model Version: v1.3

## **DPS Schedule 6 (Order Form Template and Order Schedules)**

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1. This Order Form including the Order Special Terms and Order Special Schedules.
2. Joint Schedule 1(Definitions and Interpretation) RM6322
3. DPS Special Terms
4. The following Schedules in equal order of precedence:
  - Joint Schedules for RM6322
    - Joint Schedule 2 (Variation Form)
    - Joint Schedule 3 (Insurance Requirements)
    - Joint Schedule 4 (Commercially Sensitive Information)
    - Joint Schedule 6 (Key Subcontractors)
    - Joint Schedule 7 (Financial Difficulties)
    - Joint Schedule 10 (Rectification Plan)
    - Joint Schedule 11 (Processing Data)
    - Joint Schedule 12 (Supply Chain Visibility)
  - Order Schedules for RM6322
    - Order Schedule 1 (Transparency Reports)
    - Order Schedule 2 (Staff Transfer)
    - Order Schedule 3 (Continuous Improvement)
    - Order Schedule 5 (Pricing Details)
    - Order Schedule 7 (Key Supplier Staff)
    - Order Schedule 8 (Business Continuity and Disaster Recovery)
    - Order Schedule 9 (Security)
    - Order Schedule 10 (Exit Management)
    - Order Schedule 13 (Mobilisation Plan and Testing)
    - Order Schedule 14 (Service Levels)
    - Order Schedule 15 (Order Contract Management)
    - Order Schedule 18 (Background Checks)
    - Order Schedule 20 (Order Specification)
    - Order Schedule 24 (Intellectual Property Rights)
5. CCS Core Terms (DPS version) v1.0
6. Joint Schedule 5 (Corporate Social Responsibility) RM6322
7. Order Schedule 4 (Order Tender) as long as any parts of the Order Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

No other Supplier terms are part of the Order Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

### **ORDER SPECIAL TERMS**

None

**ORDER START DATE: 10/02/2025**

**ORDER EXPIRY DATE: 31/03/2029**

DPS Ref: RM6322  
Project Version: v1.0  
Model Version: v1.3

**ORDER INITIAL PERIOD:** **4 years with two optional 1 year extensions. If the extension options are utilised then the total contract value will rise in line with the pricing schedule**

#### **DELIVERABLES**

See details in Order Schedule 20 (Order Specification)

#### **MAXIMUM LIABILITY**

The limitation of liability for this Order Contract is stated in Clause 11.2 of the Core Terms.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is **£825k**.

#### **ORDER CHARGES**

See details in Order Schedule 5 (Pricing Details)

All changes to the Charges must use procedures that are equivalent to those in Paragraphs 4, 5 and 6 (if used) in DPS Schedule 3 (DPS Pricing)

The Charges can only be changed by agreement in writing between the Buyer and the Supplier because of:

- Indexation
  - The pricing mechanism is Fixed Price although will be subject to increase on the second and fourth (if extended) anniversary of the contract start date. The rates that relate to staff wages in the pricing schedule may be amended in line with by the ONS (Office of National Statistics) Average Weekly Earnings via contract variation. The maximum increase will be calculated using 'AWE: Whole Economy Index: Seasonally Adjusted Total Pay Excluding Arrears' document, calculating the percentage increase from the start date figure/ figure from the previous review to the most up to date available figure. The supplier will need to evidence that their wages relating to the contract have increased, and any increase may be up to their actual increase and not more than by the calculated percentage in order for the variation to apply.

#### **REIMBURSABLE EXPENSES**

None

#### **PAYMENT METHOD**

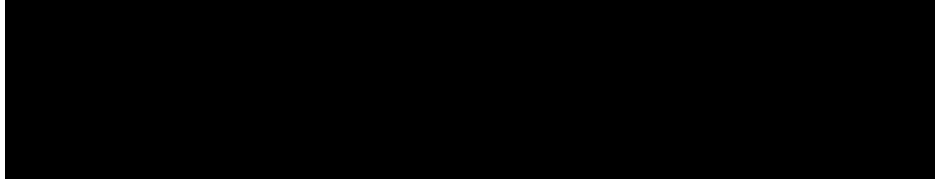
The Supplier shall submit an invoice within 28 days of supplying the Supplies and or performing Services to the satisfaction of the Buyer. The invoice shall show the amount of VAT payable and bear the Purchase Order number. Save where an

**DPS Schedule 6 (Order Form Template and Order Schedules)**

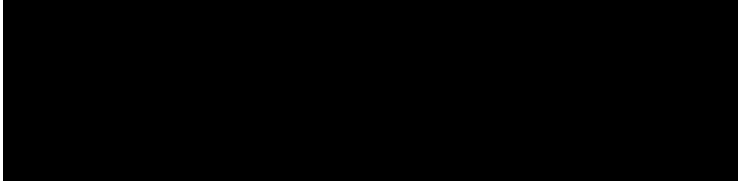
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invoice is disputed, the Buyer shall pay the Supplier within 30 days of receipt of an invoice via BACS payment.

BUYER'S INVOICE ADDRESS:



BUYER'S AUTHORISED REPRESENTATIVE



BUYER'S ENVIRONMENTAL POLICY

Appended at Order Schedule 20 (Specification)

BUYER'S SECURITY POLICY

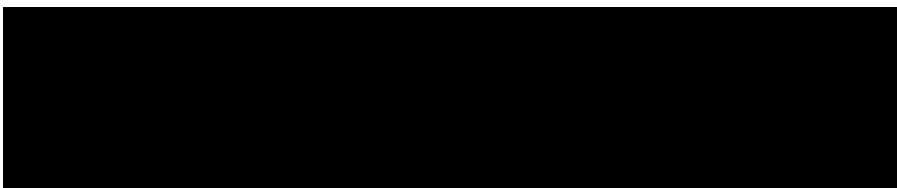
Available online at: <https://www.gov.uk/government/publications/security-policy-framework>

BUYER'S ICT POLICY

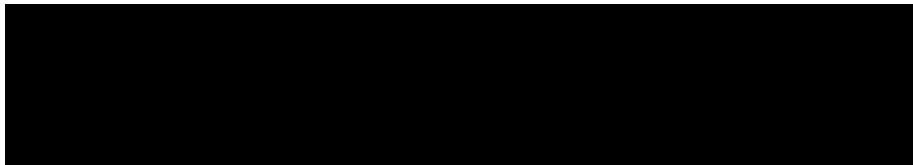
Available online at:

<https://www.gov.uk/government/publications/greening-government-ict-and-digital-services-strategy-2020-2025/greening-government-ict-and-digital-services-strategy-2020-2025>

SUPPLIER'S AUTHORISED REPRESENTATIVE



SUPPLIER'S CONTRACT MANAGER



PROGRESS REPORT FREQUENCY

Monthly

All references in this Order Contract to Progress Reports shall be construed as reference to the HNES Dashboard.

## **DPS Schedule 6 (Order Form Template and Order Schedules)**

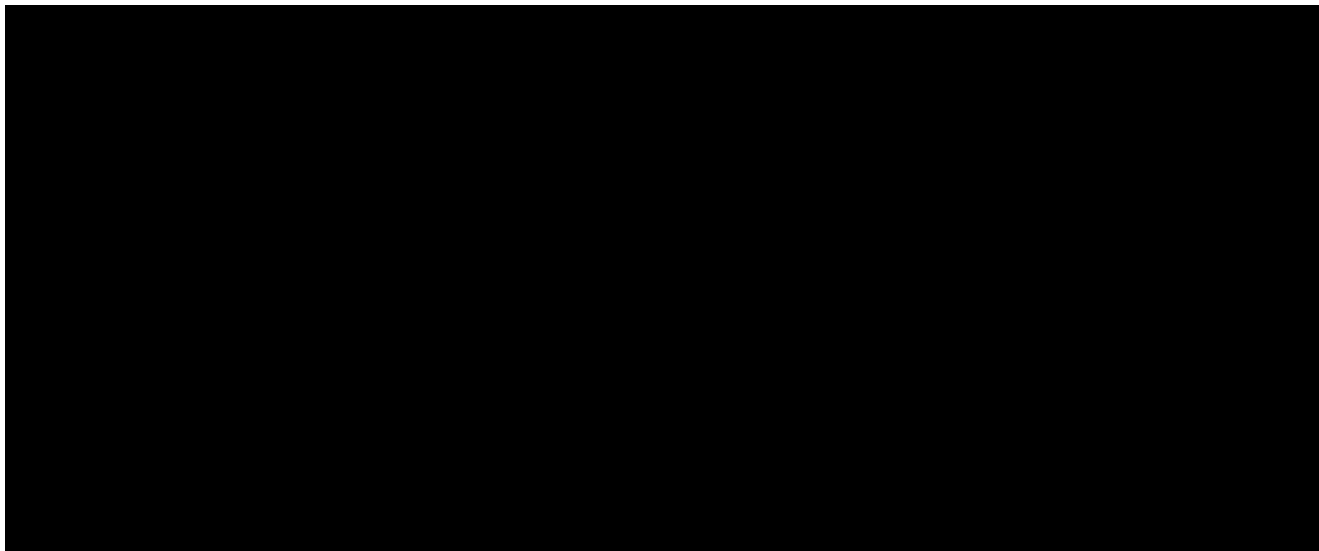
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### **PROGRESS MEETING FREQUENCY**

Weekly (during Mobilisation period)

Fortnightly (from the Funding Phase Commencement Date)

### **KEY STAFF**



### **KEY SUBCONTRACTOR(S)**

Ramboll UK Limited, Gleeds Cost Management Ltd.

### **E-AUCTIONS**

Not applicable

### **COMMERCIALLY SENSITIVE INFORMATION**

See details in Joint Schedule 4 (Commercially Sensitive Information)

### **SERVICE CREDITS**

Service Credits will not apply. See Order Schedule 14 (Service Levels) for further information.

### **ADDITIONAL INSURANCES**

Insurances required in accordance with Joint Schedule 3 (Insurance Requirements)

### **GUARANTEE**

Not applicable

### **SOCIAL VALUE COMMITMENT**

The Supplier agrees, in providing the Deliverables and performing its obligations under the Order Contract, that it will comply with the social value commitments in Order Schedule 4 (Order Tender)]







Crown  
Commercial  
Service

# Core Terms - DPS



## 1. Definitions used in the contract

Interpret this Contract using Joint Schedule 1 (Definitions).

## 2. How the contract works

- 2.1 The Supplier is eligible for the award of Order Contracts during the DPS Contract Period.
- 2.2 CCS does not guarantee the Supplier any exclusivity, quantity or value of work under the DPS Contract.
- 2.3 CCS has paid one penny to the Supplier legally to form the DPS Contract. The Supplier acknowledges this payment.
- 2.4 If the Buyer decides to buy Deliverables under the DPS Contract it must use DPS Schedule 7 (Order Procedure) and must state its requirements using DPS Schedule 6 (Order Form Template and Order Schedules). If allowed by the Regulations, the Buyer can:
  - (a) make changes to DPS Schedule 6 (Order Form Template and Order Schedules);
  - (b) create new Order Schedules;
  - (c) exclude optional template Order Schedules; and/or
  - (d) use Special Terms in the Order Form to add or change terms.
- 2.5 Each Order Contract:
  - (a) is a separate Contract from the DPS Contract;
  - (b) is between a Supplier and a Buyer;
  - (c) includes Core Terms, Schedules and any other changes or items in the completed Order Form; and
  - (d) survives the termination of the DPS Contract.
- 2.6 Where the Supplier is approached by any Other Contracting Authority requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this DPS Contract before accepting their order.
- 2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.
- 2.8 The Supplier will not be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - (a) verify the accuracy of the Due Diligence Information; or
  - (b) properly perform its own adequate checks.
- 2.9 CCS and the Buyer will not be liable for errors, omissions or misrepresentation of any information.

- 2.10 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.
- 2.11 An Order Contract can only be created using the electronic procedures described in the OJEU Notice as required by the Regulations.
- 2.12 A Supplier can only receive Orders under the DPS Contract while it meets the basic access requirements for the DPS stated in the OJEU Notice. CCS can audit whether a Supplier meets the basic access requirements at any point during the DPS Contract Period.

## **3. What needs to be delivered**

### **3.1 All deliverables**

#### **3.1.1 The Supplier must provide Deliverables:**

- (a) that comply with the Specification, the DPS Application and, in relation to an Order Contract, the Order Tender (if there is one);
- (b) to a professional standard;
- (c) using reasonable skill and care;
- (d) using Good Industry Practice;
- (e) using its own policies, processes and internal quality control measures as long as they do not conflict with the Contract;
- (f) on the dates agreed; and
- (g) that comply with Law.

#### **3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.**

### **3.2 Goods clauses**

#### **3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.**

#### **3.2.2 All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.**

#### **3.2.3 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.**

#### **3.2.4 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.**

#### **3.2.5 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.**

#### **3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.**

- 3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- 3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they do not conform with Clause 3. If the Supplier does not do this it will pay the Buyer's costs including repair or re-supply by a third party.

### **3.3 Services clauses**

- 3.3.1 Late Delivery of the Services will be a Default of an Order Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.7 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## **4. Pricing and payments**

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Order Form.
- 4.2 CCS must invoice the Supplier for the Management Levy and the Supplier must pay it using the process

in DPS Schedule 5 (Management Levy and Information).

4.3 All Charges and the Management Levy:

- (a) exclude VAT, which is payable on provision of a valid VAT invoice; and
- (b) include all costs connected with the Supply of Deliverables.

4.4 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Order Form.

4.5 A Supplier invoice is only valid if it:

- (a) includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer;
- (b) includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any); and
- (c) does not include any Management Levy (the Supplier must not charge the Buyer in any way for the Management Levy).

4.6 The Buyer must accept and process for payment an undisputed Electronic Invoice received from the Supplier.

4.7 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.

4.8 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, CCS or the Buyer can publish the details of the late payment or non-payment.

4.9 If CCS or the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables, then CCS or the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

4.10 If CCS or the Buyer uses Clause 4.9 then the DPS Pricing (and where applicable, the Charges) must be reduced by an agreed amount by using the Variation Procedure.

4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they are ordered to do so by a court.

## **5. The buyer's obligations to the supplier**

5.1 If Supplier Non-Performance arises from an Authority Cause:

- (a) neither CCS or the Buyer can terminate a Contract under Clause 10.4.1;
- (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability and

Deduction under this Contract;

- (c) the Supplier is entitled to additional time needed to make the Delivery; and
- (d) the Supplier cannot suspend the ongoing supply of Deliverables.

5.2 Clause 5.1 only applies if the Supplier:

- (a) gives notice to the Party responsible for the Authority Cause within 10 Working Days of becoming aware;
- (b) demonstrates that the Supplier Non-Performance would not have occurred but for the Authority Cause; and
- (c) mitigated the impact of the Authority Cause.

## **6. Record keeping and reporting**

- 6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Order Form.
- 6.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract:
  - (a) during the Contract Period;
  - (b) for 7 years after the End Date; and
  - (c) in accordance with UK GDPR, including but not limited to the records and accounts stated in the definition of Audit in Joint Schedule 1.
- 6.3 The Relevant Authority or an Auditor can Audit the Supplier.
- 6.4 During an Audit, the Supplier must:
  - (a) allow the Relevant Authority or any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit; and
  - (b) provide information to the Relevant Authority or to the Auditor and reasonable co-operation at their request.
- 6.5 Where the Audit of the Supplier is carried out by an Auditor, the Auditor shall be entitled to share any information obtained during the Audit with the Relevant Authority.
- 6.6 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
  - (a) tell the Relevant Authority and give reasons;
  - (b) propose corrective action; and
  - (c) provide a deadline for completing the corrective action.

- 6.7 The Supplier must provide CCS with a Self Audit Certificate supported by an audit report at the end of each Contract Year. The report must contain:
- (a) the methodology of the review;
  - (b) the sampling techniques applied;
  - (c) details of any issues; and
  - (d) any remedial action taken.
- 6.8 The Self Audit Certificate must be completed and signed by an auditor or senior member of the Supplier's management team that is qualified in either a relevant audit or financial discipline.

## **7. Supplier staff**

- 7.1 The Supplier Staff involved in the performance of each Contract must:
- (a) be appropriately trained and qualified;
  - (b) be vetted using Good Industry Practice and the Security Policy; and
  - (c) comply with all conduct requirements when on the Buyer's Premises.
- 7.2 Where a Buyer decides one of the Supplier's Staff is not suitable to work on a contract, the Supplier must replace them with a suitably qualified alternative.
- 7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.
- 7.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.
- 7.5 The Supplier indemnifies CCS and the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

## **8. Rights and protection**

- 8.1 The Supplier warrants and represents that:
- (a) it has full capacity and authority to enter into and to perform each Contract;
  - (b) each Contract is executed by its authorised representative;
  - (c) it is a legally valid and existing organisation incorporated in the place it was formed;
  - (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform each Contract;
  - (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under each Contract;
  - (f) it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract;

- (g) it is not impacted by an Insolvency Event; and
- (h) it will comply with each Order Contract.

- 8.2 The warranties and representations in Clauses 2.10 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 8.3 The Supplier indemnifies both CCS and every Buyer against each of the following:
- (a) wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract; and
  - (b) non-payment by the Supplier of any Tax or National Insurance.
- 8.4 All claims indemnified under this Contract must use Clause 26.
- 8.5 The description of any provision of this Contract as a warranty does not prevent CCS or a Buyer from exercising any termination right that it may have for breach of that clause by the Supplier.
- 8.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify CCS and every Buyer.
- 8.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## **9. Intellectual Property Rights (IPRs)**

- 9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:
- (a) receive and use the Deliverables; and
  - (b) make use of the deliverables provided by a Replacement Supplier.
- 9.2 Any New IPR created under a Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.
- 9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.
- 9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 9.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option,

either:

- (a) obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR; or
- (b) replace or modify the relevant item with substitutes that do not infringe IPR without adversely affecting the functionality or performance of the Deliverables.

9.7 In spite of any other provisions of a Contract and for the avoidance of doubt, award of a Contract by the Buyer and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Supplier acknowledges that any authorisation by the Buyer under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific IPR involved.

## **10. Ending the contract or any subcontract**

### **10.1 Contract Period**

10.1.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.

10.1.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than 3 Months' written notice before the Contract expires.

### **10.2 Ending the contract without a reason**

10.2.1 CCS has the right to terminate the DPS Contract at any time without reason by giving the Supplier at least 30 days' notice.

10.2.2 Each Buyer has the right to terminate their Order Contract at any time without reason by giving the Supplier not less than 90 days' written notice.

### **10.3 Rectification plan process**

10.3.1 If there is a Default, the Relevant Authority may, without limiting its other rights, request that the Supplier provide a Rectification Plan.

10.3.2 When the Relevant Authority receives a requested Rectification Plan it can either:

- (a) reject the Rectification Plan or revised Rectification Plan, giving reasons; or
- (b) accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties.

10.3.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Relevant Authority:

- (a) must give reasonable grounds for its decision; and
- (b) may request that the Supplier provides a revised Rectification Plan within 5 Working Days.



10.3.4 If the Relevant Authority rejects any Rectification Plan, including any revised Rectification Plan, the Relevant Authority does not have to request a revised Rectification Plan before exercising its right to terminate its Contract under Clause 10.4.3(a).

#### **10.4 When CCS or the buyer can end a contract**

10.4.1 If any of the following events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) there is a Supplier Insolvency Event;
- (b) there is a Default that is not corrected in line with an accepted Rectification Plan;
- (c) the Supplier does not provide a Rectification Plan within 10 days of the request;
- (d) there is any material Default of the Contract;
- (e) there is any material Default of any Joint Controller Agreement relating to any Contract;
- (f) there is a Default of Clauses 2.10, 9, 14, 15, 27, 32 or DPS Schedule 9 (Cyber Essentials) (where applicable) relating to any Contract;
- (g) there is a consistent repeated failure to meet the Performance Indicators in DPS Schedule 4 (DPS Management);
- (h) there is a Change of Control of the Supplier which is not pre-approved by the Relevant Authority in writing;
- (i) if the Relevant Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded; or
- (j) the Supplier or its Affiliates embarrass or bring CCS or the Buyer into disrepute or diminish the public trust in them.

10.4.2 CCS may terminate the DPS Contract if a Buyer terminates an Order Contract for any of the reasons listed in Clause 10.4.1.

10.4.3 If any of the following non-fault based events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

- (a) the Relevant Authority rejects a Rectification Plan;
- (b) there is a Variation which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes);
- (c) if there is a declaration of ineffectiveness in respect of any Variation; or
- (d) any of the events in 73 (1) (a) or (c) of the Regulations happen.

#### **10.5 When the supplier can end the contract**

The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate an Order Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the annual Contract Value within 30 days of the date of the Reminder Notice.

#### **10.6 What happens if the contract ends**

10.6.1 Where a Party terminates a Contract under any of Clauses 10.2.1, 10.2.2, 10.4.1, 10.4.2, 10.4.3, 10.5 or

20.2 or a Contract expires all of the following apply:

- (a) The Buyer's payment obligations under the terminated Contract stop immediately.
- (b) Accumulated rights of the Parties are not affected.
- (c) The Supplier must promptly repay to the Buyer any and all Charges the Buyer has paid in advance in respect of Deliverables not provided by the Supplier as at the End Date.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of CCS or the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to CCS or the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

10.6.2 In addition to the consequences of termination listed in Clause 10.6.1, where the Relevant Authority terminates a Contract under Clause 10.4.1 the Supplier is also responsible for the Relevant Authority's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.6.3 In addition to the consequences of termination listed in Clause 10.6.1, if either the Relevant Authority terminates a Contract under Clause 10.2.1 or 10.2.2 or a Supplier terminates an Order Contract under Clause 10.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier; and
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated.

10.6.4 In addition to the consequences of termination listed in Clause 10.6.1, where a Party terminates under Clause 20.2 each Party must cover its own Losses.

10.6.5 The following Clauses survive the termination or expiry of each Contract: 3.2.10, 4.2, 6, 7.5, 9, 11, 12.2, 14, 15, 16, 17, 18, 31.3, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

## **10.7 Partially ending and suspending the contract**

10.7.1 Where CCS has the right to terminate the DPS Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Order Contracts during this period. If this happens, the Supplier must still meet its obligations under any existing Order Contracts that have already been signed.

10.7.2 Where CCS has the right to terminate a DPS Contract it is entitled to terminate all or part of it.

10.7.3 Where the Buyer has the right to terminate an Order Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends a Contract it can provide the Deliverables itself or buy them from a third party.

10.7.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

10.7.5 The Parties must agree any necessary Variation required by Clause 10.7 using the Variation Procedure, but the Supplier may not either:

- (a) reject the Variation; or
- (b) increase the Charges, except where the right to partial termination is under Clause 10.2.

10.7.6 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.7.

## **10.8 When subcontracts can be ended**

At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which is not pre-approved by the Relevant Authority in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4; or
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority.

## **11. How much you can be held responsible for**

11.1 Each Party's total aggregate liability in each Contract Year under this DPS Contract (whether in tort, contract or otherwise) is no more than £1,000,000.

11.2 Each Party's total aggregate liability in each Contract Year under each Order Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified in the Order Form.

11.3 No Party is liable to the other for:

- (a) any indirect Losses; or
- (b) Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

11.4 In spite of Clause 11.1 and 11.2, neither Party limits or excludes any of the following:

- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
- (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
- (c) any liability that cannot be excluded or limited by Law;

(d) its obligation to pay the required Management Levy or Default Management Levy.

- 11.5 In spite of Clauses 11.1 and 11.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3(b), 9.5, 31.3 or Order Schedule 2 (Staff Transfer) of a Contract.
- 11.6 In spite of Clauses 11.1, 11.2 but subject to Clauses 11.3 and 11.4, the Supplier's aggregate liability in each and any Contract Year under each Contract under Clause 14.8 shall in no event exceed the Data Protection Liability Cap.
- 11.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with each Contract, including any indemnities.
- 11.8 When calculating the Supplier's liability under Clause 11.1 or 11.2 the following items will not be taken into consideration:
- (a) Deductions; and
  - (b) any items specified in Clauses 11.5 or 11.6.
- 11.9 If more than one Supplier is party to a Contract, each Supplier Party is jointly and severally liable for their obligations under that Contract.

## **12. Obeying the law**

- 12.1 The Supplier must use reasonable endeavours to comply with the provisions of Joint Schedule 5 (Corporate Social Responsibility).
- 12.2 To the extent that it arises as a result of a Default by the Supplier, the Supplier indemnifies the Relevant Authority against any fine or penalty incurred by the Relevant Authority pursuant to Law and any costs incurred by the Relevant Authority in defending any proceedings which result in such fine or penalty.
- 12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

## **13. Insurance**

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Joint Schedule 3 (Insurance Requirements) and any Additional Insurances in the Order Form.

## **14. Data protection**

- 14.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 11 (Processing Data).
- 14.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

- 14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.
- 14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.
- 14.5 If at any time the Supplier suspects or has reason to believe that the Government Data provided under a Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.
- 14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Relevant Authority may either or both:
- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
  - (b) restore the Government Data itself or using a third party.
- 14.7 The Supplier must pay each Party's reasonable costs of complying with Clause 14.6 unless CCS or the Buyer is at fault.
- 14.8 The Supplier:
- (a) must provide the Relevant Authority with all Government Data in an agreed open format within 10 Working Days of a written request;
  - (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
  - (d) securely erase all Government Data and any copies it holds when asked to do so by CCS or the Buyer unless required by Law to retain it; and
  - (e) indemnifies CCS and each Buyer against any and all Losses incurred if the Supplier breaches Clause 14 and any Data Protection Legislation.

## **15. What you must keep confidential**

- 15.1 Each Party must:
- (a) keep all Confidential Information it receives confidential and secure;
  - (b) except as expressly set out in the Contract at Clauses 15.2 to 15.4 or elsewhere in the Contract, not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent; and
  - (c) immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

15.2 In spite of Clause 15.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if, to the extent not prohibited by Law, the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the Disclosing Party's Confidential Information;
- (f) on a confidential basis, to its auditors;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis; or
- (h) to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

15.3 In spite of Clause 15.1, the Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Relevant Authority at its request.

15.4 In spite of Clause 15.1, CCS or the Buyer may disclose Confidential Information in any of the following cases:

- (a) on a confidential basis to the employees, agents, consultants and contractors of CCS or the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that CCS or the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if CCS or the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- (d) where requested by Parliament; or
- (e) under Clauses 4.7 and 16.

15.5 For the purposes of Clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 15.

15.6 Transparency Information is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Relevant Authority and must take all reasonable steps to ensure that Supplier Staff do not either.

## **16. When you can share information**

- 16.1 The Supplier must tell the Relevant Authority within 48 hours if it receives a Request For Information.
- 16.2 Within five (5) Working Days of the Buyer's request the Supplier must give CCS and each Buyer full co-operation and information needed so the Buyer can:
- (a) publish the Transparency Information;
  - (b) comply with any Freedom of Information Act (FOIA) request; and/or
  - (c) comply with any Environmental Information Regulations (EIR) request.
- 16.3 The Relevant Authority may talk to the Supplier to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision in its absolute discretion.

## **17. Invalid parts of the contract**

If any part of a Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it is valid or enforceable.

## **18. No other terms apply**

The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements, agreements and any course of dealings made between the Parties, whether written or oral, in relation to its subject matter. No other provisions apply.

## **19. Other people's rights in a contract**

No third parties may use the Contracts (Rights of Third Parties) Act 1999 (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

## **20. Circumstances beyond your control**

- 20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under a Contract while the inability to perform continues, if it both:
- (a) provides a Force Majeure Notice to the other Party; and
  - (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 20.2 Either Party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

## **21. Relationships created by the contract**

No Contract creates a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **22. Giving up contract rights**

A partial or full waiver or relaxation of the terms of a Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **23. Transferring responsibilities**

- 23.1 The Supplier cannot assign, novate or transfer a Contract or any part of a Contract without the Relevant Authority's written consent.
- 23.2 The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Central Government Body, public or private sector body which performs the functions of the Relevant Authority.
- 23.3 When CCS or the Buyer uses its rights under Clause 23.2 the Supplier must enter into a novation agreement in the form that CCS or the Buyer specifies.
- 23.4 The Supplier can terminate a Contract novated under Clause 23.2 to a private sector body that is experiencing an Insolvency Event.
- 23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 23.6 If CCS or the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
  - (a) their name;
  - (b) the scope of their appointment; and
  - (c) the duration of their appointment.

## **24. Changing the contract**

- 24.1 Either Party can request a Variation which is only effective if agreed in writing and signed by both Parties.
- 24.2 The Supplier must provide an Impact Assessment either:
  - (a) with the Variation Form, where the Supplier requests the Variation; or
  - (b) within the time limits included in a Variation Form requested by CCS or the Buyer.
- 24.3 If the Variation cannot be agreed or resolved by the Parties, CCS or the Buyer can either:
  - (a) agree that the Contract continues without the Variation; or



- (b) terminate the affected Contract, unless in the case of an Order Contract, the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them; or
- (c) refer the Dispute to be resolved using Clause 34 (Resolving Disputes).

24.4 CCS and the Buyer are not required to accept a Variation request made by the Supplier.

24.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the DPS Pricing or the Charges.

24.6 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give CCS and the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, DPS Pricing or a Contract and provide evidence:

- (a) that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
- (b) of how it has affected the Supplier's costs.

24.7 Any change in the DPS Pricing or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.

24.8 For 101(5) of the Regulations, if the Court declares any Variation ineffective, the Parties agree that their mutual rights and obligations will be regulated by the terms of the Contract as they existed immediately prior to that Variation and as if the Parties had never entered into that Variation.

## **25. How to communicate about the contract**

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they are delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

25.2 Notices to CCS must be sent to the CCS Authorised Representative's address or email address indicated on the Platform.

25.3 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Order Form.

25.4 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **26. Dealing with claims**

26.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Working Days.

26.2 At the Indemnifier's cost the Beneficiary must both:

- (a) allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
- (b) give the Indemnifier reasonable assistance with the claim if requested.

26.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which can not be unreasonably withheld or delayed.

26.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that does not damage the Beneficiary's reputation.

26.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

26.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

- (a) the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or
- (b) the amount the Indemnifier paid the Beneficiary for the Claim.

## **27. Preventing fraud, bribery and corruption**

27.1 The Supplier must not during any Contract Period:

- (a) commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); or
- (b) do or allow anything which would cause CCS or the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

27.2 The Supplier must during the Contract Period:

- (a) create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
- (b) keep full records to show it has complied with its obligations under Clause 27 and give copies to CCS or the Buyer on request; and
- (c) if required by the Relevant Authority, within 20 Working Days of the Start Date of the relevant Contract, and then annually, certify in writing to the Relevant Authority, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

- 27.3 The Supplier must immediately notify CCS and the Buyer if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:
- (a) been investigated or prosecuted for an alleged Prohibited Act;
  - (b) been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
  - (c) received a request or demand for any undue financial or other advantage of any kind related to a Contract; or
  - (d) suspected that any person or Party directly or indirectly related to a Contract has committed or attempted to commit a Prohibited Act.
- 27.4 If the Supplier notifies CCS or the Buyer as required by Clause 27.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 27.5 In any notice the Supplier gives under Clause 27.3 it must specify the:
- (a) Prohibited Act;
  - (b) identity of the Party who it thinks has committed the Prohibited Act; and
  - (c) action it has decided to take.

## **28. Equality, diversity and human rights**

- 28.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:
- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
  - (b) any other requirements and instructions which CCS or the Buyer reasonably imposes related to equality Law.
- 28.2 The Supplier must take all necessary steps, and inform CCS or the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.

## **29. Health and safety**

- 29.1 The Supplier must perform its obligations meeting the requirements of:
- (a) all applicable Law regarding health and safety; and
  - (b) the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.
- 29.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents

or material hazards they are aware of at the Buyer Premises that relate to the performance of a Contract.

## 30. Environment

- 30.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 30.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## 31. Tax

- 31.1 The Supplier must not breach any Tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. CCS and the Buyer cannot terminate a Contract where the Supplier has not paid a minor Tax or social security contribution.
- 31.2 Where the Charges payable under a Contract with the Buyer are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify CCS and the Buyer of it within 5 Working Days including:
  - (a) the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
  - (b) other information relating to the Occasion of Tax Non-Compliance that CCS and the Buyer may reasonably need.
- 31.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under an Order Contract, the Supplier must both:
  - (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
  - (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
  - (a) the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
  - (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the

information requested by the Buyer within the time specified by the Buyer;

- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers is not good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements; and
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

## **32. Conflict of interest**

- 32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.
- 32.2 The Supplier must promptly notify and provide details to CCS and each Buyer if a Conflict of Interest happens or is expected to happen.
- 32.3 CCS and each Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

## **33. Reporting a breach of the contract**

- 33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to CCS or the Buyer any actual or suspected breach of:
  - (a) Law;
  - (b) Clause 12.1; or
  - (c) Clauses 27 to 32.
- 33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 33.1 to the Buyer or a Prescribed Person.

## **34. Resolving disputes**

- 34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.
- 34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.
- 34.3 Unless the Relevant Authority refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
  - (a) determine the Dispute;
  - (b) grant interim remedies; and/or

(c) grant any other provisional or protective relief.

34.4 The Supplier agrees that the Relevant Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Relevant Authority has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Relevant Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.

34.6 The Supplier cannot suspend the performance of a Contract during any Dispute.

## **35. Which law applies**

This Contract and any Disputes arising out of, or connected to it, are governed by English law.

## Joint Schedule 1 (Definitions)

- 1.1 In each Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Joint Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In each Contract, unless the context otherwise requires:
- 1.3.1 the singular includes the plural and vice versa;
  - 1.3.2 reference to a gender includes the other gender and the neuter;
  - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
  - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
  - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
  - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
  - 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
  - 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise ;
  - 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
  - 1.3.11 the headings in each Contract are for ease of reference only and shall not affect the interpretation or construction of a Contract;

1.3.12 in entering into a Contract the Relevant Authority is acting as part of the Crown; and

1.3.13 any reference in a Contract which immediately before Exit Day was a reference to (as it has effect from time to time):

- (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- (b) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

1.3.14 unless otherwise provided, references to "**Buyer**" shall be construed as including Exempt Buyers; and

1.3.15 unless otherwise provided, references to "**Order Contract**" and "**Contract**" shall be construed as including Exempt Order Contracts.

1.4 In each Contract, unless the context otherwise requires, the following words shall have the following meanings:

<b>"Accounting Reference Date"</b>	means in each year the date to which the Supplier prepares its annual audited financial statements;
<b>"Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
<b>"Additional Insurances"</b>	insurance requirements relating to an Order Contract specified in the Order Form additional to those outlined in Joint Schedule 3 (Insurance Requirements);
<b>"Admin Fee"</b>	means the costs incurred by CCS in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the CCS on: <a href="http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees">http://CCS.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees</a> ;
<b>"Affected Party"</b>	the Party seeking to claim relief in respect of a Force Majeure Event;
<b>"Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>"Annex"</b>	extra information which supports a Schedule;
<b>"Approval"</b>	the prior written consent of the Buyer and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly;



<b>"Audit"</b>	<p>the Relevant Authority's right to:</p> <ul style="list-style-type: none"> <li>a) verify the accuracy of the Charges and any other amounts payable by a Buyer under an Order Contract (including proposed or actual variations to them in accordance with the Contract);</li> <li>b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> <li>c) verify the Open Book Data;</li> <li>d) verify the Supplier's and each Subcontractor's compliance with the Contract and applicable Law;</li> <li>e) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Joint Schedule 5 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Relevant Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li> <li>f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</li> <li>g) obtain such information as is necessary to fulfil the Relevant Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</li> <li>h) review any books of account and the internal contract management accounts kept by the Supplier in connection with each Contract;</li> <li>i) carry out the Relevant Authority's internal and statutory audits and to prepare, examine and/or certify the Relevant Authority's annual and interim reports and accounts;</li> <li>j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Relevant Authority has used its resources; or</li> <li>k) verify the accuracy and completeness of any Management Information delivered or required by the DPS Contract;</li> </ul>
<b>"Auditor"</b>	<ul style="list-style-type: none"> <li>a) the Relevant Authority's internal and external auditors;</li> <li>b) the Relevant Authority's statutory or regulatory auditors;</li> <li>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</li> <li>d) HM Treasury or the Cabinet Office;</li> <li>e) any party formally appointed by the Relevant Authority to carry out audit or similar review functions; and</li> </ul>

	f) successors or assigns of any of the above;
<b>"Authority"</b>	CCS and each Buyer;
<b>"Authority Cause"</b>	any breach of the obligations of the Relevant Authority or any other default, act, omission, negligence or statement of the Relevant Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Relevant Authority is liable to the Supplier;
<b>"BACS"</b>	the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
<b>"Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Bronze Contract"</b>	an Order Contract categorised as a Bronze contract using the Cabinet Office Contract Tiering Tool;
<b>"Buyer"</b>	the relevant public sector purchaser identified as such in the Order Form;
<b>"Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
<b>"Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to the Order Contract initially identified in the Order Form;
<b>"Buyer Data"</b>	means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Buyer's or End User's Confidential Information, and which: <ul style="list-style-type: none"> <li>(a) are supplied to the Supplier by or on behalf of the Buyer, or End User; or</li> <li>(b) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</li> </ul> any Personal Data for which the Buyer or End User is the Controller;
<b>"Buyer Existing IPR"</b>	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Central Government Body, any Crown IPR, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"CCS"</b>	the Minister for the Cabinet Office as represented by Crown Commercial Service, which is an executive agency and operates as

	a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
<b>"CCS Authorised Representative"</b>	the representative appointed by CCS from time to time in relation to the DPS Contract initially identified in the DPS Appointment Form and subsequently on the Platform;
<b>"Central Government Body"</b>	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> <li>a) Government Department;</li> <li>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>c) Non-Ministerial Department; or</li> <li>d) Executive Agency;</li> </ul>
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Order Contract, as set out in the Order Form, for the full and proper performance by the Supplier of its obligations under the Order Contract less any Deductions;
<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in the DPS Appointment Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss;
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Compliance Officer"</b>	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of CCS, the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as <b>"confidential"</b> ) or which ought reasonably to be considered to be confidential;

<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to CCS or any Buyer under a Contract, in the reasonable opinion of the Buyer or CCS;
<b>"Contract"</b>	either the DPS Contract or the Order Contract, as the context requires;
<b>"Contract Period"</b>	the term of either a DPS Contract or Order Contract on and from the earlier of the: a) applicable Start Date; or b) the Effective Date up to and including the applicable End Date;
<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under a Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the UK GDPR;
<b>"Consortia" / "Consortium"</b>	This can refer to multiple suppliers working in collaboration on the same contract, also known in public sector documentation as 'Group of Economic Operators'. This will have one lead supplier who manages all the other suppliers within the group / consortia.
<b>"Core Terms"</b>	CCS' terms and conditions for common goods and services which govern how Suppliers must interact with CCS and Buyers under DPS Contracts and Order Contracts;
<b>"Costs"</b>	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:  e) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits; vi) staff training; vii) work place accommodation;

	<p>viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and</p> <p>ix) reasonable recruitment costs, as agreed with the Buyer;</p> <p>f) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>g) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>h) Reimbursable Expenses to the extent these have been specified as allowable in the Order Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <p>i) Overhead;</p> <p>j) financing or similar costs;</p> <p>k) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Order Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>l) taxation;</p> <p>m) fines and penalties;</p> <p>n) amounts payable under Order Schedule 16 (Benchmarking) where such Schedule is used; and</p> <p>o) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>"Data Protection Legislation"</b>	(i) the UK GDPR as amended from time to time; (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy;

**Joint Schedule 1 (Definitions)**

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	(iii) all applicable Law about the Processing of Personal Data and privacy;
<b>"Data Protection Liability Cap"</b>	the amount specified in the DPS Appointment Form;
<b>"Data Protection Officer"</b>	has the meaning given to it in the UK GDPR;
<b>"Data Subject"</b>	has the meaning given to it in the UK GDPR;
<b>"Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under an Order Contract;
<b>"Default"</b>	any breach of the obligations of the Supplier (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Supplier is liable to the Relevant Authority;
<b>"Default Management Levy"</b>	has the meaning given to it in Paragraph 8.1.1 of DPS Schedule 5 (Management Levy and Information);
<b>"Delay Payments"</b>	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
<b>"Deliverables"</b>	Goods and/or Services that may be ordered under the Contract including the Documentation;
<b>"Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of an Order Contract as confirmed and accepted by the Buyer by either (a) confirmation in writing to the Supplier; or (b) where Order Schedule 13 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>"Disaster"</b>	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Order Form (for the purposes of this definition the "Disaster Period");
<b>"Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);

<b>"Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
<b>"Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
<b>"Documentation"</b>	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under a Contract as:</p> <p>p) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>q) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>r) has been or shall be generated for the purpose of providing the Deliverables;</p>
<b>"DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of Tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
<b>"DPA 2018"</b>	the Data Protection Act 2018;
<b>"DPS"</b>	the dynamic purchasing system operated by CCS in accordance with Regulation 34 that this DPS Contract governs access to;
<b>"DPS Application"</b>	the application submitted by the Supplier to CCS and annexed to or referred to in DPS Schedule 2 (DPS Application);
<b>"DPS Appointment Form"</b>	the document outlining the DPS Incorporated Terms and crucial information required for the DPS Contract, to be executed by the Supplier and CCS and subsequently held on the Platform;
<b>"DPS Contract"</b>	the dynamic purchasing system access agreement established between CCS and the Supplier in accordance with Regulation 34 by the DPS Appointment Form for the provision of the Deliverables to Buyers by the Supplier pursuant to the notice published on the Find a Tender Service;

<b>"DPS Contract Period"</b>	the period from the DPS Start Date until the End Date of the DPS Contract;
<b>"DPS Expiry Date"</b>	the date of the end of the DPS Contract as stated in the DPS Appointment Form;
<b>"DPS Incorporated Terms"</b>	the contractual terms applicable to the DPS Contract specified in the DPS Appointment Form;
<b>"DPS Initial Period"</b>	the initial term of the DPS Contract as specified in the DPS Appointment Form;
<b>"DPS Optional Extension Period"</b>	such period or periods beyond which the DPS Initial Period may be extended as specified in the DPS Appointment Form;
<b>"DPS Pricing"</b>	the maximum price(s) applicable to the provision of the Deliverables set out in DPS Schedule 3 (DPS Pricing);
<b>"DPS Registration"</b>	the registration process a Supplier undertakes when submitting its details onto the Platform;
<b>"DPS SQ Submission"</b>	the Supplier's selection questionnaire response;
<b>"DPS Special Terms"</b>	any additional terms and conditions specified in the DPS Appointment Form incorporated into the DPS Contract;
<b>"DPS Start Date"</b>	the date of start of the DPS Contract as stated in the DPS Appointment Form;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Authority prior to the Start Date;
<b>"Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;
<b>"Electronic Invoice"</b>	an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
<b>"End Date"</b>	the earlier of:  s) the Expiry Date (as extended by any Extension Period exercised by the Relevant Authority under Clause 10.1.2); or  t) if a Contract is terminated before the date specified in (a) above, the date of termination of the Contract;
<b>"End User"</b>	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);



<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Estimated Year 1 Contract Charges"</b>	the anticipated total charges payable by the Supplier in the first Contract Year specified in the Order Form;
<b>"Estimated Yearly Charges"</b>	<p>means for the purposes of calculating each Party's annual liability under clause 11.2 :</p> <p>i) in the first Contract Year, the Estimated Year 1 Contract Charges; or</p> <p>ii) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or</p> <p>iii) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;</p>
<b>"Exempt Buyer"</b>	<p>a public sector purchaser that is:</p> <ul style="list-style-type: none"> <li>a) eligible to use the DPS; and</li> <li>b) is entering into an Exempt Order Contract that is not subject to (as applicable) any of: <ul style="list-style-type: none"> <li>i. the Regulations;</li> <li>ii. the Concession Contracts Regulations 2016 (SI 2016/273);</li> <li>iii. the Utilities Contracts Regulations 2016 (SI 2016/274);</li> <li>iv. the Defence and Security Public Contracts Regulations 2011 (SI 2011/1848);</li> <li>v. the Remedies Directive (2007/66/EC);</li> <li>vi. Directive 2014/23/EU of the European Parliament and Council;</li> <li>vii. Directive 2014/24/EU of the European Parliament and Council;</li> <li>viii. Directive 2014/25/EU of the European Parliament and Council; or</li> </ul> </li> </ul>

	ix. Directive 2009/81/EC of the European Parliament and Council;
<b>“Exempt Order Contract”</b>	the contract between the Exempt Buyer and the Supplier for Deliverables which consists of the terms set out and referred to in the Order Form incorporating and, where necessary, amending, refining or adding to the terms of the DPS Contract;
<b>“Exempt Procurement Amendments”</b>	any amendments, refinements or additions to any of the terms of the DPS Contract made through the Exempt Order Contract to reflect the specific needs of an Exempt Buyer to the extent permitted by and in accordance with any legal requirements applicable to that Exempt Buyer;
<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>“Exit Day”</b>	shall have the meaning in the European Union (Withdrawal) Act 2018;
<b>"Expiry Date"</b>	the DPS Expiry Date or the Order Expiry Date (as the context dictates);
<b>"Extension Period"</b>	the DPS Optional Extension Period or the Order Optional Extension Period as the context dictates;
<b>"Filter Categories"</b>	the number of categories specified in DPS Schedule 1 (Specification), if applicable;
<b>“Financial Reports”</b>	<p>a report by the Supplier to the Buyer that:</p> <ul style="list-style-type: none"> <li>a) provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</li> <li>b) provides a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</li> <li>c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of the Contract; and</li> </ul> <p>is certified by the Supplier’s Chief Financial Officer or Director of Finance;</p>
<b>"FOIA"</b>	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act,

	neglect or failure to take reasonable preventative action by that Party, including: a) riots, civil commotion, war or armed conflict; b) acts of terrorism; c) acts of government, local government or regulatory bodies; d) fire, flood, storm or earthquake or other natural disaster, but excluding any industrial dispute relating to the Supplier, the Supplier Staff or any other failure in the Supplier or the Subcontractor's supply chain;
<b>"Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"General Anti-Abuse Rule"</b>	e) the legislation in Part 5 of the Finance Act 2013; and f) any future legislation introduced into parliament to counteract Tax advantages arising from abusive arrangements to avoid National Insurance contributions;
<b>"General Change in Law"</b>	a Change in Law where the change is of a general legislative nature (including Tax or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>"Gold Contract"</b>	an Order Contract categorised as a Gold contract using the Cabinet Office Contract Tiering Tool;
<b>"Goods"</b>	goods made available by the Supplier as specified in DPS Schedule 1 (Specification) and in relation to an Order Contract as specified in the Order Form ;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

<b>"Government Data"</b>	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's Confidential Information, and which:  i) are supplied to the Supplier by or on behalf of the Authority; or  ii) the Supplier is required to generate, process, store or transmit pursuant to a Contract;
<b>"Government Functional Standard GovS 013: Counter Fraud"</b>	the Standard that sets the expectations for the management of fraud, bribery and corruption risk in government organisations;
<b>"Government Functional Standards GovS 015: Grants"</b>	the Standard that all grant making bodies adhere to when developing grant schemes and programmes;
<b>"Government Grants Information Service (GGIS)"</b>	the portal that captures all information on grant awards across all departments;
<b>"Government Procurement Card"</b>	the Government's preferred method of purchasing and payment for low value goods or services <a href="https://www.gov.uk/government/publications/governmentprocurement-card--2">https://www.gov.uk/government/publications/governmentprocurement-card--2</a> ;
<b>"Group of Economic Operators"</b>	This can refer to multiple suppliers working in collaboration on the same contract, also known as a consortium or consortia. This will have one lead supplier who manages all the other suppliers within the group / consortia.
<b>"Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Joint Schedule 8 (Guarantee) in relation to this Contract;
<b>"HM Government" or "HMG"</b>	His Majesty's Government;
<b>"Halifax Abuse Principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HMRC"</b>	His Majesty's Revenue and Customs;
<b>"ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Order Form, which is in force as at the Order Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>"Impact Assessment"</b>	an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including:

	<p>g) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</p> <p>h) details of the cost of implementing the proposed Variation;</p> <p>i) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the DPS Pricing/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</p> <p>j) a timetable for the implementation, together with any proposals for the testing of the Variation; and</p> <p>k) such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;</p>
<b>"Implementation Plan"</b>	the plan for provision of the Deliverables set out in Order Schedule 13 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>"Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>"Independent Control"</b>	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and <b>"Independent Controller"</b> shall be construed accordingly;
<b>"Indexation"</b>	the adjustment of an amount or sum in accordance with DPS Schedule 3 (DPS Pricing) and the relevant Order Form;
<b>"Information"</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of a Contract specified on the Platform or the Order Form, as the context requires;
<b>"Insolvency Event"</b>	<p>with respect to any person, means:</p> <p>(a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:</p> <p>(i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or</p> <p>(ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</p> <p>(b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with</p>

**Joint Schedule 1 (Definitions)**

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	<p>one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;</p> <p>(d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within 14 days;</p> <p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, a LLP or a partnership:</p> <p>(i) a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;</p> <p>(iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</p> <p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Order Contract Period to install the Goods in accordance with the Order Contract;
<b>"Intellectual Property Rights" or "IPR"</b>	l) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;

**Joint Schedule 1 (Definitions)**

Crown Copyright 2022

	<p>m) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>n) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
<b>"Invoicing Address"</b>	the address to which the Supplier shall invoice the Buyer as specified in the Order Form;
<b>"IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Relevant Authority in the fulfilment of its obligations under a Contract;
<b>"IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same income tax and National Insurance contributions as an employee which can be found online at: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"ISO"</b>	International Organization for Standardization;
<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Relevant Authority and the Supplier substantially in the form set out in Annex 2 of Joint Schedule 11 ( <i>Processing Data</i> );
<b>"Joint Controllers"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>"Key Staff"</b>	the individuals (if any) identified as such in the Order Form;
<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	<p>any Subcontractor:</p> <p>o) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</p> <p>p) which, in the opinion of CCS or the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</p> <p>q) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Order Contract,</p> <p>and the Supplier shall list all such Key Subcontractors on the Platform and in the Key Subcontractor Section in the Order Form;</p>

<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;
<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the relevant Party is bound to comply;
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680);
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and <b>"Loss"</b> shall be interpreted accordingly;
<b>"Management Information" or "MI"</b>	the management information specified in DPS Schedule 5 (Management Levy and Information);
<b>"Management Levy"</b>	the sum specified on the Platform payable by the Supplier to CCS in accordance with DPS Schedule 5 (Management Levy and Information);
<b>"Maximum Margin Percentage"</b>	means the percentage a Supplier will apply on top of the total cost of provision of the Services to enable effective delivery, continuous improvement and, where applicable according to the status of the Suppliers, profit.
<b>"MI Default"</b>	means when two (2) MI Reports are not provided in any rolling six (6) month period
<b>"MI Failure"</b>	means when an MI report: <ul style="list-style-type: none"> <li>r) contains any material errors or material omissions or a missing mandatory field; or</li> <li>s) is submitted using an incorrect MI reporting Template; or</li> <li>t) is not submitted by the reporting date (including where a declaration of no business should have been filed);</li> </ul>
<b>"MI Report"</b>	means a report containing Management Information submitted to the Authority in accordance with DPS Schedule 5 (Management Levy and Information);
<b>"MI Reporting Template"</b>	means the form of report set out in the Annex to DPS Schedule 5 (Management Levy and Information) setting out the information the Supplier is required to supply to the Authority;
<b>"Milestone"</b>	an event or task described in the Implementation Plan;



<b>"Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
<b>"Model Grant Funding Agreement"</b>	the standard funding agreement that should be signed by successful applicants;
<b>"Month"</b>	a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;
<b>"National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>"New IPR"</b>	<p>u) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>v) IPR in or arising as a result of the performance of the Supplier's obligations under a Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
<b>"New IPR Item"</b>	means a deliverable, document, product or other item within which New IPR subsists;
<b>"Occasion of Tax Non-Compliance"</b>	<p>where:</p> <p>w) any Tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any Tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</p> <p>x) any Tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for Tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p>
<b>"Open Book Data"</b>	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Order Contract, including details and all assumptions relating to:</p> <p>y) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure</p>

	<p>(including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</p> <p>z) operating expenditure relating to the provision of the Deliverables including an analysis showing:</p> <p>i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</p> <p>ii) staff costs broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each grade;</p> <p>iii) a list of Costs underpinning those rates for each grade, being the agreed rate less the Supplier Profit Margin; and</p> <p>iv) Reimbursable Expenses, if allowed under the Order Form;</p> <p>aa) Overheads;</p> <p>bb) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</p> <p>cc) the Supplier Profit achieved over the DPS Contract Period and on an annual basis;</p> <p>dd) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</p> <p>ee) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</p> <p>ff) the actual Costs profile for each Service Period;</p>
<b>"Open Licence"</b>	<p>means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at <a href="http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/">http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/</a> and the Open Standards Principles documented at <a href="https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles">https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles</a>;</p>
<b>"Order"</b>	<p>means an order for the provision of the Deliverables placed by a Buyer with the Supplier under a Contract;</p>
<b>"Order Contract"</b>	<p>the contract between the Buyer and the Supplier (entered into pursuant to the provisions of the DPS Contract), which consists of the terms set out and referred to in the Order Form;</p>
<b>"Order Contract Period"</b>	<p>the Contract Period in respect of the Order Contract;</p>
<b>"Order Expiry Date"</b>	<p>the date of the end of an Order Contract as stated in the Order Form;</p>
<b>"Order Form"</b>	<p>a completed Order Form Template (or equivalent information issued by the Buyer) used to create an Order Contract;</p>

<b>"Order Form Template"</b>	the template in DPS Schedule 6 (Order Form Template and Order Schedules);
<b>"Order Incorporated Terms"</b>	the contractual terms applicable to the Order Contract specified under the relevant heading in the Order Form;
<b>"Order Initial Period"</b>	the Initial Period of an Order Contract specified in the Order Form;
<b>"Order Optional Extension Period"</b>	such period or periods beyond which the Order Initial Period may be extended as specified in the Order Form;
<b>"Order Procedure"</b>	the process for awarding an Order Contract pursuant to Clause 2 (How the contract works) and DPS Schedule 7 (Order Procedure);
<b>"Order Special Terms"</b>	any additional terms and conditions specified in the Order Form incorporated into the applicable Order Contract;
<b>"Order Start Date"</b>	the date of start of an Order Contract as stated in the Order Form;
<b>"Order Tender"</b>	the tender submitted by the Supplier in response to the Buyer's Statement of Requirements following an Order Procedure and set out at Order Schedule 4 (Order Tender);
<b>"Other Contracting Authority"</b>	any actual or potential Buyer under the DPS Contract;
<b>"Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
<b>"Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>"Party"</b>	in the context of the DPS Contract, CCS or the Supplier, and in the in the context of an Order Contract the Buyer or the Supplier. <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Performance Indicators" or "PIs"</b>	the performance measurements and targets in respect of the Supplier's performance of the DPS Contract set out in DPS Schedule 4 (DPS Management);
<b>"Personal Data"</b>	has the meaning given to it in the UK GDPR;
<b>"Personal Data Breach"</b>	has the meaning given to it in the UK GDPR;
<b>"Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of a Party and/or of any Subcontractor and/or Subprocessor engaged in the performance of its obligations under a Contract;
<b>"Platform"</b>	the online application operated on behalf of CCS to facilitate the technical operation of the DPS;

<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Processing"</b>	has the meaning given to it in the UK GDPR;
<b>"Processor"</b>	has the meaning given to it in the UK GDPR;
<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Meeting Frequency"</b>	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Order Form;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Progress Report Frequency"</b>	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Order Form;
<b>"Prohibited Acts"</b>	<p>gg) to directly or indirectly offer, promise or give any person working for or engaged by a Buyer or any other public body a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>hh) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with each Contract; or</p> <p>ii) committing any offence:</p> <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>ii) under legislation or common law concerning fraudulent acts; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or</li> </ul> <p>jj) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>

<b>"Protective Measures"</b>	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in DPS Schedule 9 (Cyber Essentials Scheme), if applicable, in the case of the DPS Contract or Order Schedule 9 (Security), if applicable, in the case of an Order Contract;
<b>"Public Sector Body"</b>	means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;
<b>"Recall"</b>	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the right IPR rights) that might endanger health or hinder performance;
<b>"Recipient Party"</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>"Rectification Plan"</b>	the Supplier's plan (or revised plan) to rectify it's breach using the template in Joint Schedule 10 (Rectification Plan) which shall include:  kk) full details of the Default that has occurred, including a root cause analysis;  ll) the actual or anticipated effect of the Default; and  mm) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);
<b>"Rectification Plan Process"</b>	the process set out in Clause 10.3.1 to 10.3.4 (Rectification Plan Process);
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:  nn) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and  oo) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and

	from the premises at which the Services are principally to be performed;
<b>"Relevant Authority"</b>	the Authority which is party to the Contract to which a right or obligation is owed, as the context requires;
<b>"Relevant Authority's Confidential Information"</b>	<p>pp) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Relevant Authority (including all Relevant Authority Existing IPR and New IPR);</p> <p>qq) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Relevant Authority's attention or into the Relevant Authority's possession in connection with a Contract; and</p> <p>information derived from any of the above;</p>
<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 10.5 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables following the Order Expiry Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Subcontractor"</b>	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to a Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Insurances"</b>	the insurances required by Joint Schedule 3 (Insurance Requirements) or any additional insurances specified in the Order Form;
<b>"RTI"</b>	Real Time Information;
<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Part B of Order Schedule 13 (Implementation Plan and Testing) or

	as agreed by the Parties where Order Schedule 13 is not used in this Contract) granted by the Buyer when the Supplier has met all of the requirements of an Order, Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to a DPS or Order Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Order Schedule 9 (Security) (if applicable);
<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Order Form, in force as at the Order Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Self Audit Certificate"</b>	means the certificate in the form as set out in DPS Schedule 8 (Self Audit Certificate);
<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Order Contract (which, where Order Schedule 14 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Order Form;
<b>"Services"</b>	services made available by the Supplier as specified in DPS Schedule 1 (Specification) and in relation to an Order Contract as specified in the Order Form;
<b>"Service Transfer"</b>	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>"Service Transfer Date"</b>	the date of a Service Transfer;
<b>"Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:  rr) the Deliverables are (or are to be) provided; or  ss) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Special Terms"</b>	any additional Clauses set out in the DPS Appointment Form or Order Form which shall form part of the respective Contract;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the

**Joint Schedule 1 (Definitions)**

Crown Copyright 2022

	effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>"Specification"</b>	the specification set out in DPS Schedule 1 (Specification), as may, in relation to an Order Contract, be supplemented by the Order Form;
<b>"Standards"</b>	any: tt) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; uu) standards detailed in the specification in DPS Schedule 1 (Specification); vv) standards detailed by the Buyer in the Order Form or agreed between the Parties from time to time; ww) relevant Government codes of practice and guidance applicable from time to time;
<b>"Start Date"</b>	in the case of the DPS Contract, the date specified on the DPS Appointment Form, and in the case of an Order Contract, the date specified in the Order Form;
<b>"Statement of Requirements"</b>	a statement issued by the Buyer detailing its requirements in respect of Deliverables issued in accordance with the Order Procedure;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>"Sub-Contract"</b>	any contract or agreement (or proposed contract or agreement), other than an Order Contract or the DPS Contract, pursuant to which a third party: xx) provides the Deliverables (or any part of them); yy) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or zz) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	any third party appointed to process Personal Data on behalf of that Processor related to a Contract;
<b>"Supplier"</b>	the person, firm or company identified in the DPS Appointment Form;



<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Order Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the DPS Appointment Form, or later defined in an Order Contract;
<b>"Supplier's Confidential Information"</b>	<p>aaa) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;</p> <p>bbb) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with a Contract;</p> <p>ccc) Information derived from any of (a) and (b) above;</p>
<b>"Supplier's Contract Manager"</b>	the person identified in the Order Form appointed by the Supplier to oversee the operation of the Order Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Order Contract;
<b>"Supplier Existing IPR"</b>	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)
<b>"Supplier Existing IPR Licence"</b>	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>"Supplier Marketing Contact"</b>	shall be the person identified in the DPS Appointment Form;
<b>"Supplier Non-Performance"</b>	<p>where the Supplier has failed to:</p> <p>ddd) Achieve a Milestone by its Milestone Date;</p> <p>eee) provide the Goods and/or Services in accordance with the Service Levels ; and/or</p> <p>fff)comply with an obligation under a Contract;</p>
<b>"Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of an Order Contract for the relevant period;

<b>"Supplier Profit Margin"</b>	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of Joint Schedule 12 (Supply Chain Visibility);
<b>"Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Order Contract detailed in the information are properly payable;
<b>"Tax"</b>	<p>ggg) all forms of taxation whether direct or indirect;</p> <p>hhh) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction;</p> <p>iii) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and</p> <p>jjj) any penalty, fine, surcharge, interest, charges or costs relating to any of the above,</p> <p>in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;</p>
<b>"Termination Notice"</b>	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate a Contract on a specified date and setting out the grounds for termination;
<b>"Test Issue"</b>	any variance or non-conformity of the Deliverables from their requirements as set out in an Order Contract;
<b>"Test Plan"</b>	<p>a plan:</p> <p>kkk) for the Testing of the Deliverables; and</p> <p>lll) setting out other agreed criteria related to the achievement of Milestones;</p>
<b>"Tests "</b>	any tests required to be carried out pursuant to an Order Contract as set out in the Test Plan or elsewhere in an Order Contract and <b>"Tested"</b> and <b>"Testing"</b> shall be construed accordingly;
<b>"Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;

<b>"Third Party IPR Licence"</b>	means a licence to the Third Party IPR as set out in Paragraph 1.5 of Schedule 24;
<b>"Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;
<b>"Transparency Information"</b>	the Transparency Reports and the content of a Contract, including any changes to this Contract agreed from time to time, except for –  (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Relevant Authority; and  (ii) Commercially Sensitive Information;
<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance of the Contracts which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Order Schedule 1 (Transparency Reports);
<b>"TUPE"</b>	Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations or UK legislation implementing the Acquired Rights Directive;
<b>"United Kingdom"</b>	the country that consists of England, Scotland, Wales, and Northern Ireland;
<b>"UK GDPR"</b>	the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"Variation"</b>	any change to a Contract;
<b>"Variation Form"</b>	the form set out in Joint Schedule 2 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 24 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables;
<b>"Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Order Form;

**Joint Schedule 1 (Definitions)**

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<b>"Work Day"</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; and
<b>"Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks.

## Joint Schedule 2 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 24 (Changing the Contract)

Contract Details	
This variation is between:	<b>[delete]</b> as applicable: CCS / Buyer] (" <b>CCS</b> " " <b>the Buyer</b> ") And <b>[insert]</b> name of Supplier] (" <b>the Supplier</b> ")
Contract name:	<b>[insert]</b> name of contract to be changed] (" <b>the Contract</b> ")
Contract reference number:	<b>[insert]</b> contract reference number]
Details of Proposed Variation	
Variation initiated by:	<b>[delete]</b> as applicable: CCS/Buyer/Supplier]
Variation number:	<b>[insert]</b> variation number]
Date variation is raised:	<b>[insert]</b> date]
Proposed variation	
Reason for the variation:	<b>[insert]</b> reason]
An Impact Assessment shall be provided within:	<b>[insert]</b> number] days
Impact of Variation	
Likely impact of the proposed variation:	<b>[Supplier to insert]</b> assessment of impact]
Outcome of Variation	
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"><li><b>[CCS/Buyer to insert]</b> original Clauses or Paragraphs to be varied and the changed clause]</li></ul>
Financial variation:	Original Contract Value: £ <b>[insert]</b> amount]
	Additional cost due to variation: £ <b>[insert]</b> amount]
	New Contract value: £ <b>[insert]</b> amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by **[delete]** as applicable: CCS / Buyer]
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the **[delete]** as applicable: CCS / Buyer]

Signature

Date

Name (in Capitals)

Address

---

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

## Joint Schedule 3 (Insurance Requirements)

### 1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under an Order Contract (specified in the applicable Order Form) ("**Additional Insurances**") and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than:
  - 1.1.1 the DPS Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
  - 1.1.2 the Order Contract Effective Date in respect of the Additional Insurances.
- 1.2 The Insurances shall be:
  - 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### 2. How to manage the insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
  - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
  - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### **3. What happens if you aren't insured**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

### **4. Evidence of insurance you must provide**

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

### **5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity.

### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

### **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.



### **Joint Schedule 3 (Insurance Requirements)**

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- 7.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

**ANNEX: REQUIRED INSURANCES**

1. The Supplier shall hold the following [standard] insurance cover from the DPS Start Date in accordance with this Schedule:
  - 1.1 professional indemnity insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] one million pounds (£1,000,000);
  - 1.2 public liability insurance [with cover (for a single event or a series of related events and in the aggregate)] of not less than one million pounds (£1,000,000); and
  - 1.3 employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] five million pounds (£5,000,000).

## Joint Schedule 4 (Commercially Sensitive Information)

### 1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Order Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Relevant Authority's obligation to disclose Information in accordance with FOIA or Clause 16 (When you can share information), the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
1	From the Effective Date	Order Schedule 4 (Order Tender)	From the Order Start Date up to and including the End Date of the Order Contract.
2	From the Effective Date	Order Schedule 5 (Pricing Details) - Annexes to the Pricing Schedule	From the Order Start Date up to and including the End Date of the Order Contract.
3	From the Effective Date	Order Schedule 4 (Order Tender) - Key supplier staff	From the Order Start Date up to and including the End Date of the Order Contract.
4	From the Effective Date	Order Schedule 13 (Mobilisation Plan and Testing) - Mobilisation Plan	Two (2 years from the Order Start Date.
5	From the Effective Date	Personal and contact information for members of the Supplier	From the Order Start Date up to and including the

			End Date of the Order Contract.
6	From the Effective Date	Key Sub-Contract(s).	From the Order Start Date up to and including the End Date of the Order Contract.
7	From the Effective Date	Personal and contact information for members of the Investment Committee.	From the Order Start Date up to and including the End Date of the Order Contract.

## Joint Schedule 5 (Corporate Social Responsibility)

### 1. What we expect from our Suppliers

- 1.1 In September 2017, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government.  
([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/646497/2017-09-13\\_Official\\_Sensitive\\_Supplier\\_Code\\_of\\_Conduct\\_September\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf))
- 1.2 CCS expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, CCS expects its suppliers and subcontractors to comply with the standards set out in this Schedule.
- 1.3 The Supplier acknowledges that the Buyer may have additional requirements in relation to corporate social responsibility. The Buyer expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time.

### 2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Supplier shall support CCS and the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
  - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
  - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

### 3. Modern Slavery, Child Labour and Inhumane Treatment

**"Modern Slavery Helpline"** means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

- 3.1 The Supplier:
  - 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
  - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identify papers with the Employer and shall be free to leave their employer after reasonable notice;
  - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.

- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world.
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world.
- 3.1.6 shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.1.8 shall prepare and deliver to CCS, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to CCS, the Buyer and Modern Slavery Helpline.

#### **4. Income Security**

##### **4.1 The Supplier shall:**

- 4.1.1 ensure that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter;
- 4.1.3 ensure that all workers are provided with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.4 not make deductions from wages:
  - (a) as a disciplinary measure

- (b) except where permitted by law; or
- (c) without expressed permission of the worker concerned;
- 4.1.5 record all disciplinary measures taken against Supplier Staff; and
- 4.1.6 ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

## **5. Working Hours**

### **5.1 The Supplier shall:**

- 5.1.1 ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
- 5.1.2 ensure that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
- 5.1.3 ensure that use of overtime is used responsibly, taking into account:
  - (a) the extent;
  - (b) frequency; and
  - (c) hours worked;

by individuals and by the Supplier Staff as a whole;

- 5.2 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Paragraph 5.3 below.
- 5.3 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
  - 5.3.1 this is allowed by national law;
  - 5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
  - 5.3.3 appropriate safeguards are taken to protect the workers' health and safety; and
  - 5.3.4 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.
- 5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

## **6. Sustainability**

- 6.1 The supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>



## Joint Schedule 6 (Key Subcontractors)

### 1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under the DPS Contract to the Key Subcontractors identified on the Platform.
- 1.2 The Supplier is entitled to sub-contract its obligations under an Order Contract to Key Subcontractors listed on the Platform who are specifically nominated in the Order Form.
- 1.3 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of CCS and the Buyer and the Supplier shall, at the time of requesting such consent, provide CCS and the Buyer with the information detailed in Paragraph 1.4. The decision of CCS and the Buyer to consent or not will not be unreasonably withheld or delayed. Where CCS consents to the appointment of a new Key Subcontractor then they will be added to the Platform. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to the Key Subcontractor section of the Order Form. CCS and the Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.3.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.3.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.3.3 the proposed Key Subcontractor employs unfit persons.
- 1.4 The Supplier shall provide CCS and the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.4.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.4.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.4.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the CCS and the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.4.4 for CCS, the Key Sub-Contract price expressed as a percentage of the total projected DPS Price over the DPS Contract Period;
  - 1.4.5 for the Buyer, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Order Contract Period; and
  - 1.4.6 (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor.

## **Joint Schedule 6 (Key Subcontractors)**

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- 1.5 If requested by CCS and/or the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.4, the Supplier shall also provide:
  - 1.5.1 a copy of the proposed Key Sub-Contract; and
  - 1.5.2 any further information reasonably requested by CCS and/or the Buyer.
- 1.6 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
  - 1.6.1 provisions which will enable the Supplier to discharge its obligations under the Contracts;
  - 1.6.2 a right under CRTPA for CCS and the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon CCS and the Buyer respectively;
  - 1.6.3 a provision enabling CCS and the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to CCS and/or the Buyer;
  - 1.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the DPS Contract in respect of:
    - (a) the data protection requirements set out in Clause 14 (Data protection);
    - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
    - (c) the obligation not to embarrass CCS or the Buyer or otherwise bring CCS or the Buyer into disrepute;
    - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
  - 1.6.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on CCS and the Buyer under Clauses 10.4 (When CCS or the Buyer can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and
  - 1.6.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of CCS and the Buyer.

**Joint Schedule 7 (Financial Difficulties)**

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**Joint Schedule 7 (Financial Difficulties)****1. Definitions**

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>“Applicable Financial Indicators”</b>	1 means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 5.2 of this Schedule;
<b>“Board”</b>	2 means the Supplier’s board of directors;
<b>“Board Confirmation”</b>	3 means written confirmation from the Board in accordance with Paragraph 8 of this Schedule;
<b>“Cabinet Office Markets and Suppliers Team”</b>	4 means the UK Government’s team responsible for managing the relationship between government and its Strategic Suppliers, or any replacement or successor body carrying out the same function;
<b>“Credit Rating Threshold”</b>	5 the minimum credit rating level for each entity in the FDE Group as set out in Annex 1 to this Schedule
<b>“FDE Group”</b>	6 means the Supplier, Key Sub-contractors, the Guarantor and the Monitored Suppliers;
<b>“Financial Distress Event”</b>	7 Any of the events listed in Paragraph 3.1 of this Schedule;
<b>“Financial Distress Remediation Plan”</b>	8 a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with the Contract in the event that a Financial Distress Event occurs;
<b>“Financial Indicators”</b>	9 in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at paragraph 5.1 of this Schedule and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
<b>“Financial Target Thresholds”</b>	10 means the target thresholds for each of the Financial Indicators set out at paragraph 5.1 of this Schedule;
<b>“Monitored Suppliers”</b>	11 means those entities specified at paragraph 5.2 of this Schedule;
<b>“Rating Agencies”</b>	12 the rating agencies listed in Annex 1 of this Schedule.
<b>“Strategic Supplier”</b>	13 means those suppliers to government listed at <a href="https://www.gov.uk/government/publications/strategic-suppliers">https://www.gov.uk/government/publications/strategic-suppliers</a> .

## **Joint Schedule 7 (Financial Difficulties)**

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### **2. Warranties and duty to notify**

2.1 The Supplier warrants and represents to the Relevant Authority for the benefit of the Relevant Authority that as at the Effective Date:

2.1.1 the long term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Annex 2 to this Schedule; and

2.1.2 the financial position or, as appropriate, the financial performance of each of the Supplier, Guarantor and Key Sub-contractors satisfies the Financial Target Thresholds.

2.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Relevant Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group (and in any event within 5 Working Days of the occurrence of the downgrade).

2.3 The Supplier shall:

2.3.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies;

2.3.2 monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out for each at Paragraph 5.1 (where specified) and in any event, on a regular basis and no less than once a year within ninety (90) days after the Accounting Reference Date; and

2.3.3 promptly notify (or shall procure that its auditors promptly notify) the Relevant Authority in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event (and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event).

2.4 For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of Paragraphs 3.1, and for the purposes of determining relief under Paragraph 7.1, the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated that entity at or below the applicable Credit Rating Threshold.

2.5 Each report submitted by the Supplier pursuant to paragraph 2.3.2 shall:

2.5.1 be a single report with separate sections for each of the FDE Group entities;

2.5.2 contain a sufficient level of information to enable the Relevant Authority to verify the calculations that have been made in respect of the Financial Indicators;

**Joint Schedule 7 (Financial Difficulties)**

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- 2.5.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
- 2.5.4 be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
- 2.5.5 include a history of the Financial Indicators reported by the Supplier in graph form to enable the Relevant Authority to easily analyse and assess the trends in financial performance.

**3. Financial Distress events**

3.1 The following shall be Financial Distress Events:

- 3.1.1 the credit rating of an FDE Group entity dropping below the applicable Credit Rating Threshold;
- 3.1.2 an FDE Group entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
- 3.1.3 there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an FDE Group entity;
- 3.1.4 an FDE Group entity committing a material breach of covenant to its lenders;
- 3.1.5 a Key Sub-contractor notifying CCS or the Buyer that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
- 3.1.6 any of the following:
  - (a) commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
  - (b) non-payment by an FDE Group entity of any financial indebtedness;
  - (c) any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;
  - (d) the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or
  - (e) the external auditor of an FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE entity;

## **Joint Schedule 7 (Financial Difficulties)**

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in each case which the Relevant Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Deliverables in accordance with the Contract; and

3.1.7 any [one] of the Financial Indicators set out at Paragraph 5 for any of the FDE Group entities failing to meet the required Financial Target Threshold.

### **4. Consequences of Financial Distress Events**

4.1 Immediately upon notification by the Supplier of a Financial Distress Event (or if the Relevant Authority becomes aware of a Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Relevant Authority shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.

4.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 3.1.5, the Relevant Authority shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier 10 Working Days to:

4.2.1 rectify such late or non-payment; or

4.2.2 demonstrate to the Relevant Authority's reasonable satisfaction that there is a valid reason for late or non-payment.

4.3 The Supplier shall (and shall procure that any Monitored Supplier, the Guarantor and/or any relevant Key Sub-contractor shall):

4.3.1 at the request of the Relevant Authority, meet the Relevant Authority as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Relevant Authority may permit and notify to the Supplier in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with the Contract; and

4.3.2 where the Relevant Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1 that the Financial Distress Event could impact on the continued performance and delivery of the Deliverables in accordance with the Contract:

(a) submit to the Relevant Authority for its approval, a draft Financial Distress Remediation Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Relevant Authority may permit and notify to the Supplier in writing); and

(b) to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the Supplier, any Monitored Supplier, Key

## Joint Schedule 7 (Financial Difficulties)

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Sub-contractors and/or the Guarantor as the Buyer may reasonably require in order to understand the risk to the Deliverables, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.

4.4 The Relevant Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Relevant Authority does not approve the draft Financial Distress Remediation Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be resubmitted to the Relevant Authority within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is approved by the Relevant Authority or referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms under Paragraph 4.5.

4.5 If the Relevant Authority considers that the draft Financial Distress Remediation Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Remediation Plan or escalate any issues with the draft Financial Distress Remediation Plan using the Dispute Resolution Procedure in Clause 34 of the Core Terms.

4.6 Following approval of the Financial Distress Remediation Plan by the Relevant Authority, the Supplier shall:

4.6.1 on a regular basis (which shall not be less than fortnightly):

- (a) review and make any updates to the Financial Distress Remediation Plan as the Supplier may deem reasonably necessary and/or as may be reasonably requested by the Relevant Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Deliverables in accordance with this Contract; and
- (b) provide a written report to the Relevant Authority setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Supplier and/or the reasons why the Supplier may have decided not to make any changes;

4.6.2 where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.6.1, submit an updated Financial Distress Remediation Plan to the Relevant Authority for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and

4.6.3 comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure

**Joint Schedule 7 (Financial Difficulties)**

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that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.

4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Relevant Authority and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.6.

4.8 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 4.3.2(b) is available when required and on request from the Relevant Authority and within reasonable timescales. Such measures may include:

- 4.8.1 obtaining in advance written authority from Key Sub-contractors, the Guarantor and/or Monitored Suppliers authorising the disclosure of the information to the Buyer and/or entering into confidentiality agreements which permit disclosure;
- 4.8.2 agreeing in advance with the Relevant Authority, Key Sub-contractors, the Guarantor and/or Monitored Suppliers a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Relevant Authority;
- 4.8.3 putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Relevant Authority (which may include making price sensitive information available to the Relevant Authority's nominated personnel through confidential arrangements, subject to their consent); and
- 4.8.4 disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

**5. Termination rights**

5.1 The Relevant Authority shall be entitled to terminate the Contract if:

- 5.1.1 the Supplier fails to notify the Relevant Authority of a Financial Distress Event in accordance with Paragraph 2.3.3;
- 5.1.2 the Parties fail to agree a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- 5.1.3 the Supplier fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 4.6.3,



**Joint Schedule 7 (Financial Difficulties)**

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which shall be deemed to be an event to which Clause 10.4.1 of the Core Terms applies and Clauses 10.6.1 and 10.6.2 of the Core Terms shall apply accordingly.

**6. Primacy of Credit Ratings**

6.1 Without prejudice to the Supplier's obligations and the Relevant Authority's rights and remedies under Paragraph 2, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 3.1.2 to 3.1.7, the Rating Agencies review and report subsequently that the credit ratings for the FDE Group entities do not drop below the relevant Credit Rating Thresholds specified for those entities in Annex 2 to this Schedule, then:

- 6.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- 6.1.2 the Relevant Authority shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2(b).

**7. Board confirmation**

7.1 If the Contract has been specified as a Critical Service Contract under Paragraph 1.1 of Part B to Order Schedule 8 (Business Continuity and Disaster Recovery) (if applicable) then, subject to Paragraph 8.4 of this Schedule, the Supplier shall within ninety (90) days after each Accounting Reference Date or within 15 months of the previous Board Confirmation (whichever is the earlier) provide a Board Confirmation to the Relevant Authority in the form set out at Annex 3 to this Schedule, confirming that to the best of the Board's knowledge and belief, it is not aware of and has no knowledge:

- 7.1.1 that a Financial Distress Event has occurred since the later of the Effective Date or the previous Board Confirmation or is subsisting; or
- 7.1.2 of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.

7.2 The Supplier shall ensure that in its preparation of the Board Confirmation it exercises due care and diligence and has made reasonable enquiry of all relevant Supplier Staff and other persons as is reasonably necessary to understand and confirm the position.

7.3 In respect of the first Board Confirmation to be provided under this Contract, the Supplier shall provide the Board Confirmation within 15 months of the Effective Date if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.

7.4 Where the Supplier is unable to provide a Board Confirmation in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Supplier to submit in place of the Board Confirmation, a statement from the Board of Directors to the Buyer (and where the Supplier is a Strategic Supplier, the Supplier shall send a copy of the statement to the Cabinet Office Markets and

**Joint Schedule 7 (Financial Difficulties)**

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Suppliers Team) setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

**Joint Schedule 7 (Financial Difficulties)**  
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**Annex 1: Rating Agencies and their standard Rating System**

Dun and Bradstreet

Entity	Credit Rating (long term)	Credit Rating Threshold
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**Joint Schedule 7 (Financial Difficulties)**  
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**Annex 2: Credit Ratings and Credit Rating Thresholds**

Entity	Credit rating (long term)

**ANNEX 3: BOARD CONFIRMATION**

**Supplier Name: Gemserv Limited**

**Contract Reference Number:**

## **Joint Schedule 7 (Financial Difficulties)**

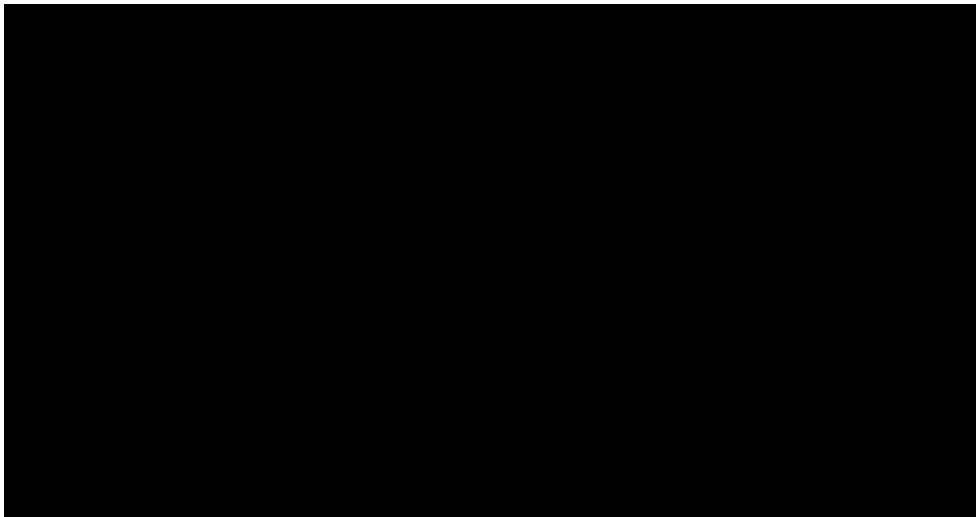
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The Board of Directors acknowledge the requirements set out at paragraph 8 of Joint Schedule 7 (*Financial Distress*) and confirm that the Supplier has exercised due care and diligence and made reasonable enquiry of all relevant Supplier Staff and other persons as is reasonably necessary to enable the Board to prepare this statement.

The Board of Directors confirms, to the best of its knowledge and belief, that as at the date of this Board Confirmation it is not aware of and has no knowledge:

- (a) that a Financial Distress Event has occurred since the later of the previous Board Confirmation and the Effective Date or is subsisting;  
or
- (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event

On behalf of the Board of Directors:



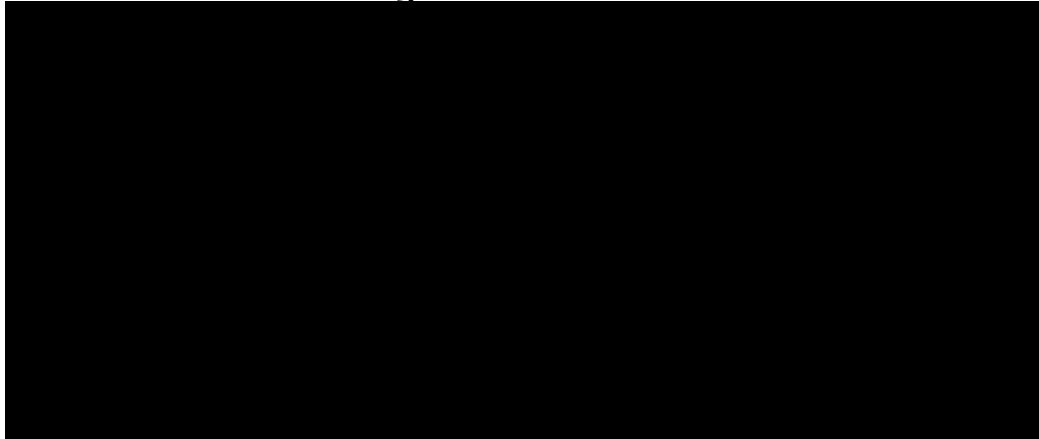
## **APPENDIX 1: RATING AGENCIES**

Dun and Bradstreet Failure Score

**Joint Schedule 7 (Financial Difficulties)**  
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## **APPENDIX 2: CREDIT RATINGS & CREDIT RATING THRESHOLDS**

### **Part 1: Current Rating**



## Joint Schedule 10 (Rectification Plan)

Request for [Revised] Rectification Plan			
Details of the Default:	[Guidance: Explain the Default, with clear schedule and clause references as appropriate]		
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from request)]		
Signed by [CCS/Buyer] :		Date:	
Supplier [Revised] Rectification Plan			
Cause of the Default	[add cause]		
Anticipated impact assessment:	[add impact]		
Actual effect of Default:	[add effect]		
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Default	[X] Working Days		
Steps taken to prevent recurrence of Default	<b>Steps</b>	<b>Timescale</b>	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	

**Joint Schedule 10 (Rectification Plan)**

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Signed by the Supplier:		Date:	
<b>Review of Rectification Plan [CCS/Buyer]</b>			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for Rejection (if applicable)	[add reasons]		
Signed by [CCS/Buyer]		Date:	



## Joint Schedule 11 (Processing Data)

### Definitions

1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**“Processor Personnel”** all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;

### Status of the Controller

2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

- (a) “Controller” in respect of the other Party who is “Processor”;
- (b) “Processor” in respect of the other Party who is “Controller”;
- (c) “Joint Controller” with the other Party;
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

### Where one Party is Controller and the other Party its Processor

3. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
  - (a) a systematic description of the envisaged Processing and the purpose of the Processing;
  - (b) an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;

## Joint Schedule 11 (Processing Data)

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- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Personal Data Breach;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that :
    - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
    - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
      - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
      - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
      - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
  - (d) not transfer Personal Data outside of the UK or EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

## Joint Schedule 11 (Processing Data)

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- (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
    - (ii) the Data Subject has enforceable rights and effective legal remedies;
    - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
    - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
  - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
7. Subject to paragraph 7 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Personal Data Breach.
8. The Processor's obligation to notify under paragraph 6 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
9. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:

## **Joint Schedule 11 (Processing Data)**

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- (a) the Controller with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Controller following any Personal Data Breach; and/or
  - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
  - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
12. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- (a) notify the Controller in writing of the intended Subprocessor and Processing;
  - (b) obtain the written consent of the Controller;
  - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and
  - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
14. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
15. The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an

applicable certification scheme (which shall apply when incorporated by attachment to the Contract).

16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

### **Where the Parties are Joint Controllers of Personal Data**

17. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Joint Schedule 11.

### **Independent Controllers of Personal Data**

18. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
19. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
20. Where a Party has provided Personal Data to the other Party in accordance with paragraph 8 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
21. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
22. The Parties shall only provide Personal Data to each other:
  - (a) to the extent necessary to perform their respective obligations under the Contract;
  - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
  - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational

measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

24. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
25. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
  - (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
  - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
26. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
  - (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
  - (b) implement any measures necessary to restore the security of any compromised Personal Data;
  - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.

## **Joint Schedule 11 (Processing Data)**

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27. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
28. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
29. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 18 to 27 of this Joint Schedule 11.

## Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Relevant Authority at its absolute discretion.

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are: DESNZ Data Protection Officer, Department for Energy Security and Net Zero, 3-8 Whitehall Place, London, SW1A 2EG  
Email: [REDACTED]
- 1.2 The contact details of the Supplier's Data Protection Officer are: [REDACTED]  
Senior Data protection consultant, [REDACTED]  
[REDACTED]  
Email: [REDACTED]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Parties are Joint Controllers</b></p> <p><i>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <p><b>The processing that is needed to ensure that the Contractor can effectively deliver the contract to provide the requirements as specified in Order Schedule 20.</b></p> <p>The processing of names and business contact details of staff of the Authority, Applicants and prospective Applicants to HNES, HNES projects, HNES Project Supply Chain, and the Contractor will be necessary to deliver the services exchanged during the course of the Contract, and to undertake contract and performance management.</p> <p>The Contract itself will include the names and business contact details of staff of the above mentioned organisations, including both the Authority and the Contractor involved in managing the Contract</p>



**Joint Schedule 11 (Processing Data)**

Crown Copyright 2022

Duration of the Processing	Processing will take place from 10/02/2025 for the duration of the Contract. The Contract will end on 31/03/2029 but may be extended until 31/03/2031.
Nature and purposes of the Processing	<p>The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means).</p> <p>Processing takes place for the purposes of administration of the HNES including employment processing, statutory obligation, recruitment assessments, research, stakeholder communication, grant eligibility assessment, grant disbursement, audit and compliance, monitoring and evaluation.</p> <p>The nature of processing will include the storage and use of names and business contact details of staff of both the Authority and the Contractor as necessary to deliver the services and to undertake contract and performance management. The Contract itself will include the names and business contact details of staff of both the Authority and the Contractor involved in managing the Contract.</p>
Type of Personal Data	Names, business telephone numbers and email addresses, office location and position of staff and stakeholders of the Authority, the Contractor, Applicants and prospective Applicants to HNES, HNES Projects and HNES Project Supply Chain as necessary to deliver the services and to undertake the Contract and performance management. The Contract itself will include the names and business contact details of staff of both the Authority and the Contractor involved in managing the Contract.
Categories of Data Subject	<p>This will include staff of the Authority, staff of the Contractor (including volunteers, agents, and temporary workers), Applicants and prospective Applicants to HNES, HNES Projects and HNES Project Supply Chain, users of the HNES website and social media.</p> <p>Staff of the Authority and the Contractor, including where those employees are named within the Contract itself or involved within contract management.</p>

**Joint Schedule 11 (Processing Data)**

Crown Copyright 2022

<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p>Personal Data that the Contractor is legally required to retain will be retained by the Contractor for so long as they are legally required to do so (the Contractor retention period), following which it will be destroyed.</p> <p>The Contractor will provide the Authority with a complete and uncorrupted version of the Personal Data in relation to HNES projects in electronic form (or such other format as reasonably required by the Authority) and erase from any computers, storage devices and storage media that are to be retained by the Contractor after the expiry of the Contract and the Contractor retention period. The Contractor will certify to the Authority that it has completed such deletion.</p> <p>Where Personal Data is contained within the Contract documentation, this will be retained in line with the Department's privacy notice found within the Invitation to Tender.</p>
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## **Annex 2 - Joint Controller Agreement**

### **1. Joint Controller Status and Allocation of Responsibilities**

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 2-15 of Joint Schedule 11 (Where one Party is Controller and the other Party is Processor) and paragraphs 7-27 of Joint Schedule 11 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the Supplier:

- (a) is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;
- (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
- (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
- (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Deliverables where consent is the relevant legal basis for that Processing; and
- (e) shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Supplier's/Relevant Authority's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

### **2. Undertakings of both Parties**

2.1 The Supplier and the Relevant Authority each undertake that they shall:

- (a) report to the other Party every month on:

- (i) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (iii) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (v) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Deliverables and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Deliverables and treat such extracted information as Confidential Information;
- (f) ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;

- (g) take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
  - (i) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information;
  - (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where that Party would not be permitted to do so; and
  - (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Personal Data Breach;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that it holds; and
- (j) ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

### **3. Data Protection Breach**

- 3.1 Without prejudice to clause 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the other Party and its advisors with:

## **Joint Schedule 11 (Processing Data)**

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- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation; and
- (b) all reasonable assistance, including:
  - (i) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
  - (ii) co-operation with the other Party including taking such reasonable steps as are directed by the other Party to assist in the investigation, mitigation and remediation of a Personal Data Breach;
  - (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
  - (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

- (a) the nature of the Personal Data Breach;
- (b) the nature of Personal Data affected;
- (c) the categories and number of Data Subjects concerned;
- (d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- (e) measures taken or proposed to be taken to address the Personal Data Breach; and
- (f) describe the likely consequences of the Personal Data Breach.

## **4. Audit**

4.1 The Supplier shall permit:

- (a) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, to conduct, at the Relevant Authority's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or
- (b) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Deliverables.

4.2 The Relevant Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.

## **5. Impact Assessments**

5.1 The Parties shall:

- (a) provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- (b) maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 UK GDPR.

## **6. ICO Guidance**

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

## **7. Liabilities for Data Protection Breach**

7.1 If financial penalties are imposed by the Information Commissioner on either the Relevant Authority or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:

- (a) if in the view of the Information Commissioner, the Relevant Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
  - (b) if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Relevant Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Relevant Authority and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
  - (c) if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (Resolving disputes).
- 7.2 If either the Relevant Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):
- (a) if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
  - (b) if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and
  - (c) if responsibility for the relevant Personal Data Breach is unclear, then the Relevant Authority and the Supplier shall be responsible for the Claim Losses equally.



- 7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant Authority and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Relevant Authority.

**8. Termination**

If the Supplier is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Relevant Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 10 of the Core Terms (*Ending the contract*).

**9. Sub-Processing**

- 9.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:
- (a) carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
  - (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

**10. Data Retention**

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

## Joint Schedule 12 (Supply Chain Visibility)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Contracts Finder"</b>	the Government's publishing portal for public sector procurement opportunities;
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of this Schedule 12; and
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

### 2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
- 2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
- 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
- 2.1.4 provide reports on the information at Paragraph 2.1.3 to the Relevant Authority in the format and frequency as reasonably specified by the Relevant Authority; and
- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 12 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligation on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 2.4 Notwithstanding Paragraph 2.1, the Authority may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

### **3. Visibility of Supply Chain Spend**

- 3.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “SME Management Information Reports”) to the Relevant Authority which incorporates the data described in the Supply Chain Information Report Template which is:
  - (a) the total contract revenue received directly on the Contract;
  - (b) the total value of sub-contracted revenues under the Contract  
(including revenues for non-SMEs/non-VCSEs); and
  - (c) the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Relevant Authority from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1(a) –(c) and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Relevant Authority issuing a replacement version. The Relevant Authority agrees to give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Authority.

## **Annex 1**

### **Supply Chain Information Report template**



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Information%20Repo

## **Order Schedule 1 (Transparency Reports)**

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the DPS Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

**Order Schedule 1 (Transparency Reports)**

Order Ref:

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**Annex A: List of Transparency Reports**

<b>Title</b>	<b>Content</b>	<b>Format</b>	<b>Frequency</b>
Performance Monitoring Report	Shall include (without limitation): <ol style="list-style-type: none"><li>1. Updates to the Buyer on performance against Service Levels (alongside other indicators), any failures, and/or rectification plans.</li><li>2. A historical record of performance against Service Levels.</li><li>3. The provision of evidence against relevant Service Levels.</li></ol>	Excel	Quarterly at the Management Board, and in line with Commercial reporting requirements
HNES Dashboard	Shall include (without limitation): <ol style="list-style-type: none"><li>1. Overall delivery confidence assessment (RAG status).</li><li>2. Delivery confidence assessment and summary of financial, pipeline, Service Levels, benefits progress.</li><li>3. In-month achievements.</li><li>4. Next steps/month ahead.</li><li>5. Top risks/issues and mitigations.</li><li>6. Financial profile and spend forecast.</li><li>7. Service Levels met/relevant to the previous month.</li><li>8. Summary of the HNES Projects pipeline.</li></ol>	PowerPoint	Monthly at the Management Board
Stakeholder Engagement and Communications Report	Shall include (without limitation): <ol style="list-style-type: none"><li>9. Key business development management and applicant support communication activities.</li><li>2. Quarterly communication activity and events activity.</li><li>3. Emails (no. of emails broadcast and no. stakeholders reached).</li><li>4. Workshop and events activity (no. of events and delegates attending - plus event satisfaction survey data).</li><li>5. Stakeholder forums and focus groups (stakeholder feedback on topics featured and general</li></ol>	Word/PPT	Quarterly at the Management Board

**Order Schedule 1 (Transparency Reports)**

Order Ref:

Crown Copyright 2022

Title	Content	Format	Frequency
	stakeholder satisfaction with the event delivery).		
Risk register	Shall include (without limitation) the completion of the risk register in line with risk management strategy agreed in the Joint Delivery Plan during Implementation.	Excel	Fortnightly at Progress Meetings
HNES Programme	Shall include (without limitation), a clear critical path and capture of all key Milestones as agreed with the Buyer.	Pdf, Excel, MPP File or similar	Monthly at Management Board
HNES M&R Report	Shall include (without limitation) for each funded project: <ol style="list-style-type: none"> <li>1. Project detail (project name, project type (e.g. Local authority/private)).</li> <li>2. Grant funding type (capital/revenue).</li> <li>3. Project delivery confidence assessment (RAG status).</li> <li>4. Key issues/risks, particularly those that require Buyer decisions / involvement.</li> <li>5. Updated draw down of funds and project forecast of spend (grant funding and match funding) within current and future financial years.</li> <li>6. Key project performance metrics such as heat delivered, fuel consumption, unplanned outages, customer tariffs etc.</li> <li>7. Supply chain information such as key contractors being contracted by projects to deliver funded works.</li> </ol>	Word	Monthly
HNES Portfolio	Shall include (without limitation): Portfolio operational analysis: <ul style="list-style-type: none"> <li>o Total heat delivered in reporting period</li> <li>o Total fuel reductions by fuel type (and associated CO2e abated relative to baseline) in reporting period</li> <li>o Average tariff analysis (operational reporting only),</li> <li>o Project service interruptions.</li> </ul> Portfolio level financial analysis:	Word / Excel	Quarterly

**Order Schedule 1 (Transparency Reports)**

Order Ref:

Crown Copyright 2022

Title	Content	Format	Frequency
	<ul style="list-style-type: none"><li>○ Grant drawn down in reporting period</li><li>○ Total grant drawn down (financial year)</li><li>○ Total match funding spend in reporting period</li><li>○ Match funding spend remaining (financial year, and overall)</li></ul>		
HNES Pipeline	Shall include (without limitation) a pipeline of potential HNES grant applications.	Excel	Aligned with each funding round.  Summarised in HNES Dashboard.
Continuous Improvement Log and Report	Shall include (without limitation): <ol style="list-style-type: none"><li>1. Any proposed improvements to service delivery in line with the agreed continuous improvement process.</li><li>2. Identification of opportunities and changes as a result of continuous improvement exercises.</li><li>3. Lessons learned from the application assessment and moderation processes to ensure that any common themes that result in application failure can be communicated to the Buyer/Supplier.</li></ol>	Excel (Log) Word (Report)	Quarterly at the Management Board
Change control log	Shall include (without limitation) all changes to the project programme and project Milestones with corresponding status updates.	Excel	Fortnightly
Investment Committee Funding Reports	Shall include (without limitation): <ol style="list-style-type: none"><li>1. Summary list of project applications assessed, including requested funding amounts, recommended funding awards and assessment scores;</li><li>2. For each project for which funding is recommended:<ol style="list-style-type: none"><li>a. An overview of the project;</li></ol></li></ol>	Word	Aligned with each funding round



**Order Schedule 1 (Transparency Reports)**

Order Ref:

Crown Copyright 2022

Title	Content	Format	Frequency
	<ul style="list-style-type: none"> <li>b. A summary recommendation (narrative and quantified details/metrics);</li> <li>c. Application Assessor scoring against each assessment category and summary rationale;</li> <li>d. Application Assessor scoring narrative against each assessment category;</li> <li>e. Confirmation of moderation and QA checks by the Supplier;</li> <li>f. Any conditions precedent or subsequent;</li> <li>3. Any change request recommendations for previously awarded grants (i.e. from previous funding rounds).</li> <li>4. Anticipated HNES benefits accrued based on funding recommendations.</li> <li>5. HNES (Programme level) budget status.</li> <li>6. Summary of recommended project details and metrics for inclusion in Ministerial submission.</li> </ul>		
Annual Benefits Report	<p>Shall include (without limitation):</p> <p>Primary benefits aligned to HNES Objectives:</p> <ul style="list-style-type: none"> <li>1. Primary fuel savings (GWh/year)</li> <li>2. Carbon emissions reductions (kt.CO2e/year)</li> <li>3. Improved network efficiency (%)</li> <li>4. Reduced cost of heat (p/kWh)</li> <li>5. Reduced service interruptions (average # reduction per network per year)</li> </ul> <p>Secondary benefits (to be confirmed during Mobilisation period):</p> <ul style="list-style-type: none"> <li>6. Performance indicator data provided for HNTAS development (# projects for which data captured)</li> <li>7. CP1 compliance estimates for HNTAS development (# projects for which data captured)</li> </ul>	Word (supporting material to be produced in Excel)	Annual

**Order Schedule 1 (Transparency Reports)**

Order Ref:

Crown Copyright 2022

Title	Content	Format	Frequency
	<ul style="list-style-type: none"><li>8. Installation impact and cost data (# projects for which data captured)</li><li>9. User testing of HNTAS pilot (# projects volunteering)</li></ul>		

## Order Schedule 2 (Staff Transfer)

### 1. Definitions

- 1.1 In this Schedule, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

1

**"Employee Liability"**

all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding employment debts and unlawful deduction of wages including any PAYE and National Insurance Contributions and in respect of payments made by the Buyer or the Supplier to a Transferring Former Supplier Employee which would have been payable by the Former Supplier or a subcontractor of the Former Supplier is such payment should have been made prior to the Relevant Transfer Date and also including any payments in respect of pensions;

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

	<ul style="list-style-type: none"><li>f) claims whether in tort, contract or statute or otherwise;</li><li>g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;</li></ul>
<b>"Former Supplier"</b>	a supplier supplying services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Subcontractor of such supplier (or any Subcontractor of any such Subcontractor);
<b>"New Fair Deal"</b>	<p>the revised Fair Deal position set out in the HM Treasury guidance: "<i>Fair Deal for Staff Pensions: Staff Transfer from Central Government</i>" issued in October 2013 including:</p> <ul style="list-style-type: none"><li>(i) any amendments to that document immediately prior to the Relevant Transfer Date; and</li><li>(ii) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;</li></ul>
<b>"Old Fair Deal"</b>	HM Treasury Guidance " <i>Staff Transfers from Central Government: A Fair Deal for Staff Pensions</i> " issued in June 1999 including the supplementary guidance " <i>Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues</i> " issued in June 2004;
<b>"Partial Termination"</b>	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 10.4 (When CCS or the Buyer can end this contract) or 10.6 (When the Supplier can end the contract);
<b>"Relevant Transfer"</b>	a transfer of employment to which the Employment Regulations applies;
<b>"Relevant Transfer Date"</b>	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D: Pensions and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;

### **"Staffing Information"**

in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Buyer may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:

- (a) their dates of birth, dates of commencement of employment or engagement, gender and place of work;
- (b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and

- (j) any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations;

**"Supplier's Final Supplier Personnel List"** a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;

**"Supplier's Provisional Supplier Personnel List"** a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;

**"Term"** the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract;

**"Transferring Former Supplier Employees"** in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date.

## 2. INTERPRETATION

- 2.1 Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to CCS, the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.
- 2.2 The provisions of Paragraph 3.1 of Part B, Part D and Paragraphs 1.4, 2.3 and 2.8 of Part E of this Schedule (together "Third Party Provisions") confer benefits on third parties (each such person a "Third Party Beneficiary") and are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.
- 2.3 Subject to Paragraph 2.2 above, a person who is not a Party to this Order Contract has no right under the CRTPA to enforce any term of this Order Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

## **Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

- 2.4 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 2.5 Any amendments or modifications to this Order Contract may be made, and any rights created under Paragraph 2.2 above may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

### **3. Which parts of this Schedule apply**

Only the following parts of this Schedule shall apply to this Call Off Contract:

- Part B (Staff Transfer at the Start Date – Transfer from a Former Supplier)
- Part C (No Buyer Staff Expected to Transfer on the Start Date)
- Part D (Pensions) and the following Annexes may be relevant
  - Annex D1 (CSPS)
- Part E (Staff Transfer on Exit)

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

## **Part A: Staff Transfer at the Start Date**

### **Outsourcing from the Buyer**

Not applicable



## Part B: Staff transfer at the Start Date

### Transfer from a Former Supplier

#### 1. What is a relevant transfer

##### 1.1 The Buyer and the Supplier agree that:

- 1.1.1 the commencement of the provision of the Services or of any relevant part of the Services is expected to be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
- 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10 of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Former Supplier Employee.

##### 1.2 The Buyer shall use reasonable endeavours to procure that the Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date).

#### 2. Indemnities given by the Former Supplier

##### 2.1 Subject to Paragraph 2.2, the Buyer is unable to procure that the Former Supplier shall indemnify the Supplier and any Subcontractor and therefore the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of any act or omission by the Former Supplier or any sub-contractor of the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer.

##### 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date .

### **3. Indemnities the Supplier must give and its obligations**

- 3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer and/or the Former Supplier against any Employee Liabilities arising from or as a result of any act or omission by the Supplier or any Subcontractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier or Former Supplier's subcontractors (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's and/or any Former Supplier sub-contractor's (as applicable) failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

### **4. Information the Supplier must give**

The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer and/or at the Buyer's direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier and any Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

### **5. Cabinet Office requirements**

- 5.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

## **Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

- 5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007 and in 2013;
  - 5.1.2 Old Fair Deal; and/or
  - 5.1.3 The New Fair Deal.
- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

### **6. Limits on the Former Supplier's obligations**

Notwithstanding any other provisions of this Part B, where in this Part B the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

### **7. Pensions**

- 7.1 The Supplier shall, and shall procure that each Subcontractor shall, comply with:
  - 7.1.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and
  - 7.1.2 Part D: Pensions (and its Annexes) to this Schedule.

## Part C: No Buyer Staff Expected to Transfer on the Start Date

### 1. What happens if there is a staff transfer

- 1.1 The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services is not expected to be a Relevant Transfer in relation to any employees of the Buyer .
- 1.2 If any employee of the Buyer, or it is determined in relation to any employee of the Buyer, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:
  - 1.2.1 the Supplier shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing; and
  - 1.2.2 the Buyer may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification from the Supplier or the Subcontractor (as appropriate) or take such other reasonable steps as the Buyer it considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Buyer , the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the 15 Working Day period referred to in Paragraph 1.2.2:
  - 1.4.1 no such offer of employment has been made;
  - 1.4.2 such offer has been made but not accepted; or
  - 1.4.3 the situation has not otherwise been resolved;the Supplier may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 1.5 Subject to the Supplier and/or the relevant Subcontractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.8 the Buyer shall indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
  - 1.5.1

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

- 1.6 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.
- 1.7 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.6, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer, and shall procure that the Subcontractor shall indemnify the Buyer, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.8 The indemnities in Paragraph 1.5:
- 1.8.1 shall not apply to:
- (a) any claim for:
- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and
- 1.8.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Subcontractor to the Buyer within 6 months of the Start Date.
- 1.9 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

## Part D: Pensions

### 1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes to this Part D:

<b>"Actuary"</b>		a Fellow of the Institute and Faculty of Actuaries;
<b>"Admission Agreement"</b>		either or both of the CSPA Admission Agreement (as defined in Annex D1: CSPA) or the LGPS Admission Agreement (as defined in Annex D3: LGPS), as the context requires;
<b>"Best Direction"</b>	<b>Value</b>	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
<b>"Broadly Comparable"</b>		<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and <b>"Broad Comparability"</b> shall be construed accordingly;</p>
<b>"CSPA"</b>		the schemes as defined in Annex D1 to this Part D;
<b>"Direction Letter/Determination"</b>		has the meaning in Annex D2 to this Part D;
<b>"Fair Deal Eligible Employees"</b>		each of the CSPA Eligible Employees, the NHSPA Eligible Employees and/or the LGPS Eligible Employees (as applicable) (and shall include any

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with paragraph 10 or 11 of this Part D);

**"Fair Employees"****Deal** any of:

- (a) Transferring Buyer Employees;
- (b) Transferring Former Supplier Employees;
- (c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Parts A or B or Paragraph 1.4 of Part C;
- (d) where the Supplier or a Subcontractor was the Former Supplier, the employees of the Supplier (or Subcontractor);

who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with paragraph 10 of this Part D as notified by the Buyer;

**"Fund Actuary"**

a Fund Actuary as defined in Annex D3 to this Part D;

**"LGPS"**

the scheme as defined in Annex D3 to this Part D;

**"NHSPS"**

the schemes as defined in Annex D2 to this Part D;

(a)

(b)

**"Statutory Schemes"**

means the CSPA, NHSPS or LGPS.

## **Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

### **2. Supplier obligations to participate in the pension schemes**

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPA, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/ Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Supplier undertakes:
  - 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/ Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
  - 2.3.2 subject to paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.
- 2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a Subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.

### **3. Supplier obligation to provide information**

- 3.1 The Supplier undertakes to the Buyer:
  - 3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
  - 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed);
  - 3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal



## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

Eligible Employees arising on expiry or termination of the relevant Contract.

### 4. Indemnities the Supplier must give

4.1 The Supplier shall indemnify and keep indemnified CCS, [NHS Pensions], the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- 4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;
- 4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with paragraphs 10 or 11 of this Part D;
- 4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

Subcontractor:

- (a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of the relevant Contract; or
  - (b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of the relevant Contract; and/or
- 4.1.4 arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.

4.2 The indemnities in this Part D and its Annexes:

- 4.2.1 shall survive termination of the relevant Contract; and
- 4.2.2 shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).

## **5. What happens if there is a dispute**

5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the CCS and/or the Buyer and/or the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the CCS and/or the Buyer and/or the Supplier be referred to an independent Actuary:

- 5.1.1 who will act as an expert and not as an arbitrator;
- 5.1.2 whose decision will be final and binding on the CCS and/or the Buyer and/or the Supplier; and
- 5.1.3 whose expenses shall be borne equally by the CCS and/or the Buyer and/or the Supplier unless the independent Actuary shall otherwise direct.

The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

## **6. Other people's rights**

- 6.1 The Parties agree Clause 19 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

## **7. What happens if there is a breach of this Part D**

- 7.1 The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:
- 7.1.1 commits an irremediable breach of any provision or obligation it has under this Part D; or
  - 7.1.2 commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

## **8. Transferring Fair Deal Employees**

- 8.1 Save on expiry or termination of the relevant Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

employment) the Supplier shall or shall procure that any relevant Sub-contractor shall:

- 8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangements for participation with the relevant Statutory Scheme(s);
- 8.1.2 consult with about, and inform those Fair Deal Eligible Employees of the pension provisions relating to that transfer; and
- 8.1.3 procure that the employer to which the Fair Deal Eligible Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

### 9. What happens to pensions if this Contract ends

- 9.1 The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of the relevant Contract.
- 9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPA and/or the relevant Administering Buyer and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

### 10. Broadly Comparable Pension Schemes on the Relevant Transfer Date

- 10.1 If the terms of any of paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 10.2 Such Broadly Comparable pension scheme must be:
  - 10.2.1 established by the Relevant Transfer Date;
  - 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

- 10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
  - 10.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
  - 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 10.3 Where the Supplier has set up a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):
  - 10.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
  - 10.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
  - 10.3.3 instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer; and
  - 10.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

- 10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract:

- 10.4.1 allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with paragraph 10.3.3 such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with paragraph 10.3.3 but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and
- 10.4.2 if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had paragraph 10.4.1 been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this paragraph.

## **11. Broadly Comparable Pension Scheme in Other Circumstances**

- 11.1 If the terms of any of paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 11.2 Such Broadly Comparable pension scheme must be:
- 11.2.1 established by the date of cessation of participation in the Statutory Scheme;
  - 11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
  - 11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);
  - 11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
  - 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 11.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;
  - 11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
  - 11.3.3 where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme; and

- 11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).
- 11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of the relevant Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this paragraph.

**12. Right of Set-off**

12.1 The Buyer shall have a right to set off against any payments due to the Supplier under the relevant Contract an amount equal to:

12.1.1 any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Agreement in respect of the CSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

12.1.2 any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPA or any Direction Letter/Determination in respect of the NHSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or

12.1.3 any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under the relevant Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.



## Annex D1:

### Civil Service Pensions Schemes (CSPS)

#### 1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"CSPS Admission Agreement"</b>	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
<b>"CSPS Eligible Employee"</b>	any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Agreement;
<b>"CSPS Fair Deal Employee"</b>	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal;
<b>"CSPS"</b>	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

#### 2. Access to equivalent pension schemes after transfer

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of the relevant Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Agreement to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Subcontractors shall procure that the CSPS Fair Deal Employees continue to accrue benefits in the CSPS in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

- 2.2 If the Supplier and/or any of its Subcontractors enters into a CSPA Admission Agreement in accordance with paragraph 2.1 but the CSPA Admission Agreement is terminated during the term of the relevant Contract for any reason at a time when the Supplier or Subcontractor still employs any CSPA Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date those CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of paragraph 11 of Part D.

## **Annex D2: NHS Pension Schemes**

**Not applicable**

## Part E: Staff Transfer on Exit

### 1. Obligations before a Staff Transfer

1.1 The Supplier agrees that within 20 Working Days of the earliest of:

- 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
- 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract; and
- 1.1.3 the date which is 12 Months before the end of the Term; or
- 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Buyer.

1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.

1.4 The Supplier warrants, for the benefit of the Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not, and agrees to procure that each Subcontractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Buyer (not to be unreasonably withheld or delayed):

:

- 1.5.1 replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

- 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Staff (including pensions and any payments connected with the termination of employment);
- 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;

and shall promptly notify, and procure that each Subcontractor shall promptly notify, the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or relevant Subcontractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer such information as the Buyer may reasonably require relating to the manner in which the Services are organised, which shall include:
  - 1.6.1 the numbers of Supplier Personnel engaged in providing the Services;
  - 1.6.2 the percentage of time spent by each Supplier Personnel engaged in providing the Services;
  - 1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) (as appropriate); and
  - 1.6.4 a description of the nature of the work undertaken by each Supplier Personnel by location.
- 1.7 The Supplier shall provide, and shall procure that each Subcontractor shall provide, all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the

## **Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Subcontractor shall provide, to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
  - 1.7.2 details of cumulative pay for tax and pension purposes;
  - 1.7.3 details of cumulative tax paid;
  - 1.7.4 updated tax code as at the Service Transfer Date if the code has changed since it was previously-provided;
  - 1.7.5 updated details of any voluntary deductions from pay as at the Service Transfer Date if changes have occurred since the details were previously provided;
  - 1.7.6 a copy of the personnel file and all other records regarding the service of the Transferring Supplier Employee;
  - 1.7.7 all information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and
  - 1.7.8 bank/building society account details for payroll purposes.
- 1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3 the Supplier agrees that following a request from the Buyer it shall and shall procure that each Sub-Contractor shall use reasonable endeavours to comply with any request to align and assign Supplier Personnel to any future delivery model proposed by the Buyer for Replacement Services within 30 Working Days or such longer timescale as may be agreed.
- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Change Control Procedure.

## **2. Staff Transfer when the contract ends**

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of the relevant Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee.

- 2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including (without limit) the payment of all remuneration, benefits, entitlements, and outgoings, all wages, pay for accrued but untaken holiday, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:
- 2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;
  - 2.3.2 the breach or non-observance by the Supplier or any Subcontractor occurring on or before the Service Transfer Date of:
    - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
    - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
  - 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

- to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
  - (b) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- 2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of the relevant Contract and/or the Employment Regulations; and
- 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.



## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date including any Employee Liabilities:

2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or

2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.

2.5 If any person who is not identified in the Supplier's Final Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations, then:

2.5.1 the Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing; and

2.5.2 the Supplier may offer (or may procure that a Subcontractor may offer) employment to such person, or take such other reasonable steps as it considered appropriate to deal the matter provided always that such steps are in compliance with Law, within 15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor.

2.6 If such offer of is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, Buyer shall procure that the Replacement Supplier shall, or procure that the and/or Replacement Subcontractor shall, immediately release or procure the release the person from his/her employment or alleged employment;

2.7 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:

2.7.1 no such offer has been made:

2.7.2 such offer has been made but not accepted; or

2.7.3 the situation has not otherwise been resolved

the Buyer shall advise the Replacement Supplier and/or Replacement Subcontractor (as appropriate) that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person;

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

2.8 Subject to the Replacement Supplier's and/or Replacement Subcontractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7 and in accordance with all applicable proper employment procedures set out in applicable Law and subject to Paragraph 2.9 below, the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

(i) any contravention of the Equality Act 2010 (or predecessor/successor legislation); or

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

In any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor, or

(b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure; and

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Subcontractor to the Supplier within 6 months of the Service Transfer Date..

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Subcontractor nor dismissed by the Replacement Supplier and/or Replacement Subcontractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee. .

2.11 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

- (b) the Supplier and/or any Subcontractor; and
- (c) the Replacement Supplier and/or the Replacement Subcontractor.

2.12 The Supplier shall, and shall procure that each Subcontractor shall, promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.13 Subject to Paragraph 2.14, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:

2.13.1 any act or omission of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;

2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:

(a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or

(b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;

2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation

## Order Schedule 2 (Staff Transfer)

Order Ref:

Crown Copyright 2022

- to such trade union, body or person arising on or after the Service Transfer Date;
- 2.13.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- 2.13.7 a failure of the Replacement Supplier or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and

2.13.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations.

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

**Annex E1: List of Notified Sub-contractors**

## **Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

### **Annex E2: Staffing Information**

#### **Employee Information (Anonymised)**

Name of Transferor:

Number of Employees in-scope to transfer:

#### **1 Completion notes**

- 1.1 If you have any Sub-contractors, please complete all the above information for any staff employed by such Key Sub-contractor(s) in a separate spreadsheet.
- 1.2 This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.
- 1.3 If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

	EMPLOYEE DETAILS & KEY TERMS						
Details	Job Title	Grade / band	Work Location	Date of Birth (dd/mm/yy)	Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?	Continuous service date (dd/mm/yy)	Date employment started with existing employer
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							



**Order Schedule 2 (Staff Transfer)**

Order Ref:

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EMPLOYEE DETAILS & KEY TERMS							
Details	Job Title	Grade / band	Work Location	Date of Birth (dd/mm/yy)	Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?	Continuous service date (dd/mm/yy)	Date employment started with existing employer
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

	<b>EMPLOYEE DETAILS &amp; KEY TERMS</b>						
Details	Contract end date (if fixed term contract or temporary contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per week	Mobility or flexibility clause in contract?	Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	Any collective agreements?

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

	ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS						
Details	% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequency of pay reviews	Agreed pay increases	Next pay review date
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								

**Order Schedule 2 (Staff Transfer)**

Order Ref:

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	<b>CONTRACTUAL PAY AND BENEFITS</b>							
<b>Details</b>	<b>Any existing or future commitment to training that has a time-off or financial implication</b>	<b>Car allowance (£ per year)</b>	<b>Lease or company car details</b>	<b>Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)</b>	<b>Private medical insurance (please specify whether single or family cover)</b>	<b>Life assurance (xSalary)</b>	<b>Long Term Disability / PHI (% of Salary)</b>	<b>Any other benefits in kind</b>
<b>Emp No 1</b>								
<b>Emp No 2</b>								
<b>Emp No</b>								
<b>Emp No</b>								
<b>Emp No</b>								
<b>Emp No</b>								
<b>Emp No</b>								

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

	<b>CONTRACTUAL PAY AND BENEFITS</b>					
<b>Details</b>	<b>Annual leave entitlement (excluding bank holidays)</b>	<b>Bank holiday entitlement</b>	<b>Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)</b>	<b>Maternity or paternity or shared parental leave entitlement and pay</b>	<b>Sick leave entitlement and pay</b>	<b>Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)</b>
<b>Emp No 1</b>						
<b>Emp No 2</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						

**Order Schedule 2 (Staff Transfer)**

Order Ref:

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	<b>PENSIONS</b>					
<b>Details</b>	<b>Employee pension contribution rate</b>	<b>Employer pension contribution rate</b>	<b>Please provide the name of the pension scheme and a link to the pension scheme website</b>	<b>Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?</b>	<b>If the scheme is not an occupational pension scheme, what type of scheme is it? E.g. personal pension scheme?</b>	<b>Type of pension provision e.g. defined benefit (CARE or final salary, and whether a public sector scheme e.g. CSPS, NHSPS, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?</b>
<b>Emp No 1</b>						
<b>Emp No 2</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						

**Order Schedule 2 (Staff Transfer)**

Order Ref:

Crown Copyright 2022

	<b>PENSIONS</b>					
<b>Details</b>	<b>If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.</b>	<b>If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.</b>	<b>If the Employee is in the NHSPS, please provide details of the Direction Letter.</b>	<b>If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.</b>	<b>Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?</b>	<b>If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?</b>
<b>Emp No 1</b>						
<b>Emp No 2</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						

**Order Schedule 2 (Staff Transfer)**

Order Ref:

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	<b>PENSIONS</b>					
<b>Details</b>	<b>If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.</b>	<b>If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.</b>	<b>If the Employee is in the NHSPS, please provide details of the Direction Letter.</b>	<b>If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.</b>	<b>Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?</b>	<b>If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?</b>
<b>Emp No</b>						



**Order Schedule 2 (Staff Transfer)**

Order Ref:

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	OTHER		
Details	Security Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

## Order Schedule 3 (Continuous Improvement)

### 1. Buyer's Rights

- 1.1 The Buyer and the Supplier recognise that, where specified in DPS Schedule 4 (DPS Management), the Buyer reserves the right to enforce the Buyer's rights under this Schedule.

### 2. Supplier's Obligations

- 2.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 2.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 2.3 In addition to Paragraph 2.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
- 2.3.1 identifying the emergence of relevant new and evolving technologies;
  - 2.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
  - 2.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
  - 2.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 2.4 The initial Continuous Improvement Plan for the first (1<sup>st</sup>) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred

### **Order Schedule 3 (Continuous Improvement)**

Order Ref:

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(100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.

- 2.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
- 2.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 2.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or CCS.
- 2.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
- 2.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
  - 2.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 2.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1<sup>st</sup>) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
- 2.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 2.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 2.12 At any time during the Contract Period of the Order Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

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Order Ref:

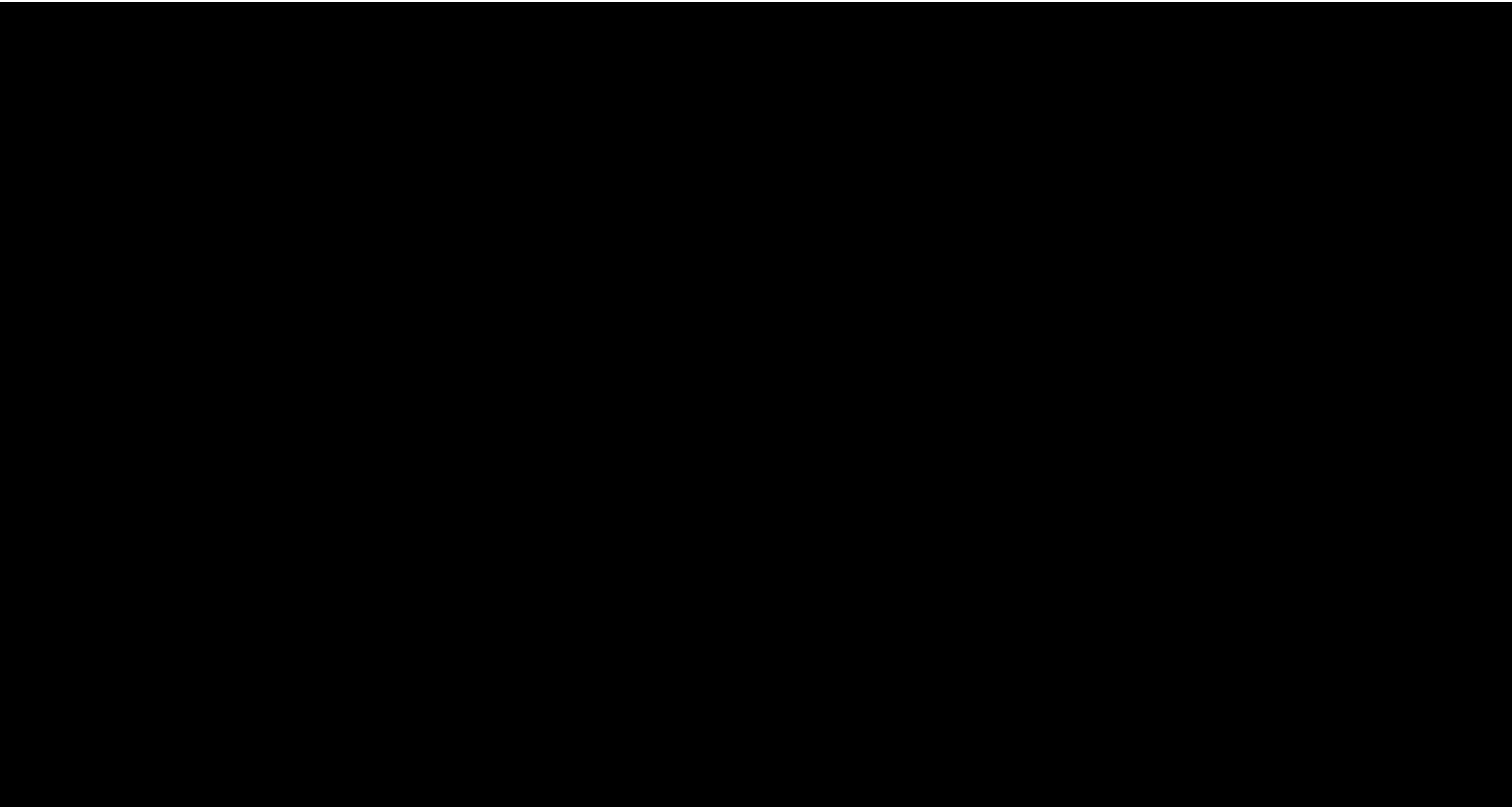
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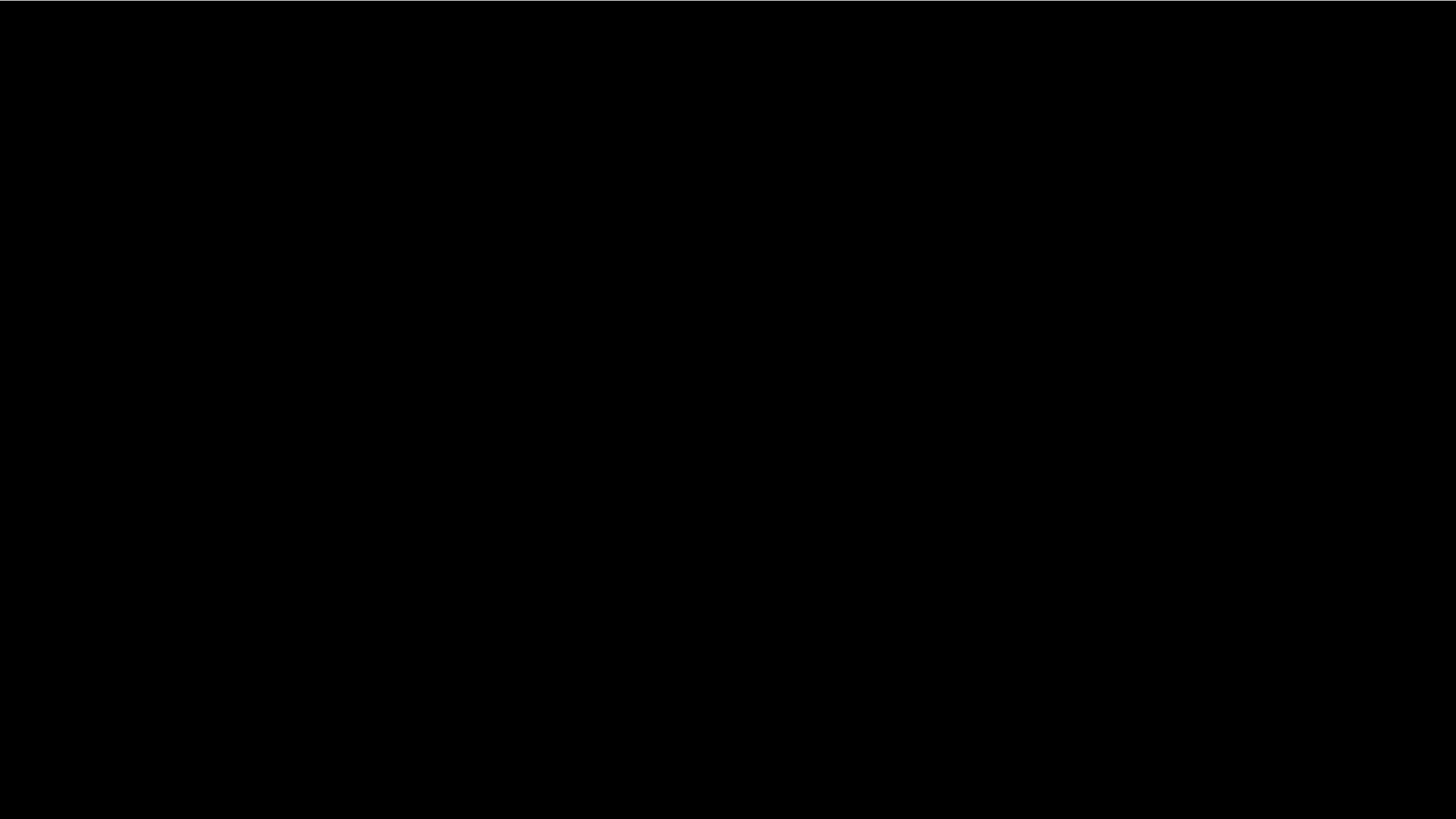
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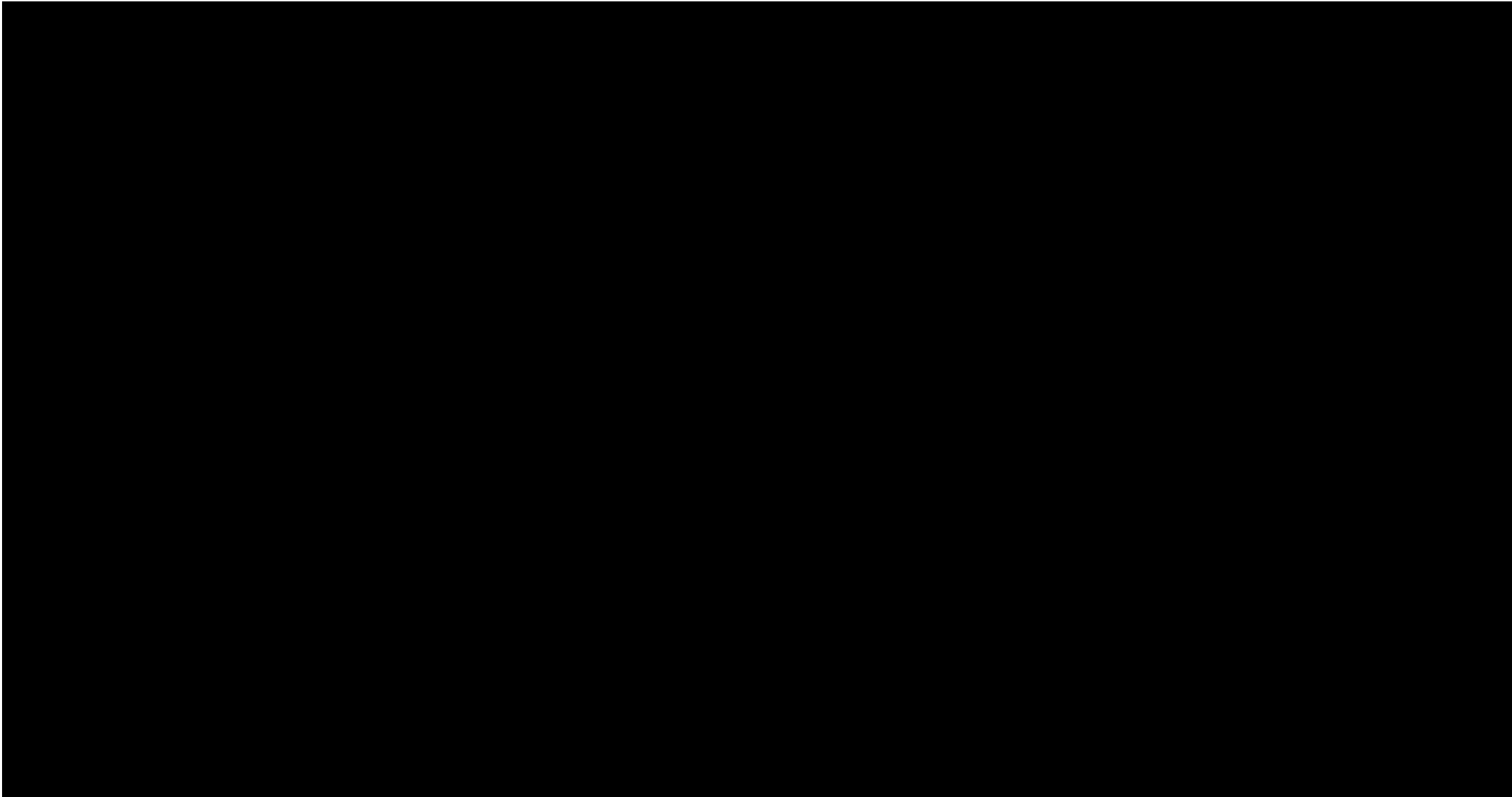
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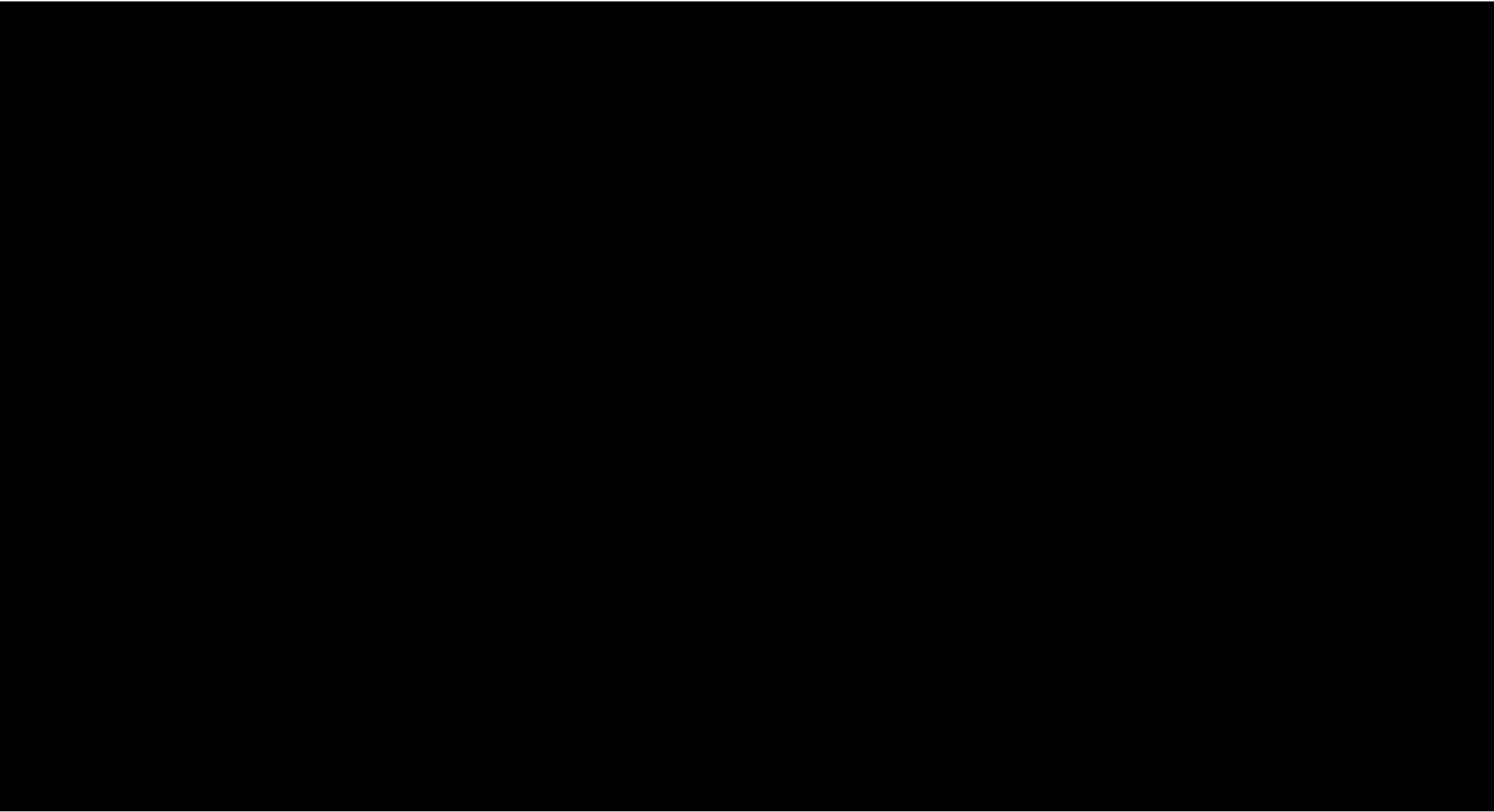
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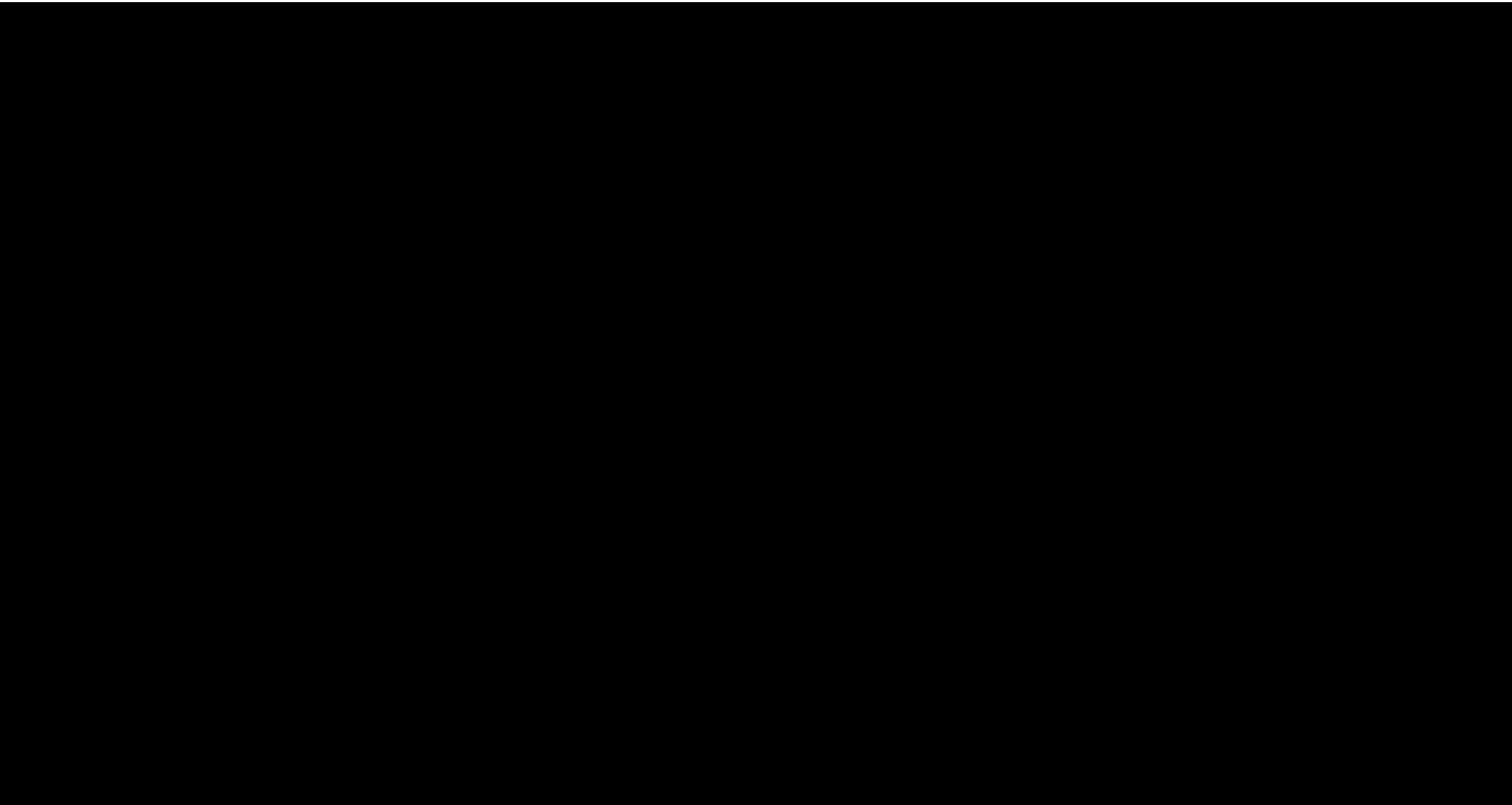
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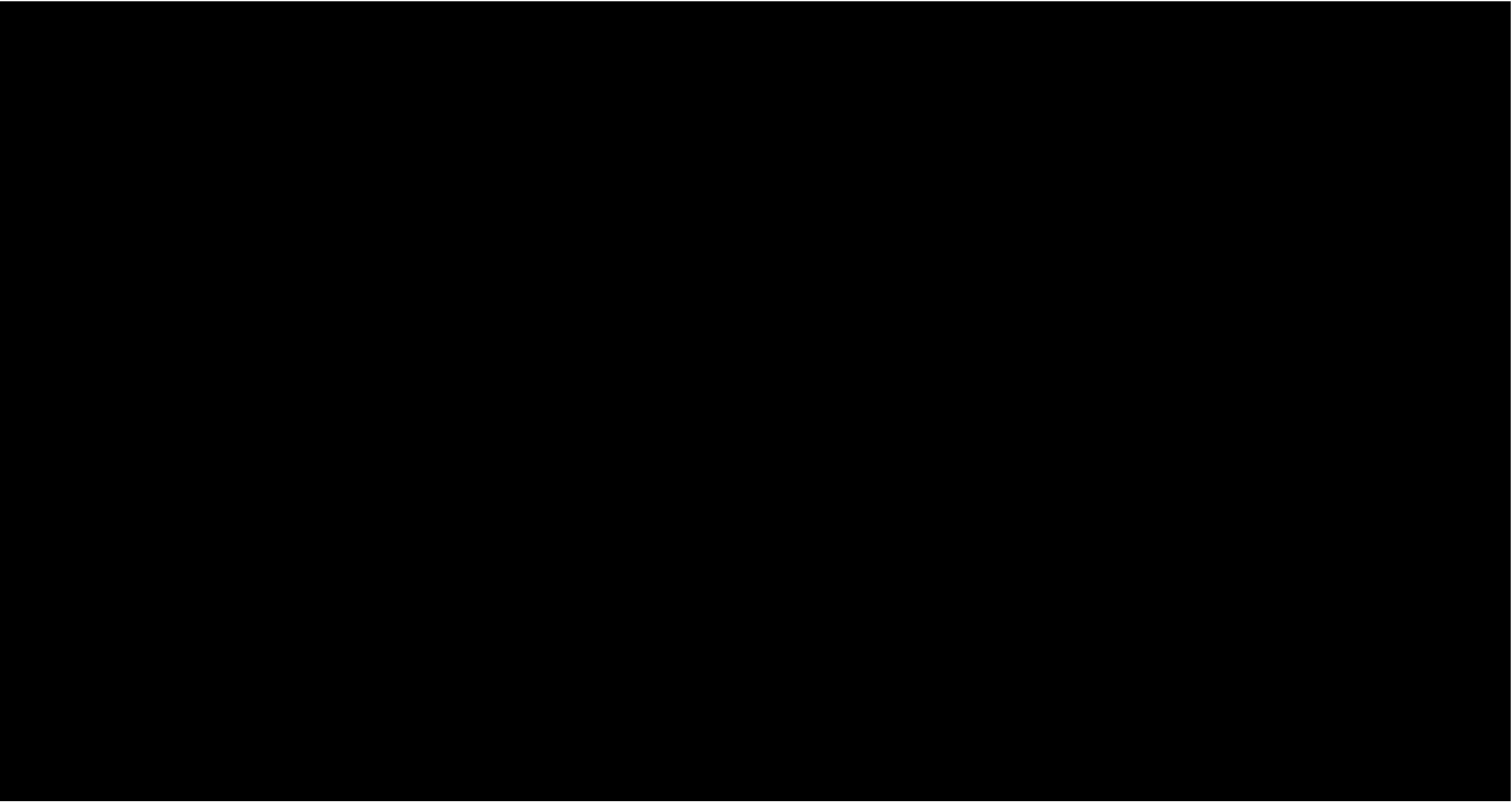
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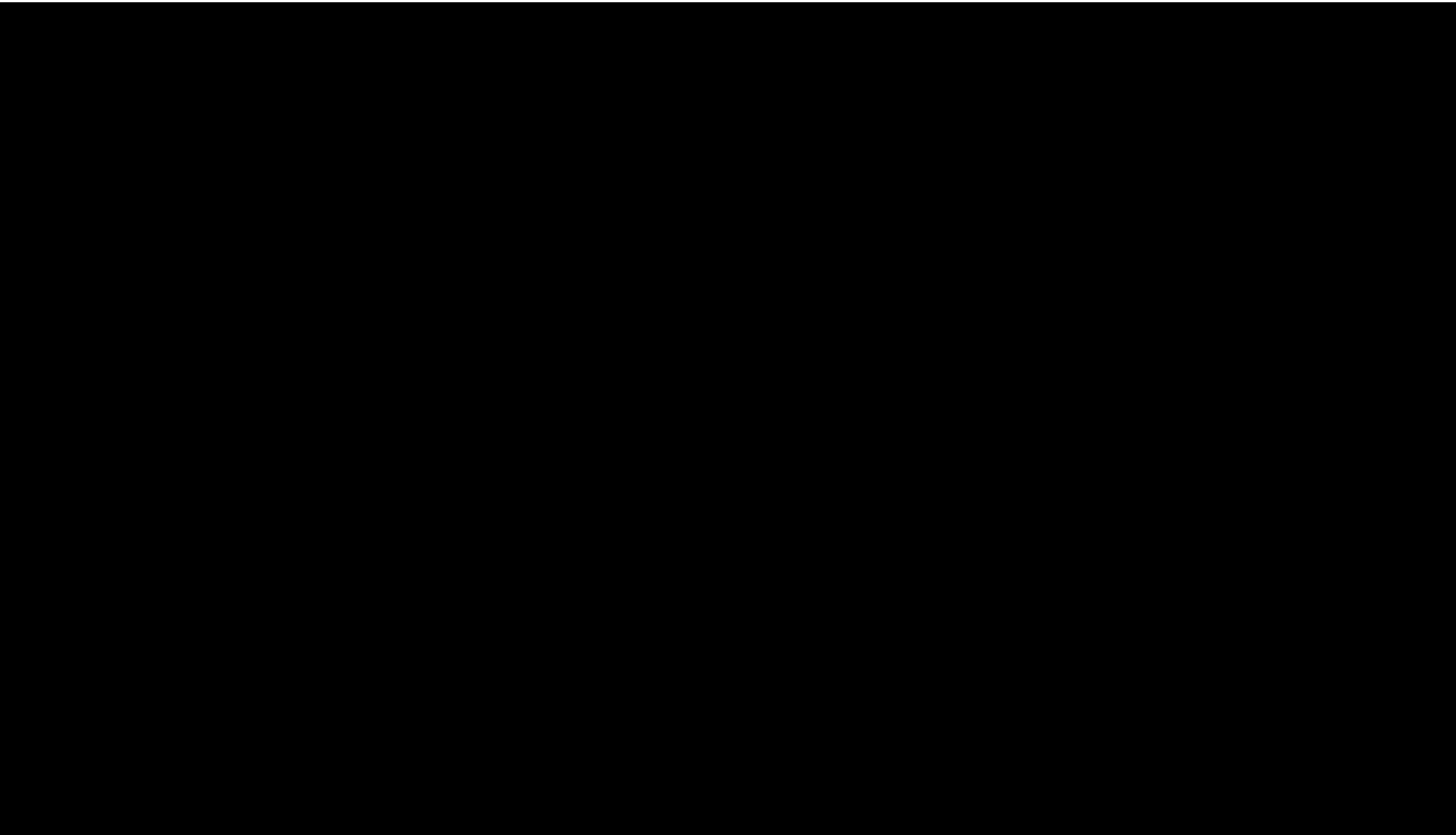
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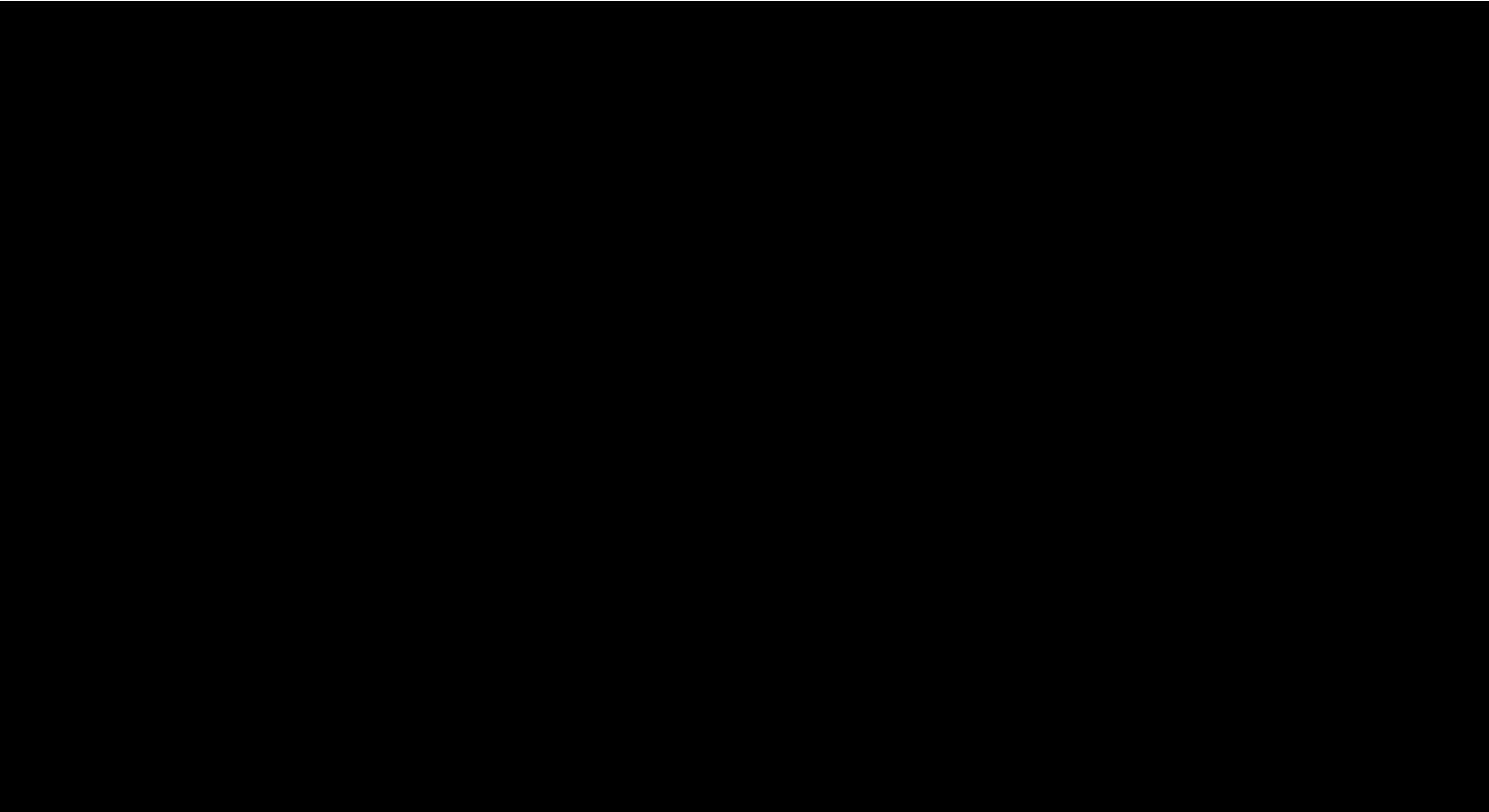
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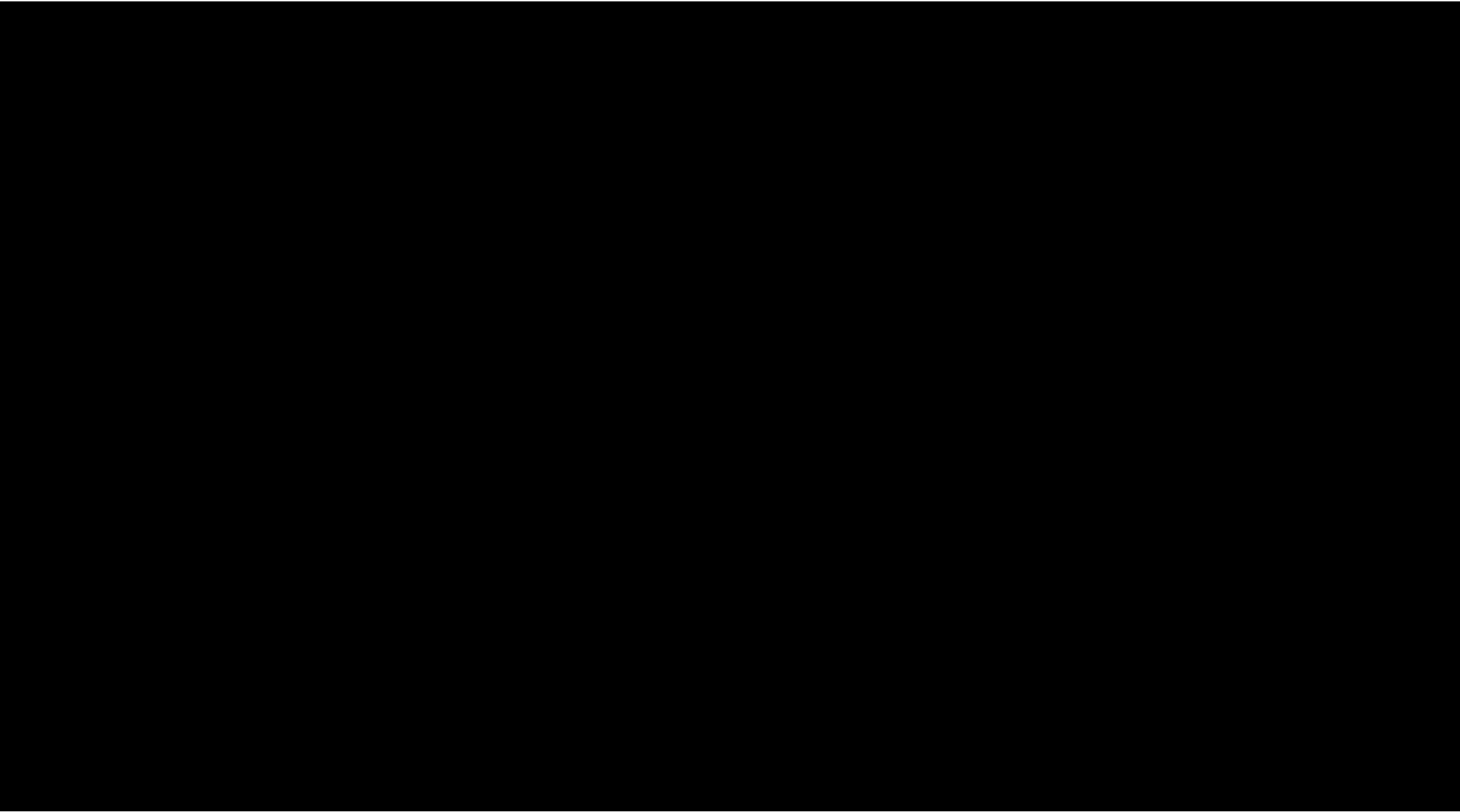
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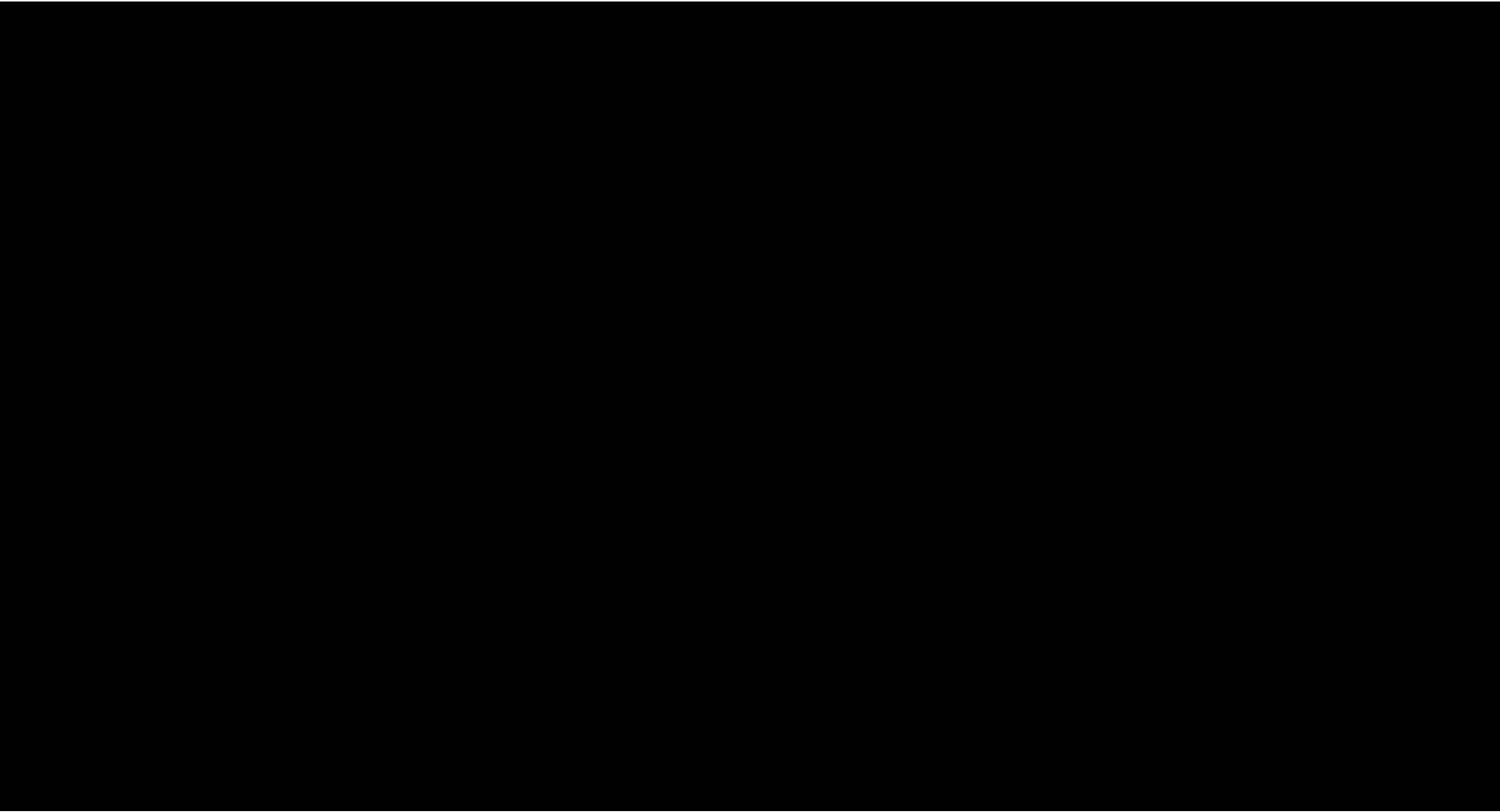
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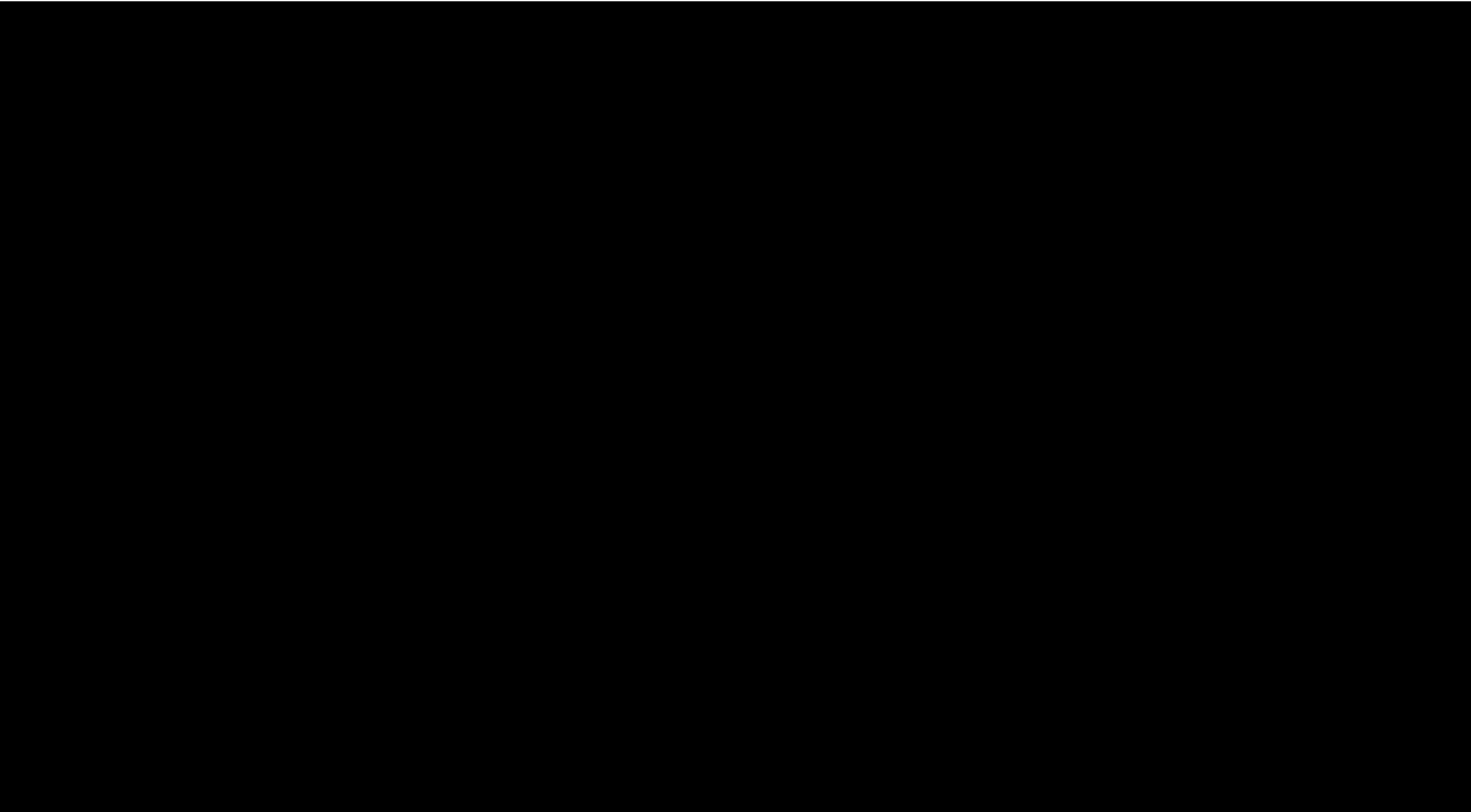
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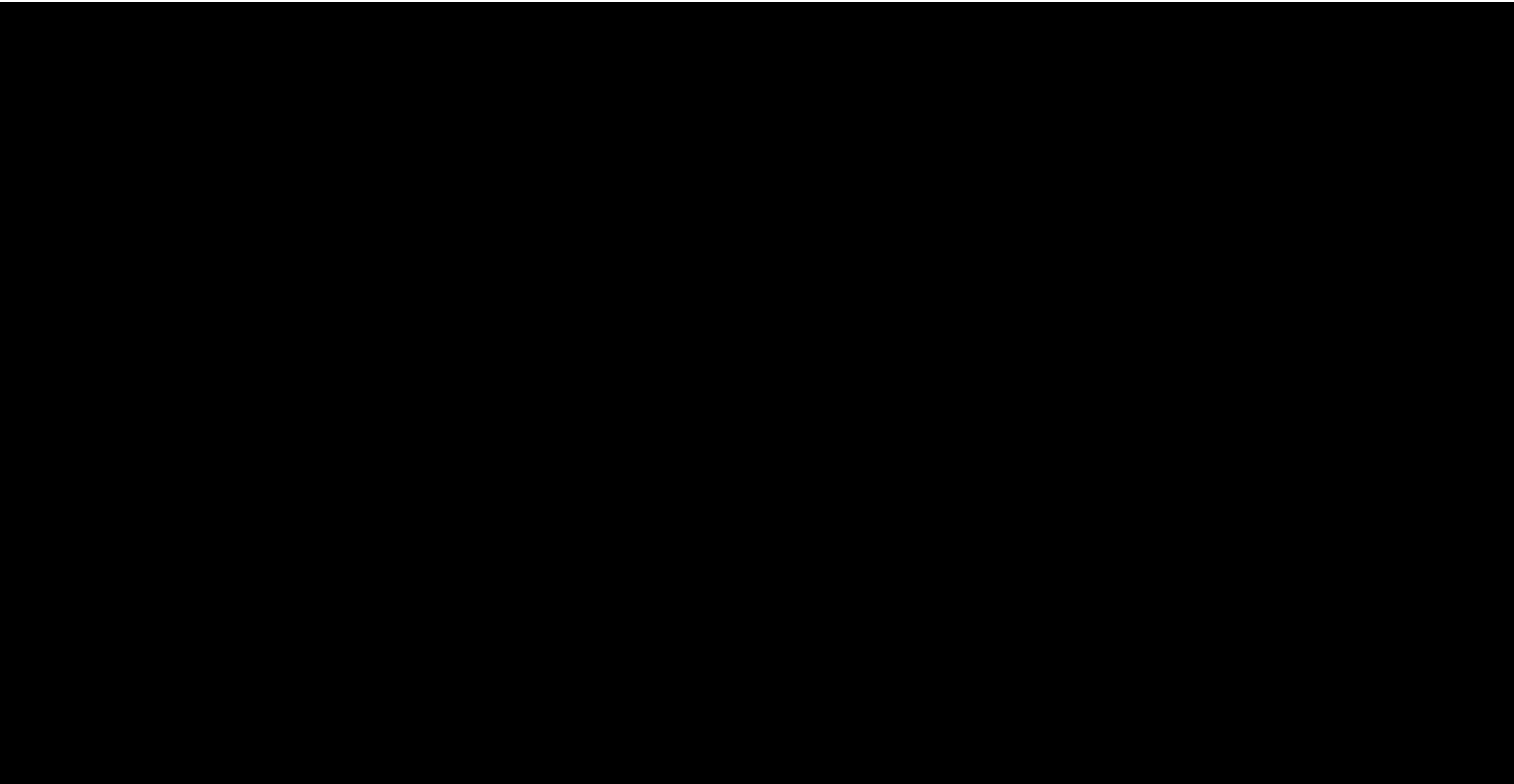
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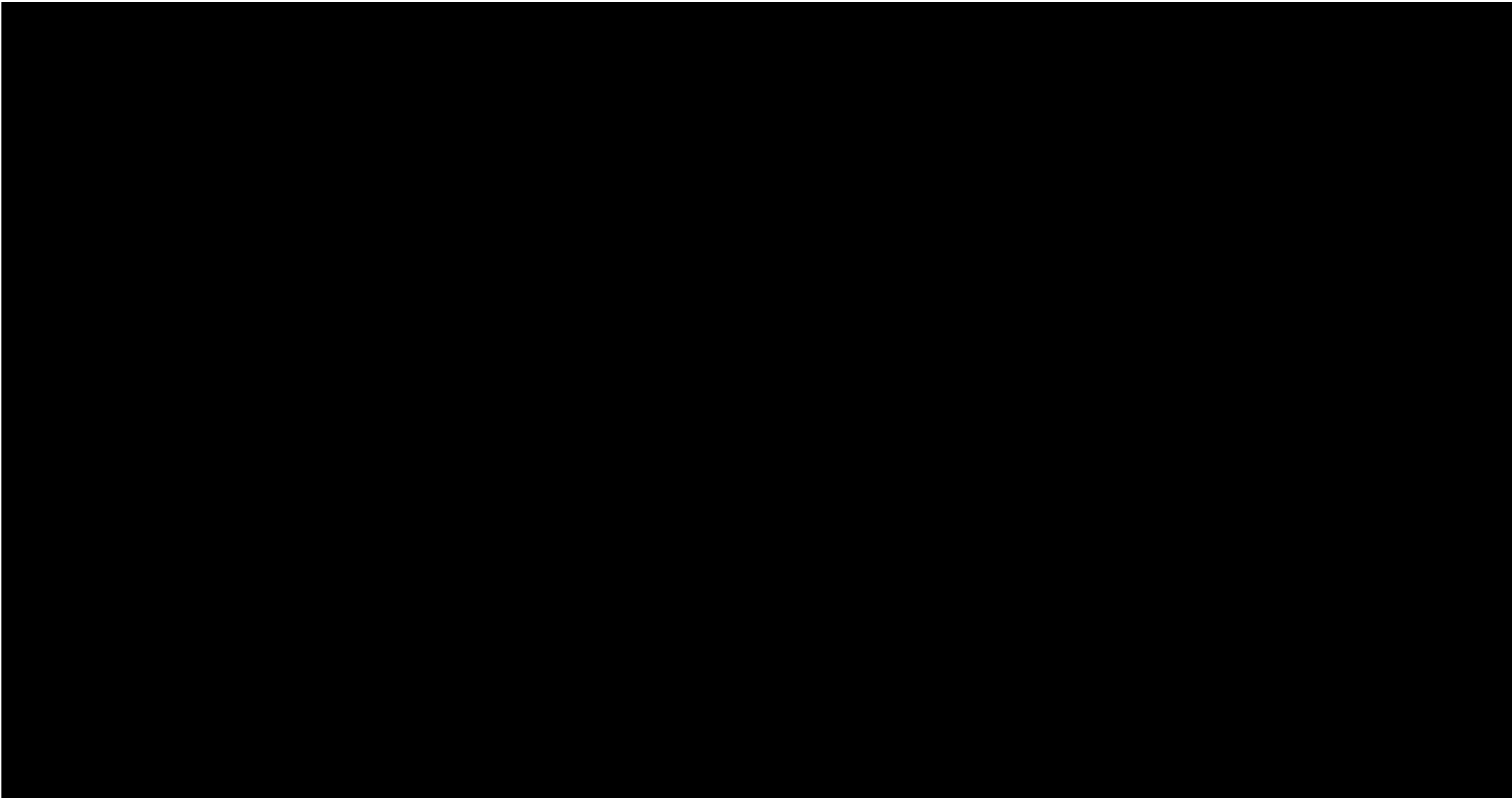
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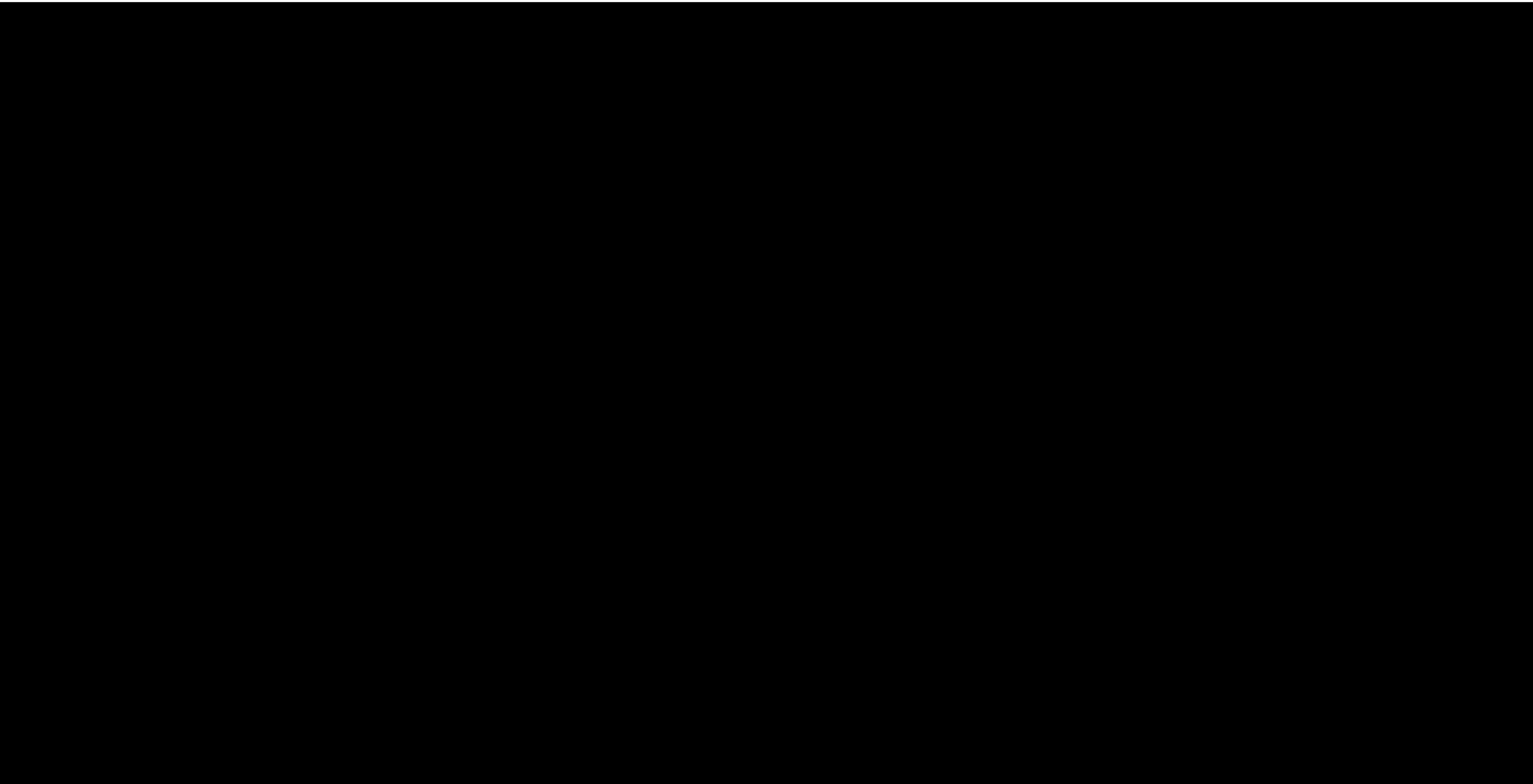
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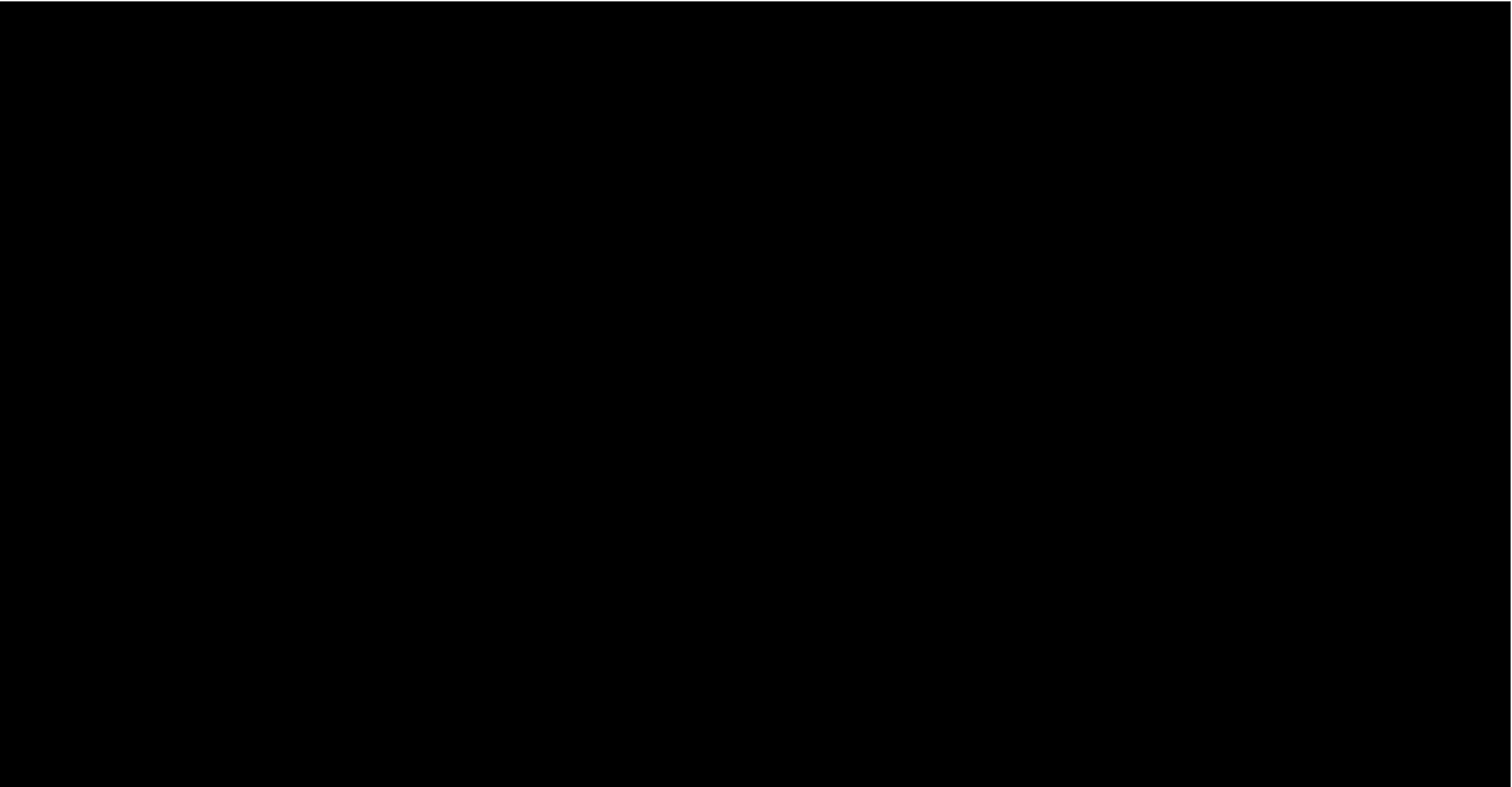
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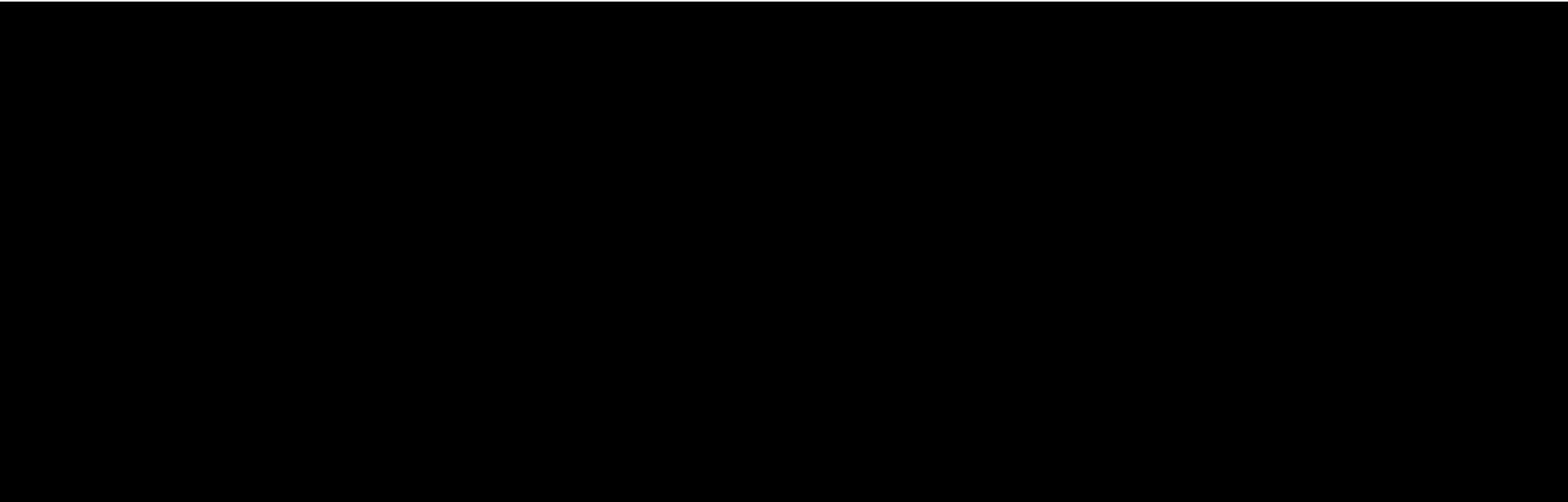




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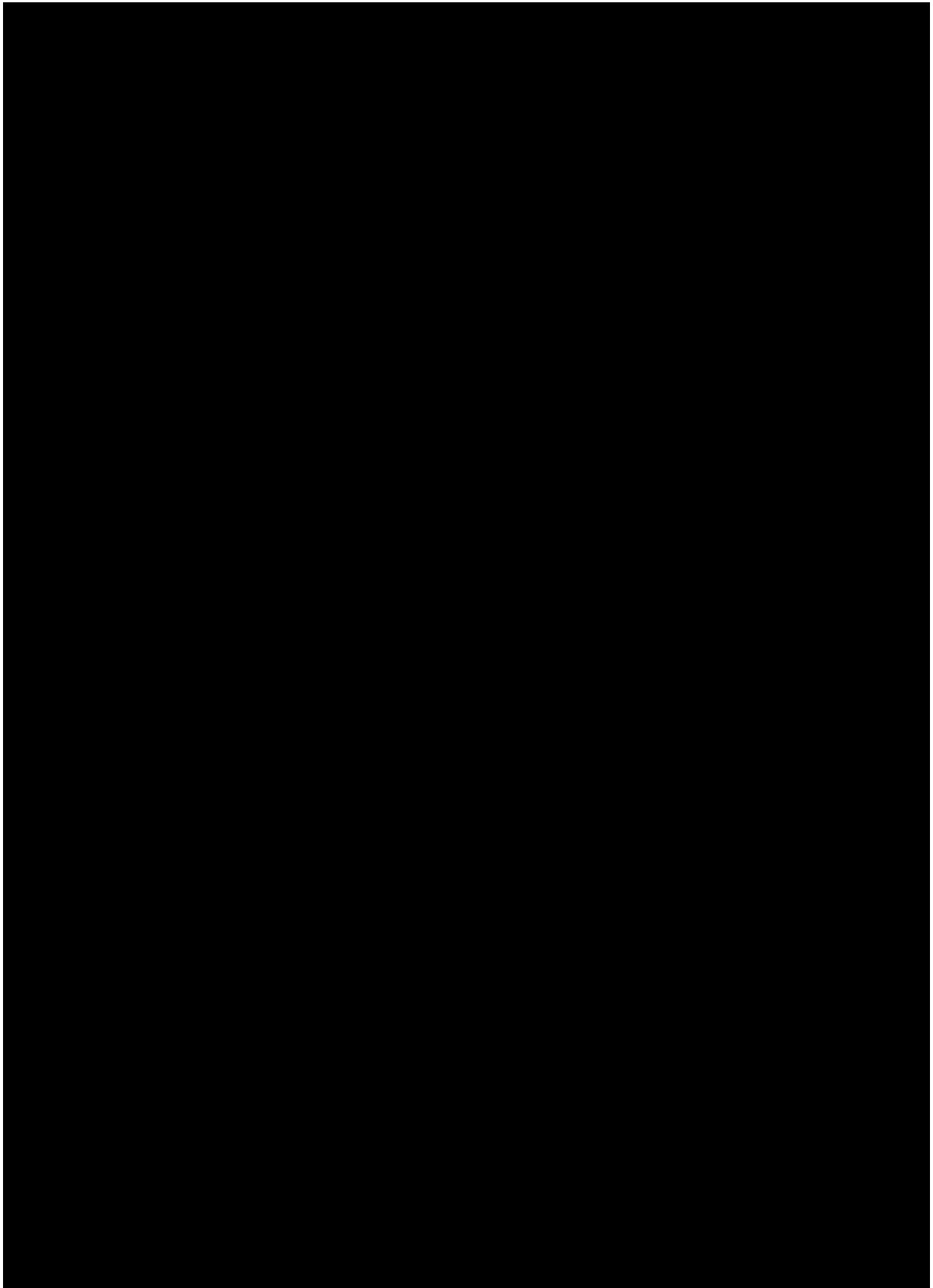
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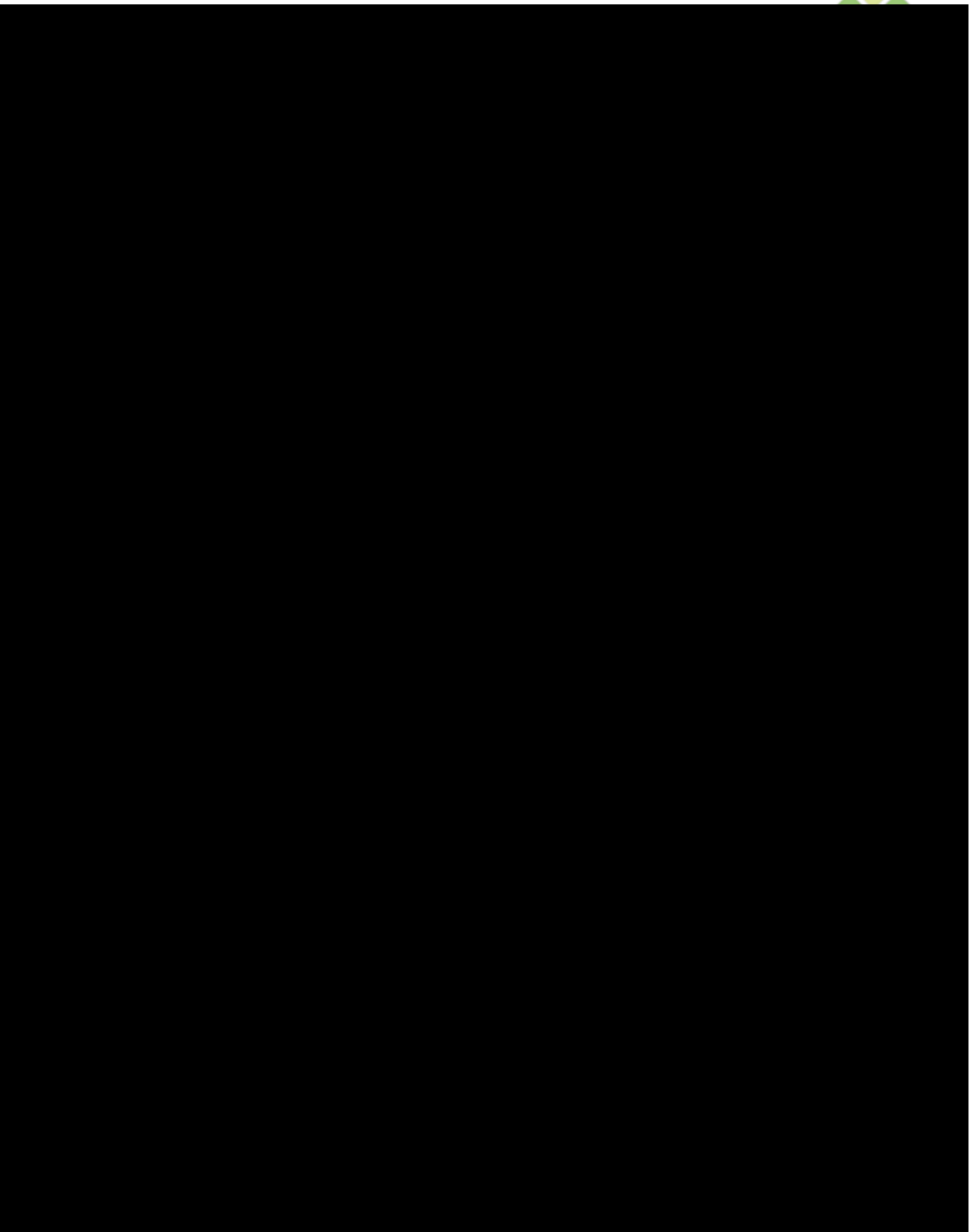
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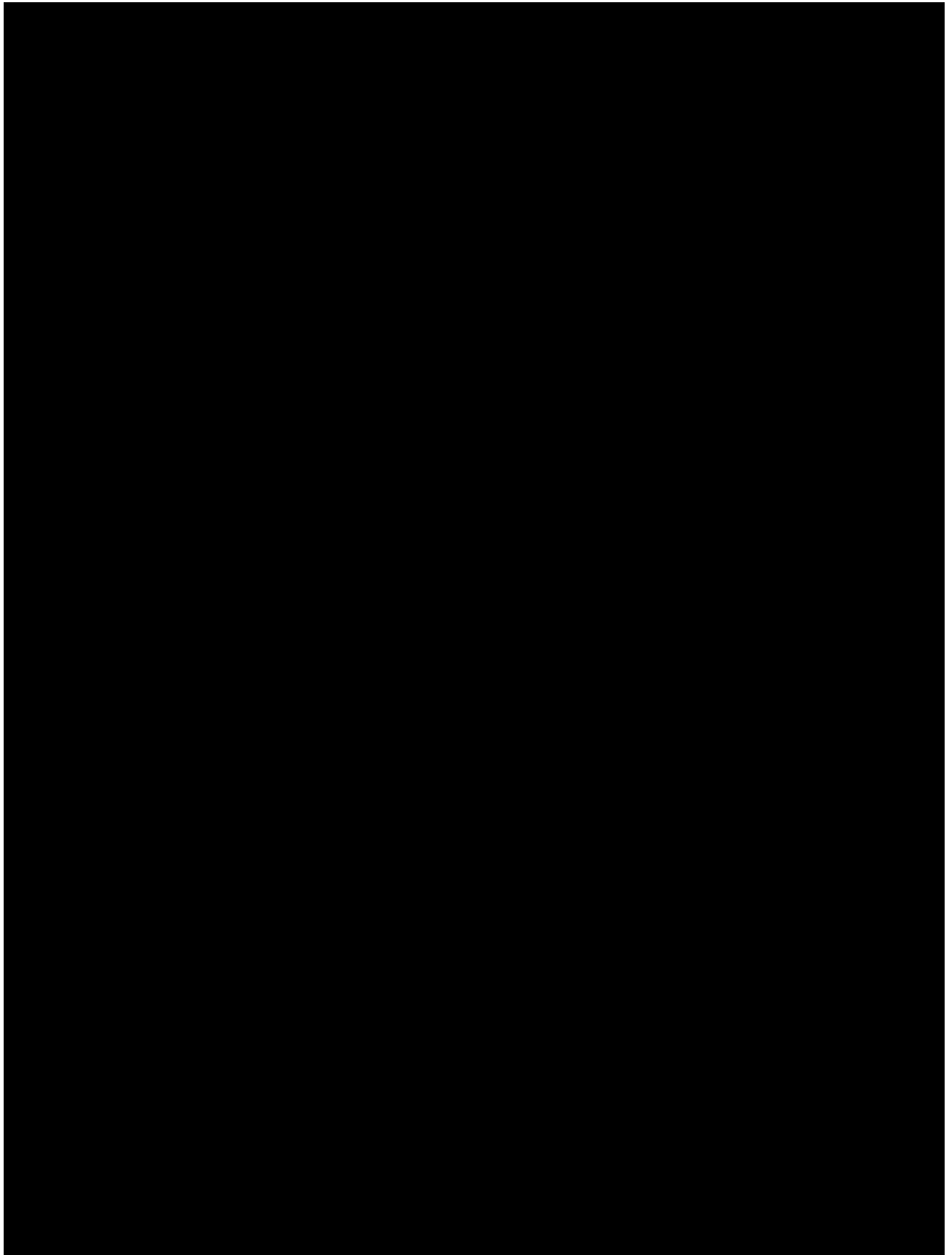
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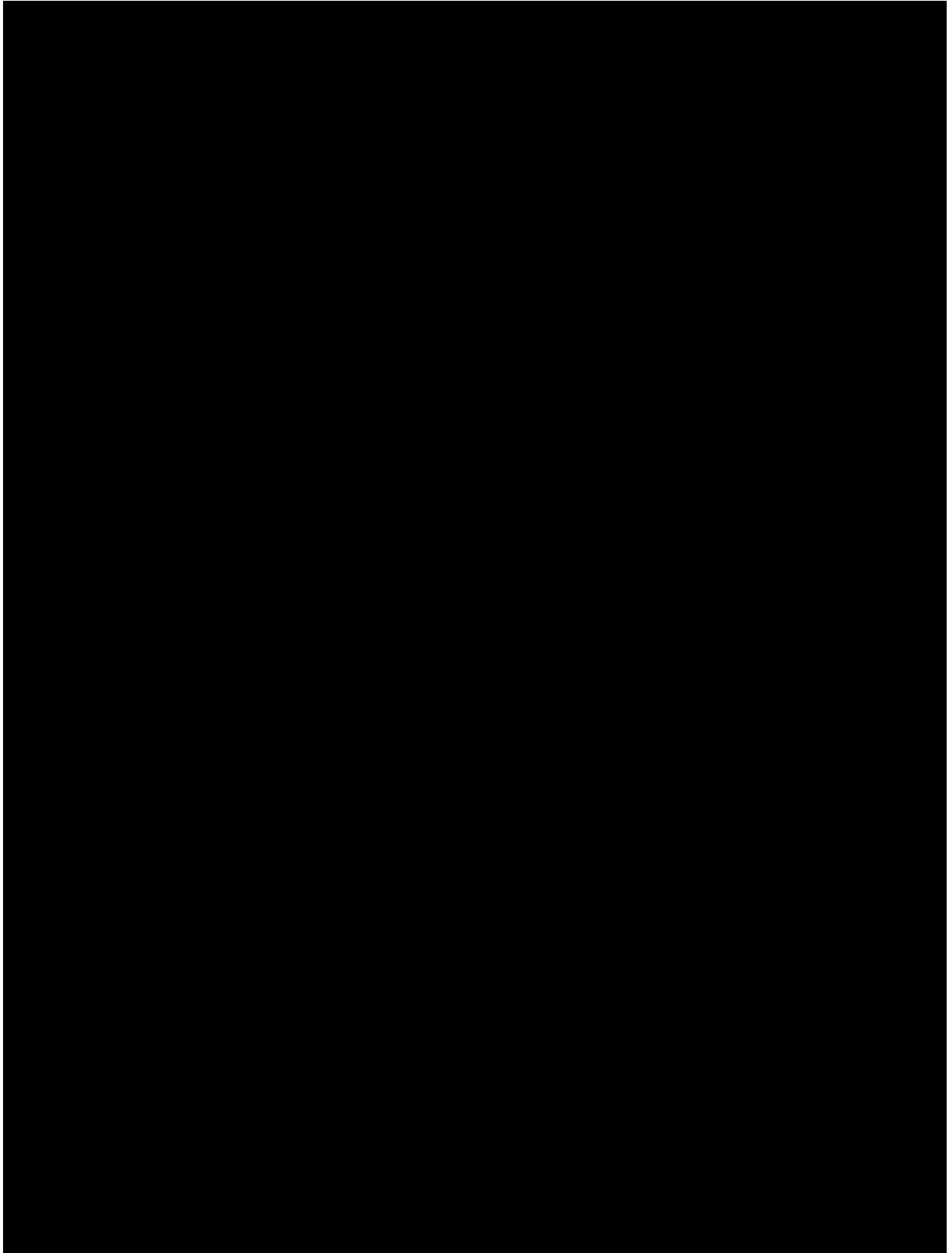
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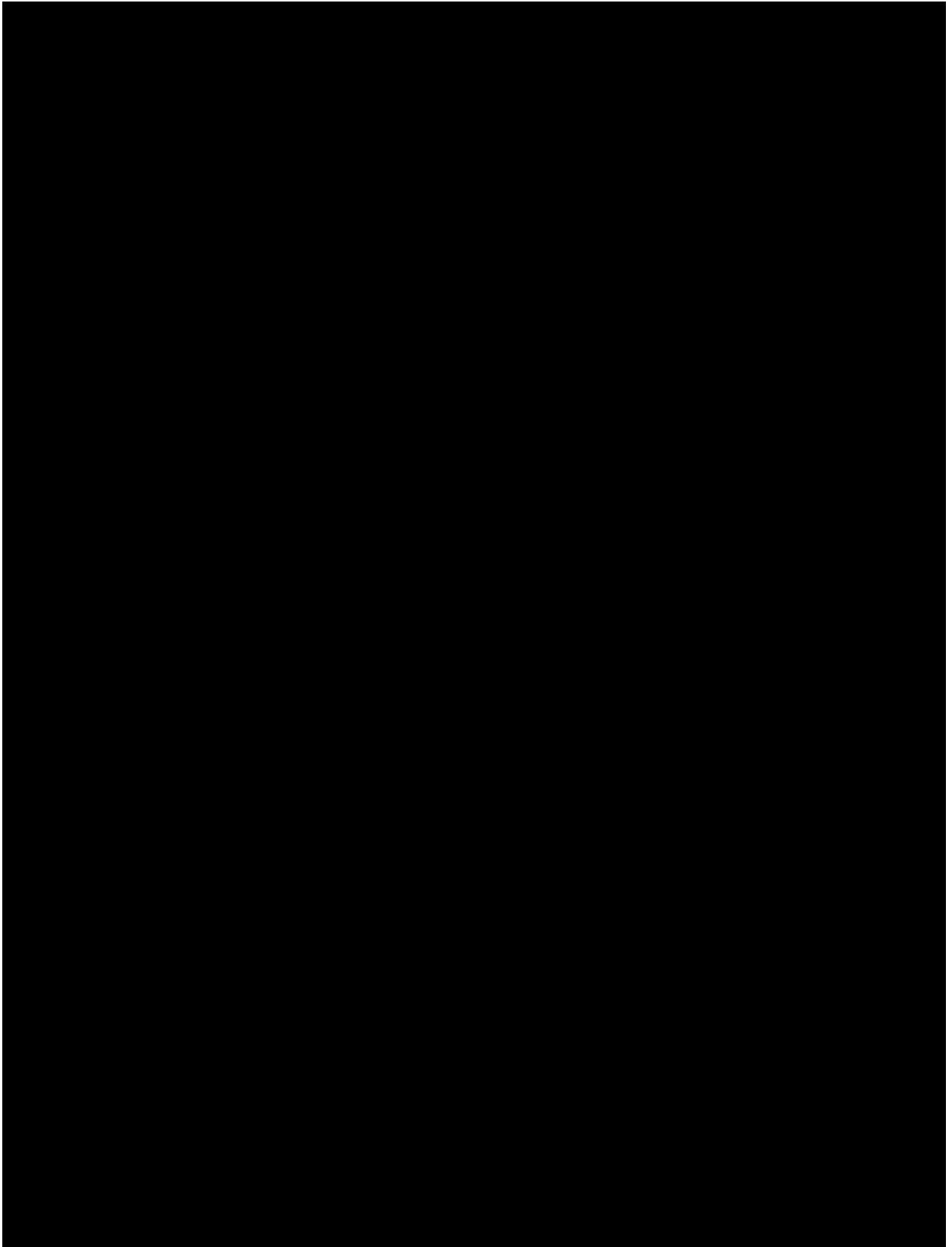
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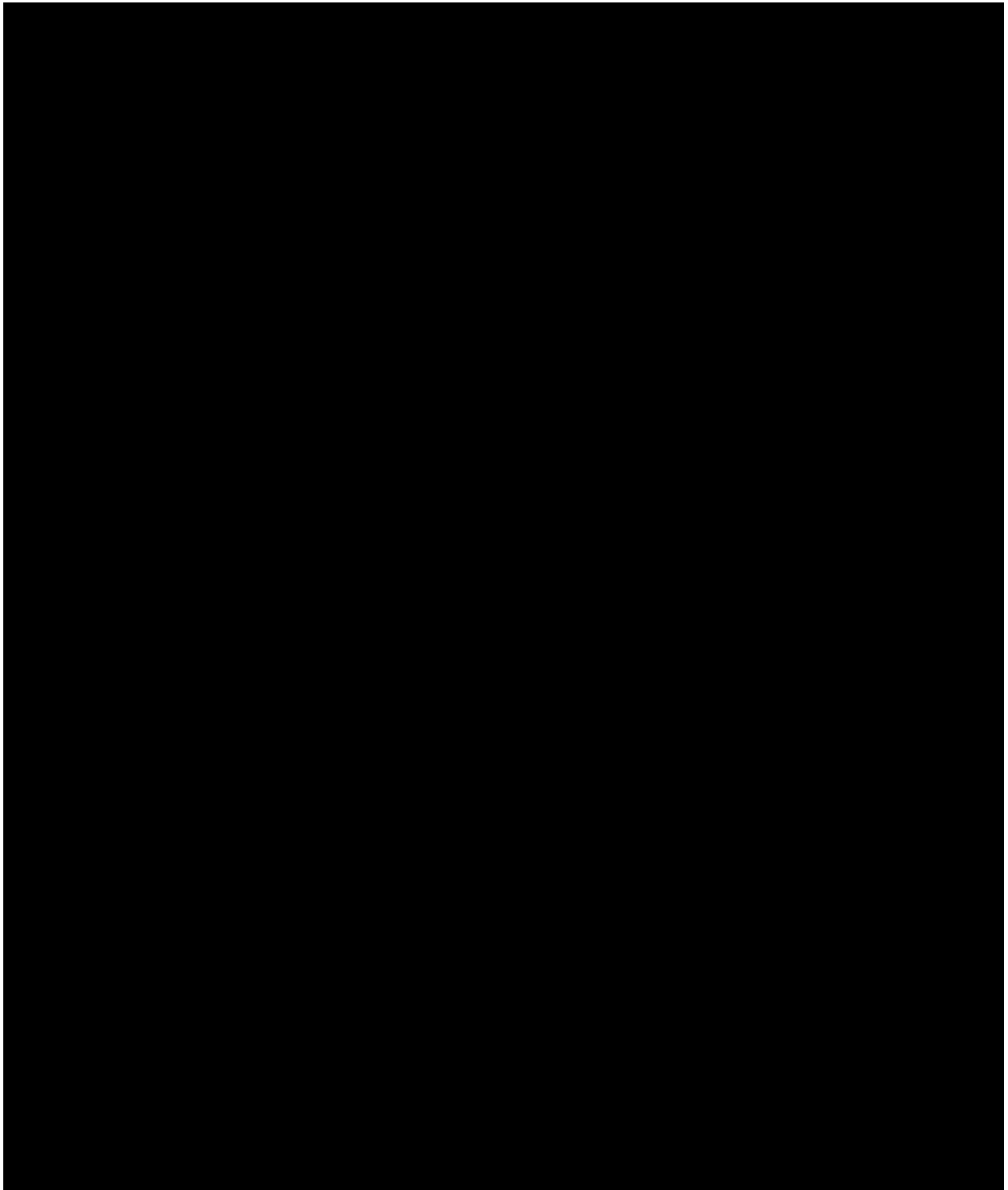
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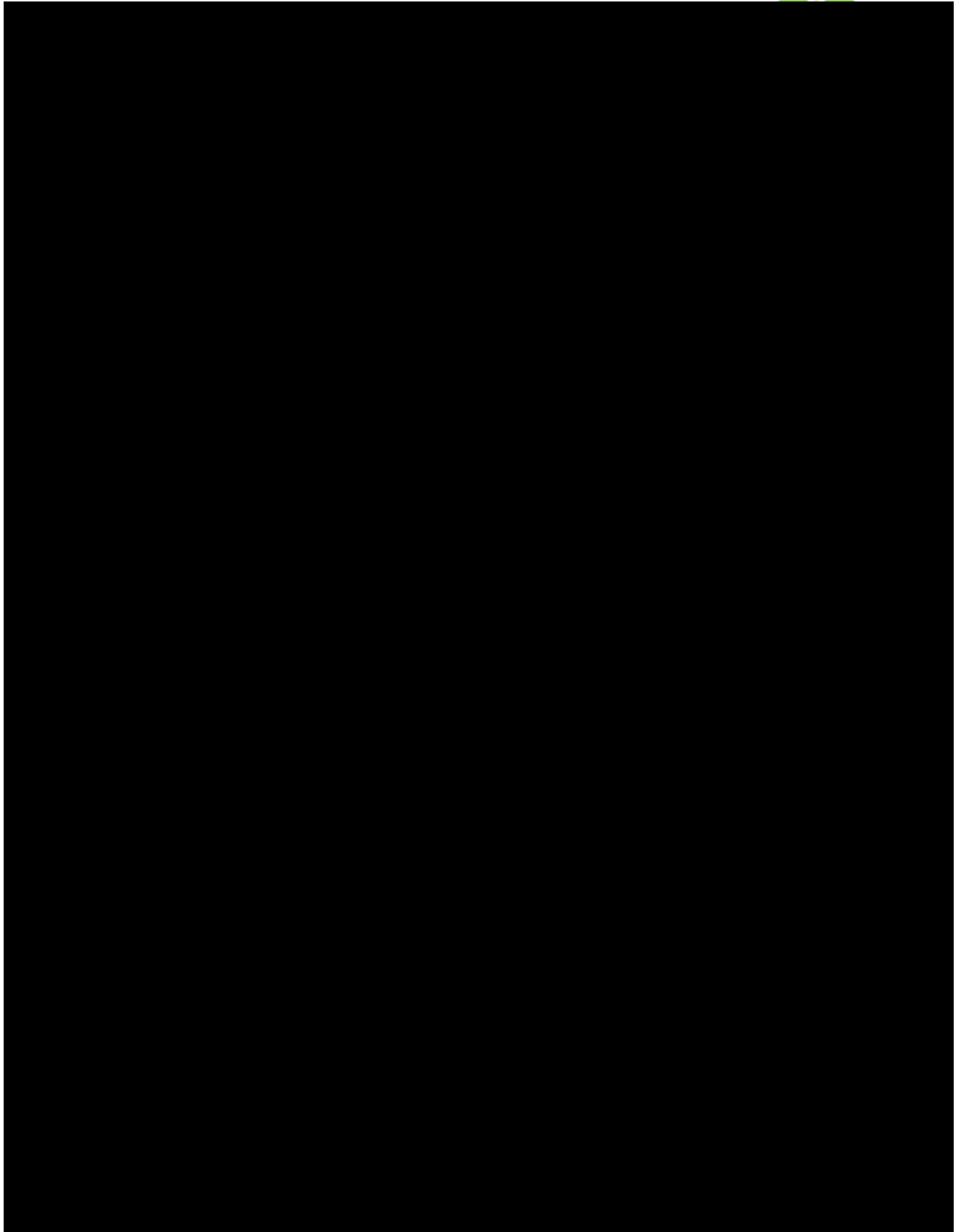
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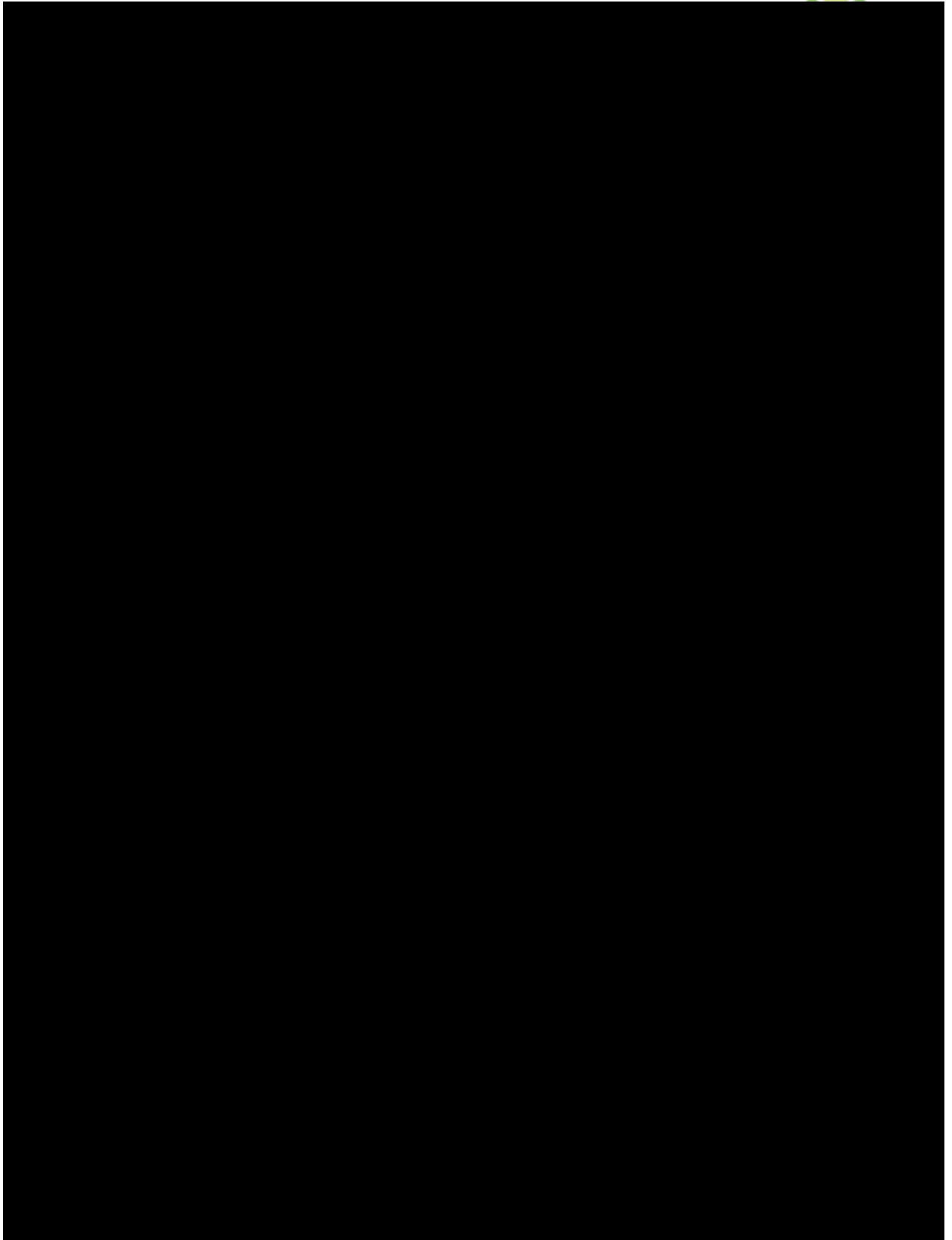




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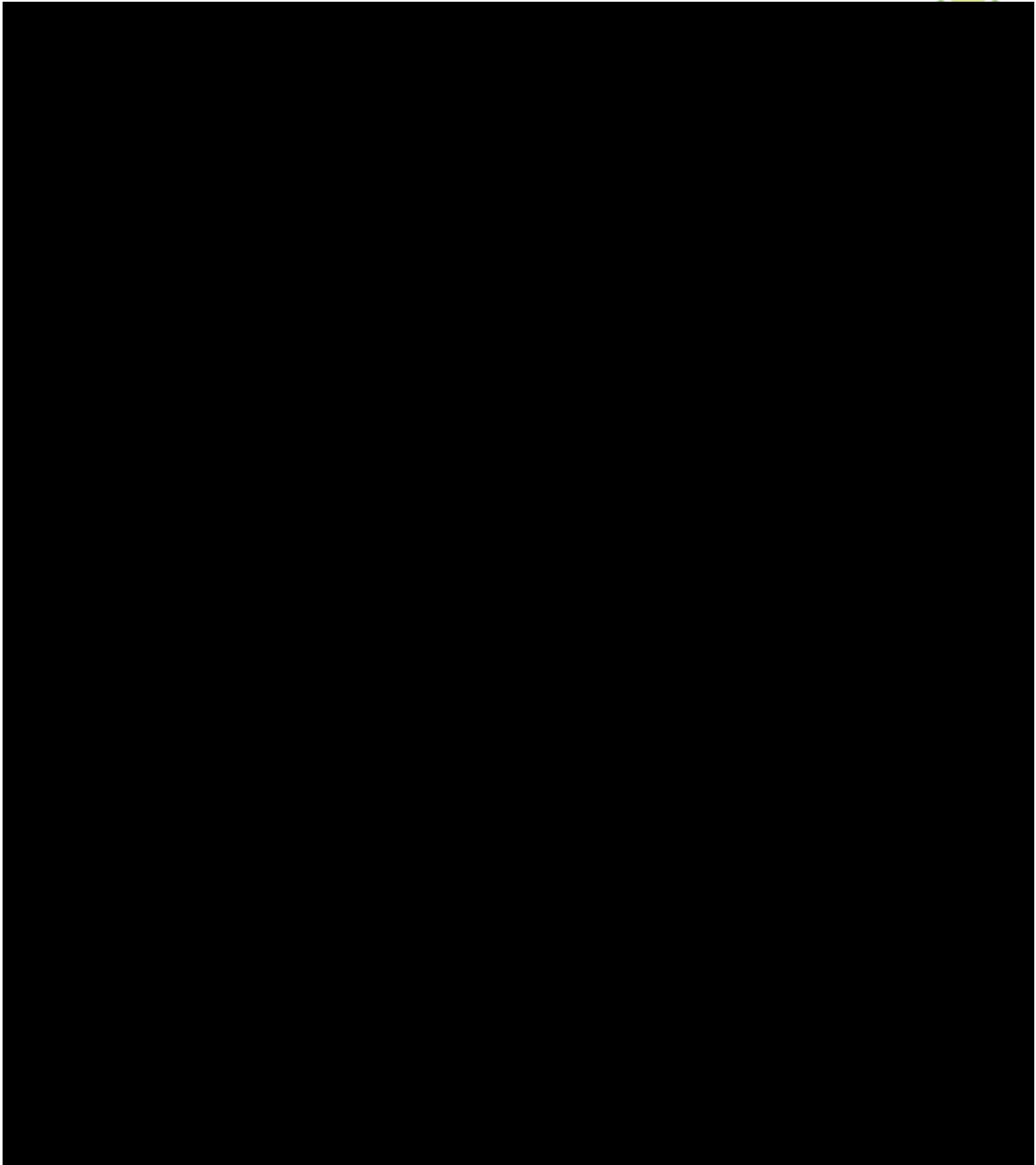
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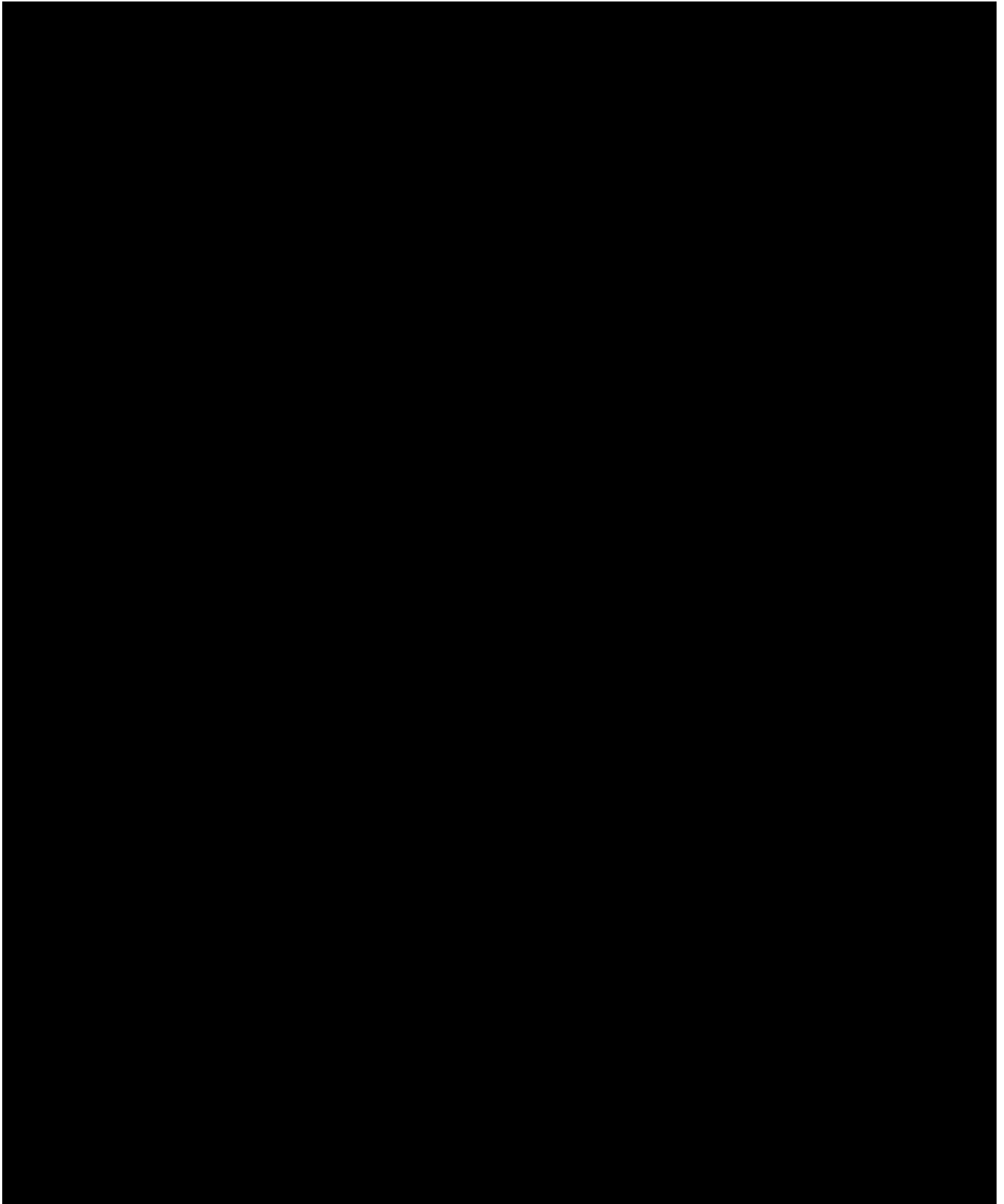
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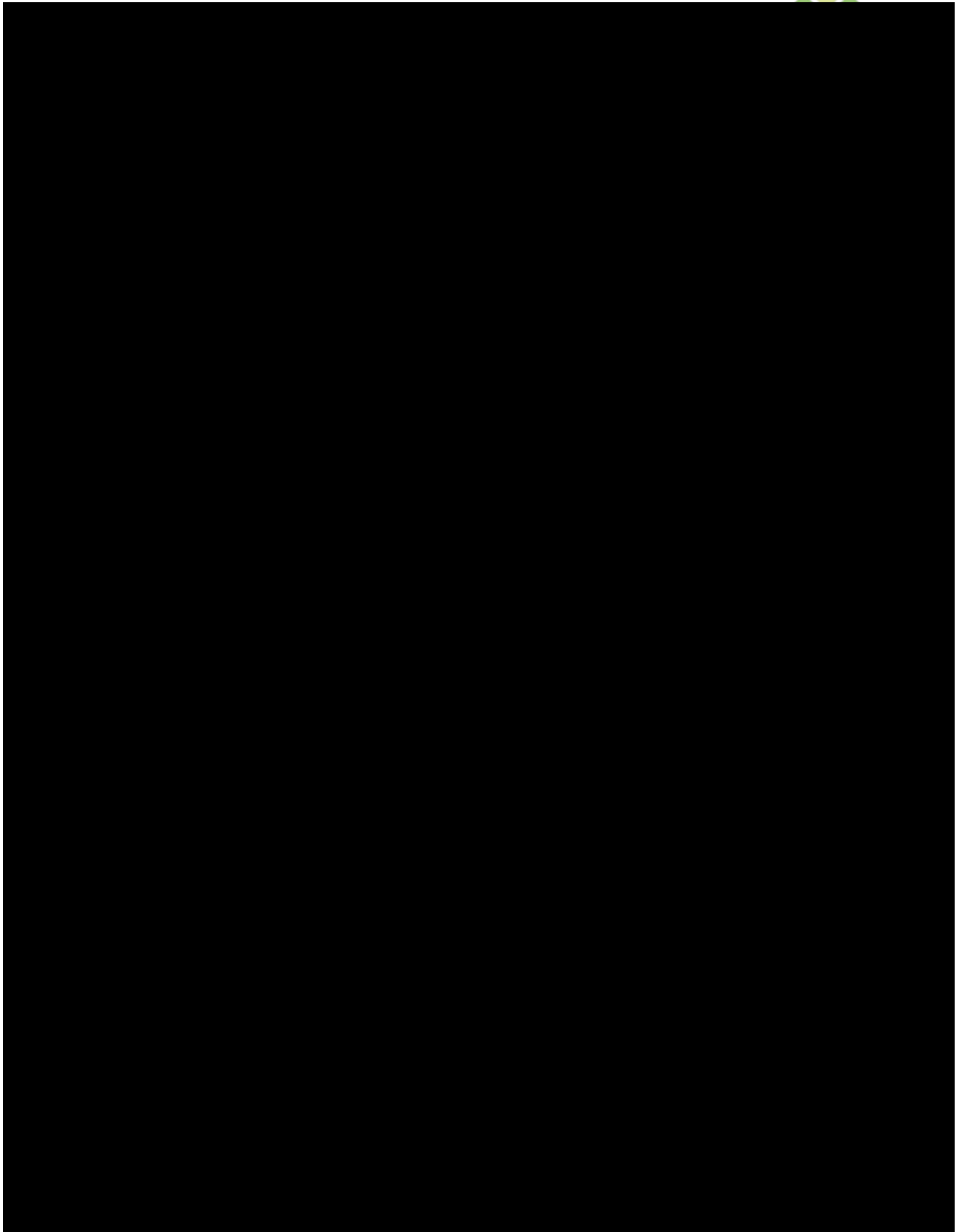
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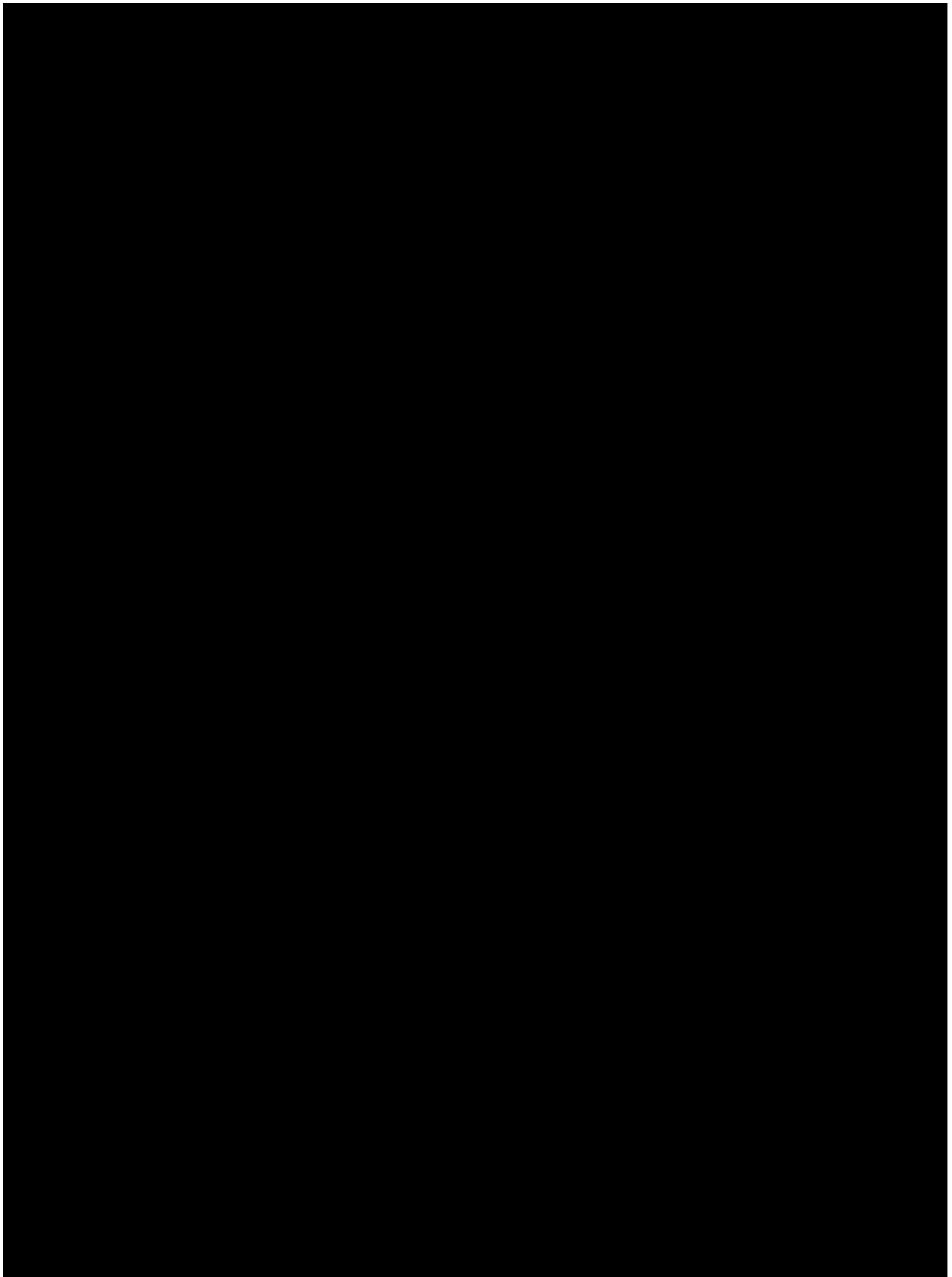
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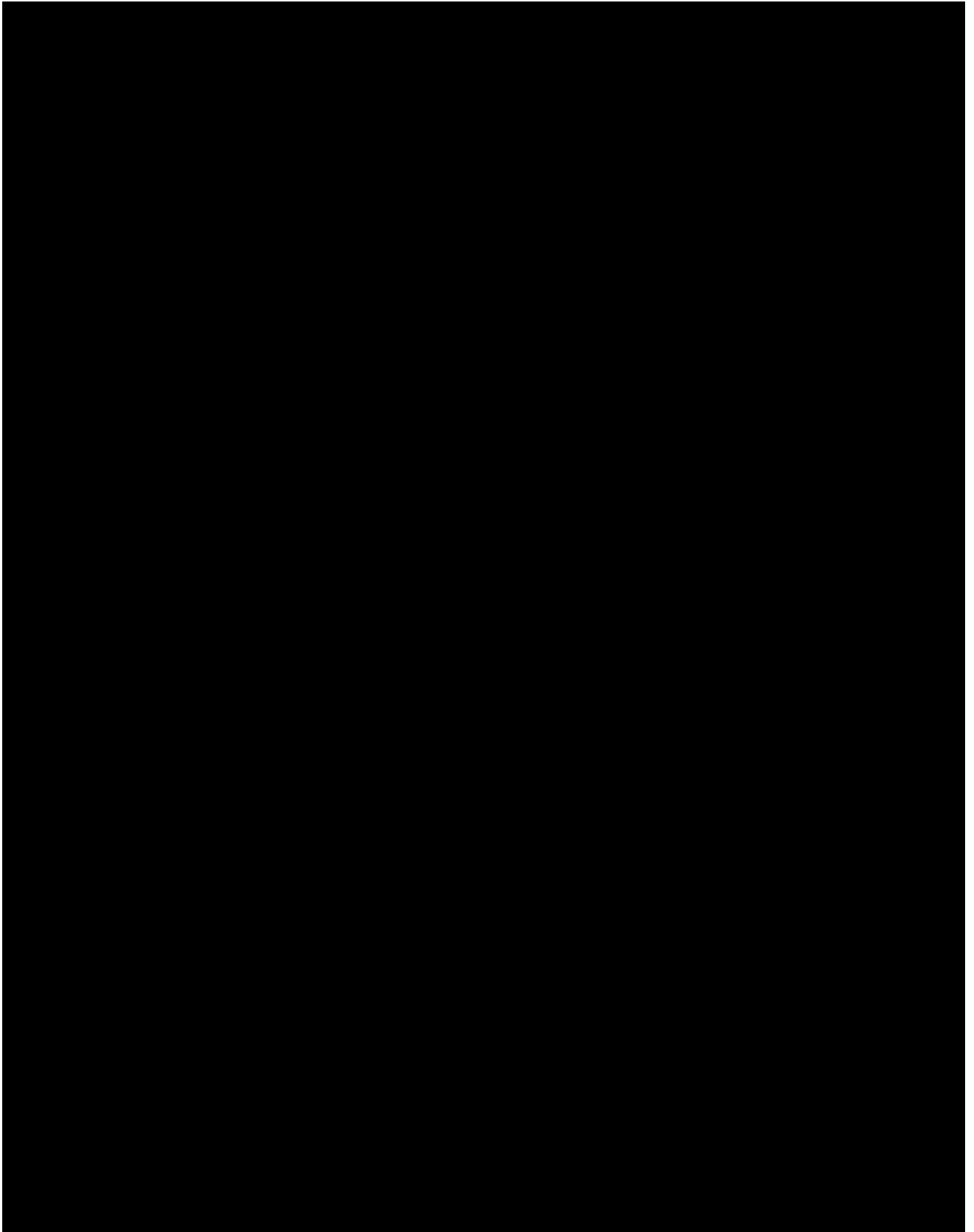
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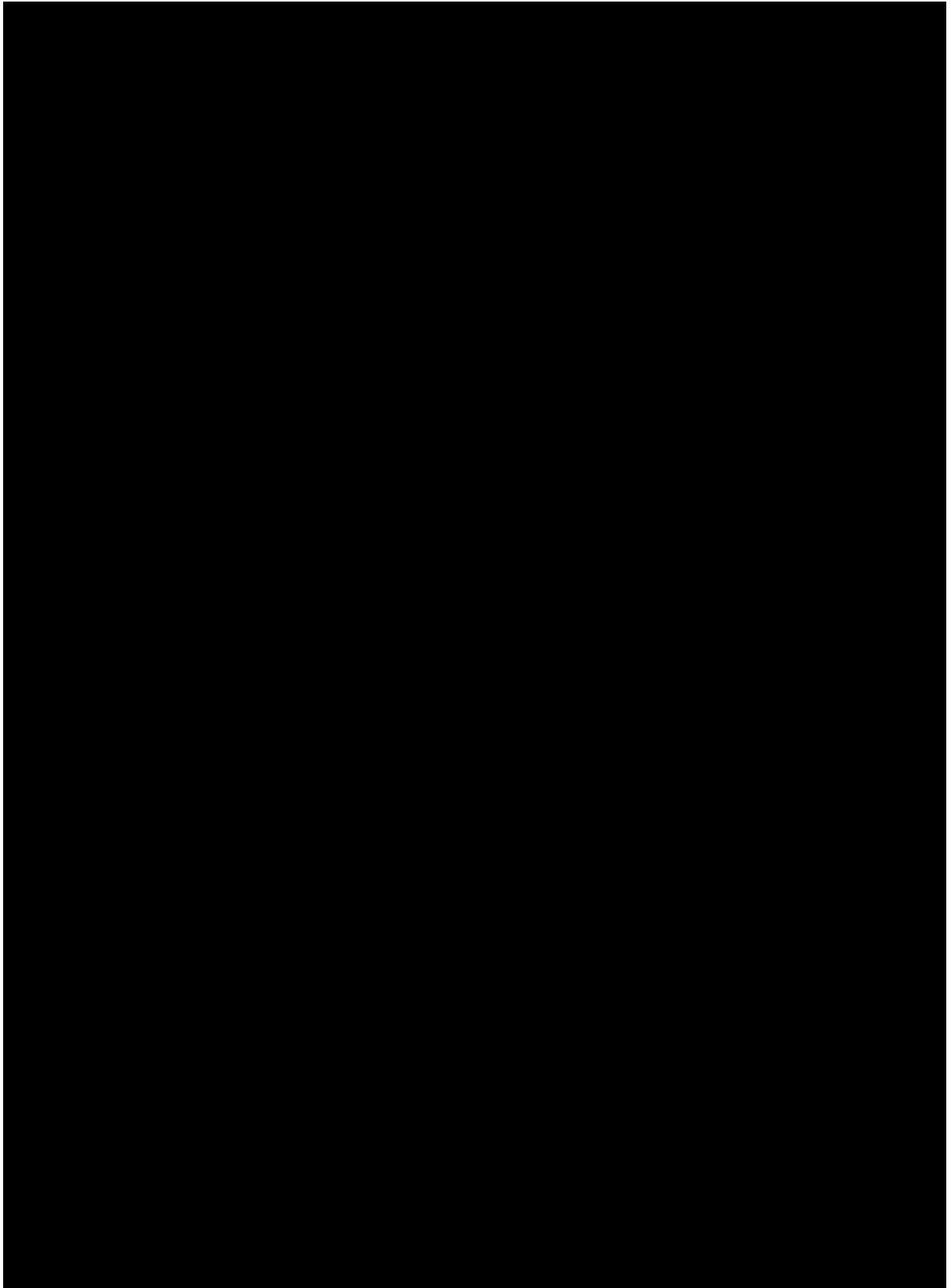
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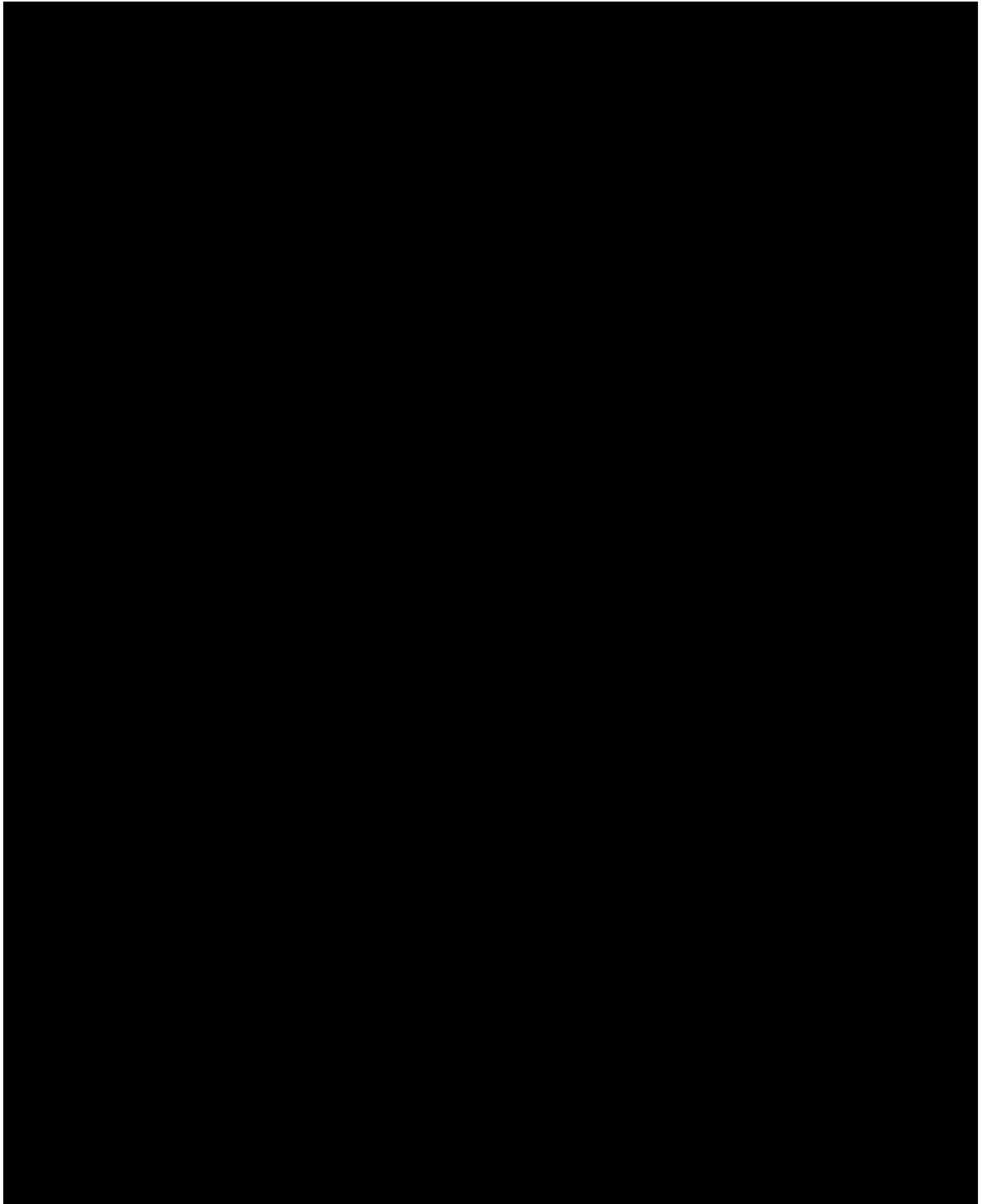
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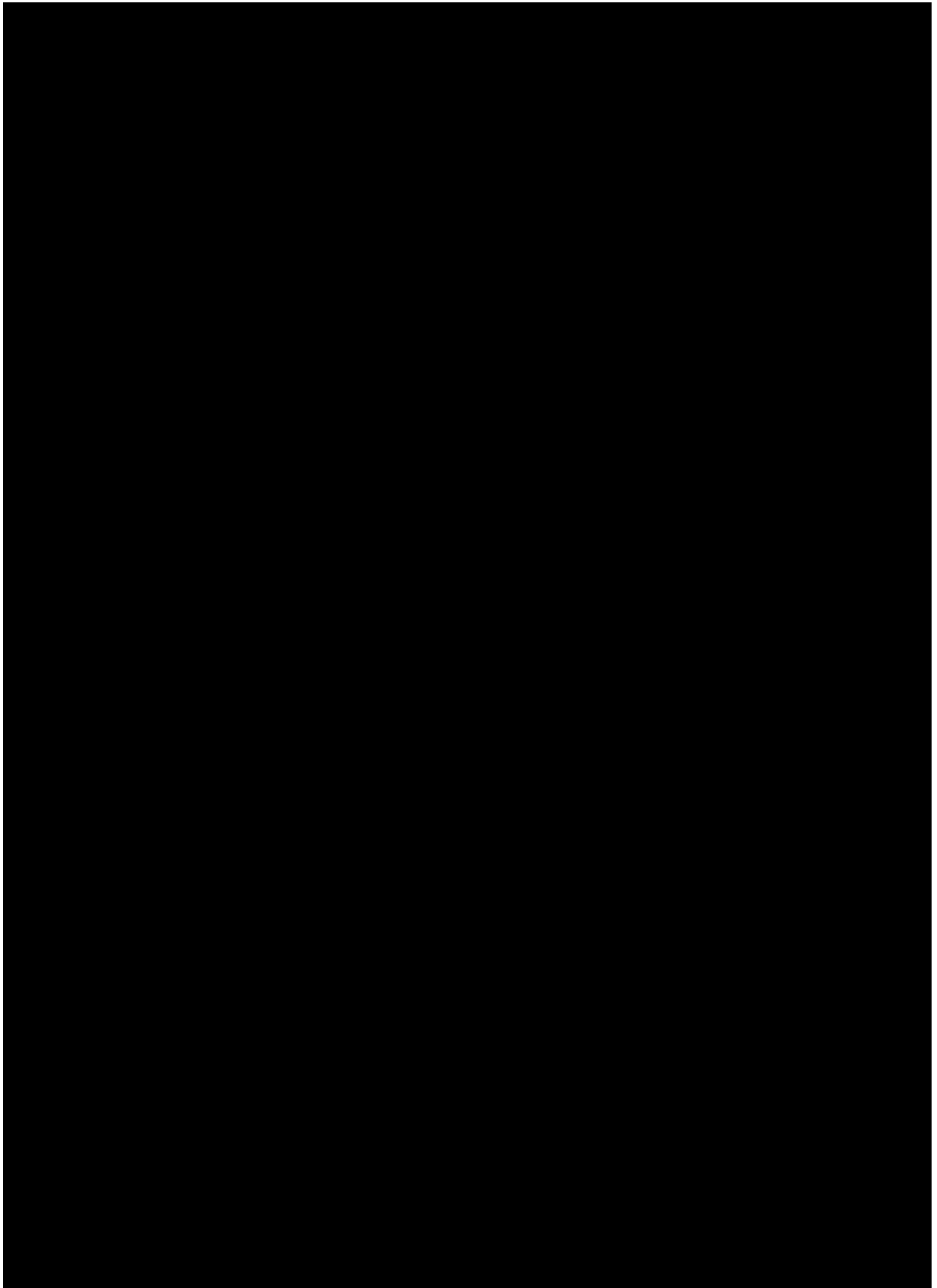




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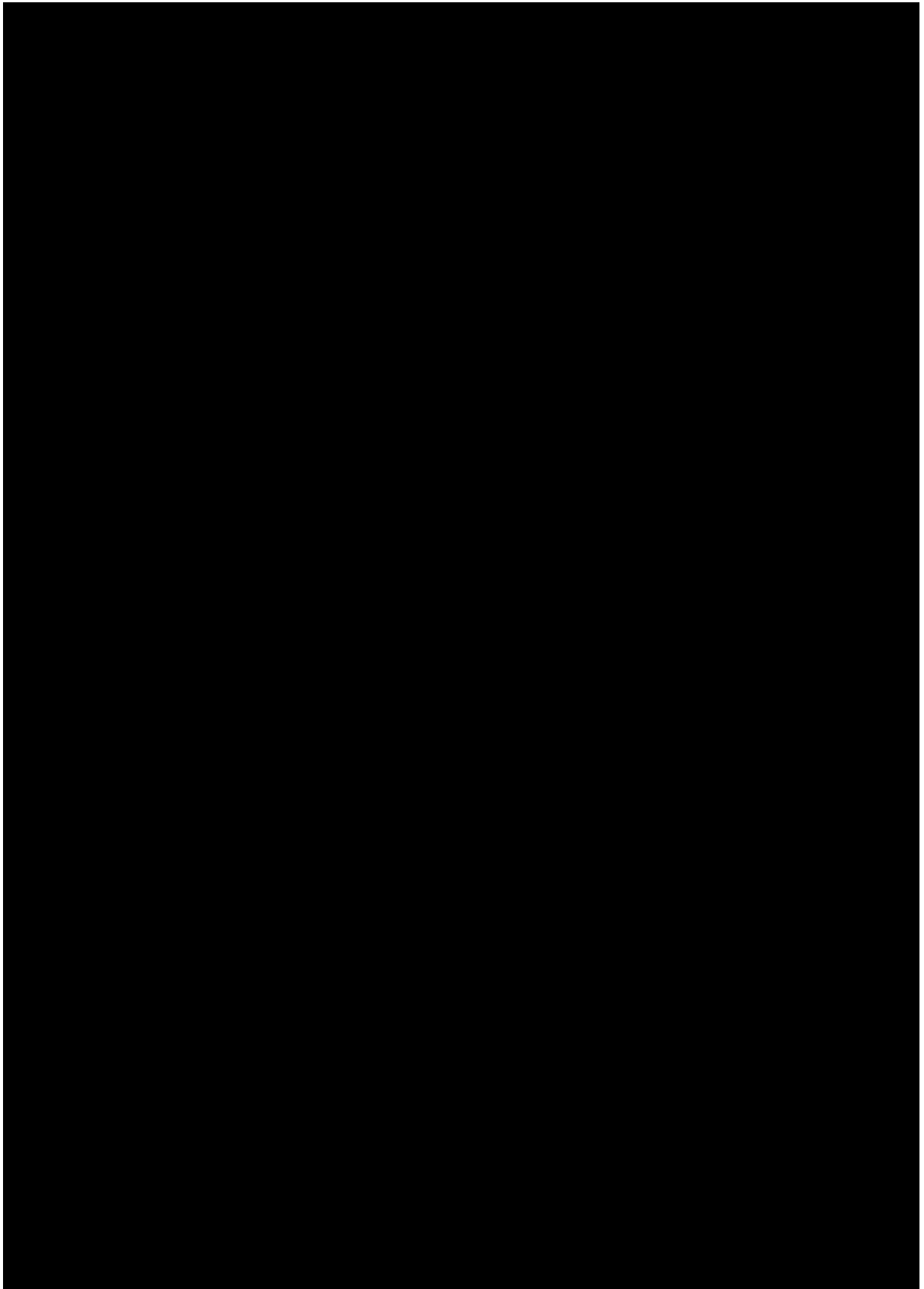
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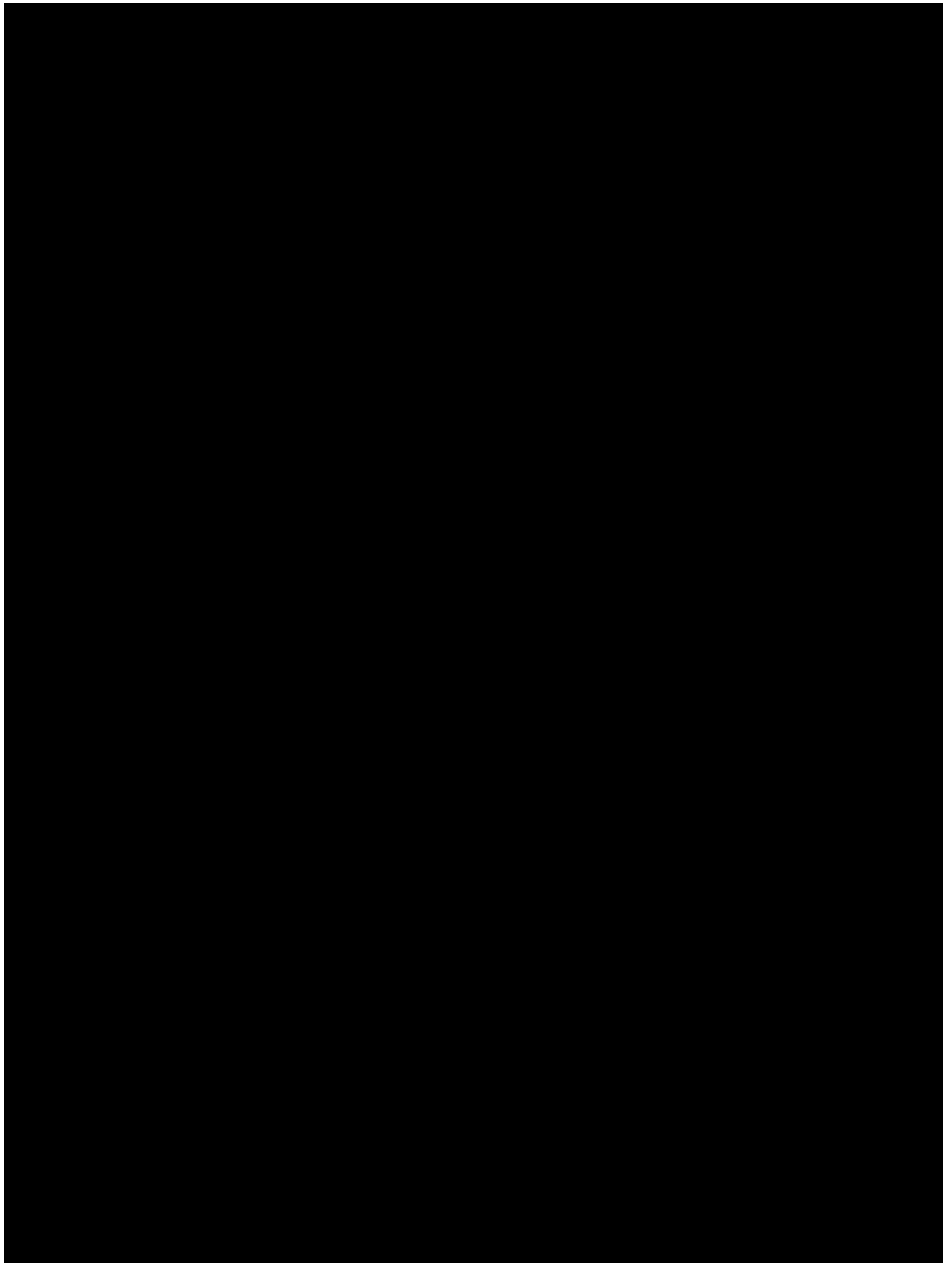
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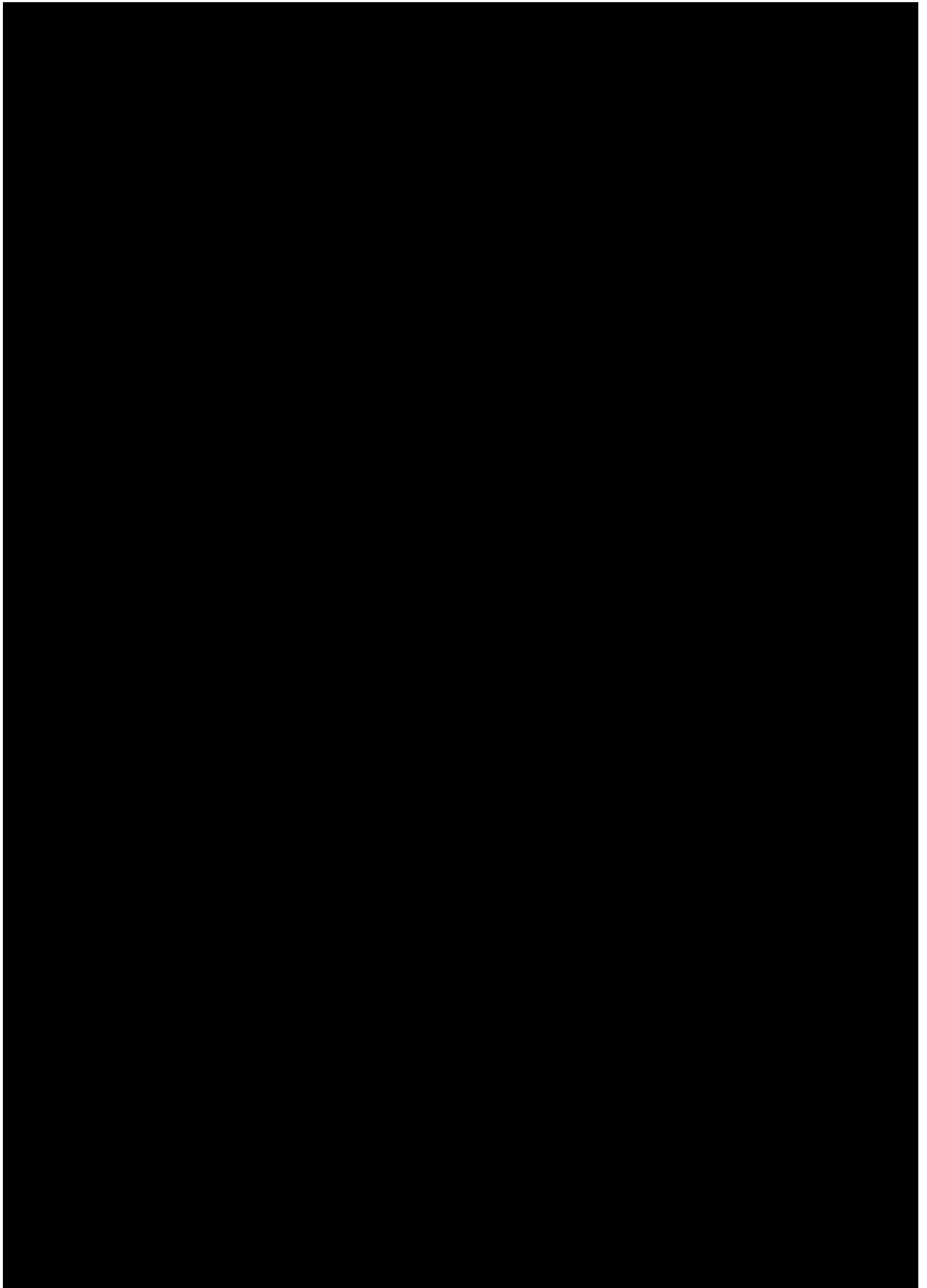
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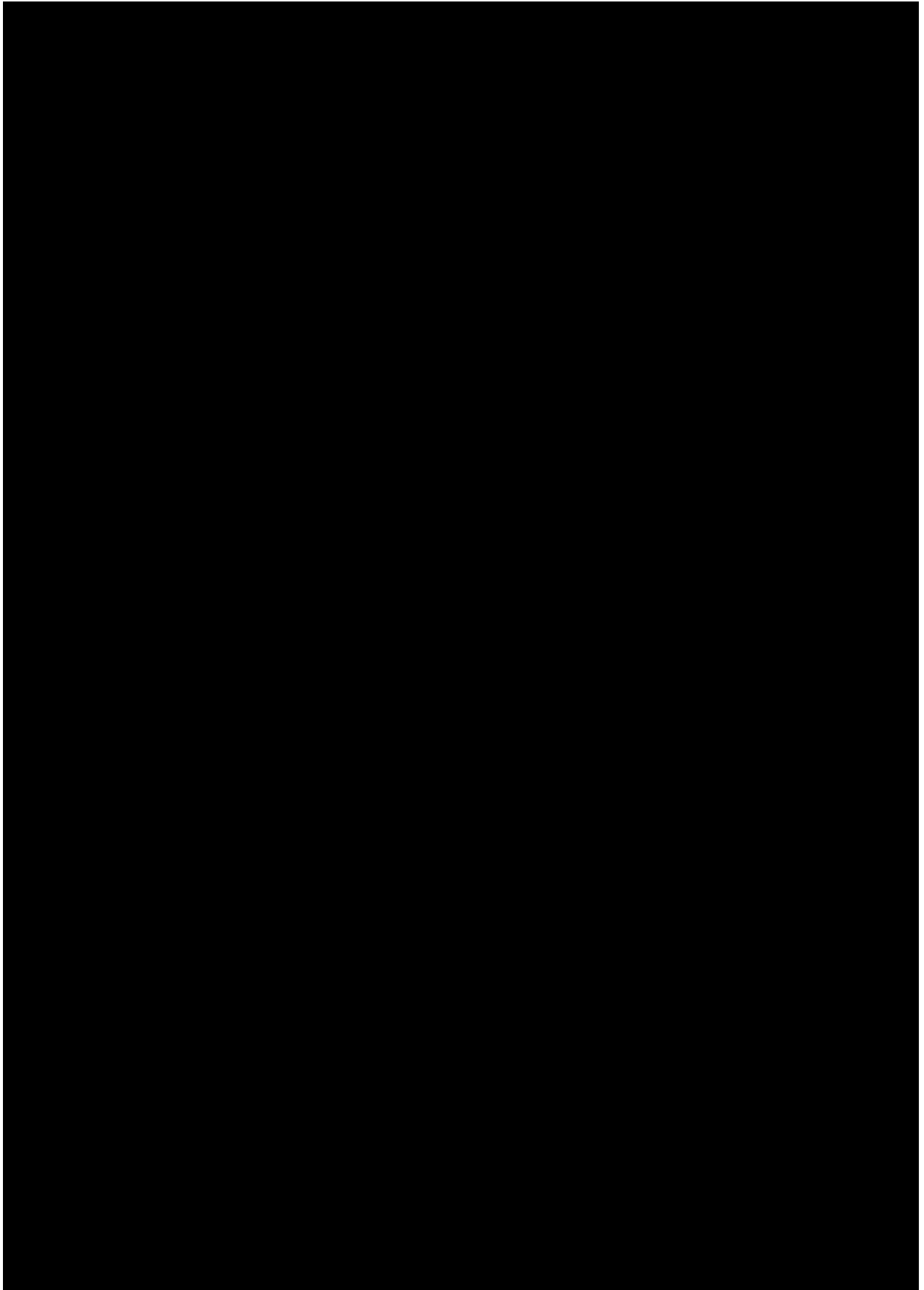
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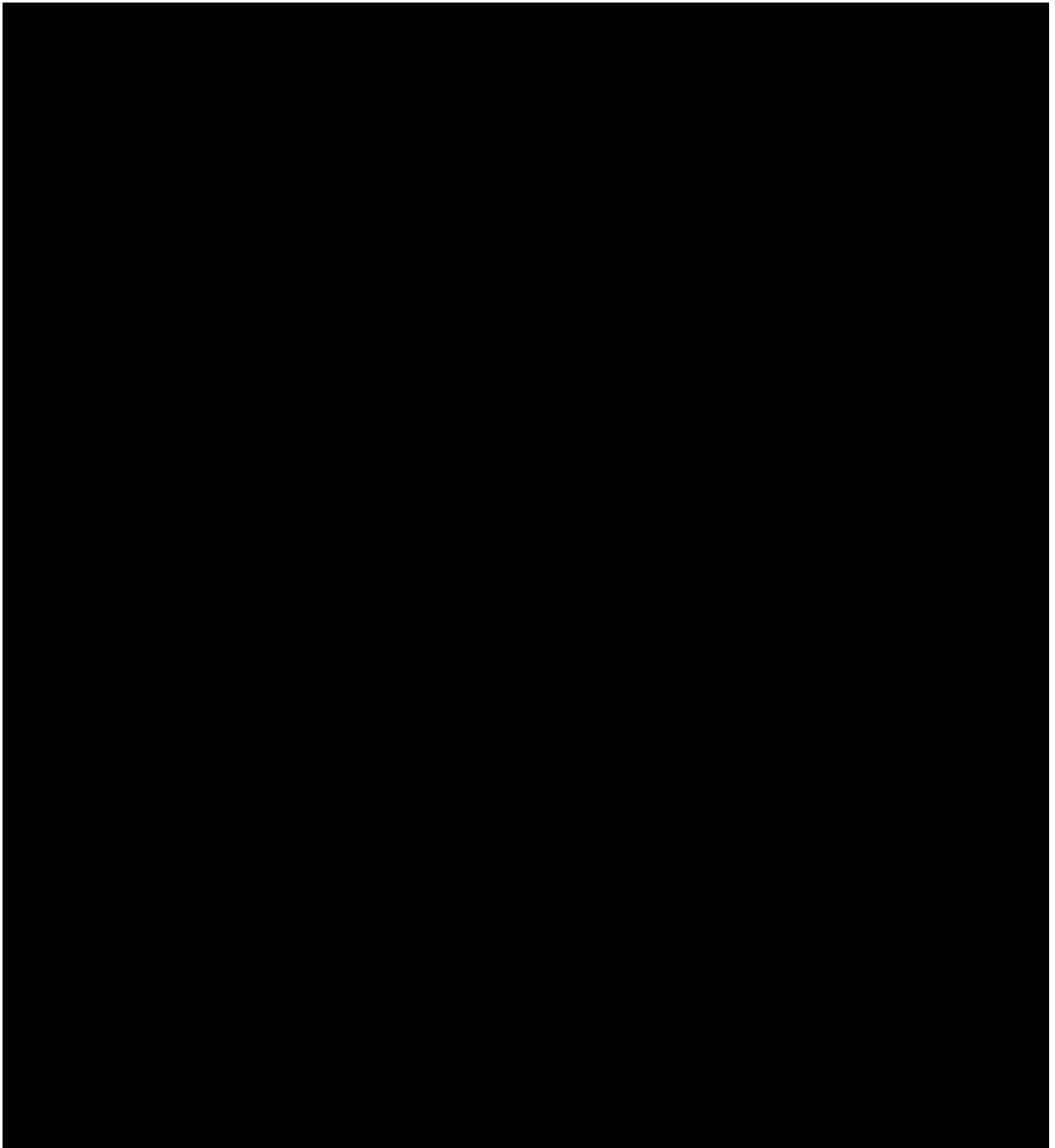
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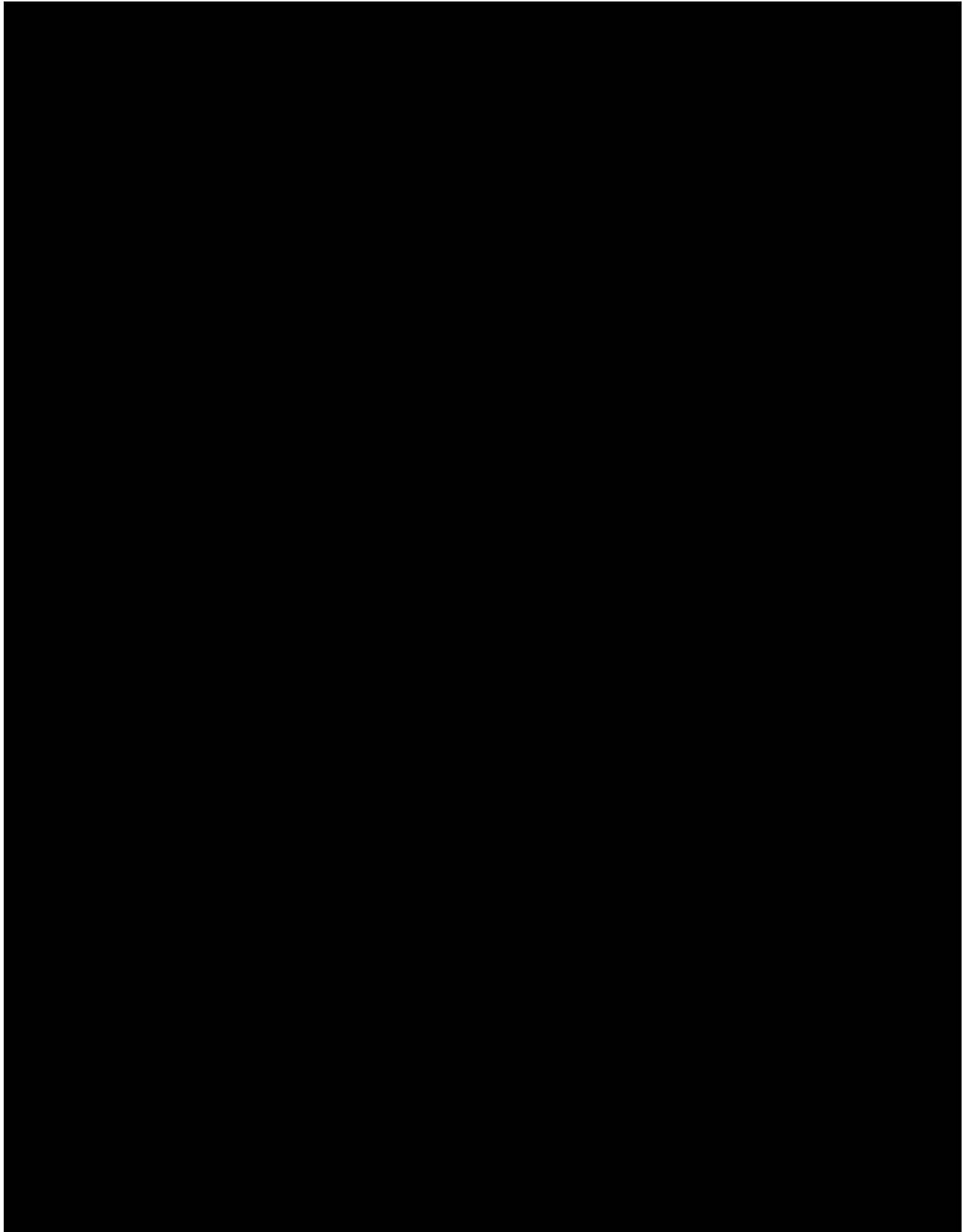
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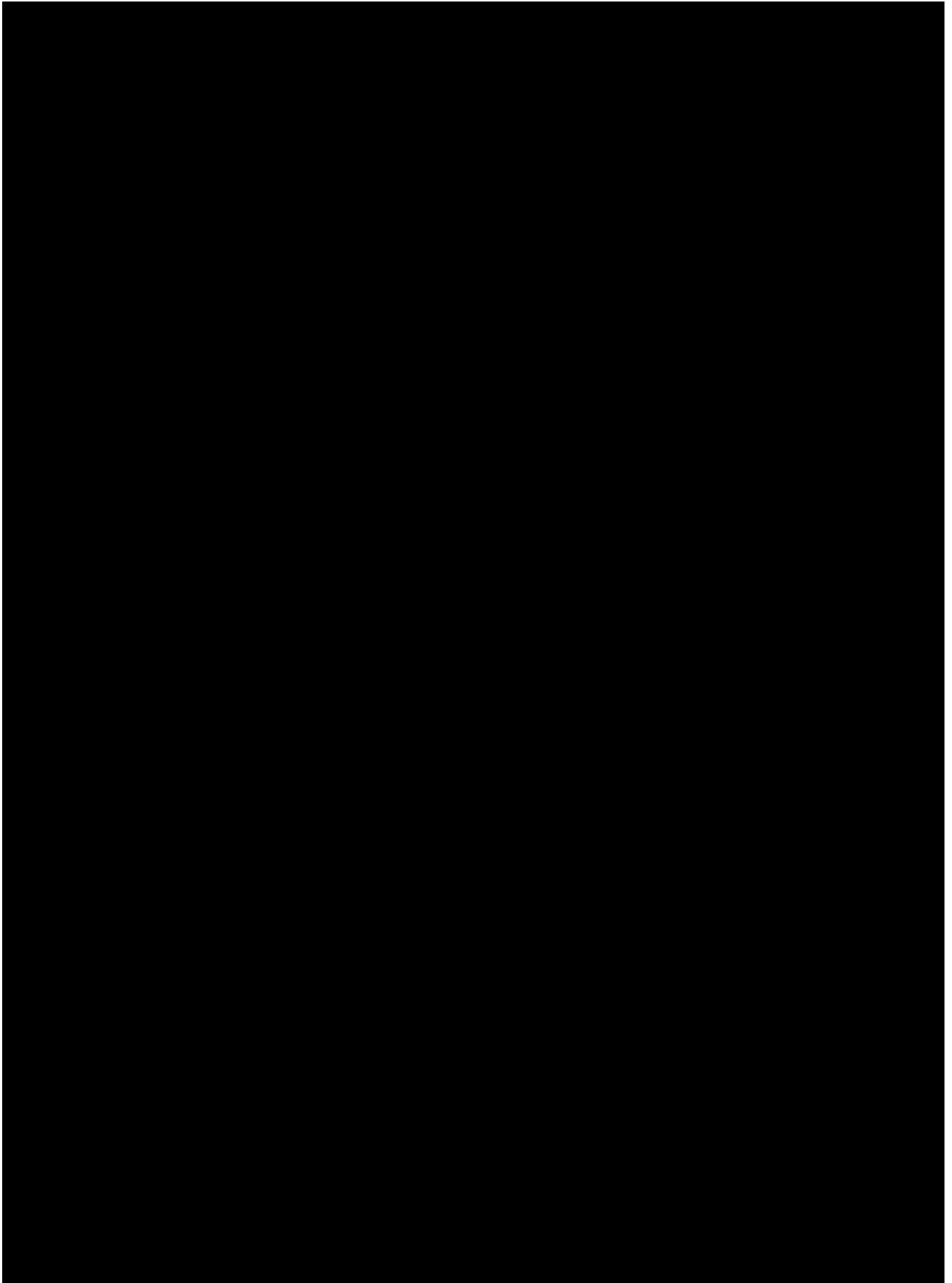
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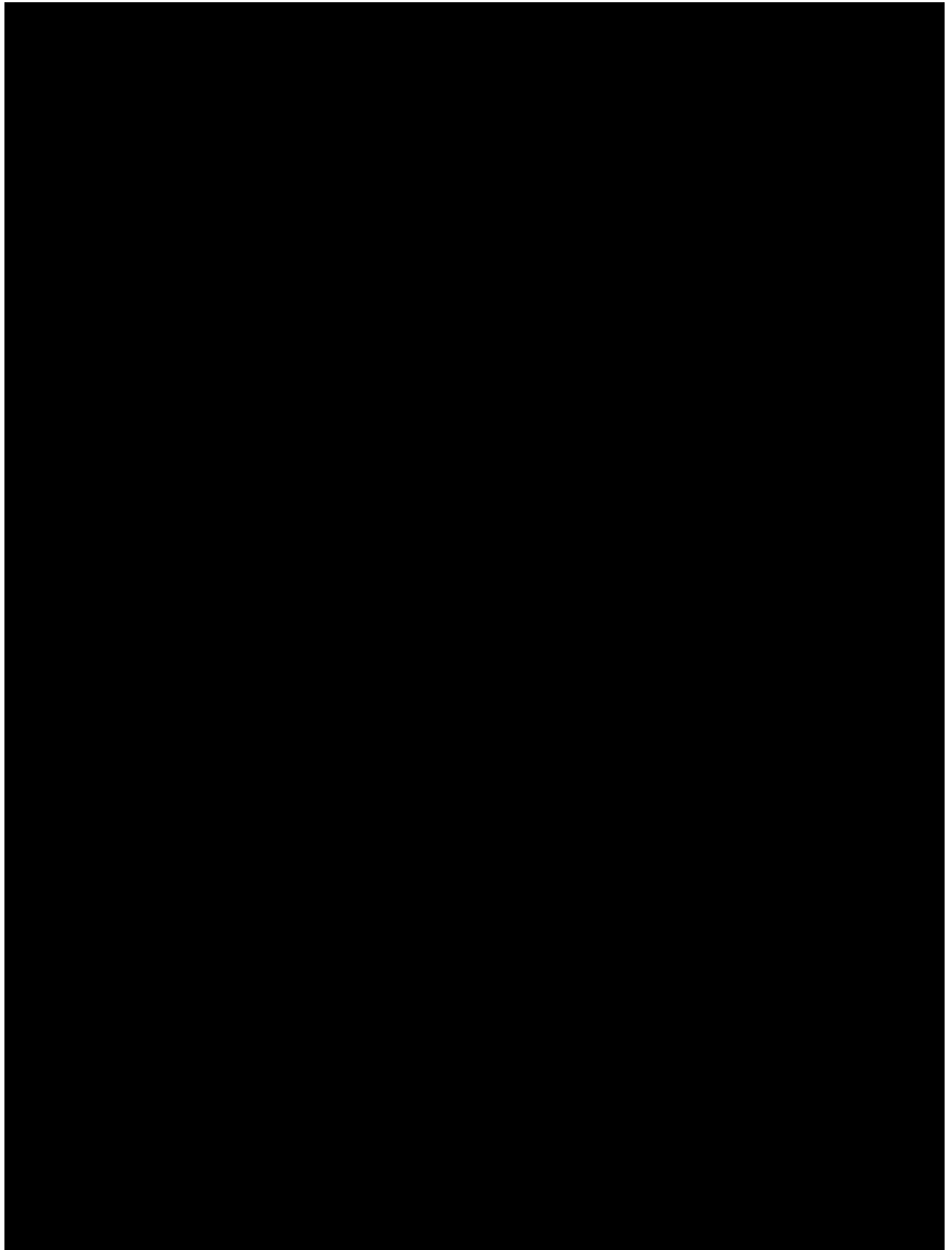




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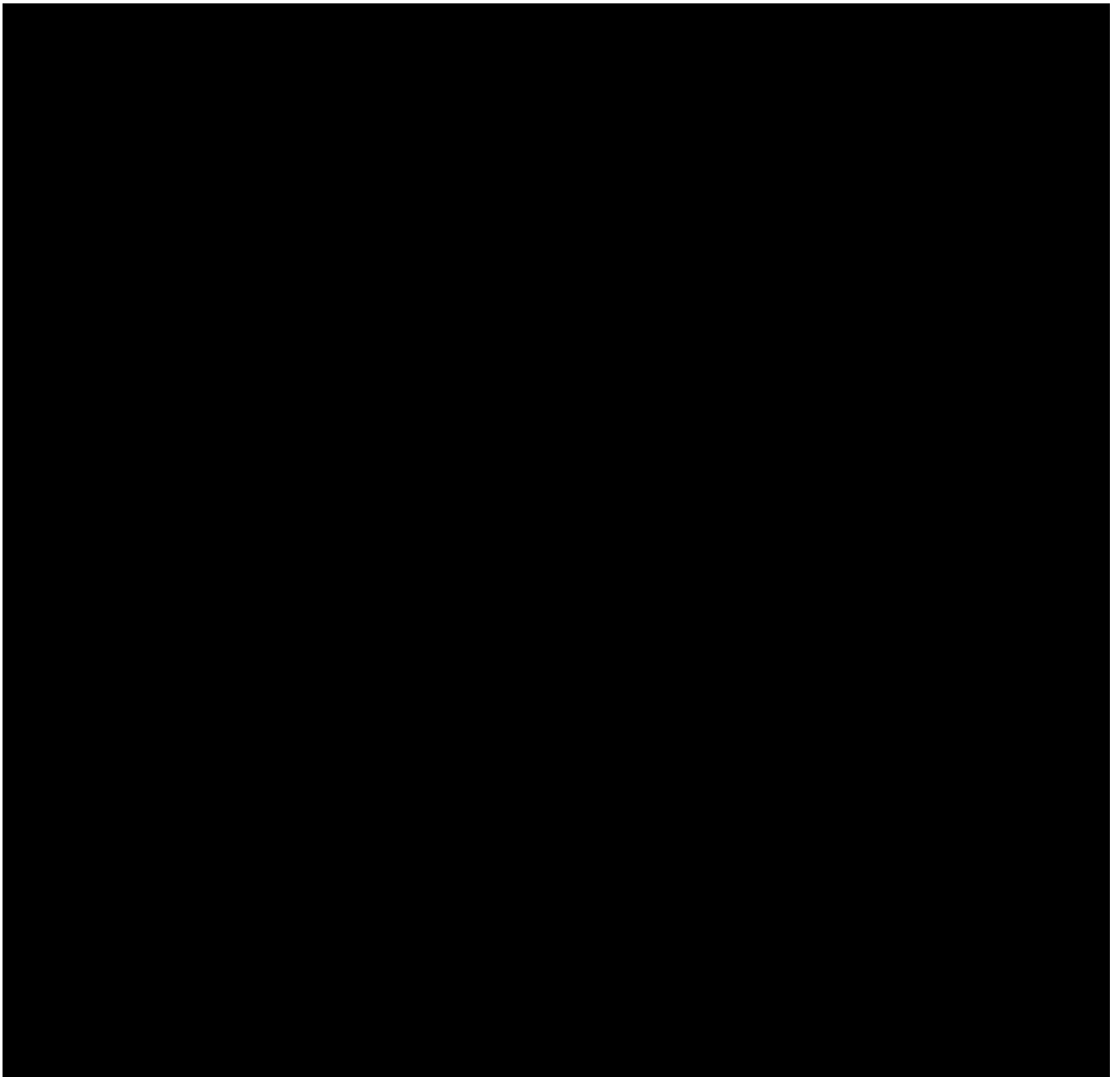
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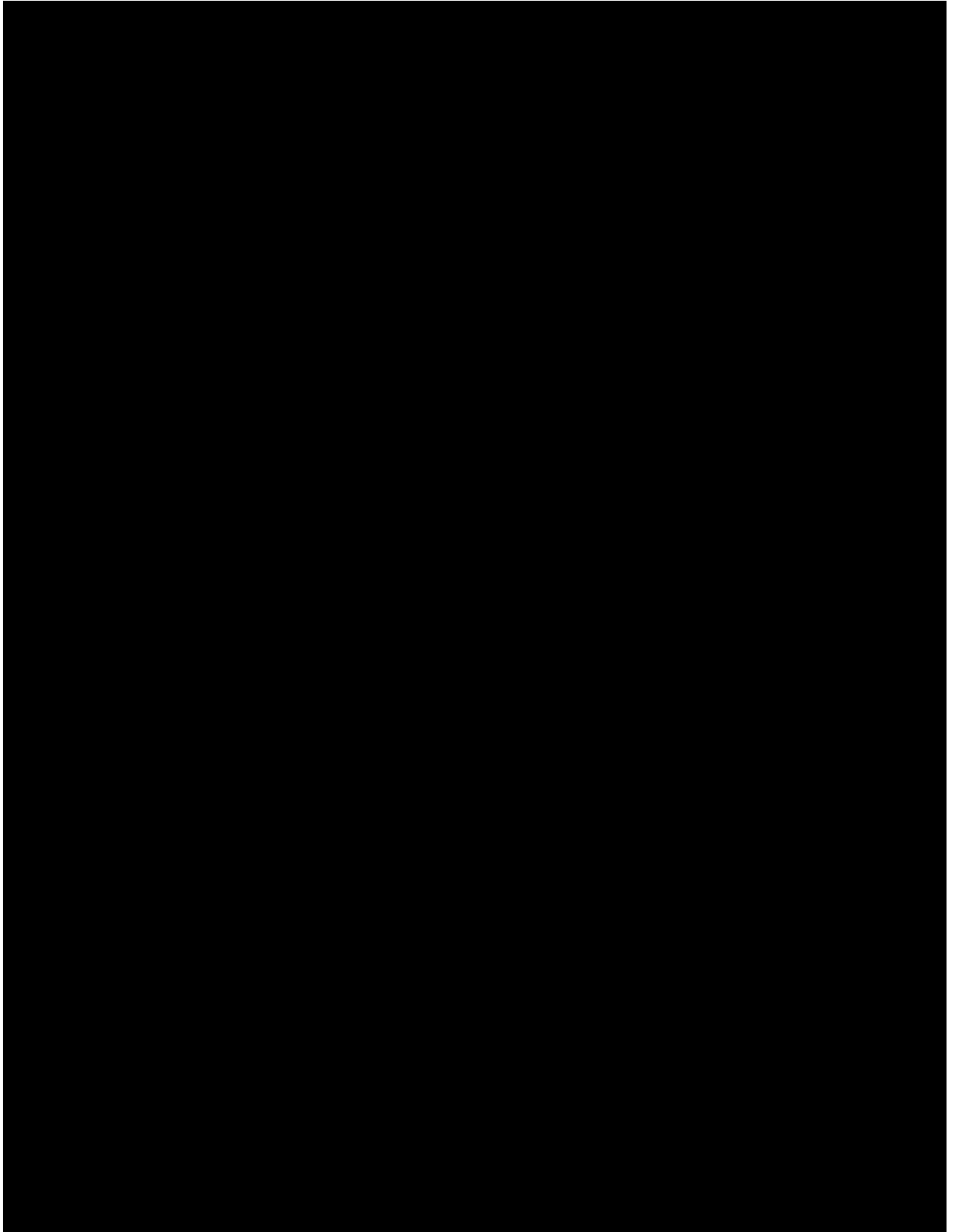
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Order Ref:

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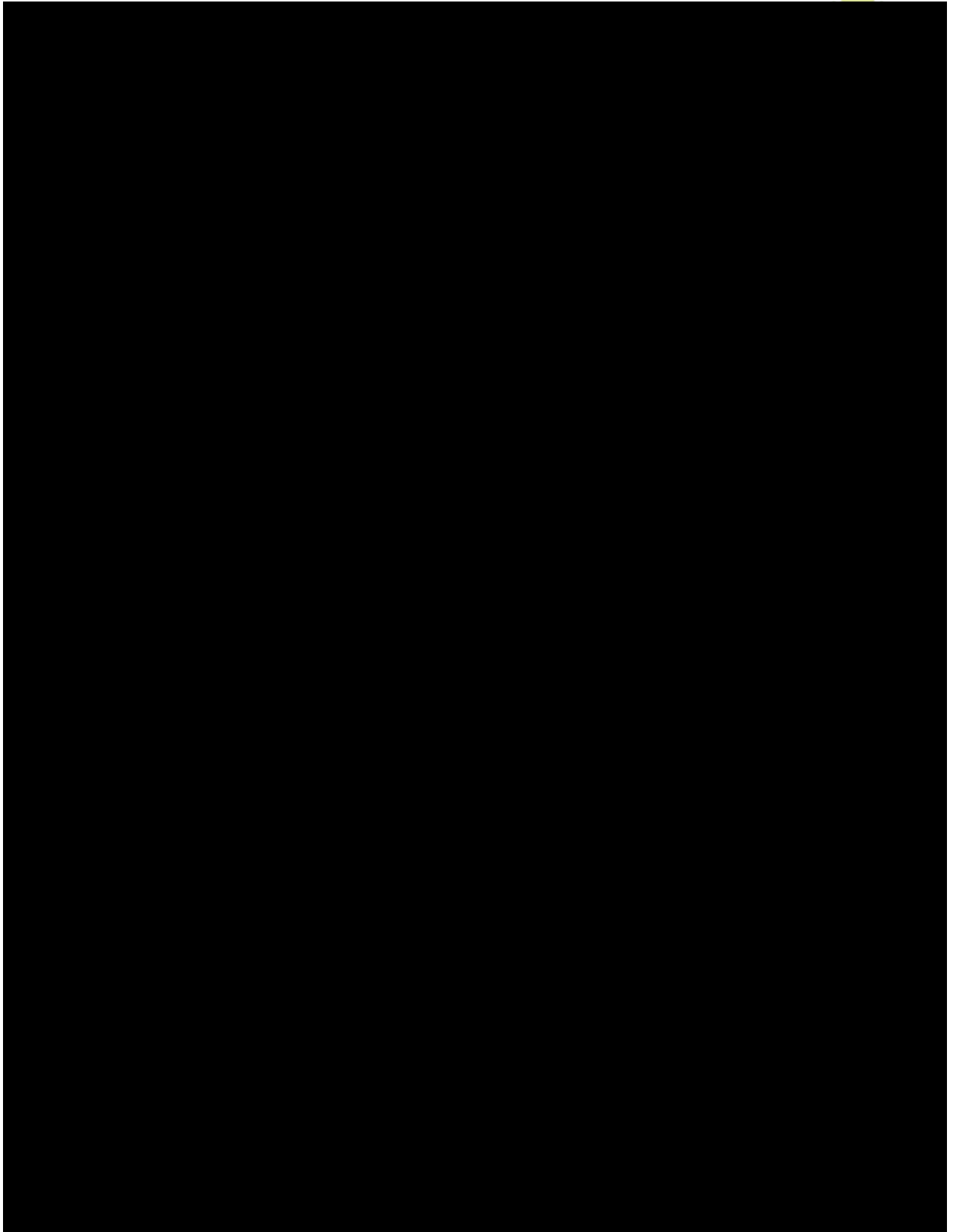
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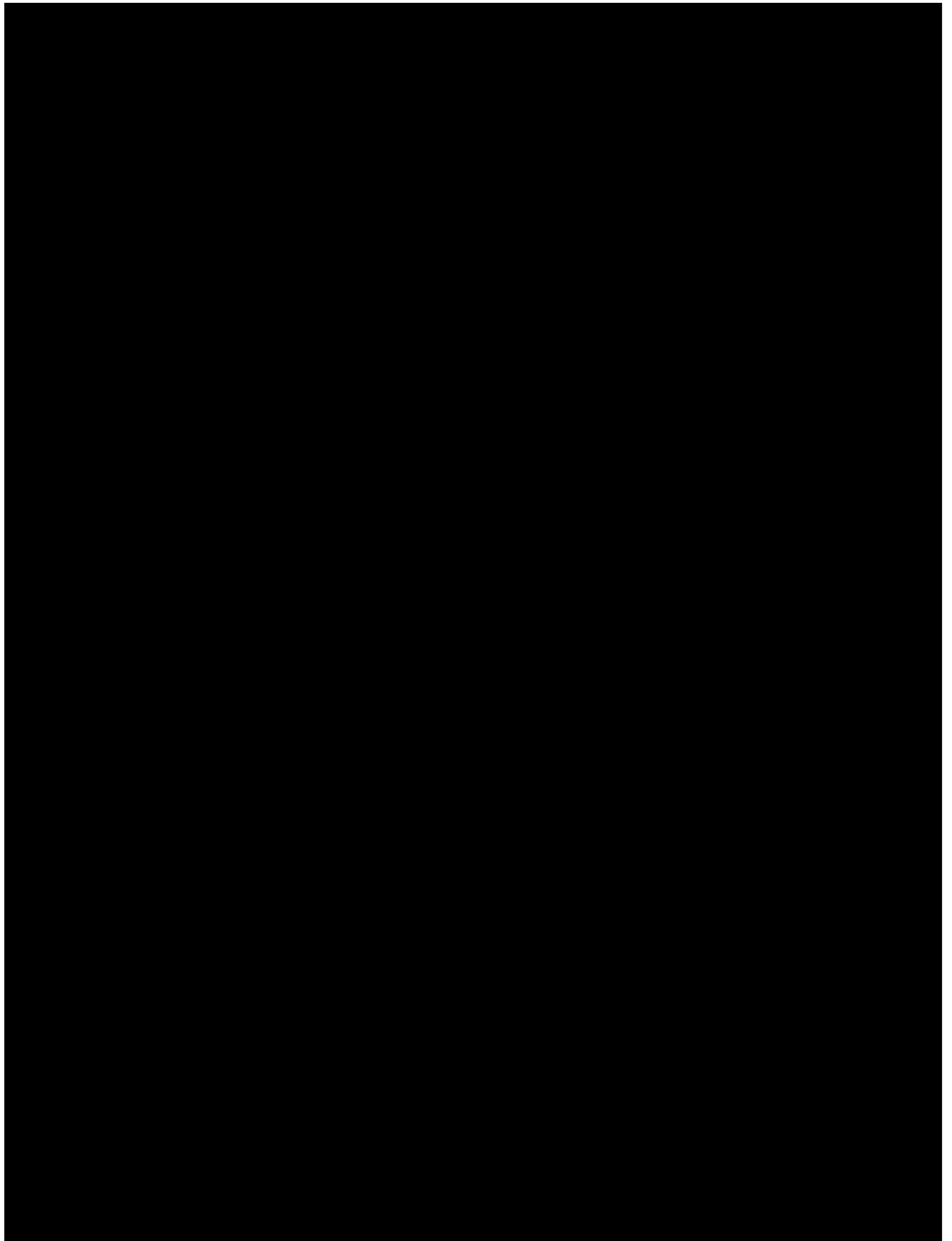
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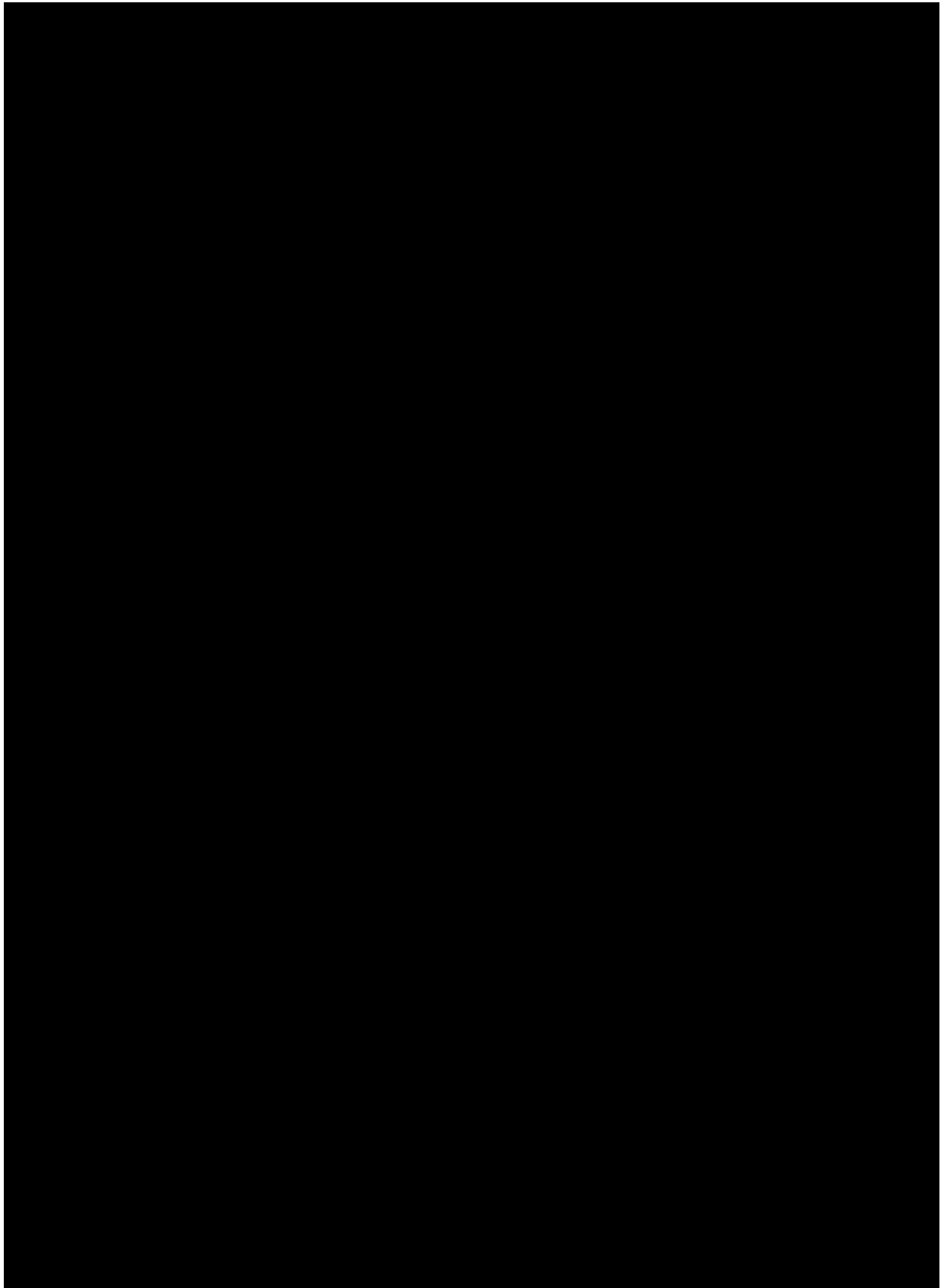
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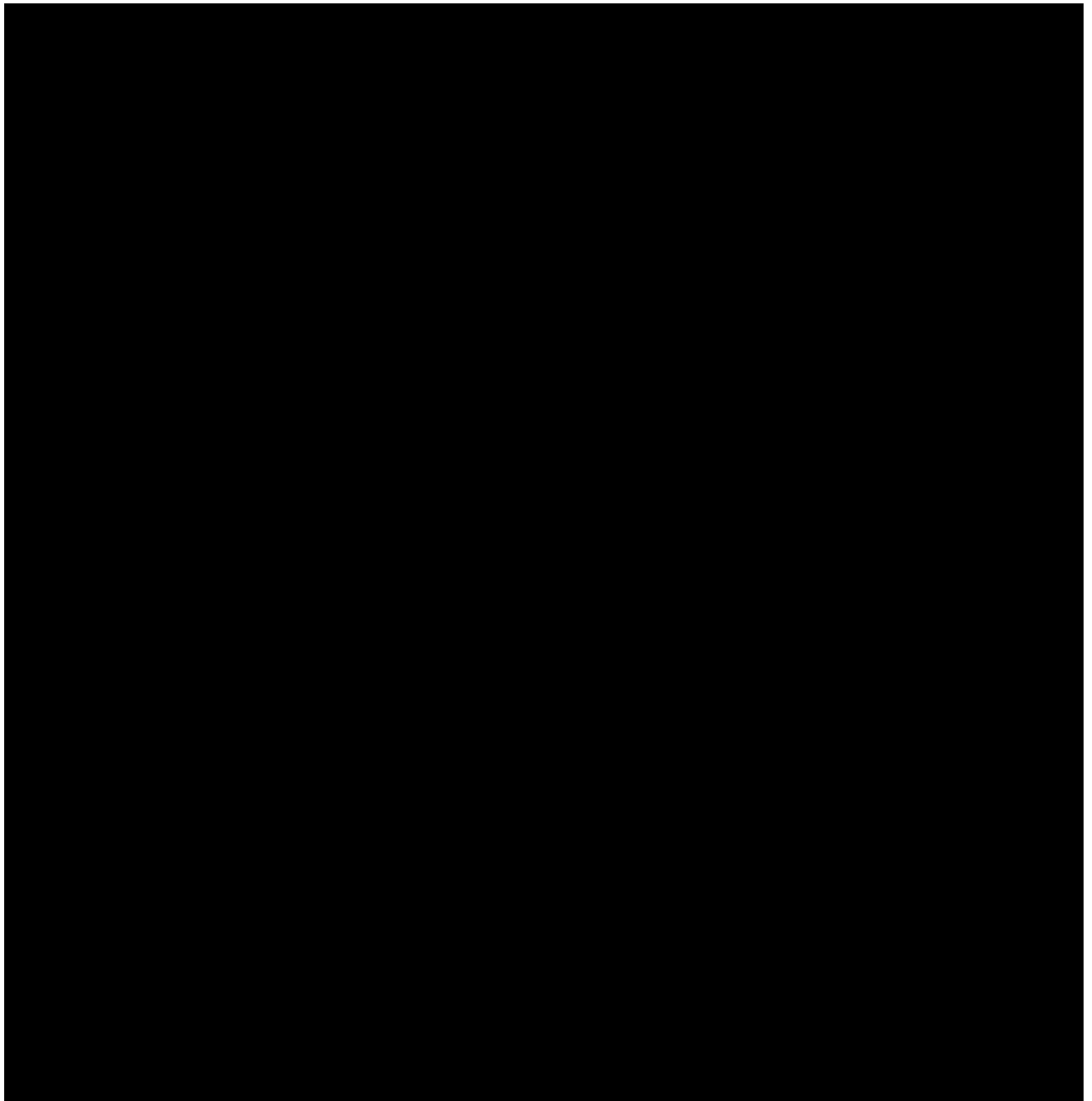
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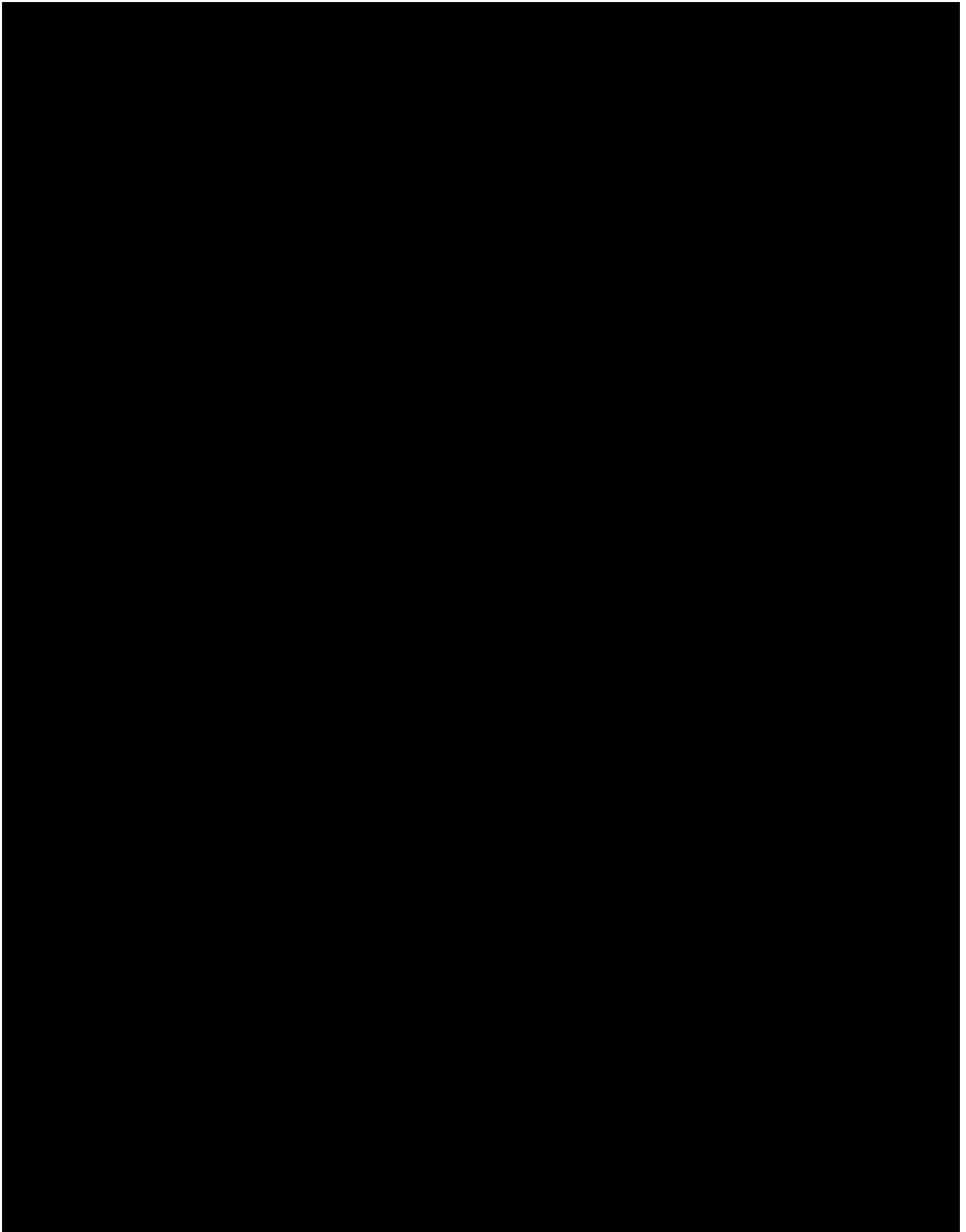




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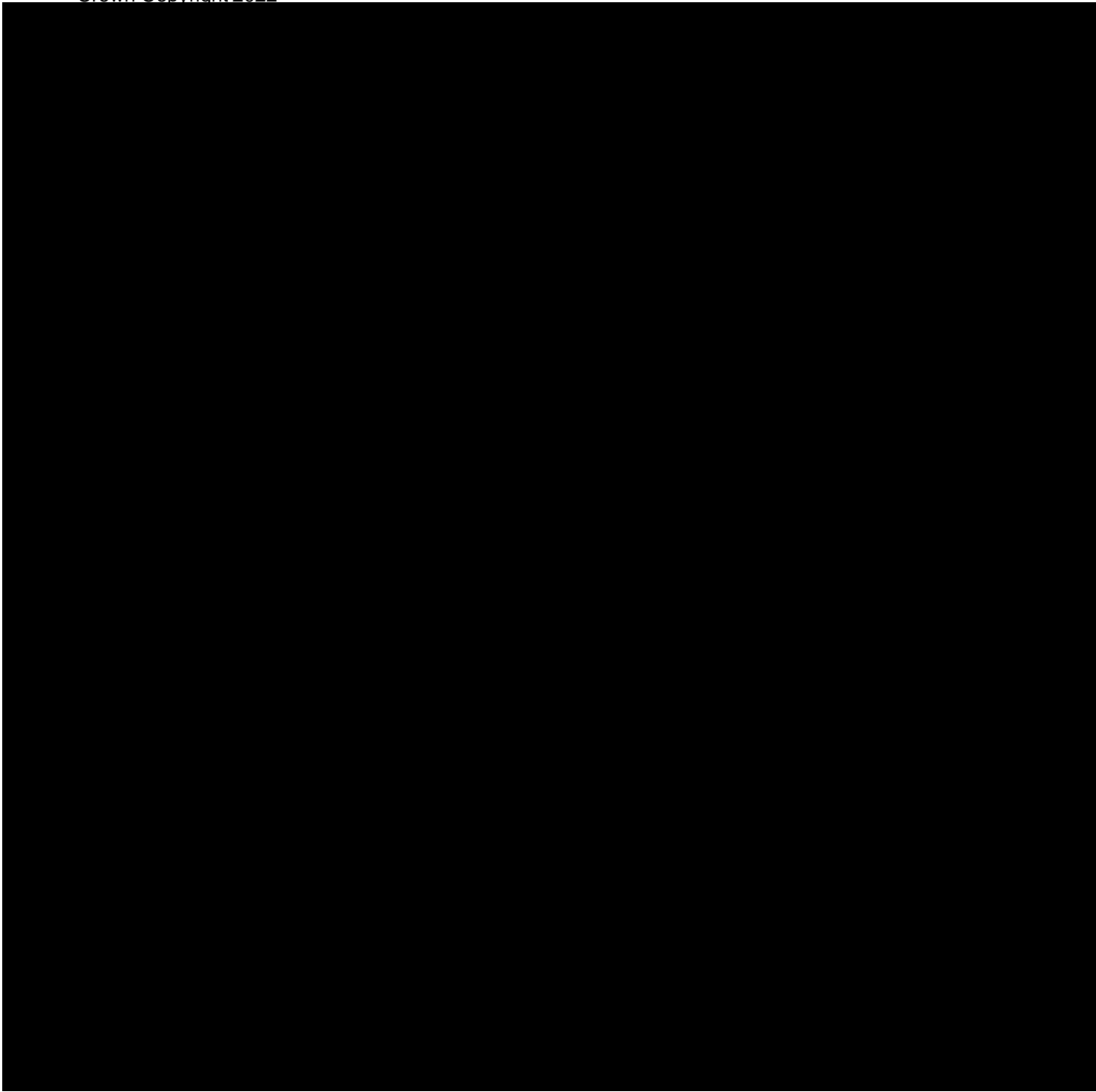
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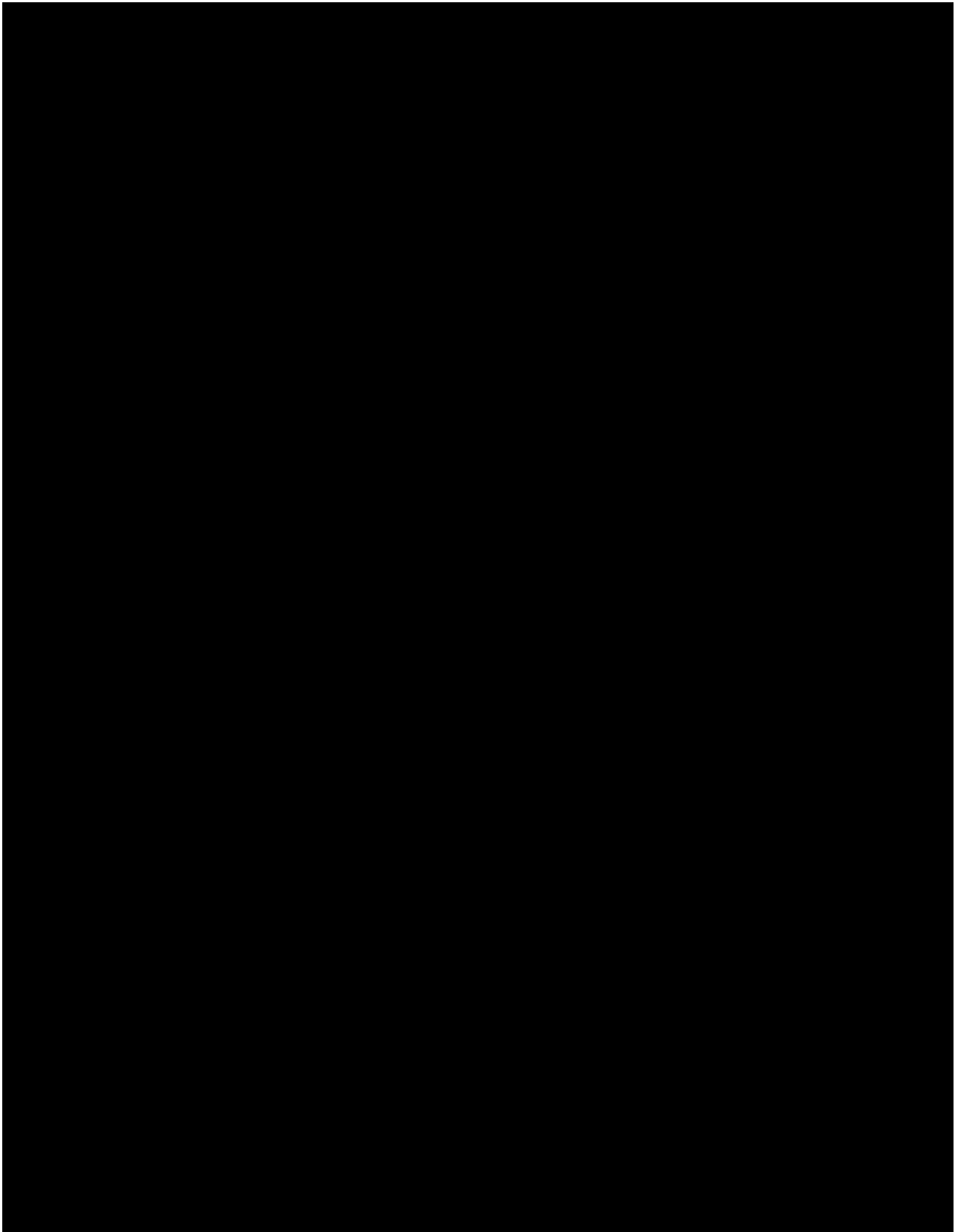
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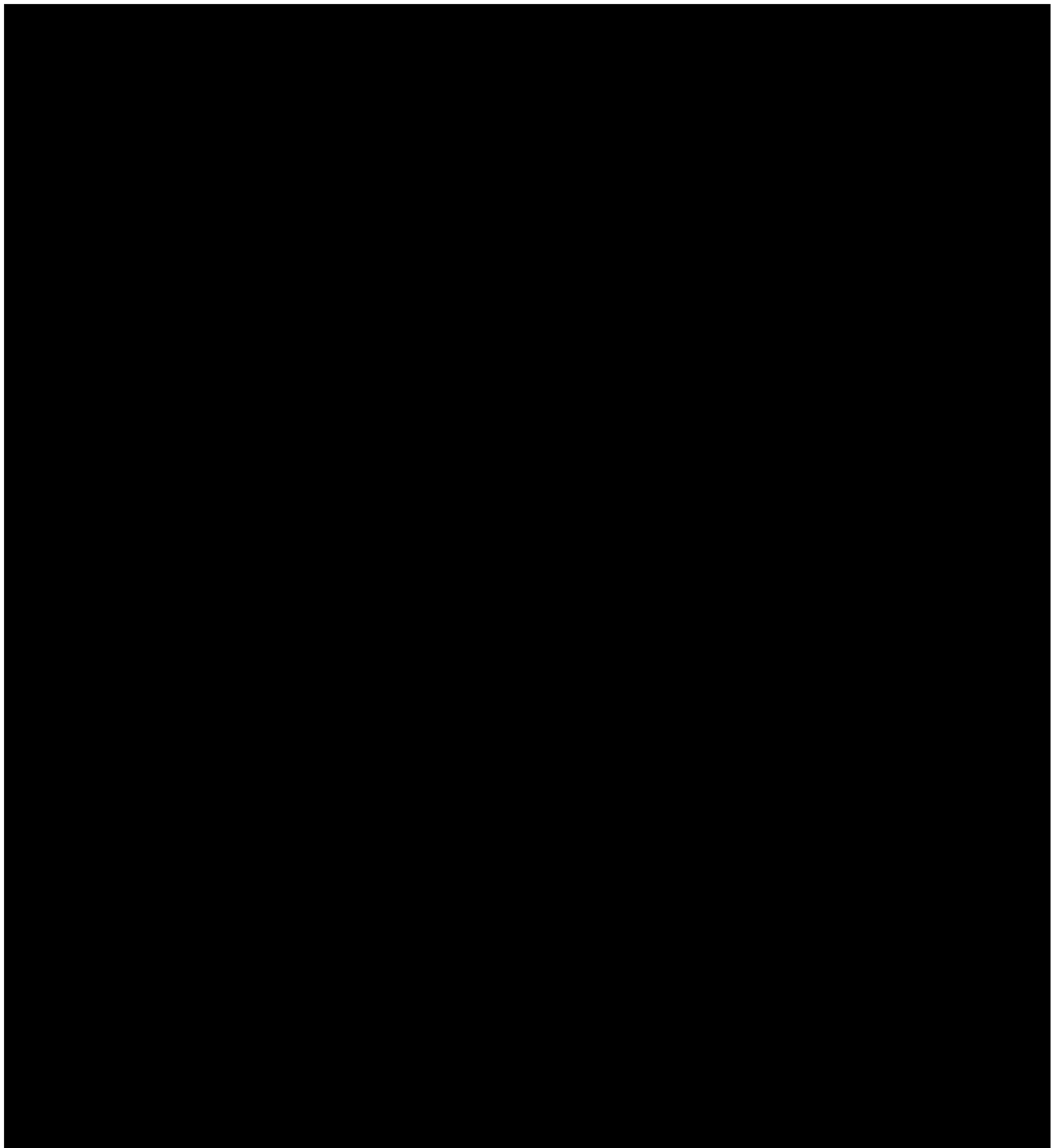
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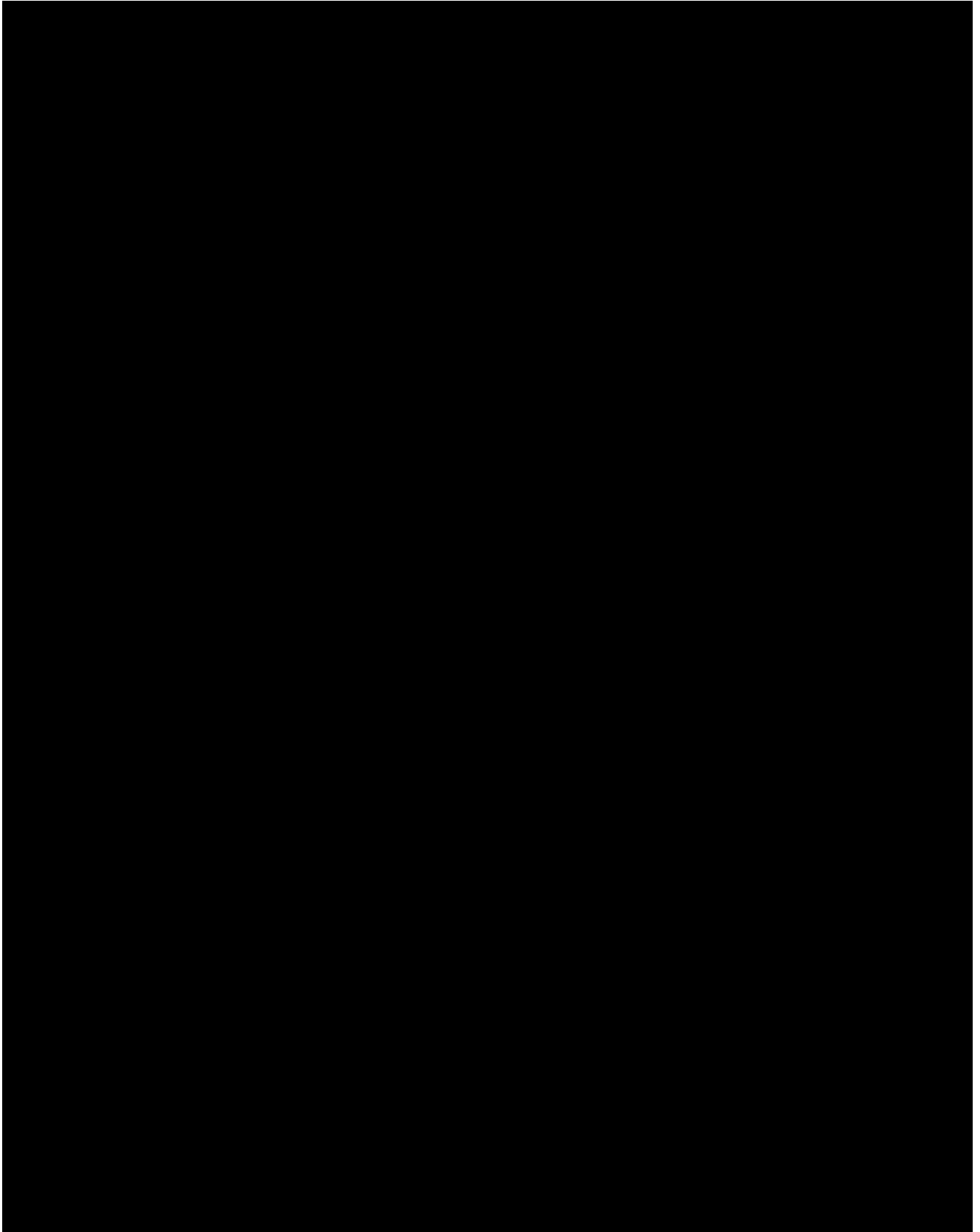
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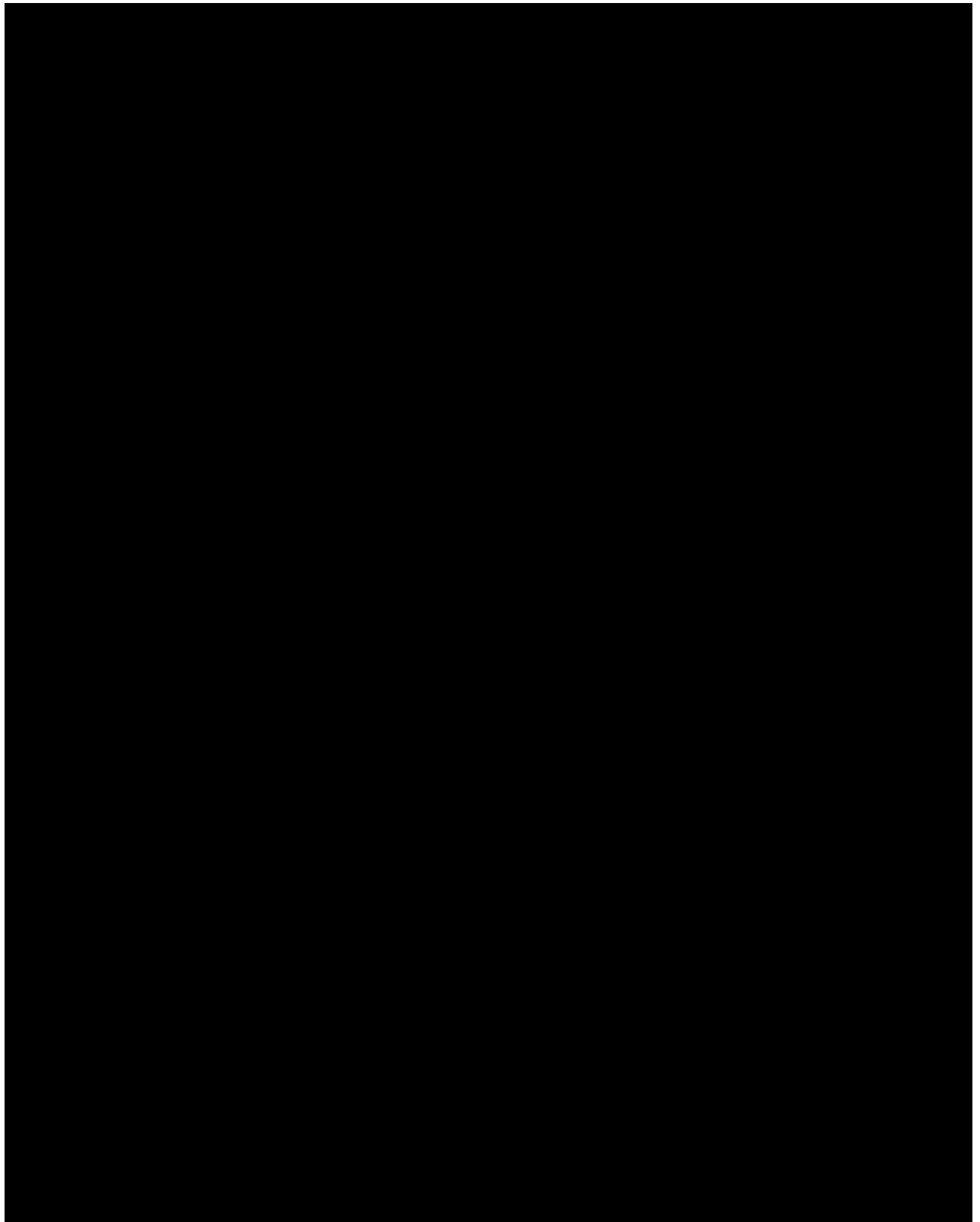
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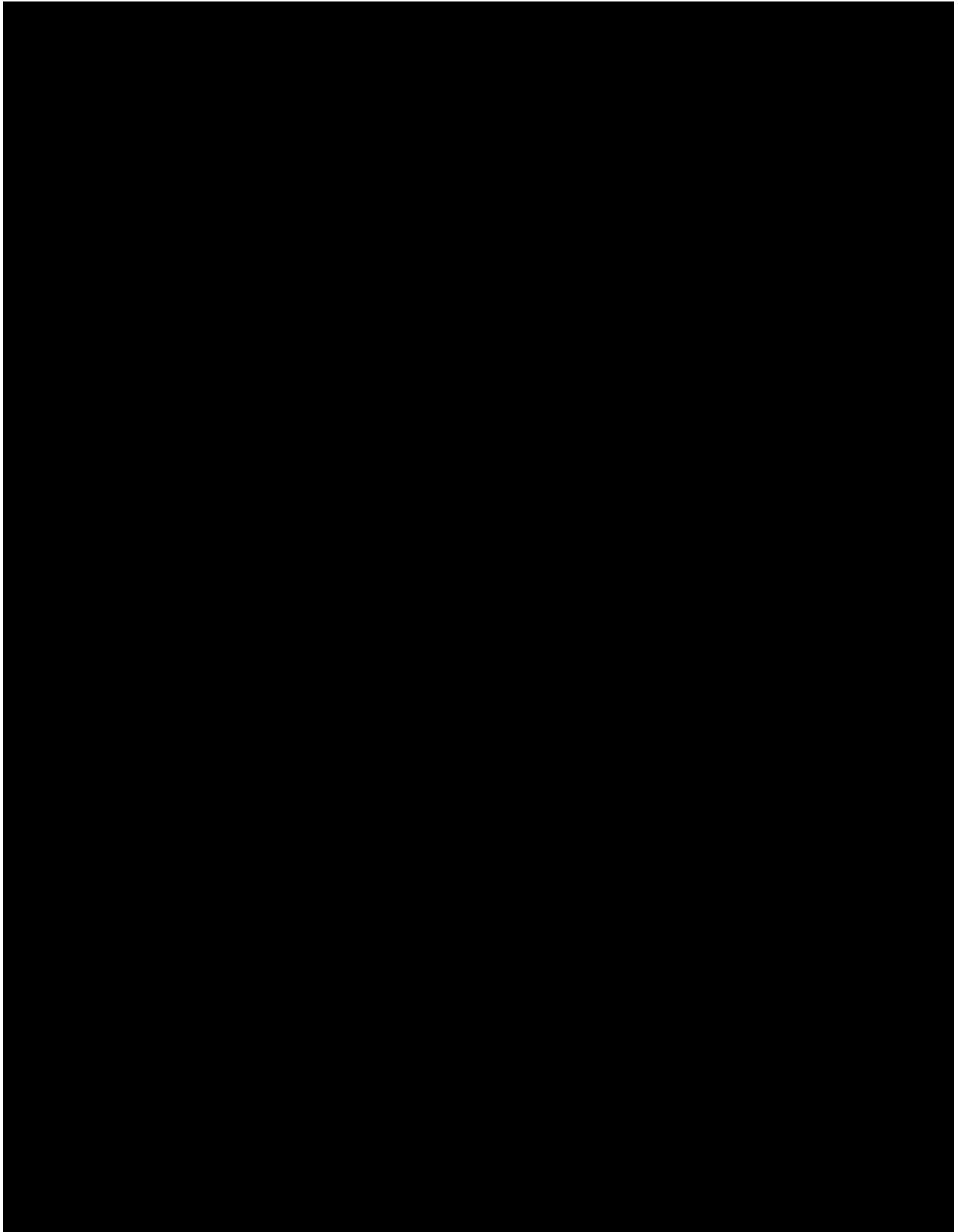
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ANNEX B - 2.4 SUPPORTING CVS

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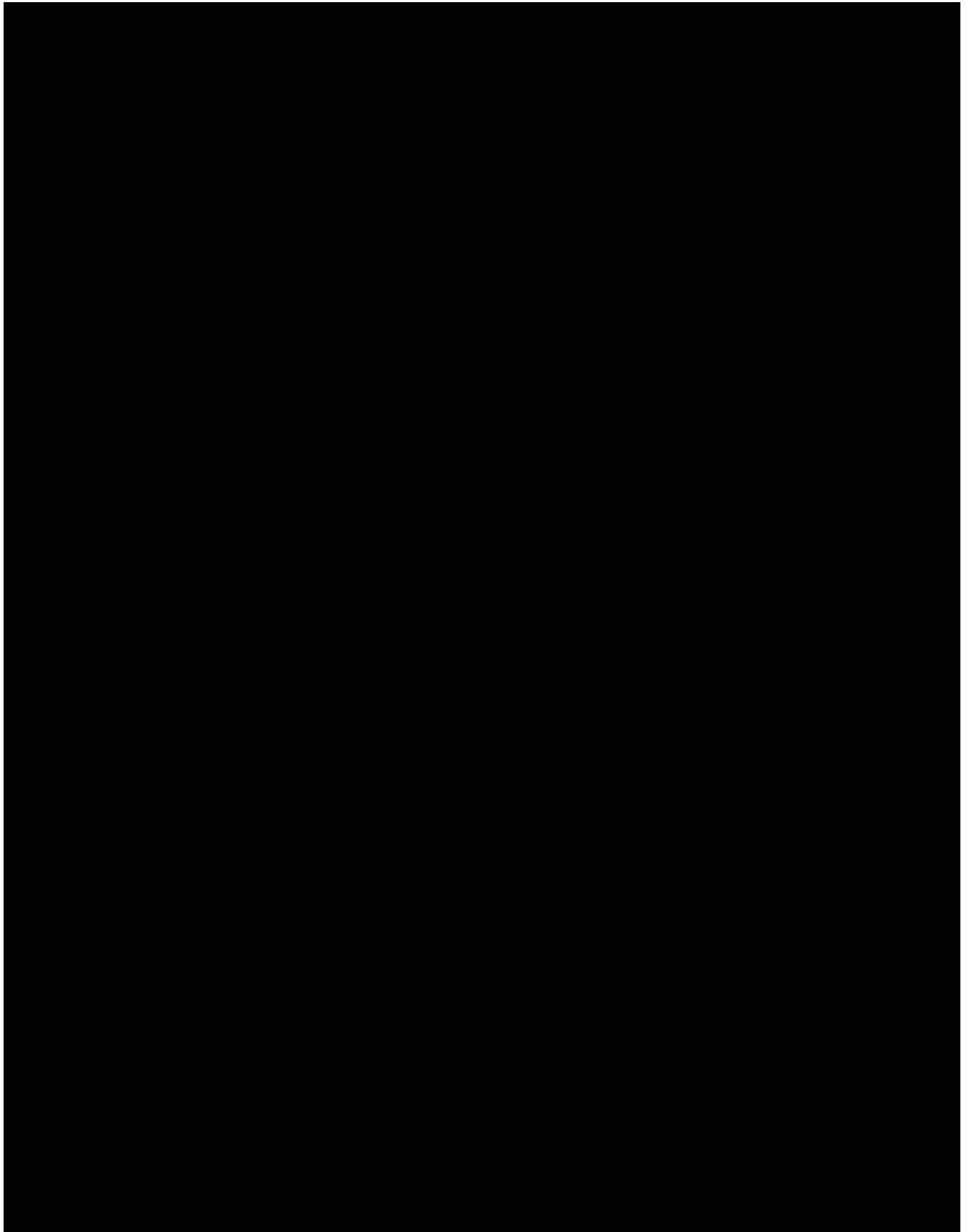
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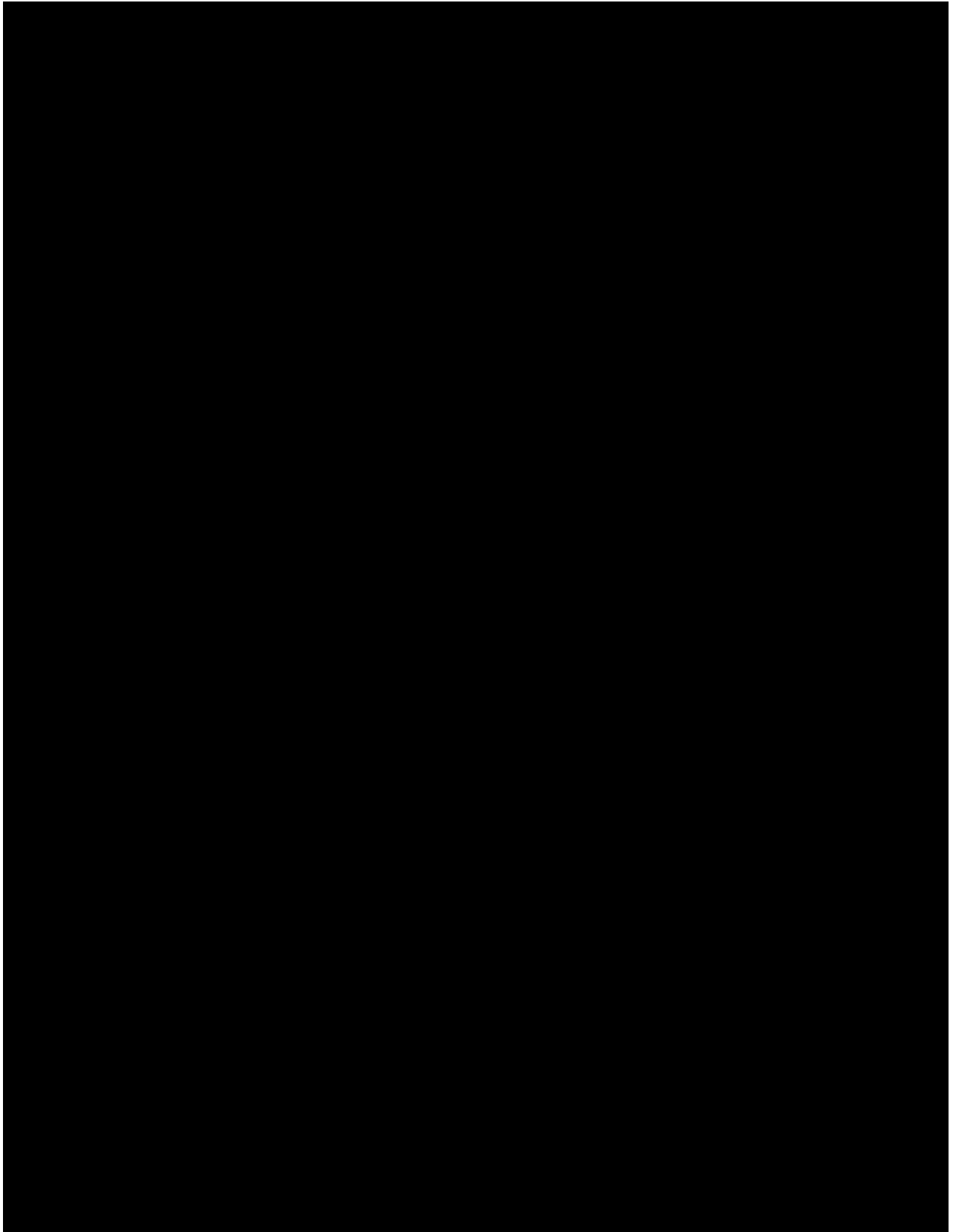




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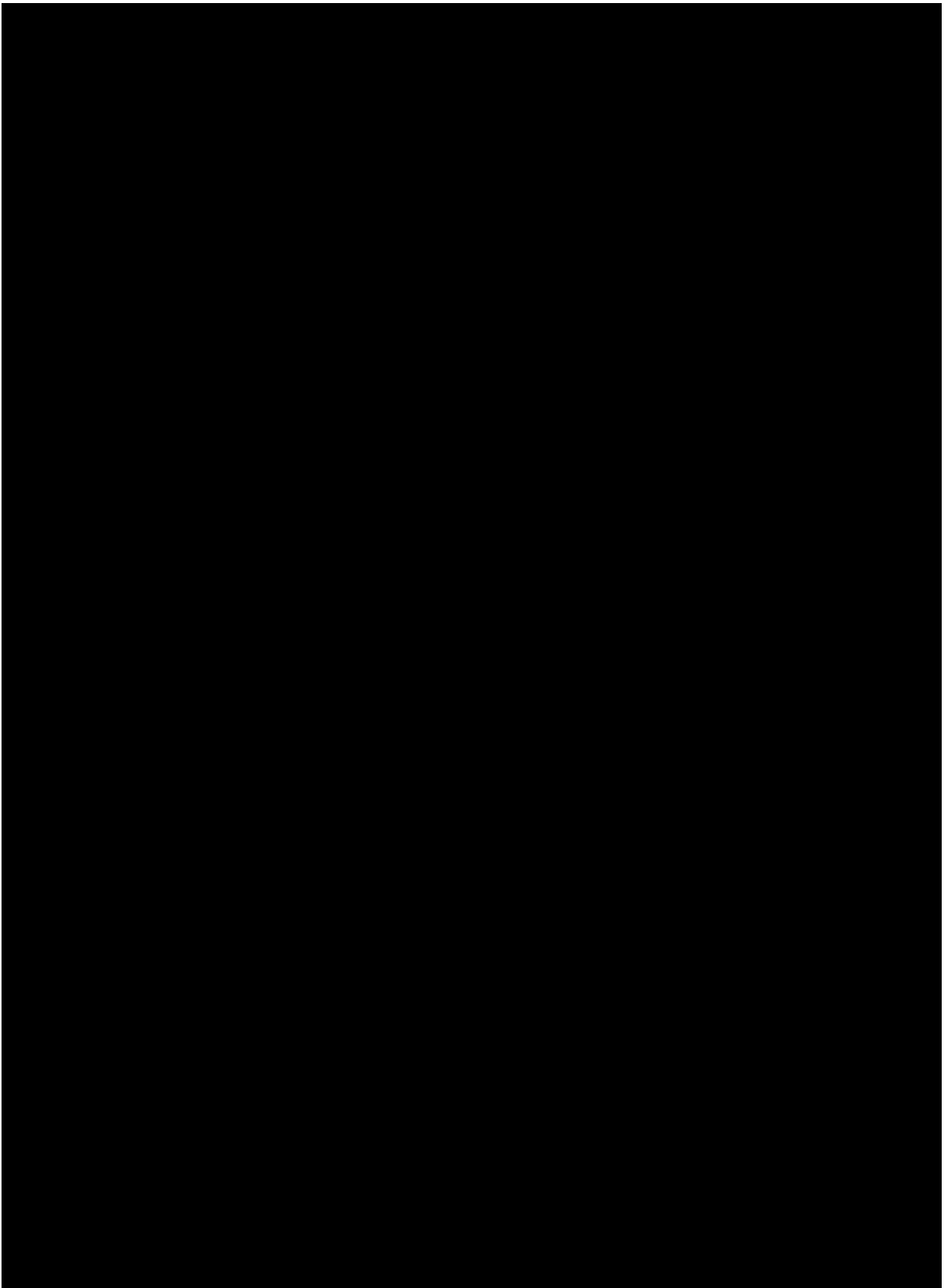
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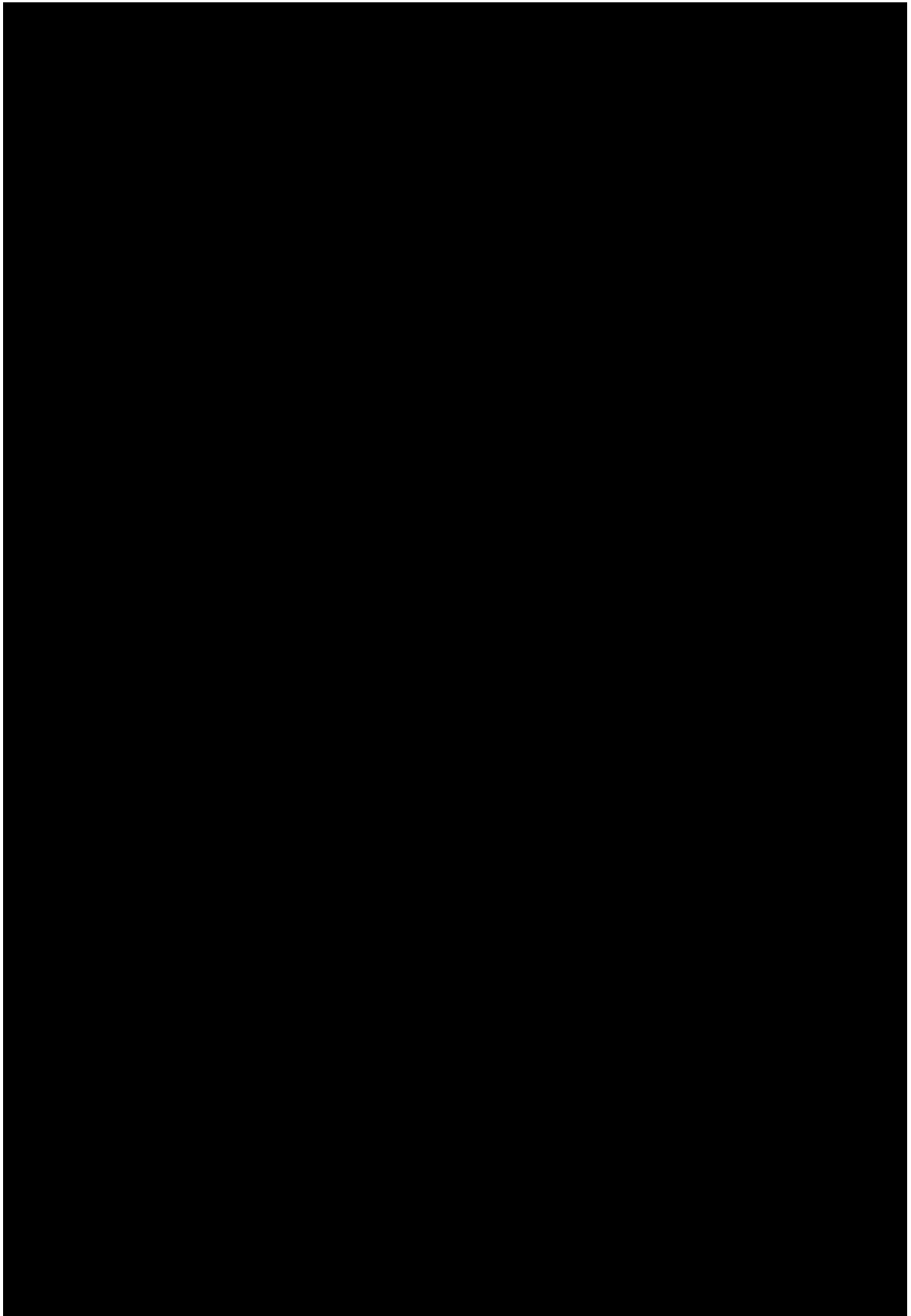
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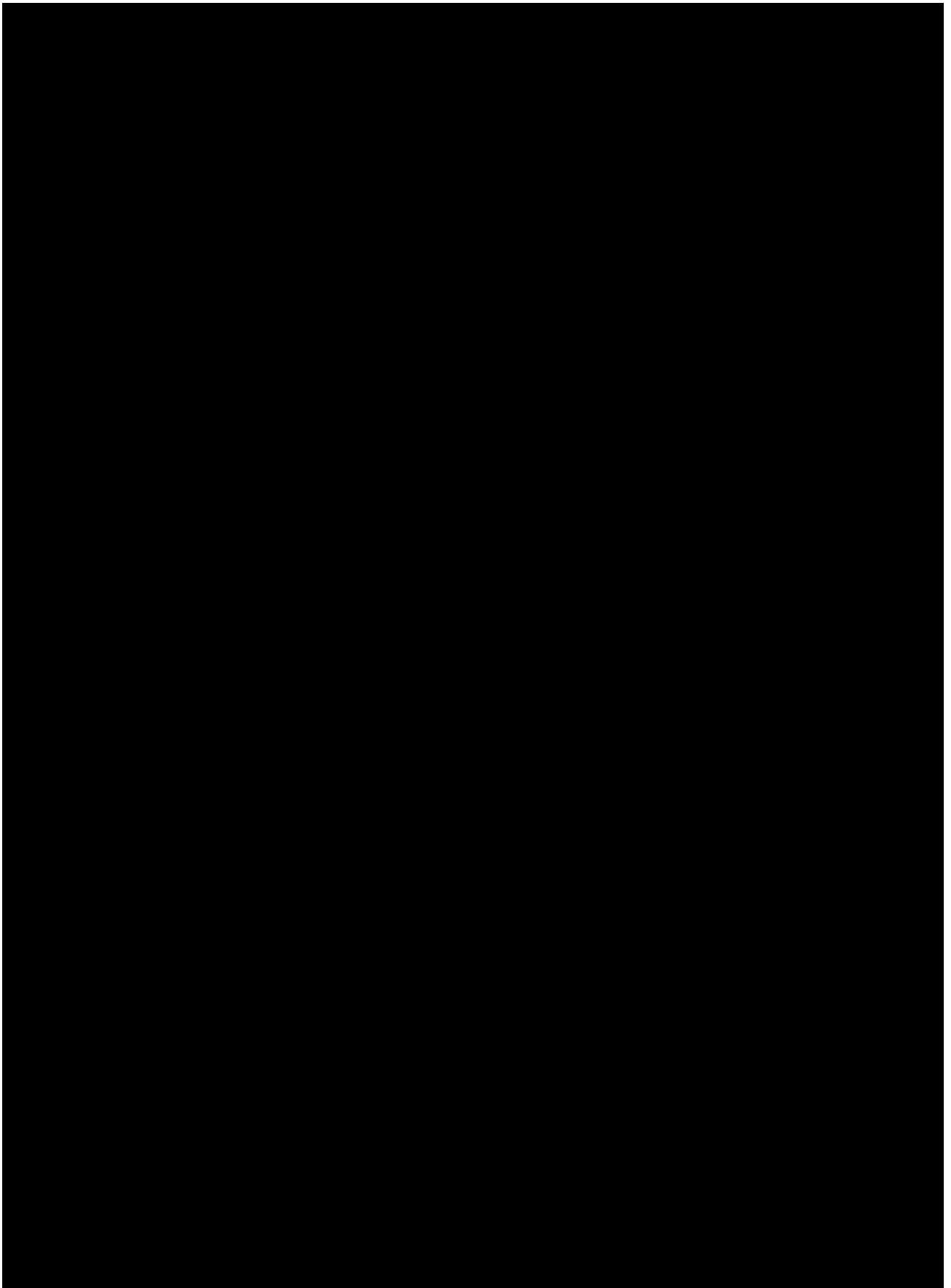
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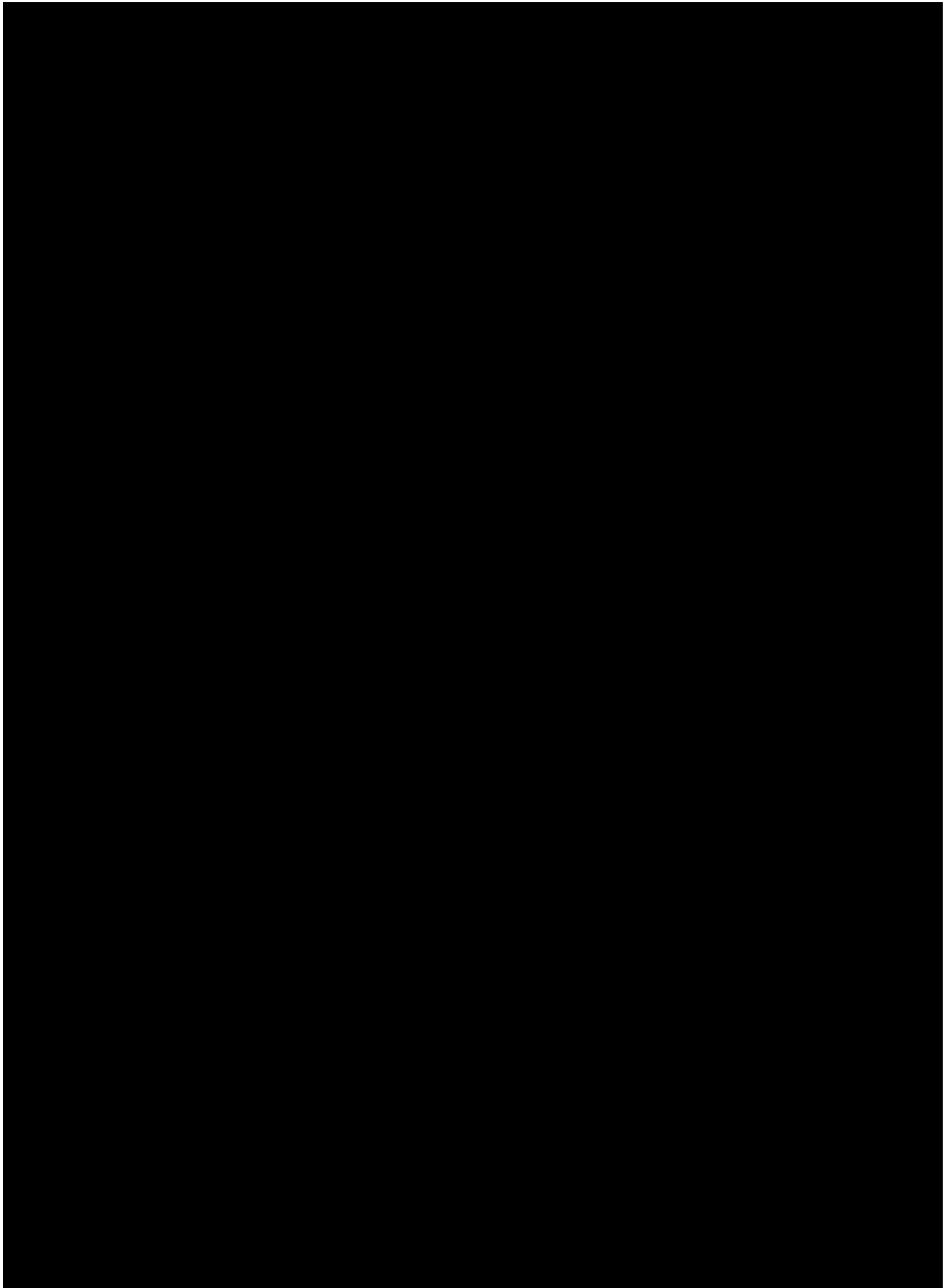
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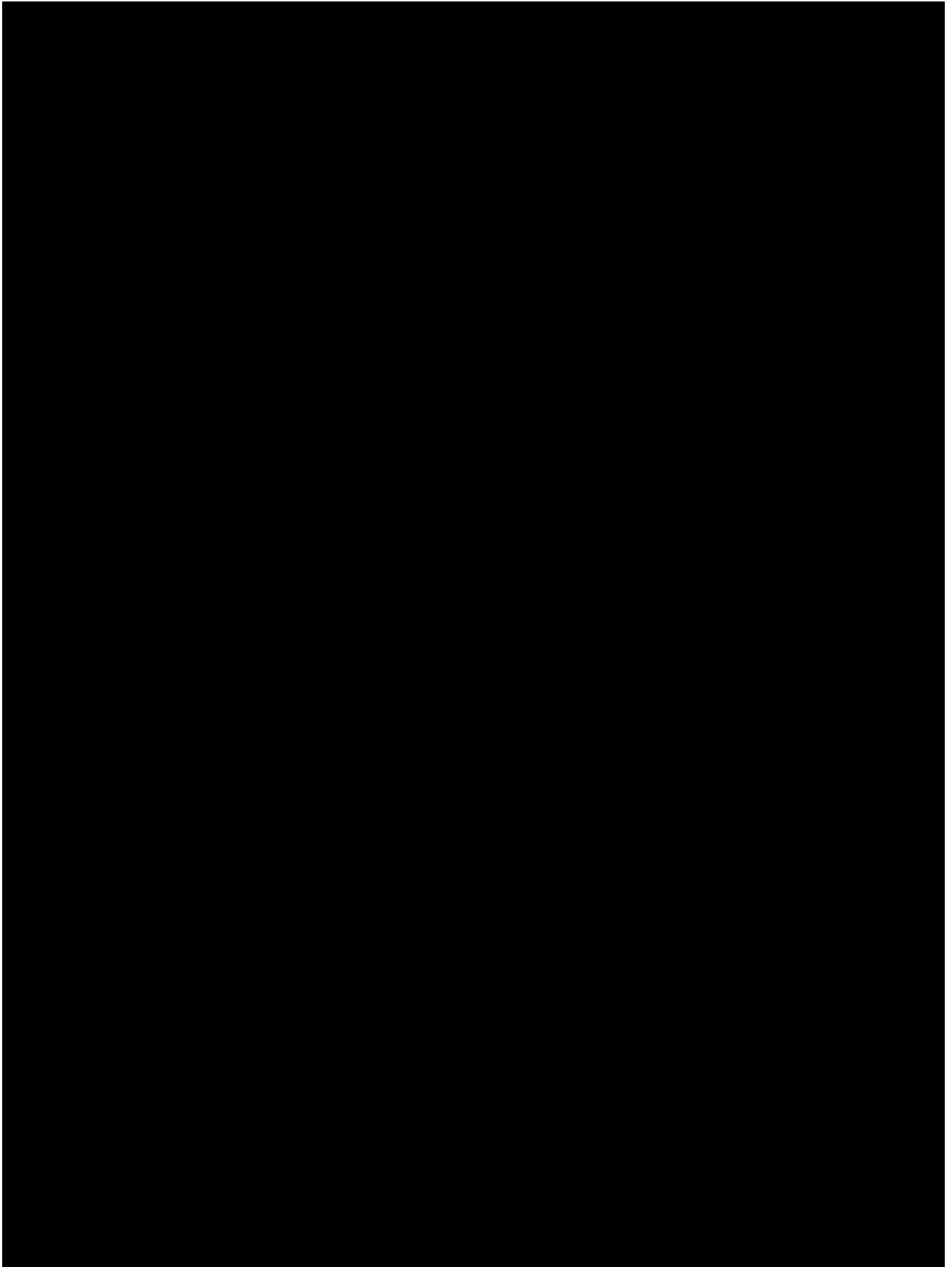
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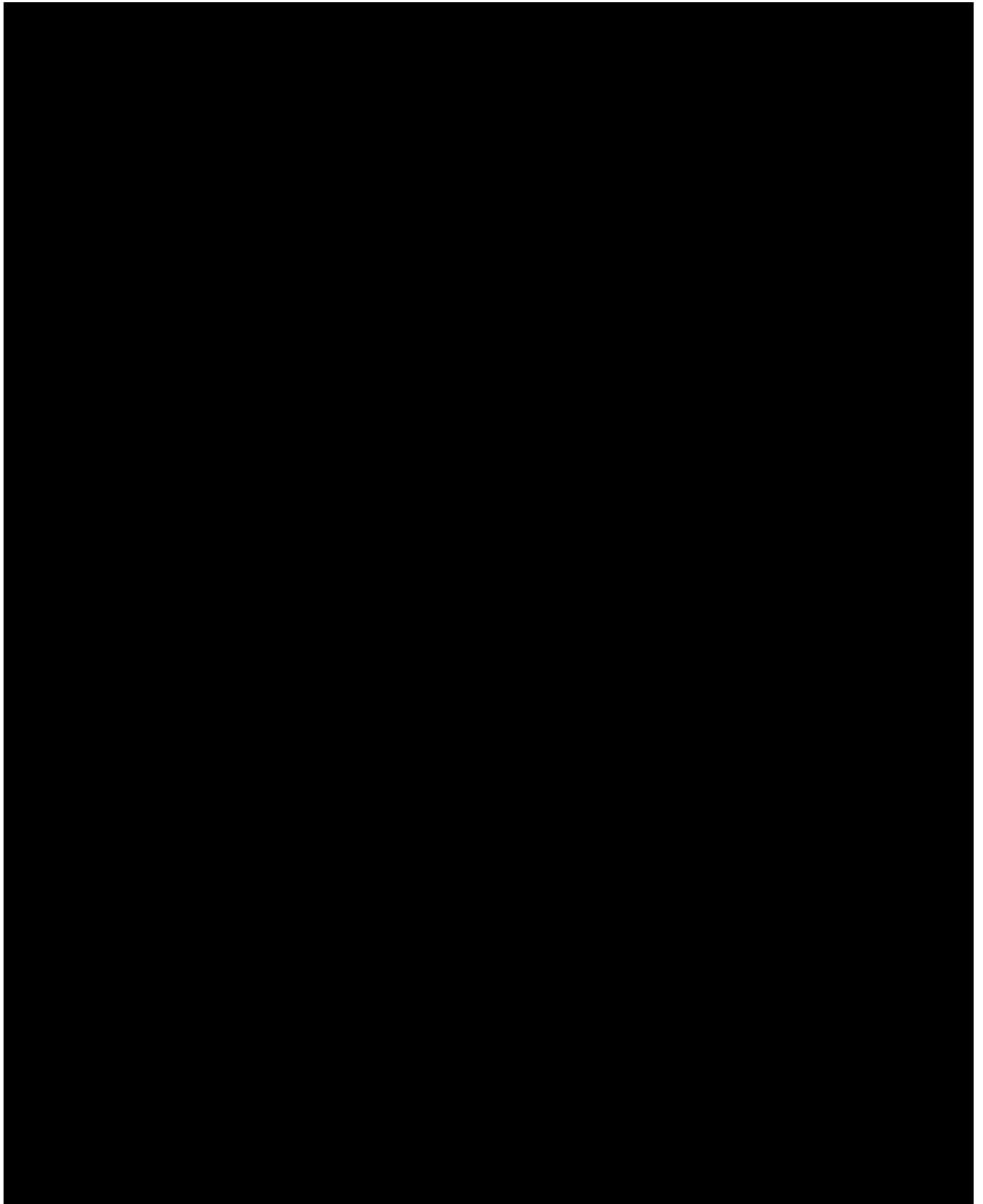
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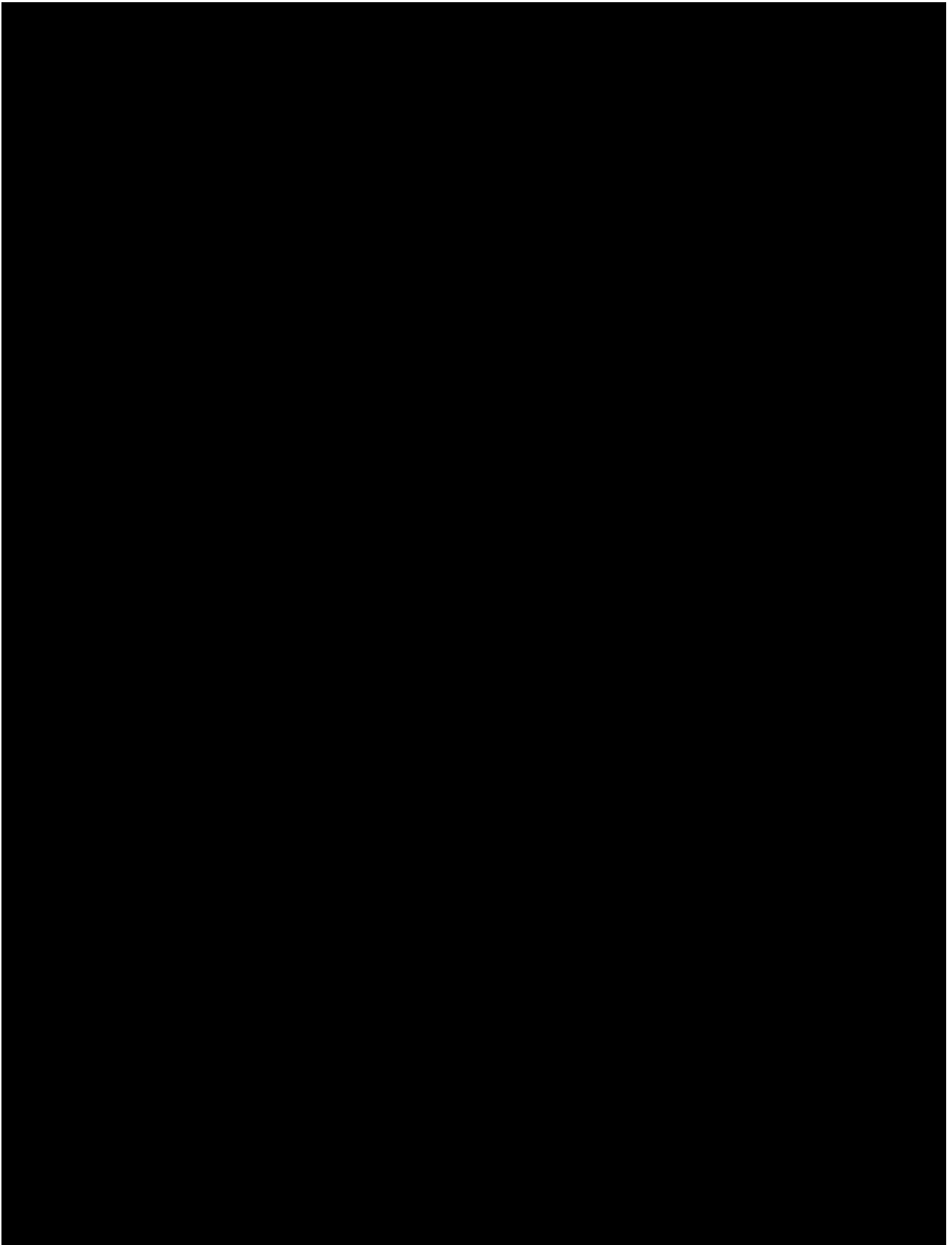




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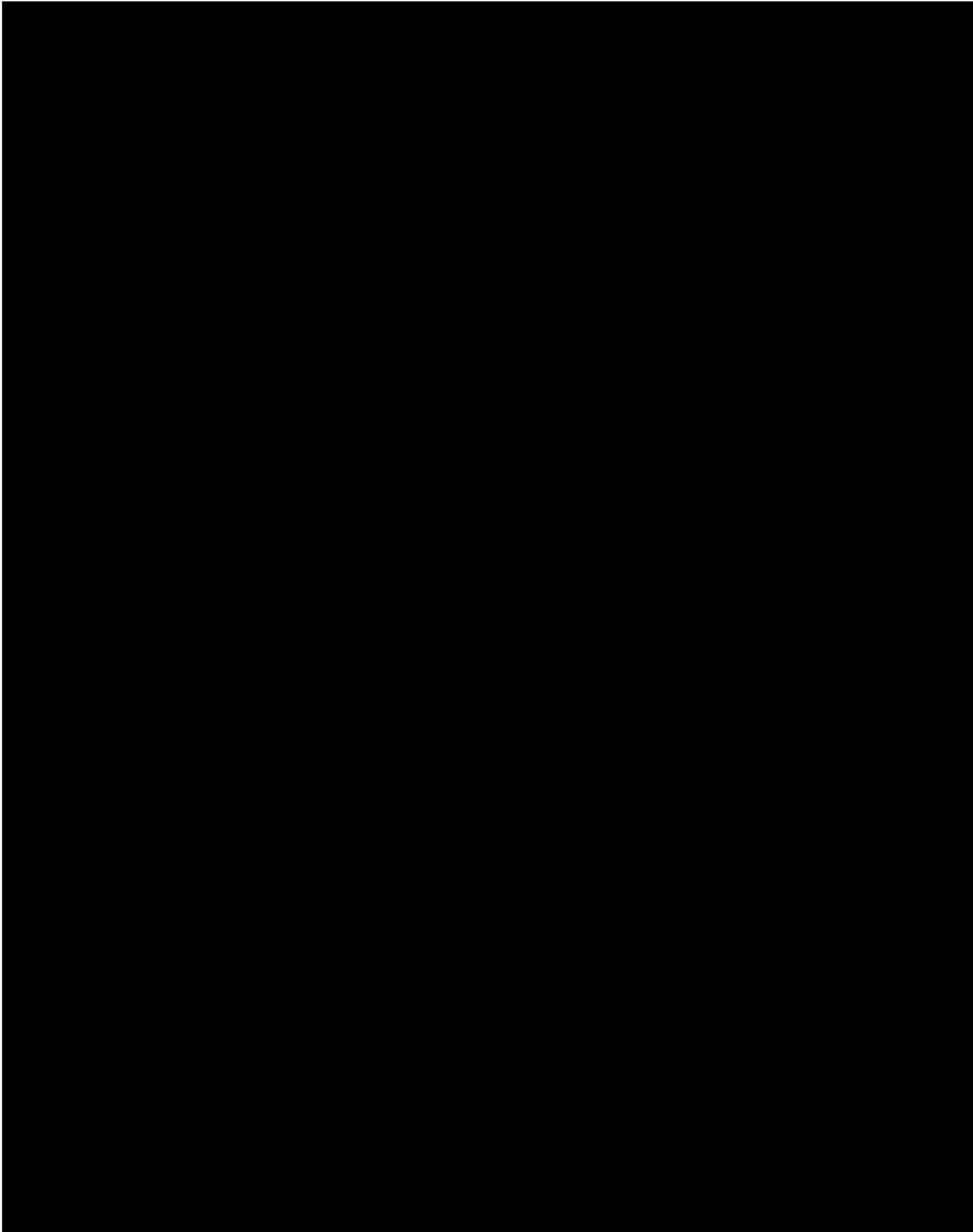
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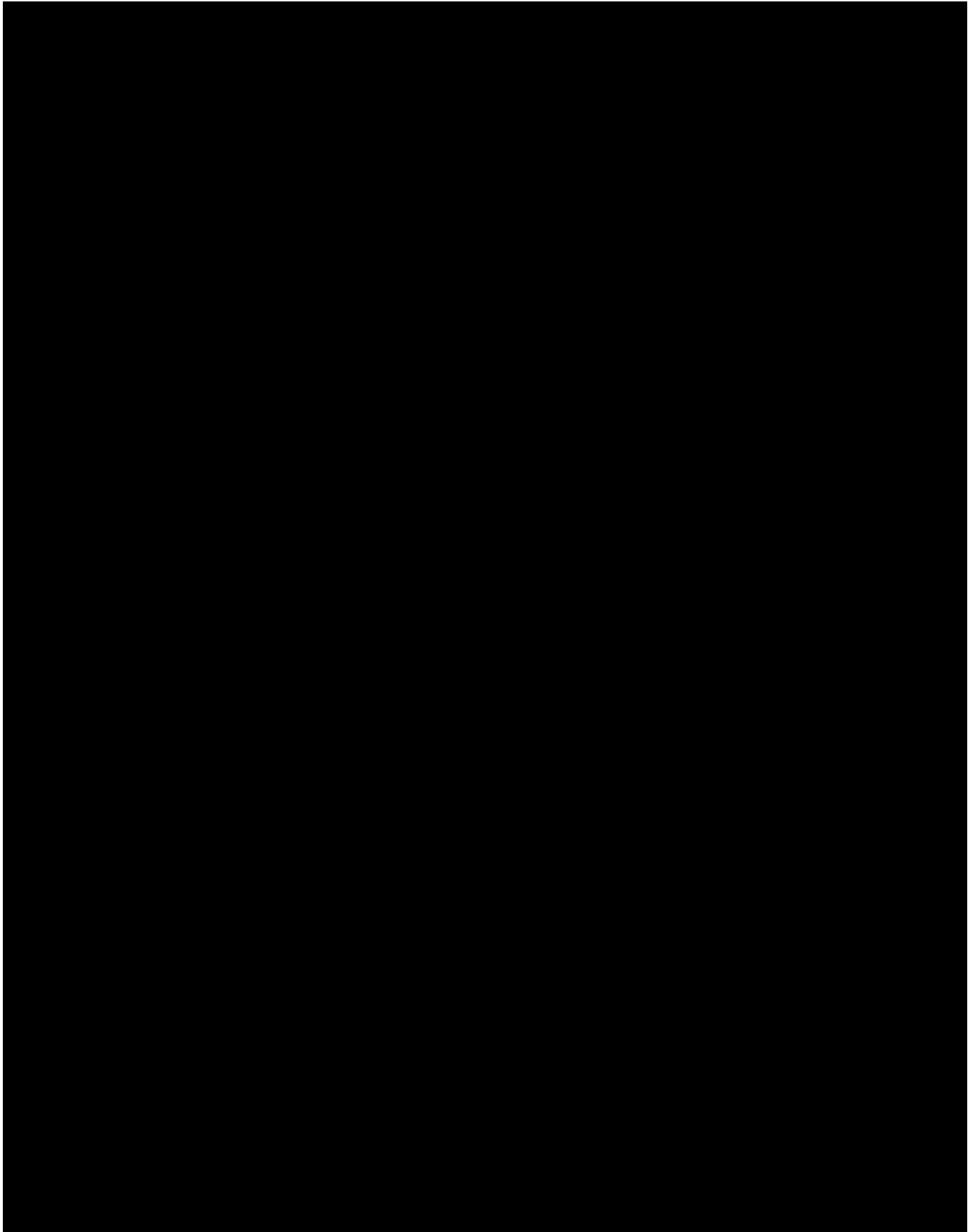
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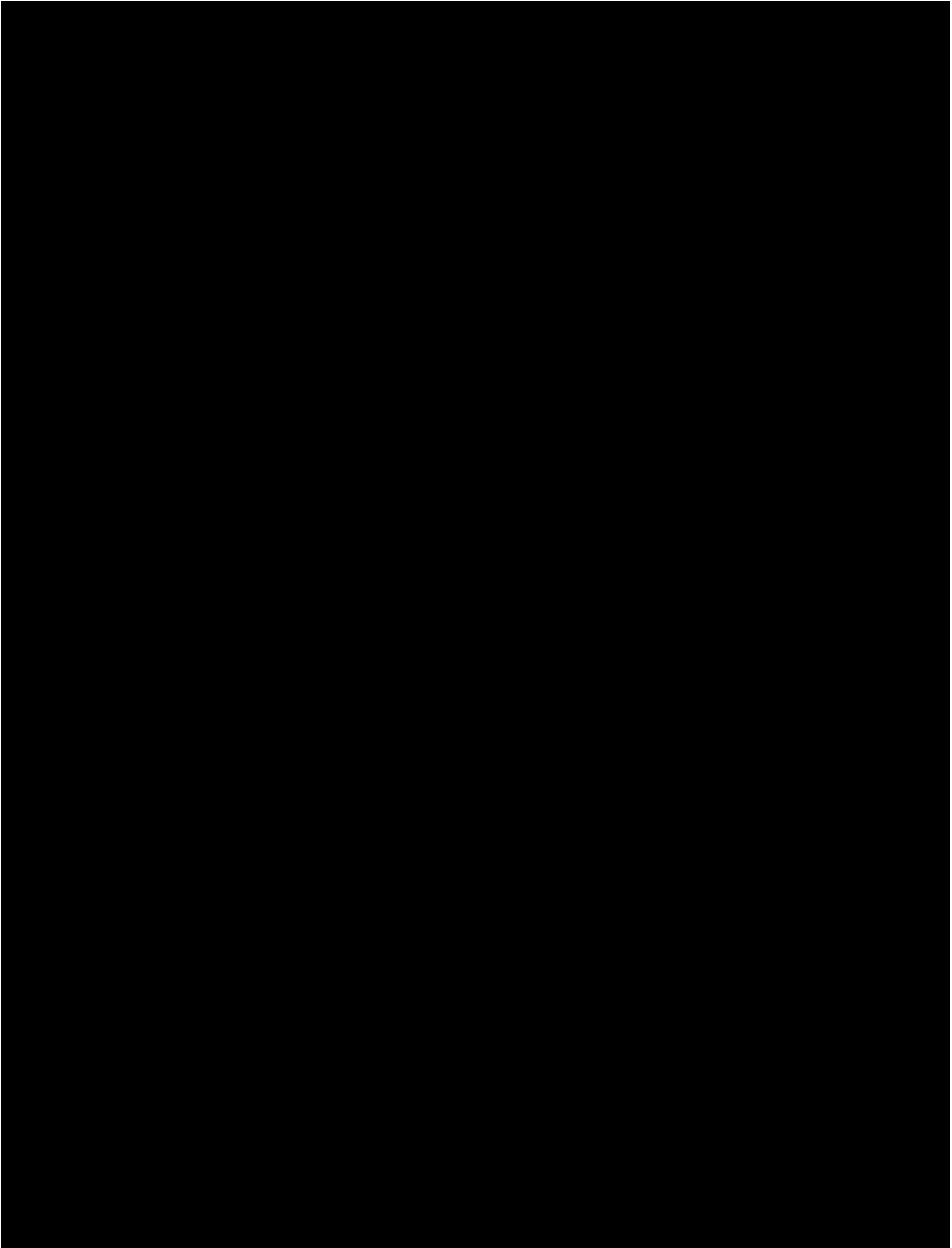
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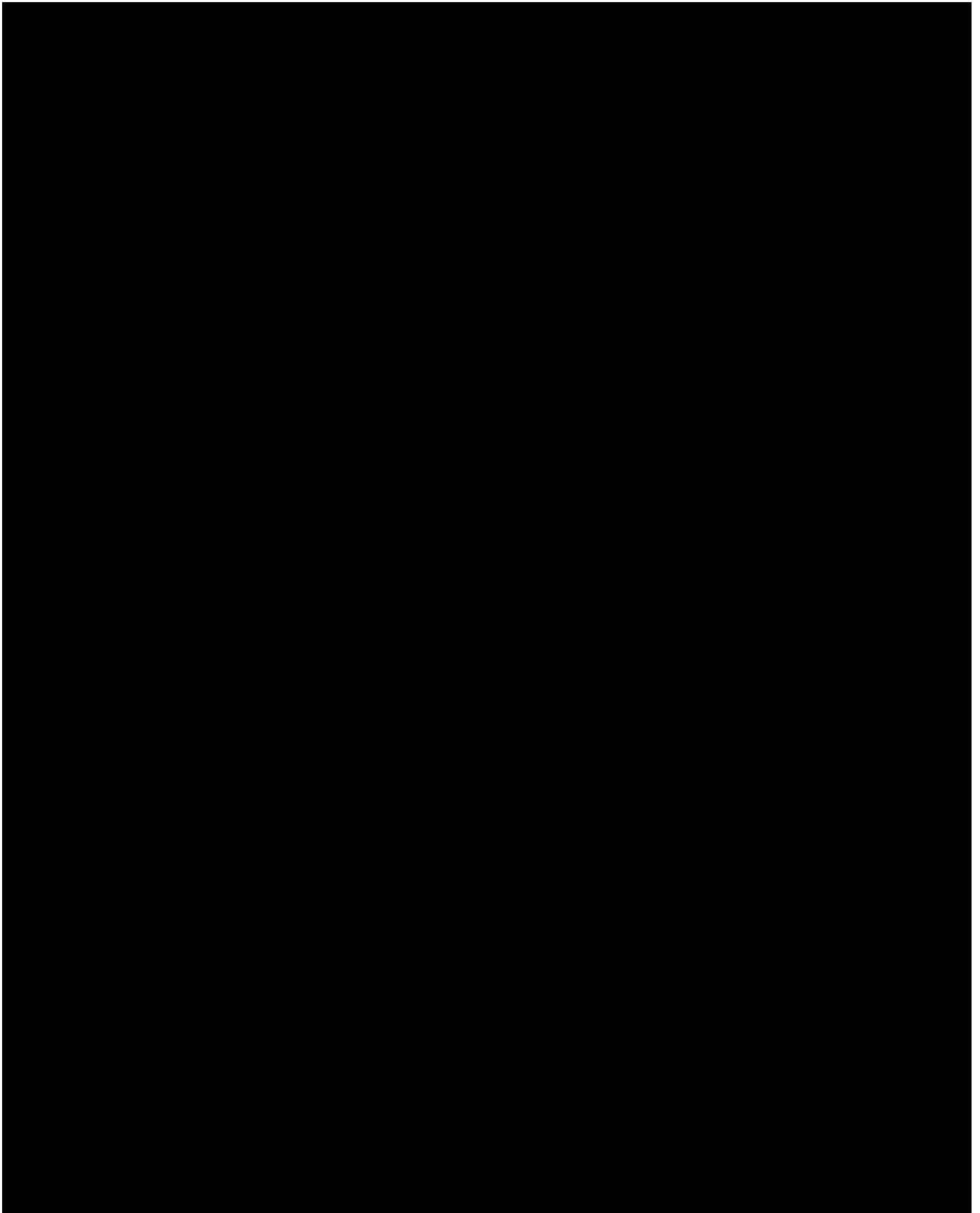
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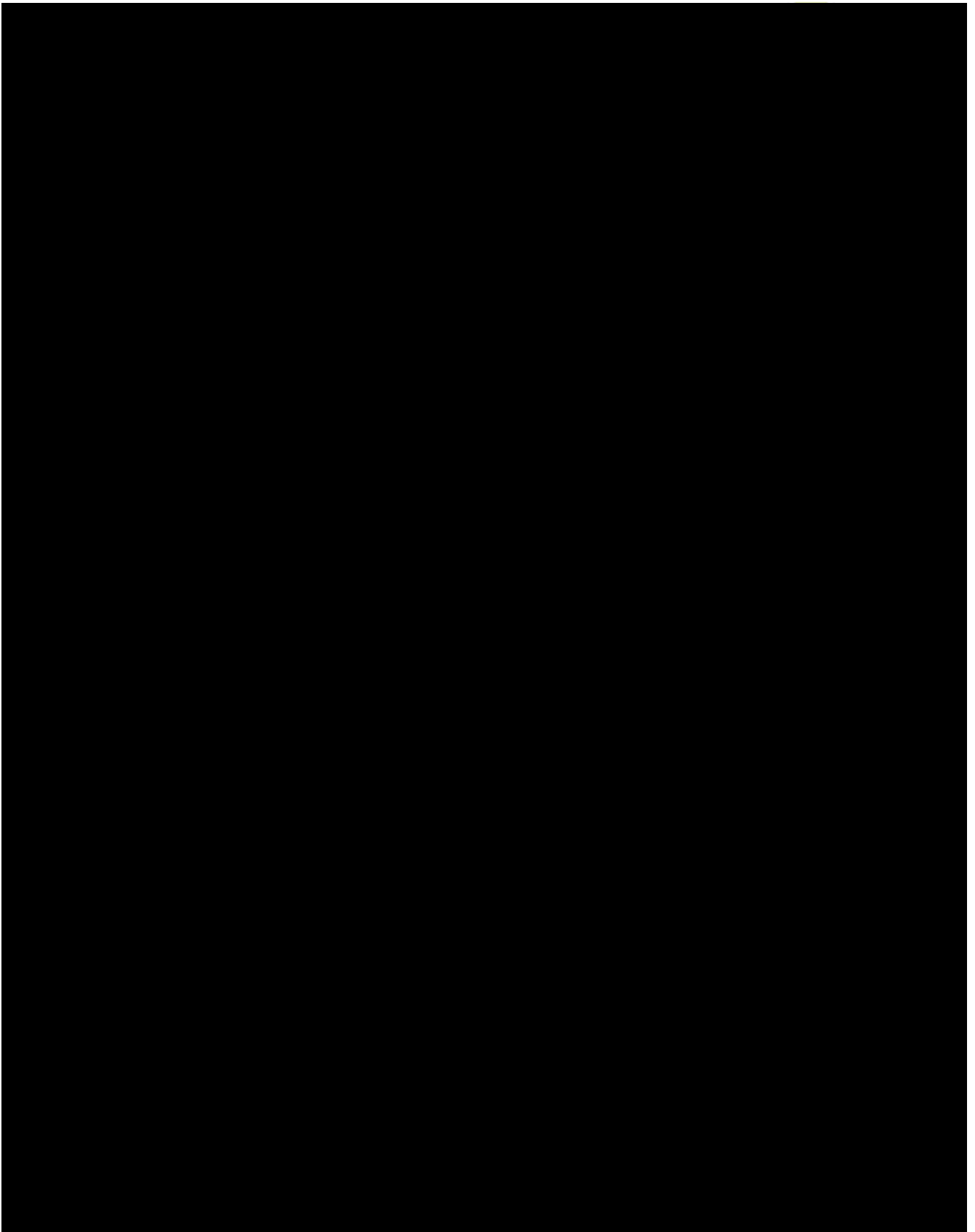
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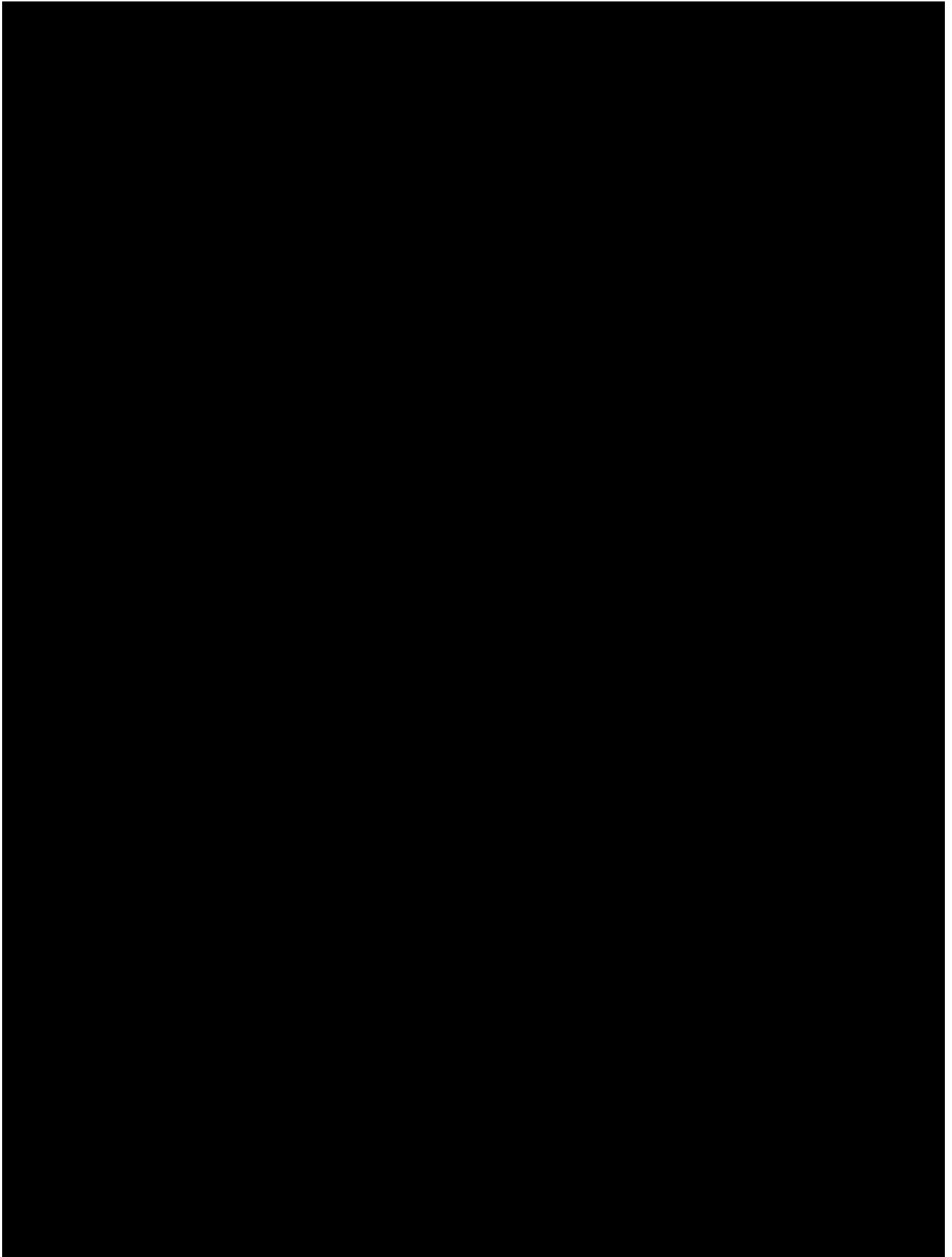
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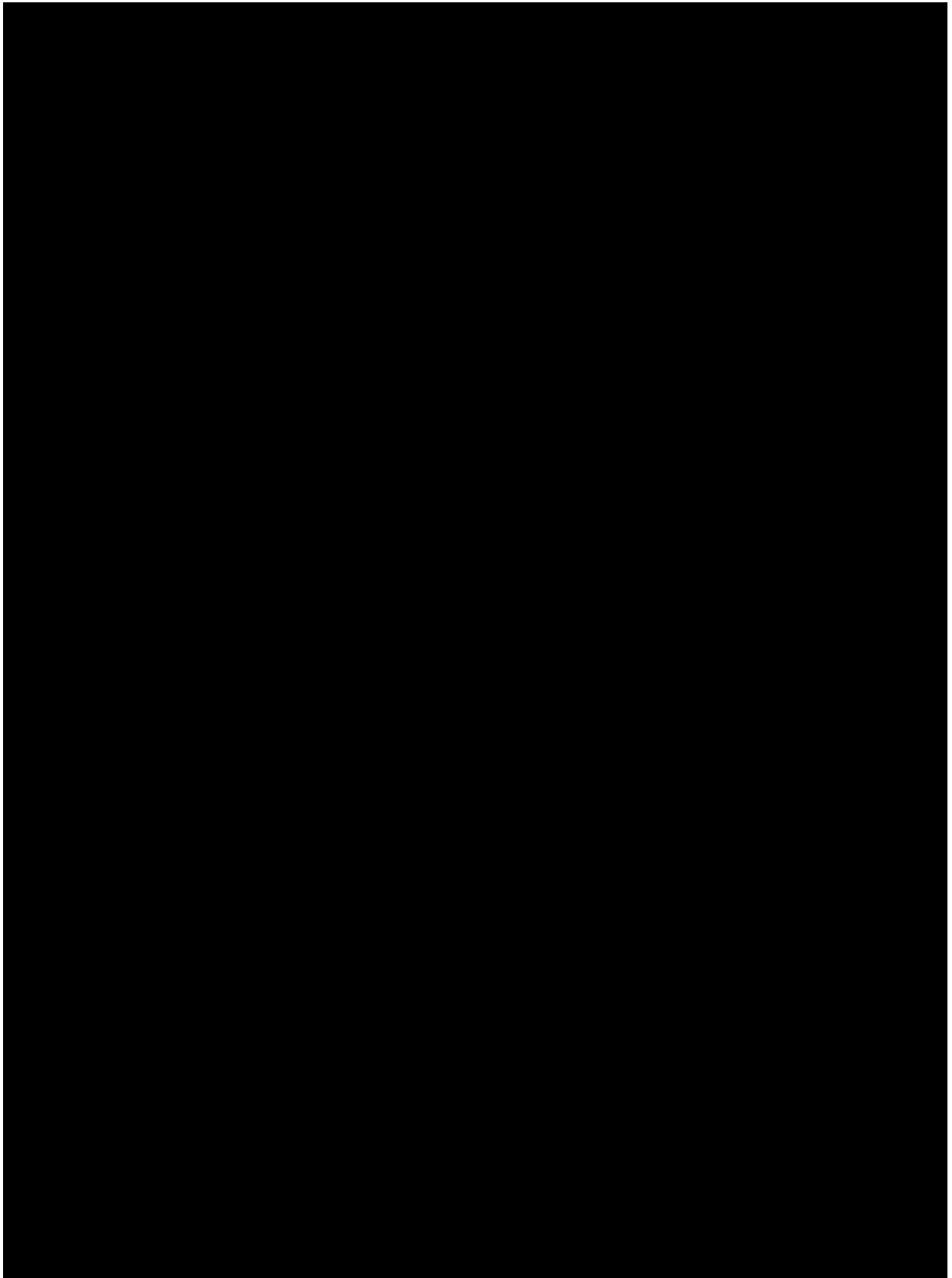
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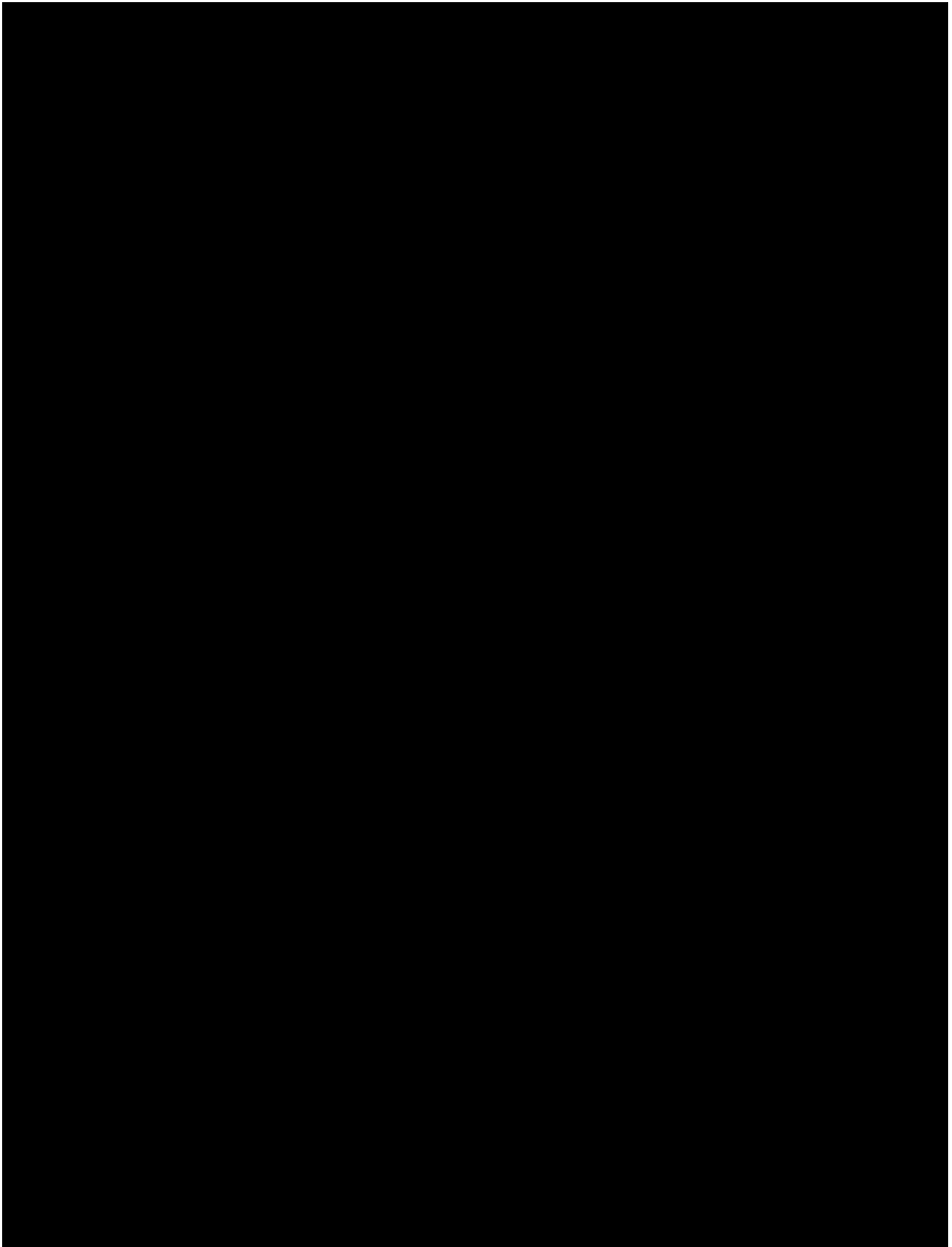




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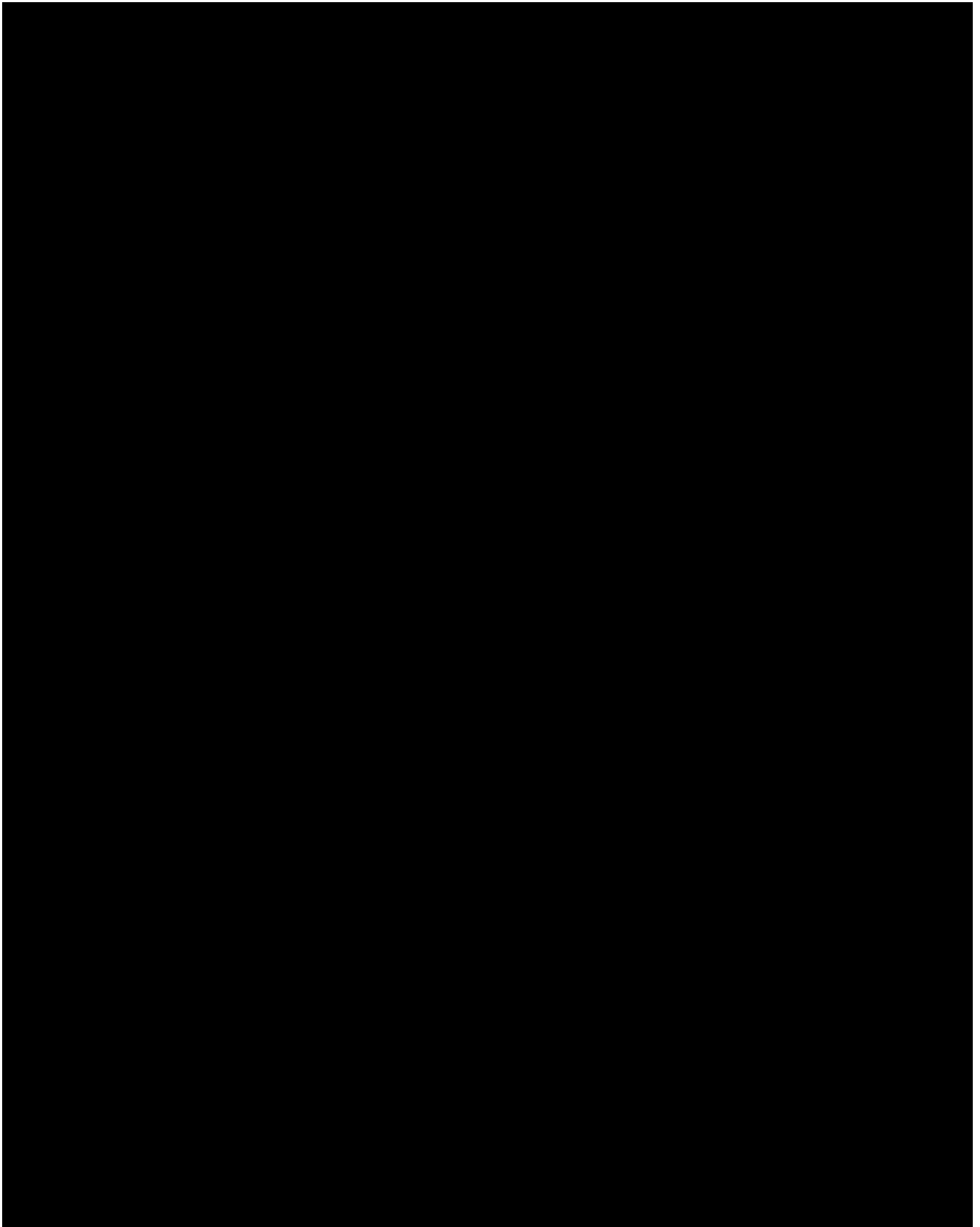
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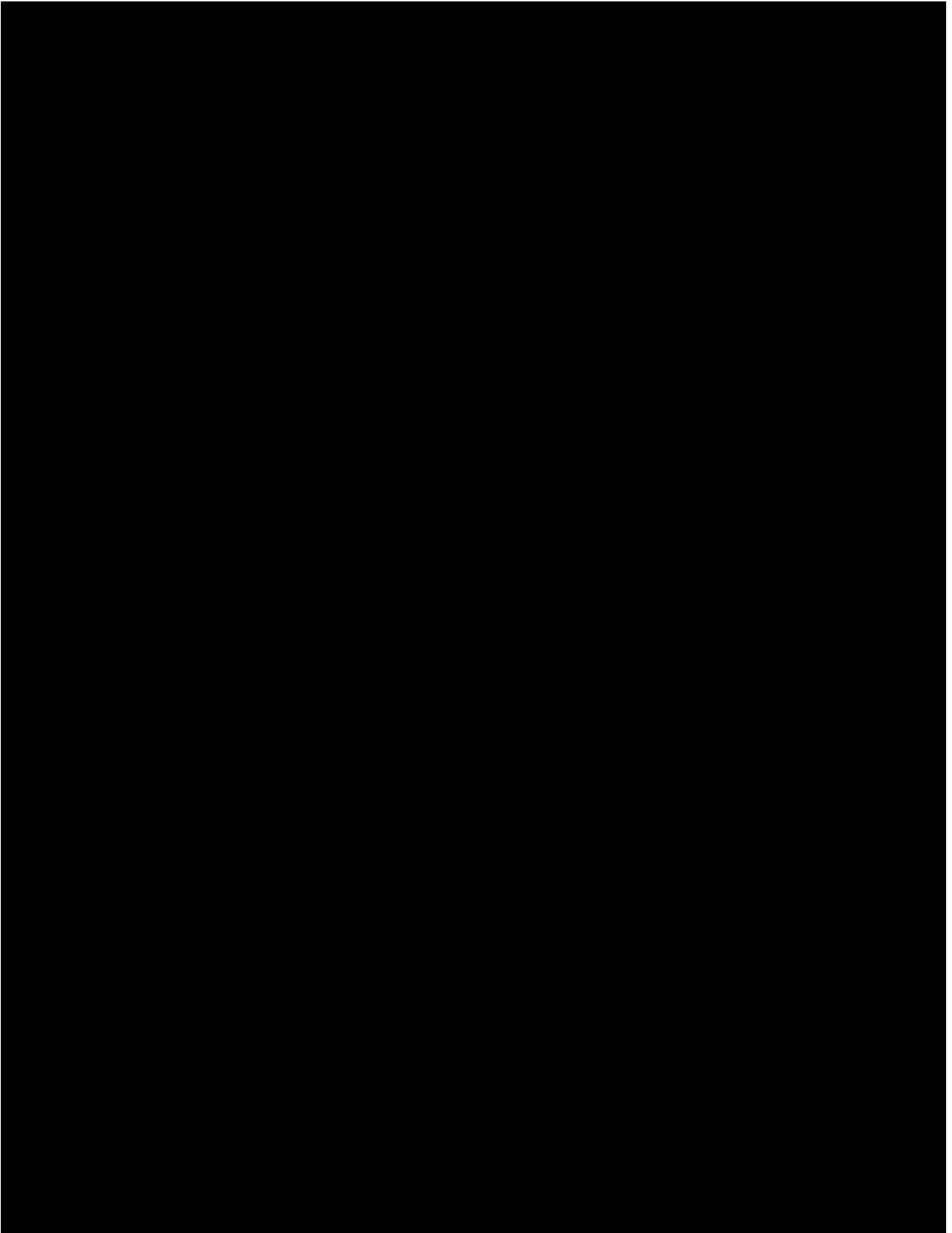
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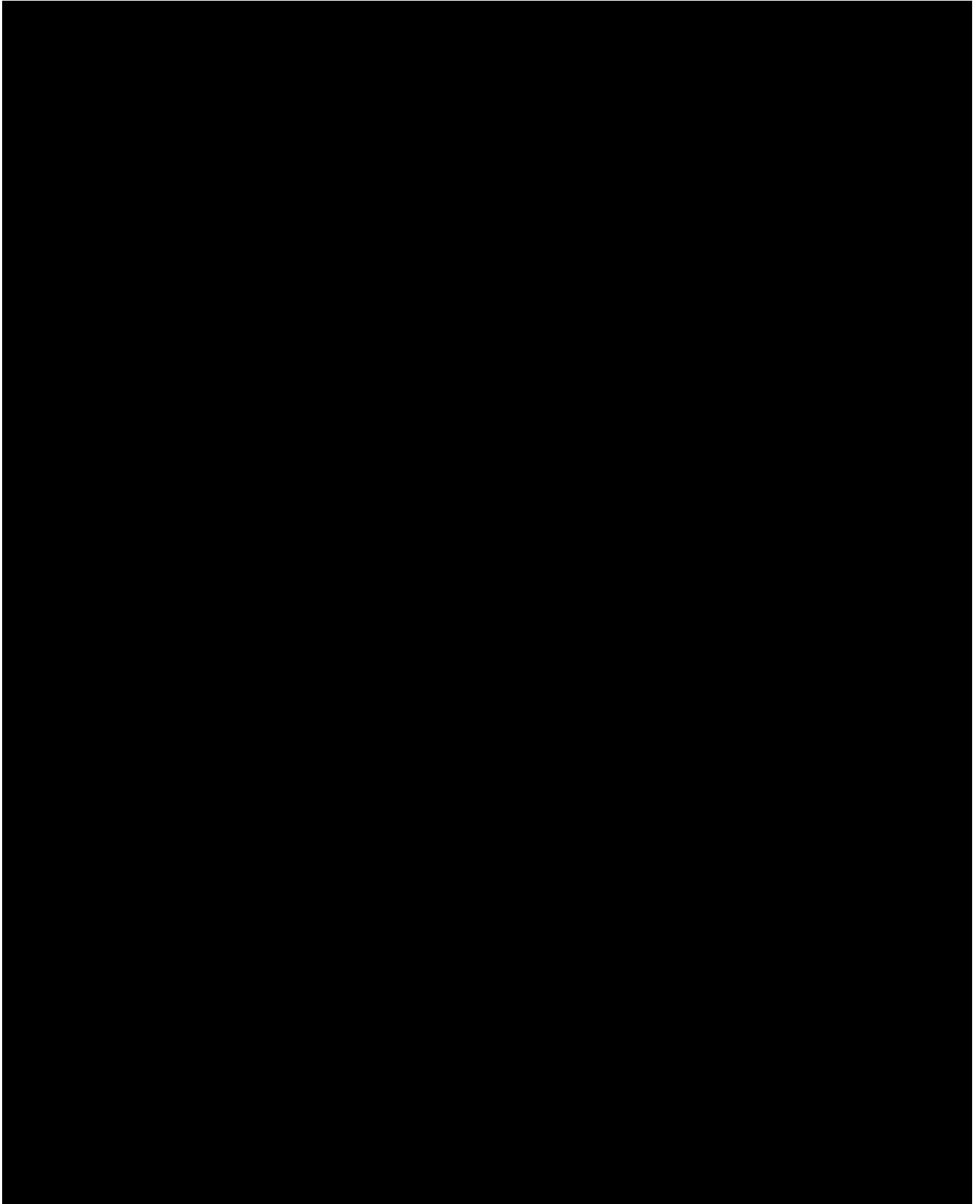
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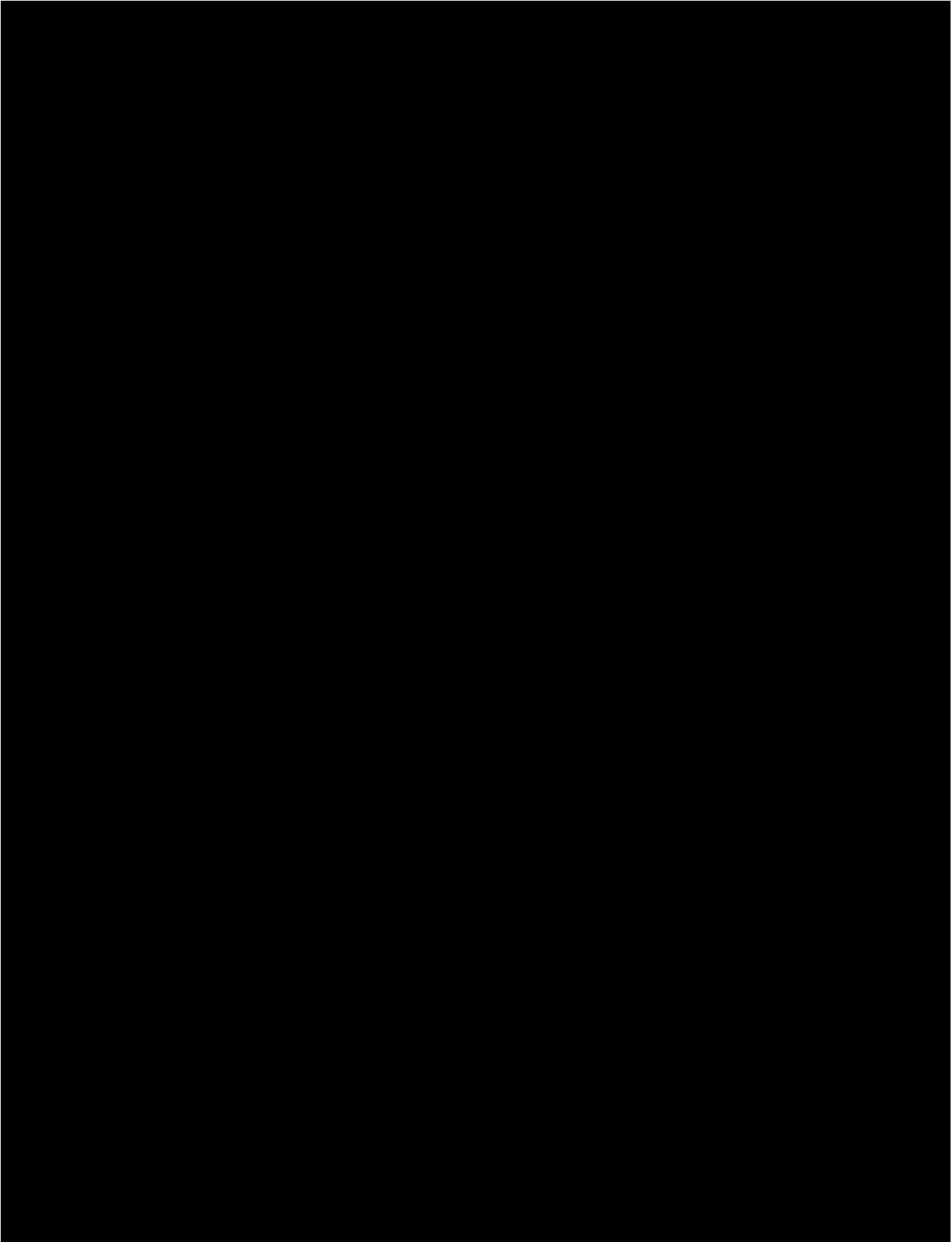
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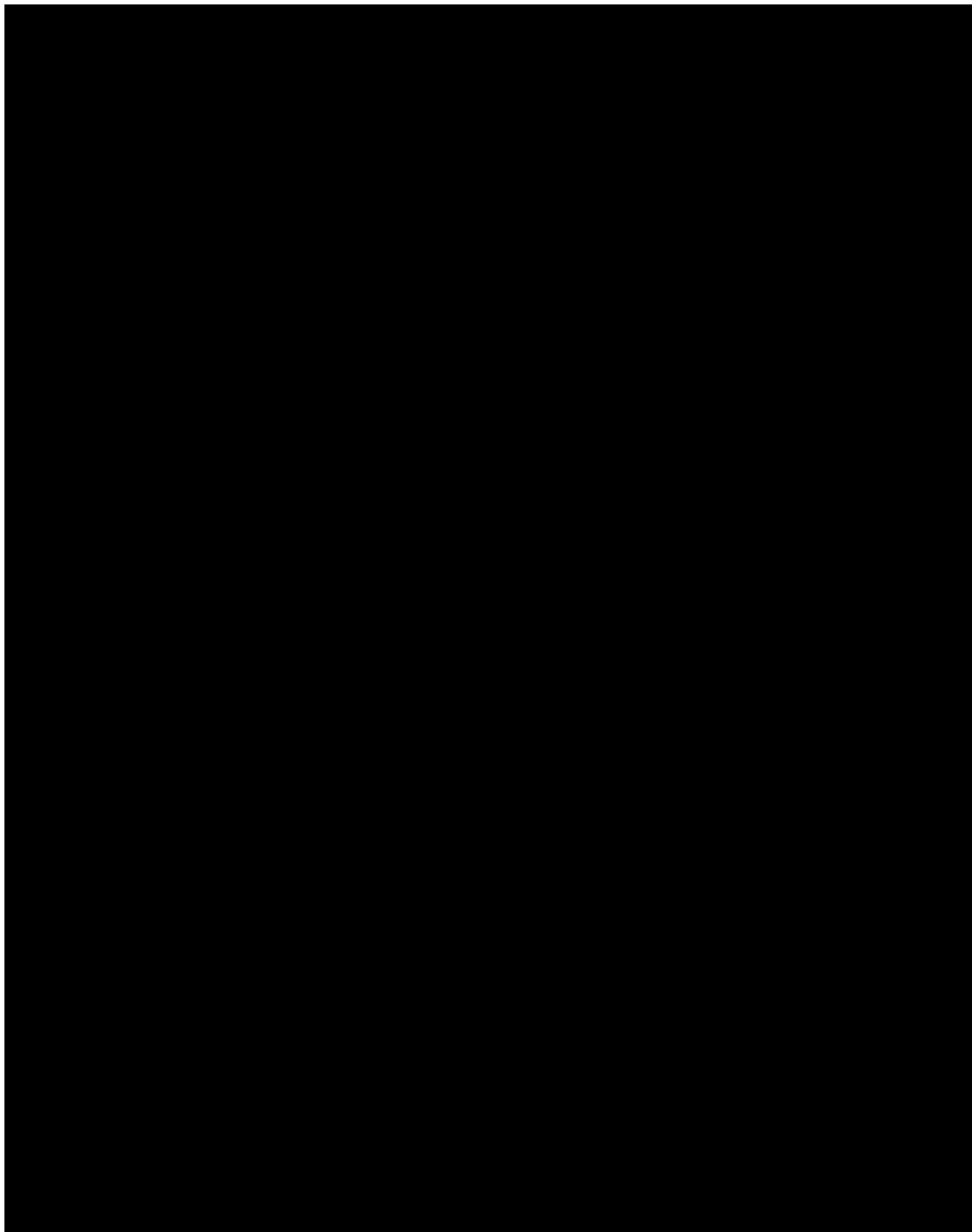
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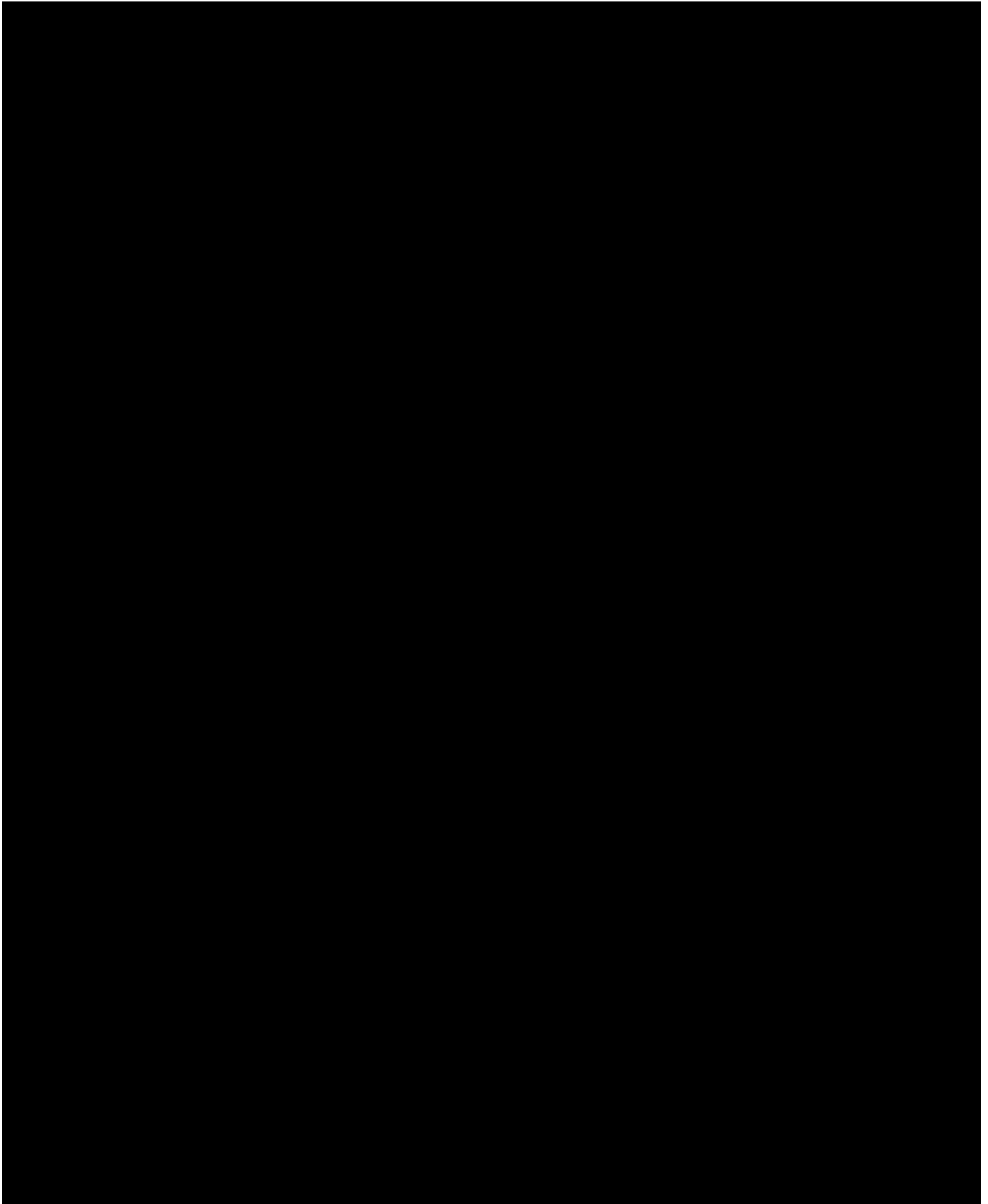
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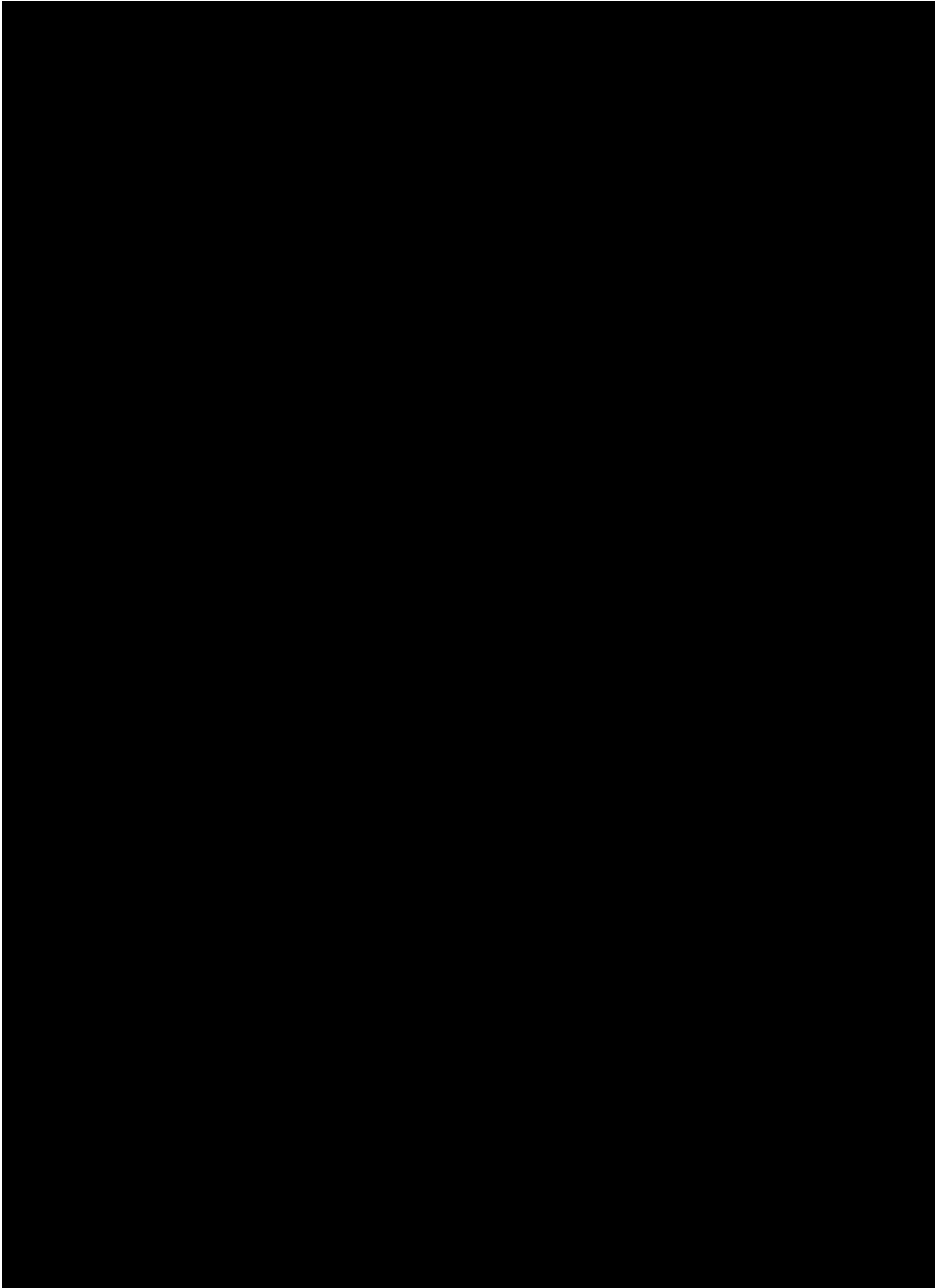
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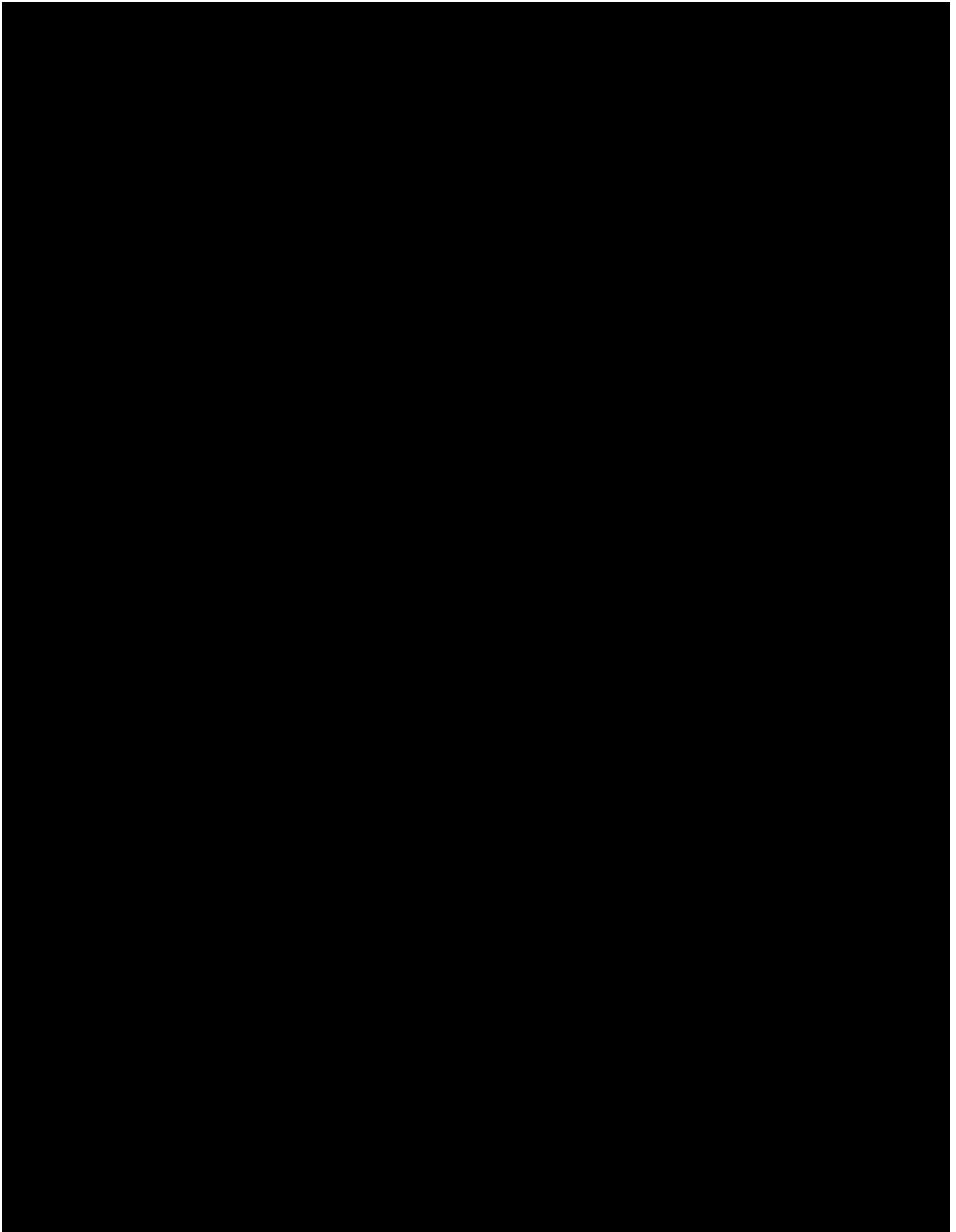




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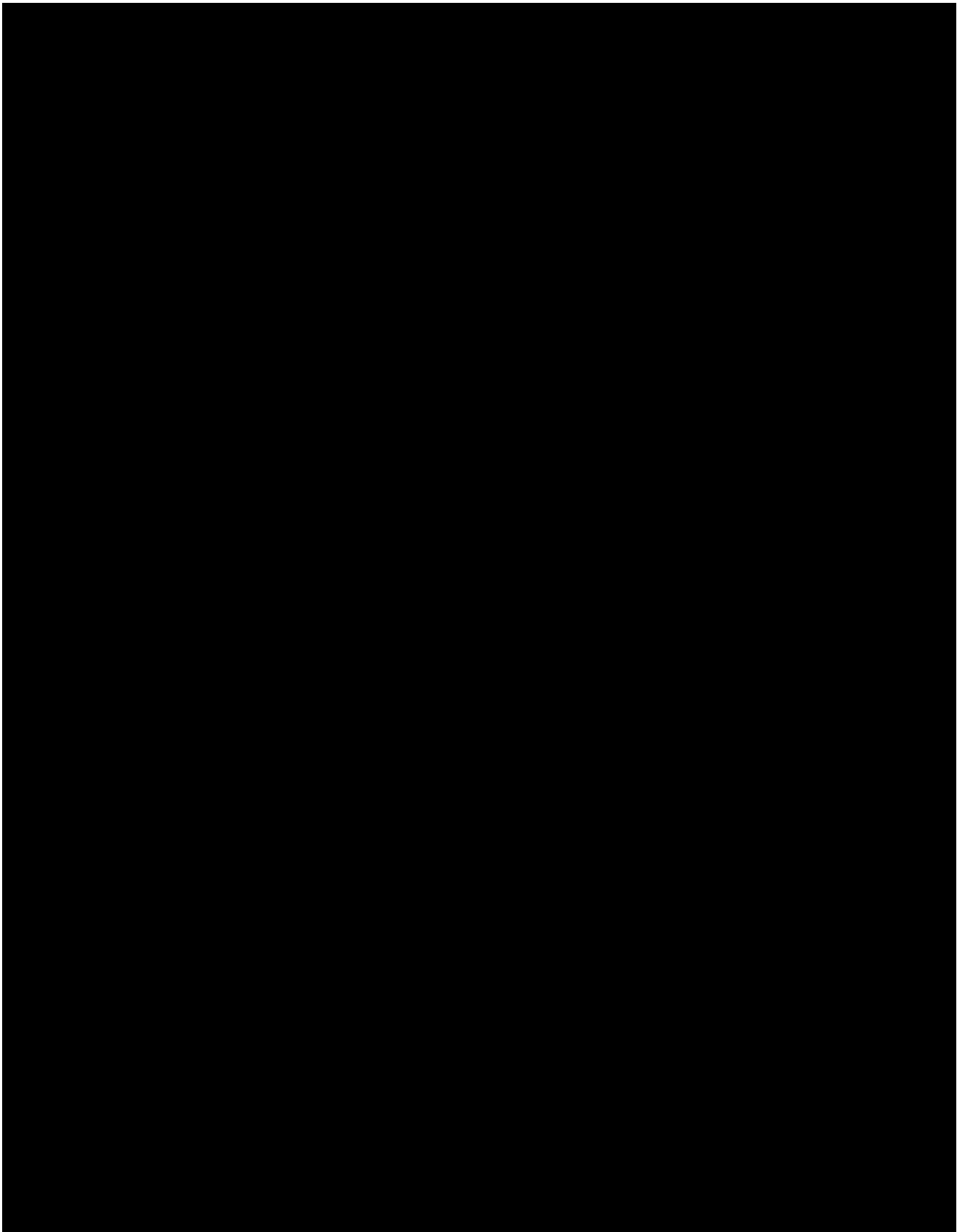
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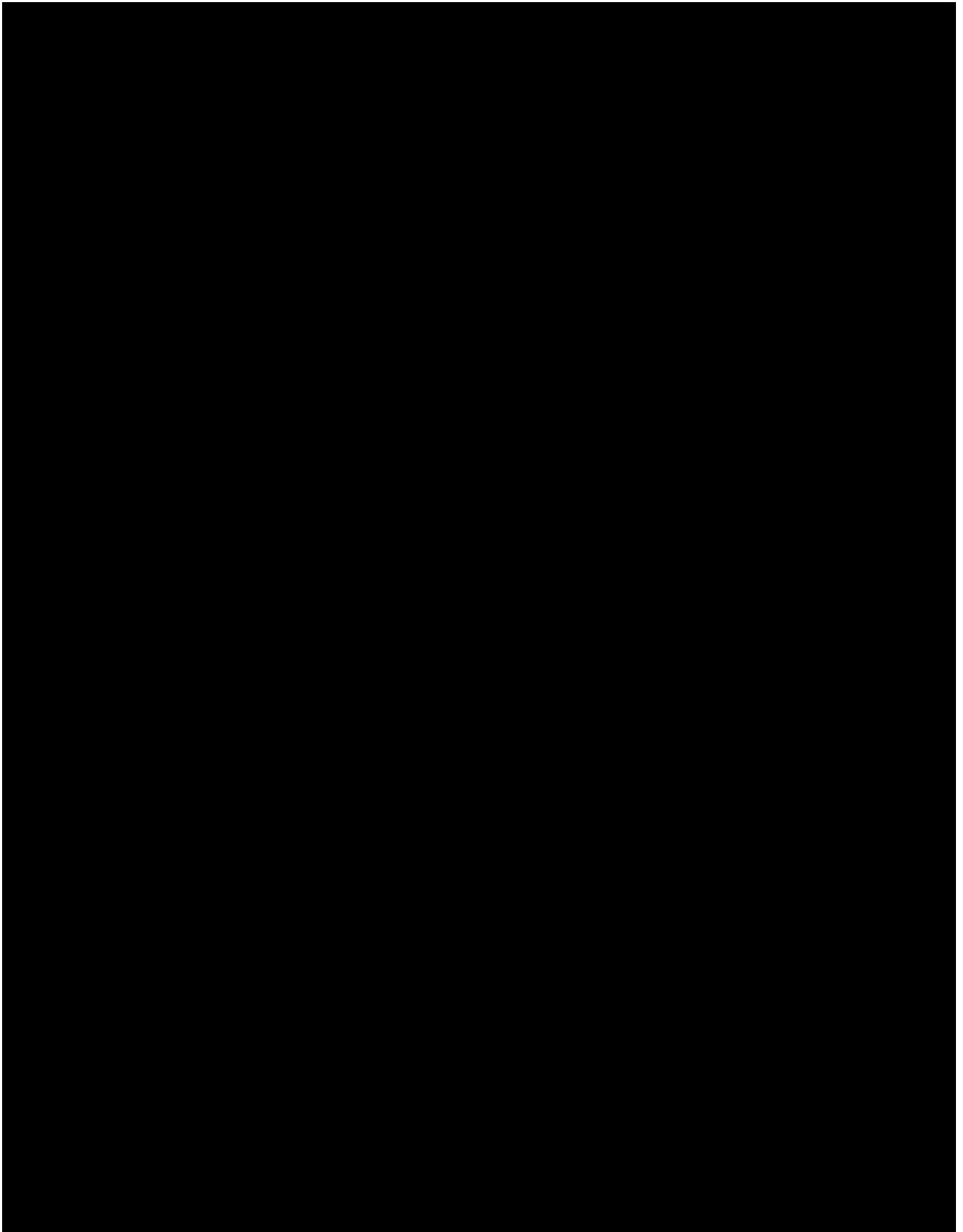
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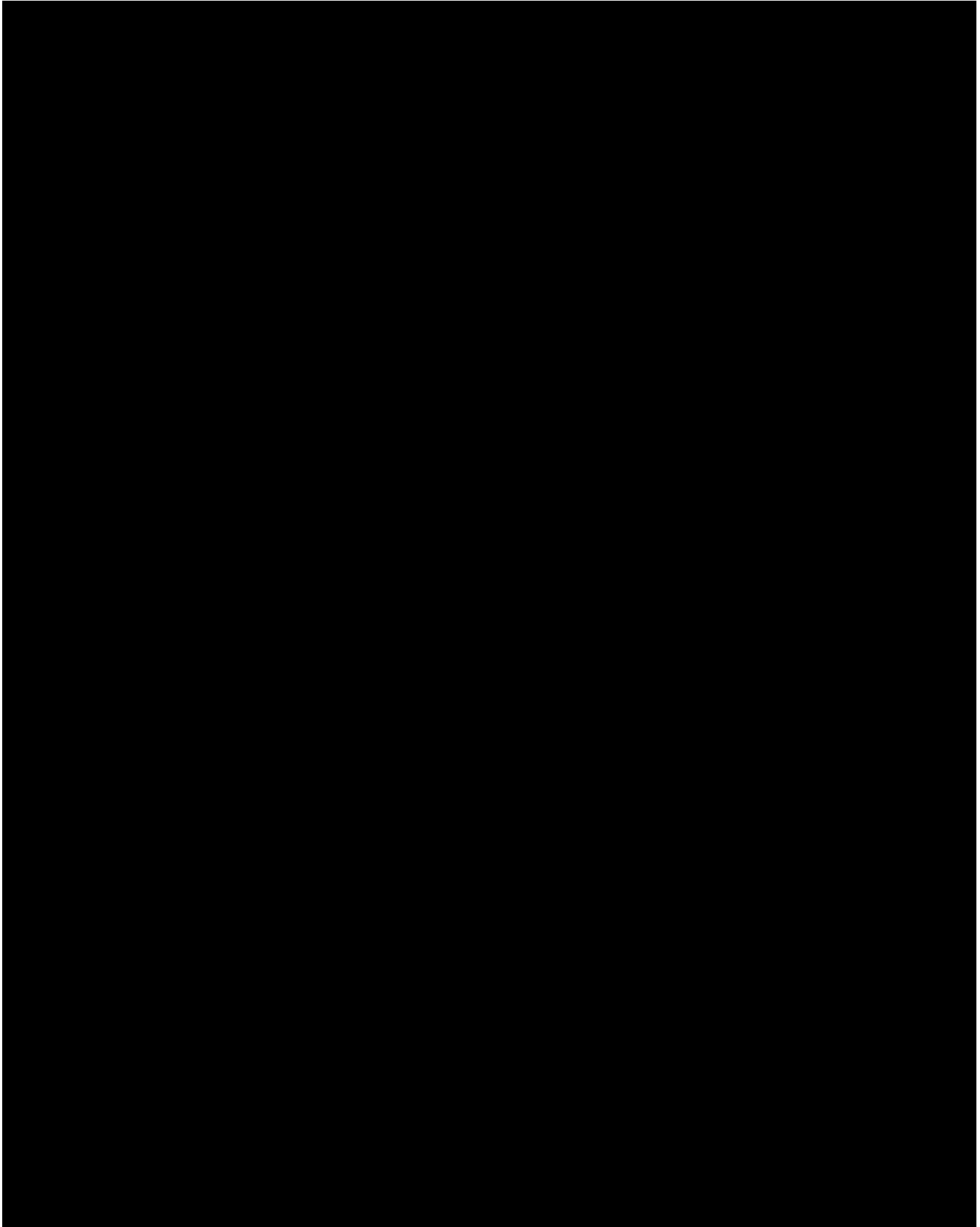
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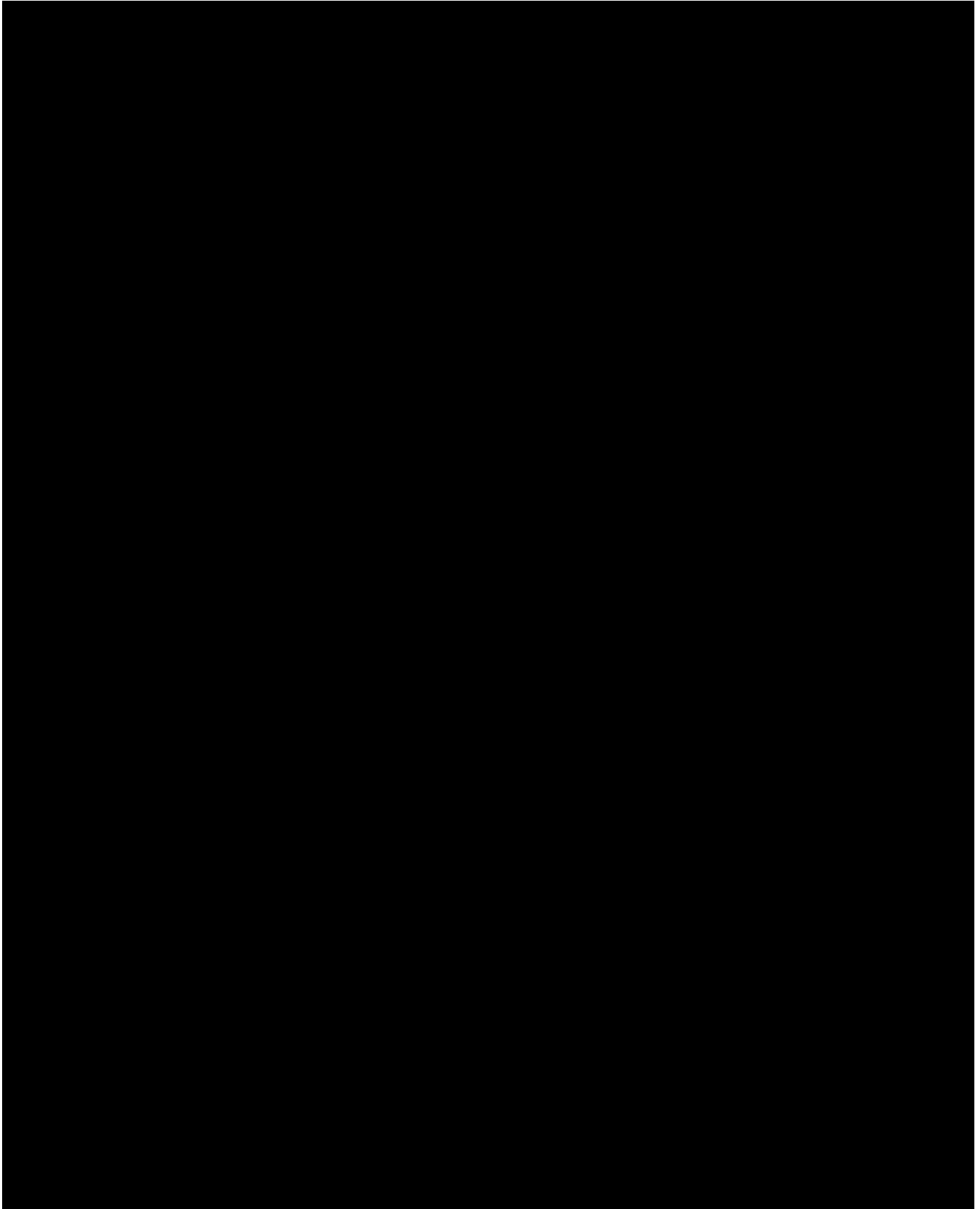
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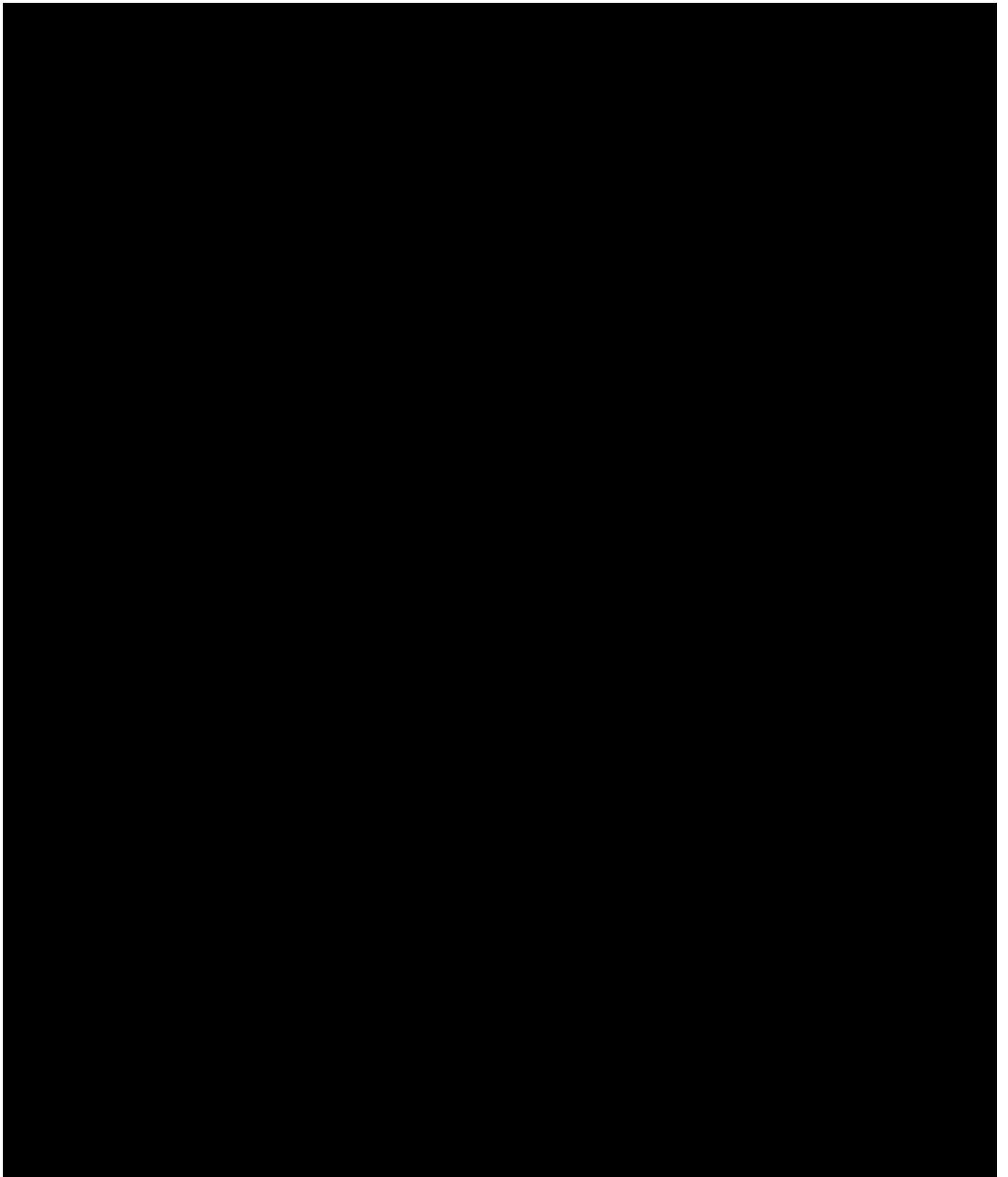
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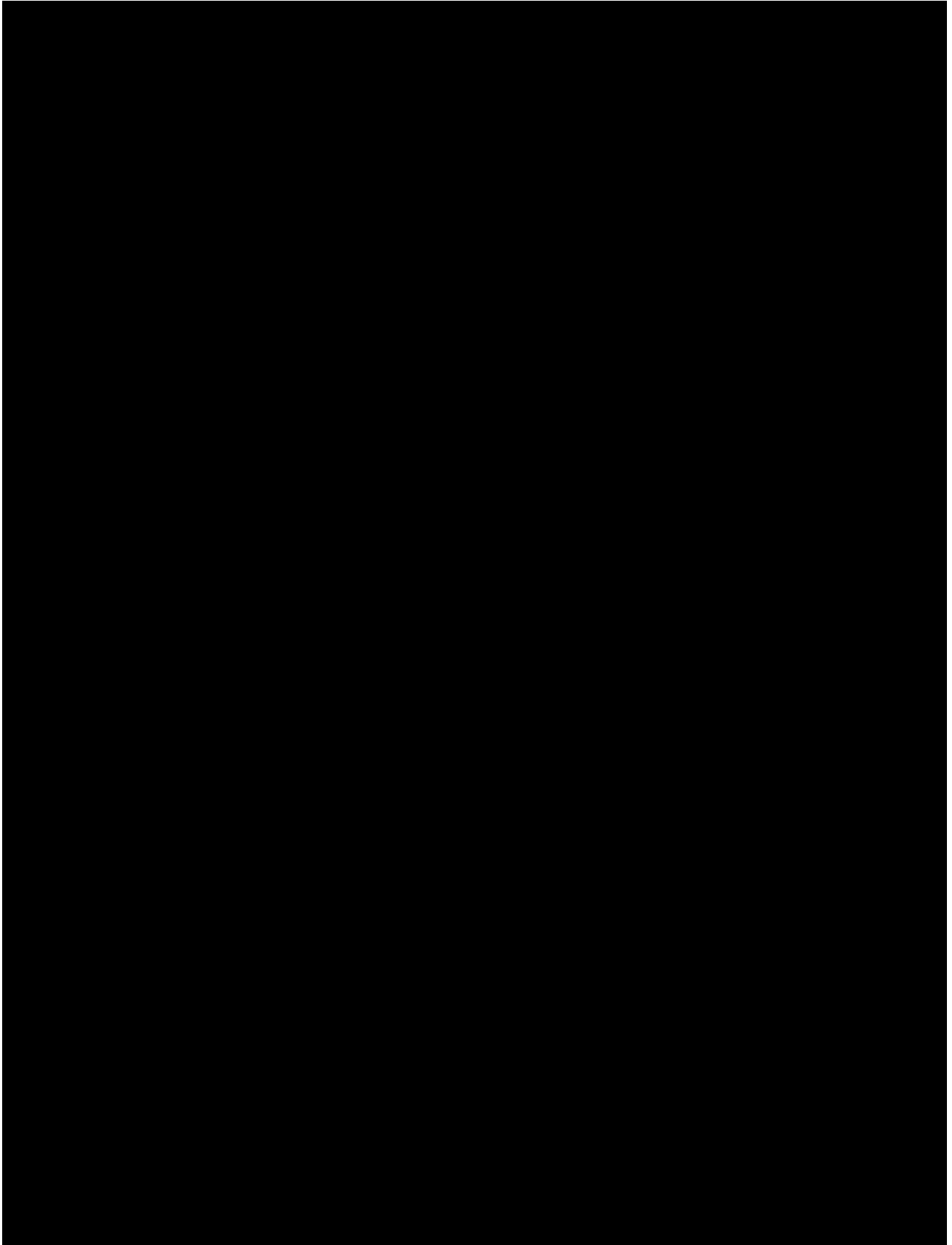
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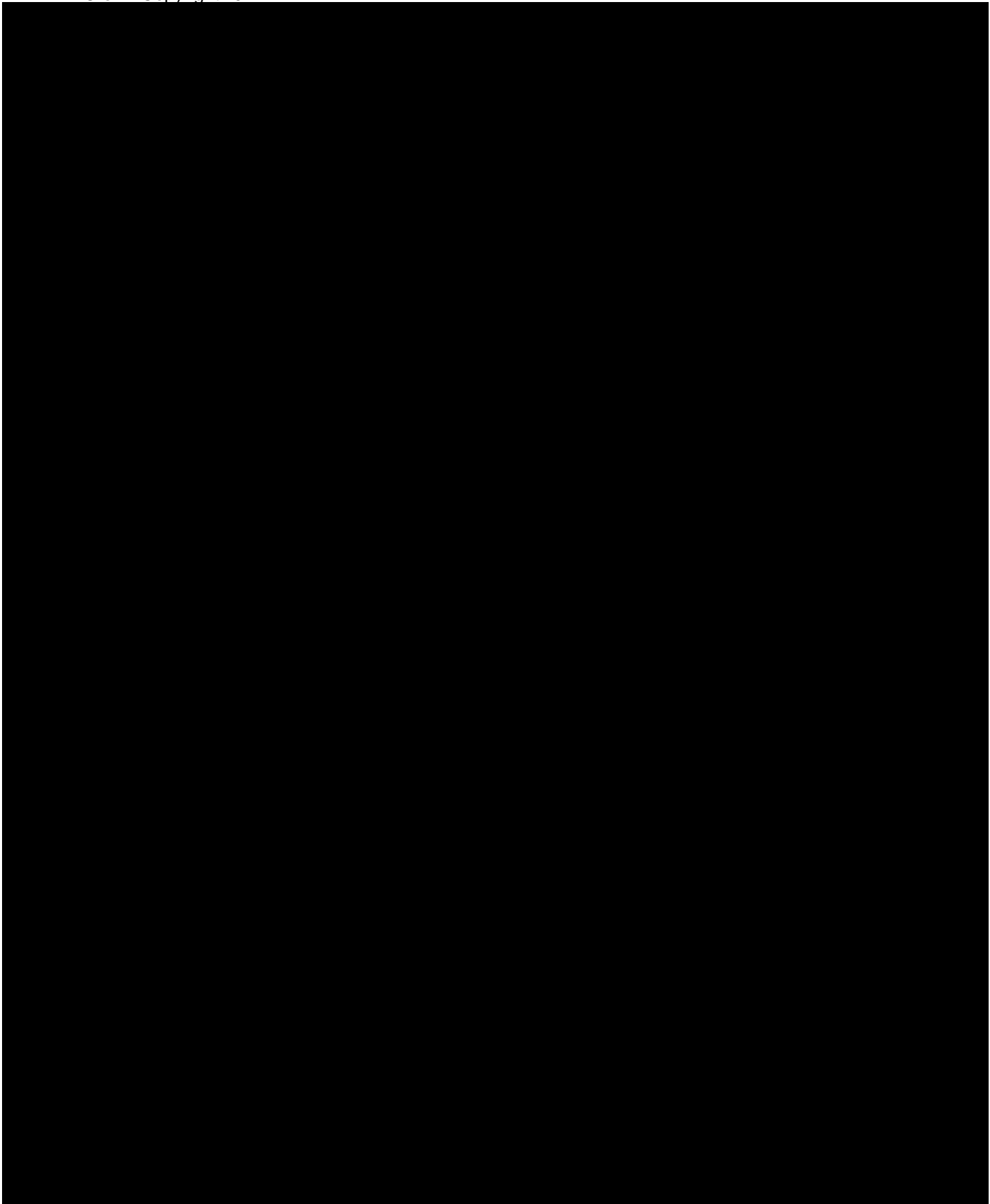
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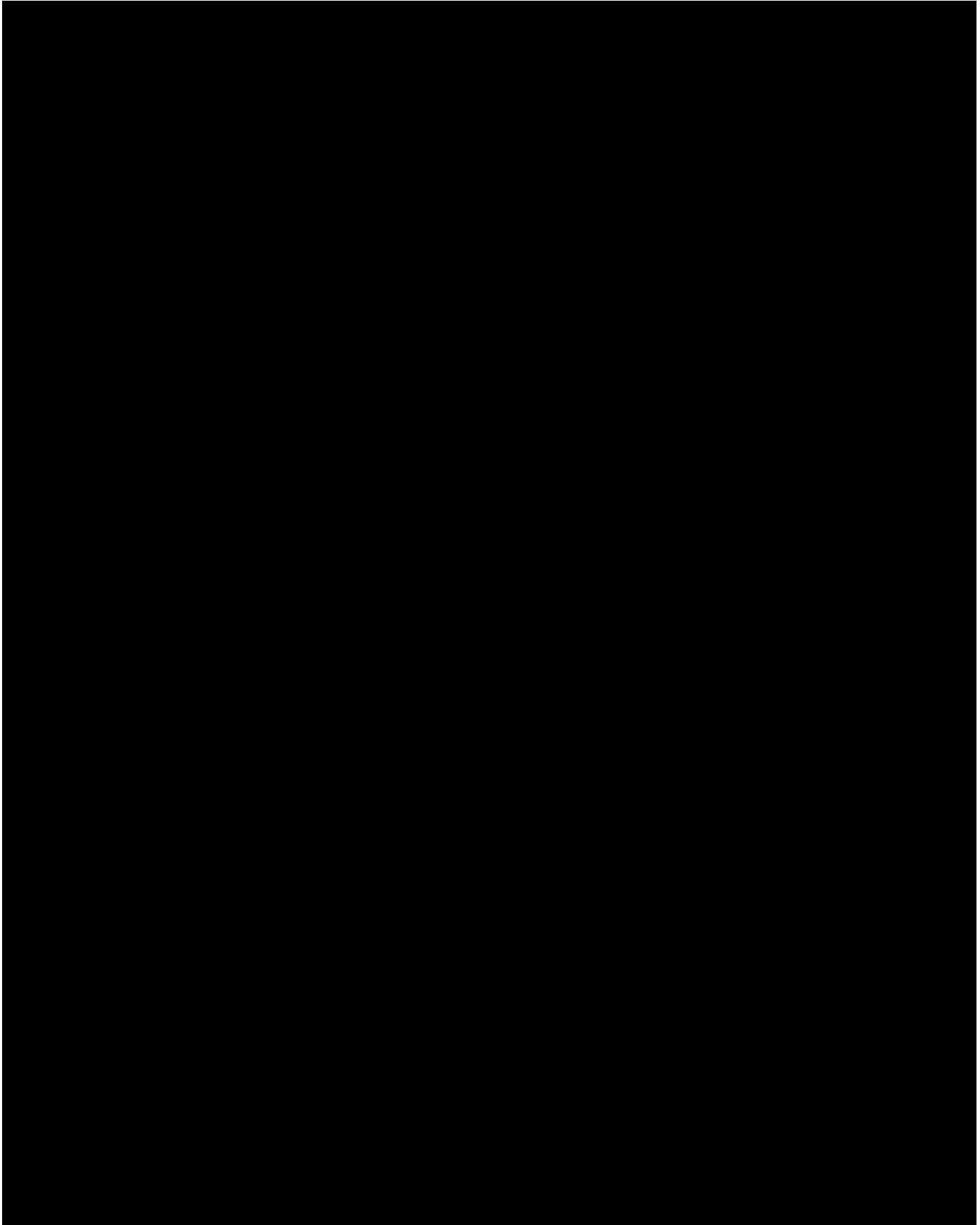




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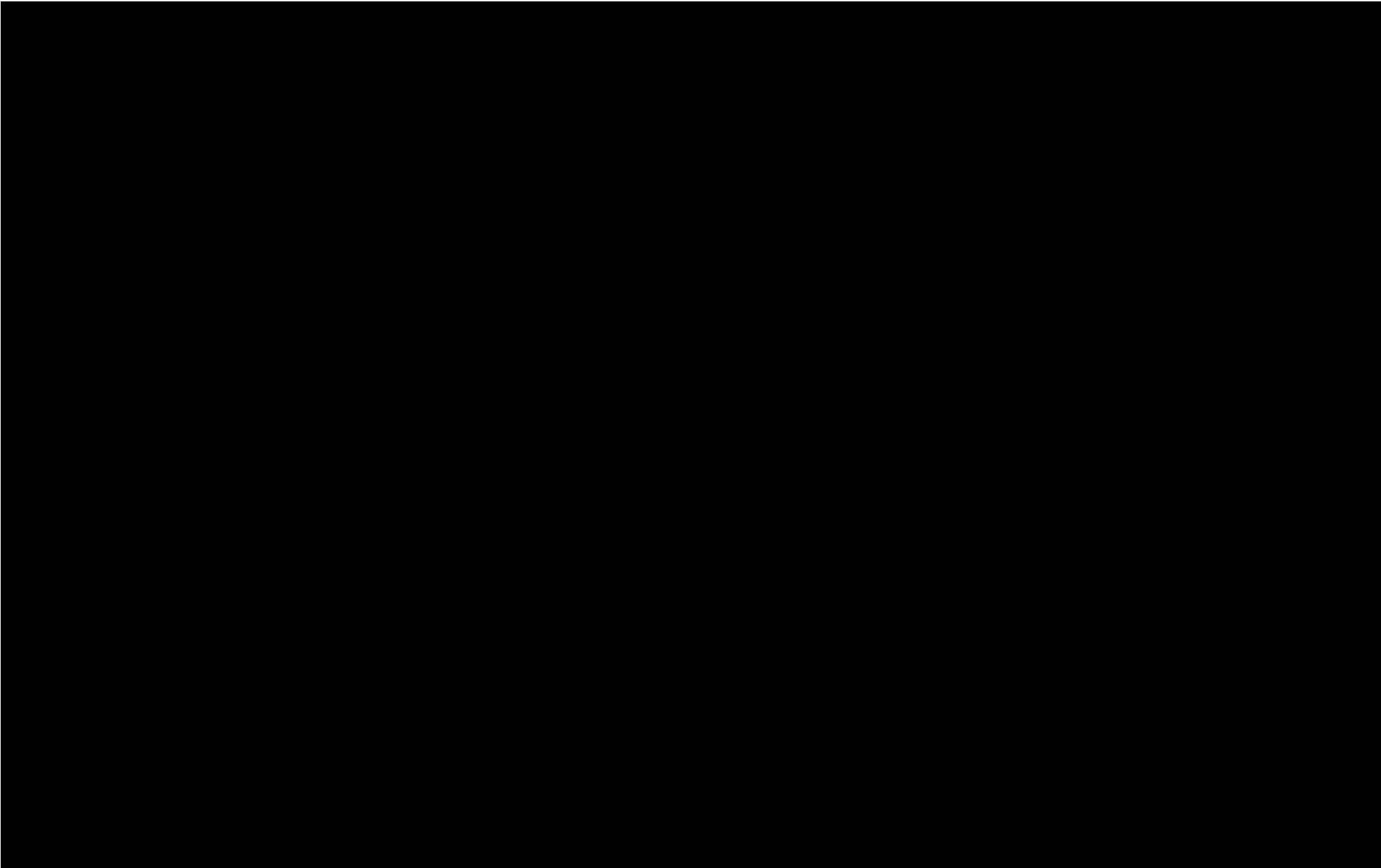
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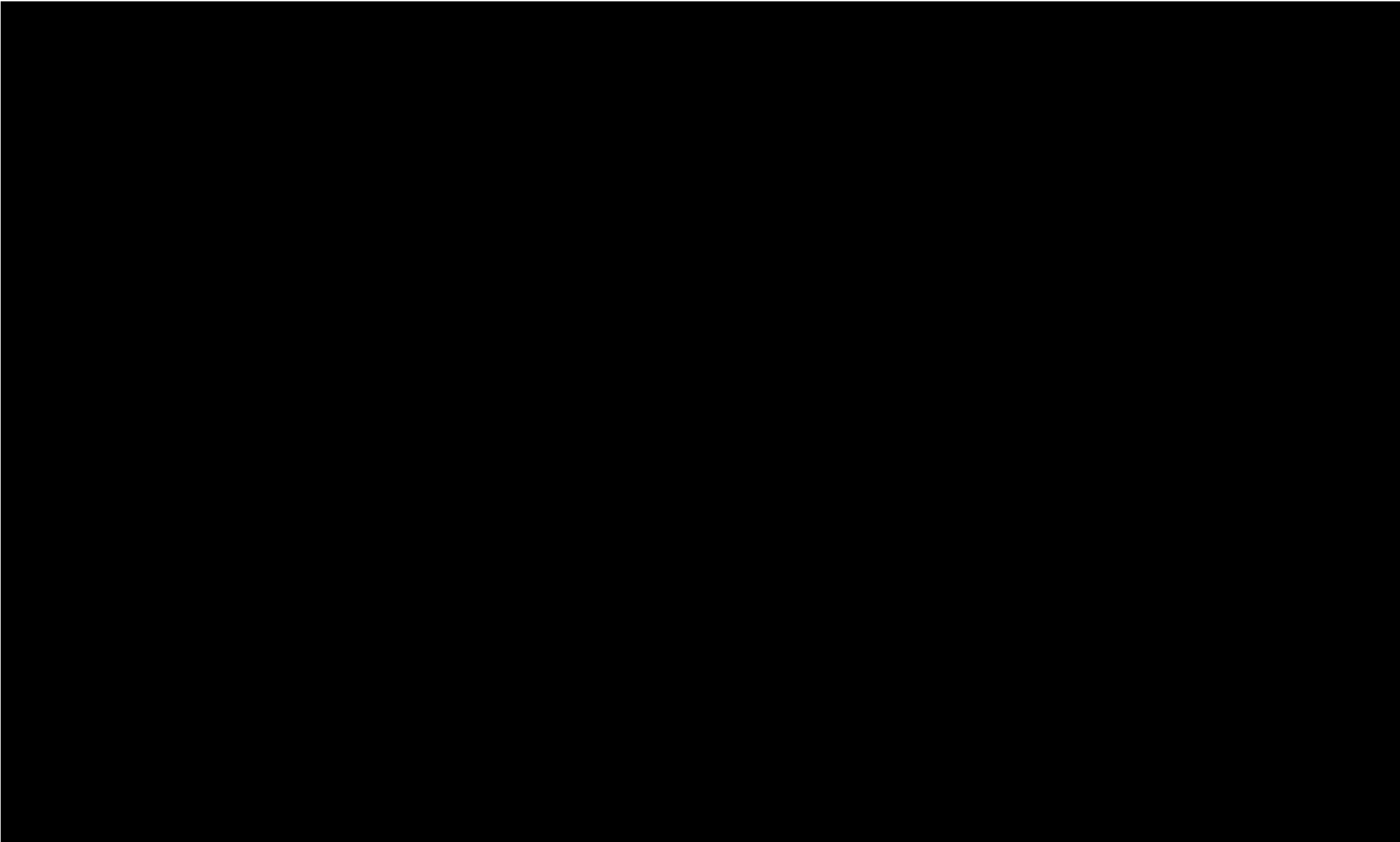
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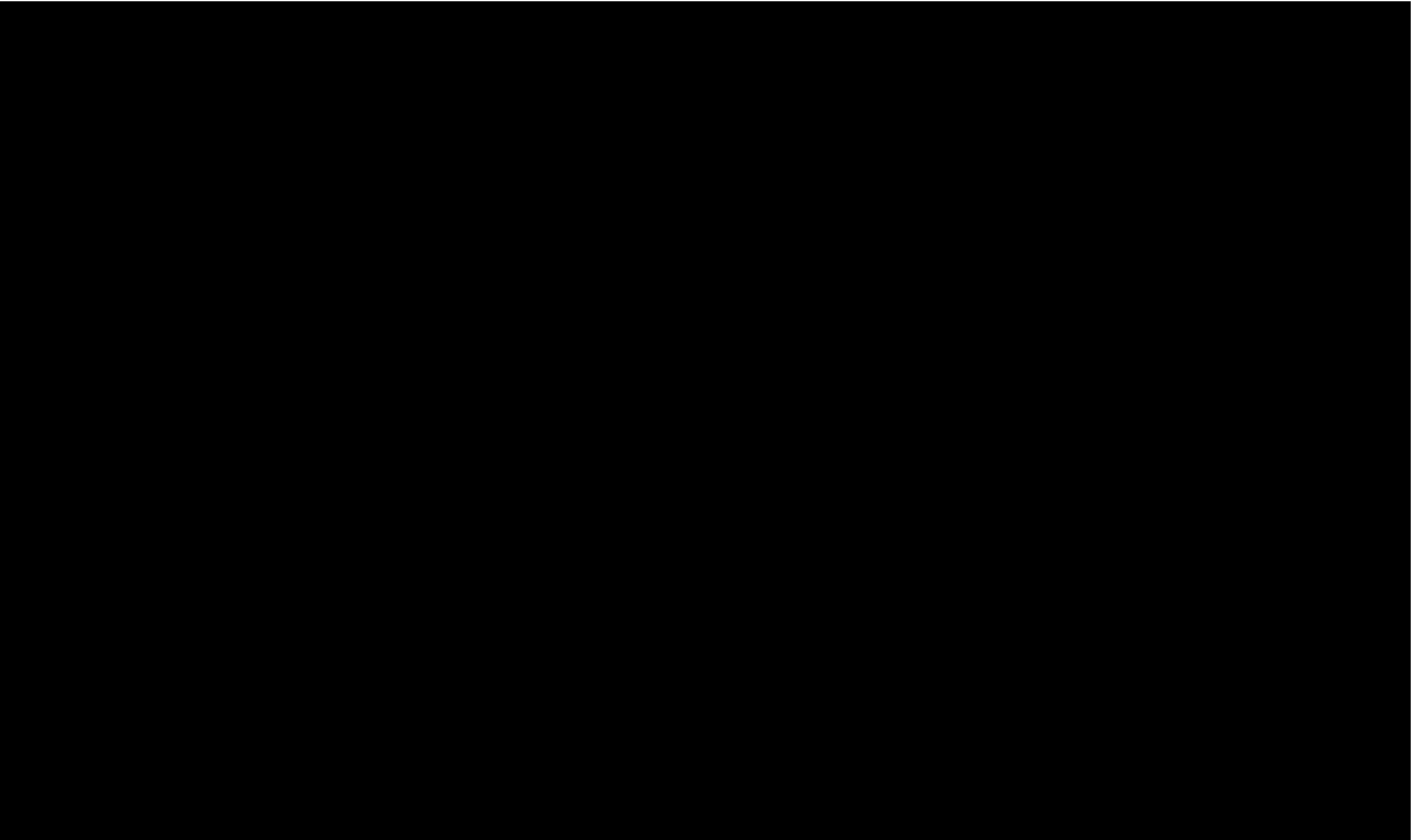
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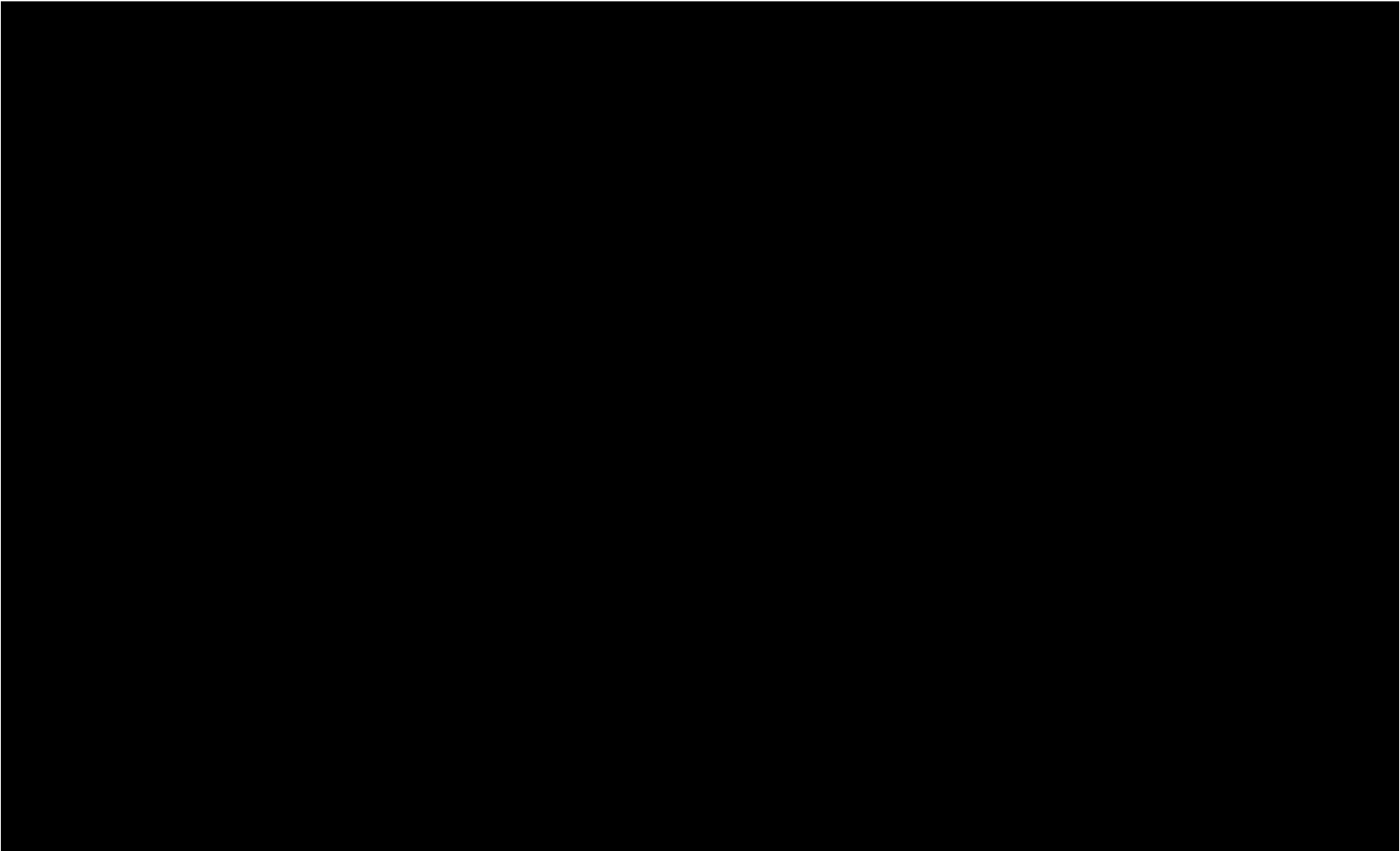
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**Order Schedule 4 (Order Tender)**

Order Ref:

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## Clarification Questions and Responses

Project name or reference:			
itt_74815 - Heat Network Efficiency Scheme Delivery Contract			
Question number	Clarification Question	Response to Clarification Question	Date of response
1	<p>Please note that we cannot open the Word and Excel documents saved in 'Specification (OS20) Annexes' as we are getting an error message.</p> <p>We've tried manually downloading each file from this folder from the portal and then try to open them, but the situation is the same.</p> <p>Could you please re-upload them?</p>	<p>I have re-uploaded these files in the 'Specification (OS20) Annexes (please use)' folder.</p>	31/10/2024
2	<p>When we open the documents with JSON in the title the information looks like a list of code. Is there a specific software that we should use to open them?</p>	<p>These are JSON schemas that set out the fields and field types that are necessary to interface with the Department's existing heat network relational database. The fields relate to the Excel Tables that are in the extract tabs of each Excel Template used by HNES with applicants and successful applicants. When the delivery partner extracts data from the relevant HNES template (application or M&amp;R report) it will collate this data, most likely within its own relational database, and then extract the data to JSON files batched in files up to a maximum of 1000 records per file. The extracted JSON files from the supplier's data management system will need to adhere to the JSON schema that have been provided as part of this invitation to tender. We will work with the successful supplier to ensure this is accomplished.</p>	01/11/2024

**Order Schedule 4 (Order Tender)**

Order Ref:

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3	In the ITT it states that the Authority expects to be able to secure anonymised staffing information for TUPE purposes which it aims to provide by 8 November. This information is a key consideration for bidders and not providing the information until the 8th means that we lose approx. a quarter of the time for making key decisions. It also provides an advantage to the incumbent. On this basis, could we please request that the information is provided earlier than the 8th or that the submission deadline is extended.	The information will be available from early next week. This will be provided as soon as possible. Bidders will be required to complete and return an NDA prior to accessing the information. There will be no extension to the submission deadline	01/11/2024
4	Please can you provide further explanation as to what you mean by "early benefits realisation" in Question 2.2, point III	We anticipate that projects awarded capital grant funding through funding rounds delivered under this contract will complete funded works (construction and commissioning) during the contract term. These projects will provide operational M&R reporting to the Supplier. Bidders should therefore outline how they intend to manage HNES Project operational M&R, and engagement with projects, to give the Buyer confidence that targeted benefits are being realised.	08/11/2024
5	The project plan states that the first round of assessments will take place in July, but Question 1.1, point VI asks "How and when do you propose to inform the market about the first funding round delivered under this contract (provisionally due to close to application in September 2025)?" Please can you confirm when you expect the first round of assessments to take place?	We anticipate the first funding round under this contract (Round 10) to close to applications in July however this may be amended depending on when the contract is signed, to allow adequate time for the Supplier to mobilise.	08/11/2024
6	In Order Schedule 15, the document starts by defining the Project Manager but then goes on to reference the Contract Manager. Are these roles meant to be the same or are they different? If they are different, please can you provide a definition for both?	The definition of contract manager is provided in section 3 of Order Schedule 15. It is for the bidder to decide how to resource these roles. Responsibilities can be shared within one role or split, the Department does not have an expectation on how these roles are provided as long as the Supplier can deliver against the specification.	08/11/2024



**Order Schedule 4 (Order Tender)**

Order Ref:

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7	Can you please advise whether the Delivery Partner for the new contract will be required to carry out Monitoring & Reporting on any HNES Projects funded under the current contract? If they are, please can you provide an indication of the number and size of these projects.	Yes, the Delivery Partner for the new contract will be required to carry out Monitoring & Reporting for HNES Projects that have been funded under the current contract. Please see Annex M in supporting information, which outlines the number of projects funded under Rounds 1-6, i.e. those that are required to submit M&R information. This covers projects funded through Round 1-6, and we intend to run a further three funding rounds under the existing contract. Bidders should also note that a proportion of revenue funded projects funded under the existing contract will have completed their works (thus ending their M&R requirements) by the time the new contract starts.	08/11/2024
8	Can you please clarify the maximum page limit for tenders as the ITT Pack states that it is 37 pages (excluding declarations, pricing schedule and CVs). However, the total number of pages shown in the ITT & Social Value Questions document is 39 (37 plus 1 page for each of the social value questions).	This is an error, and the correct number should be 39 total pages for ITT & Social Value Question responses (excluding declarations, pricing schedule and CVs).	08/11/2024
9	We appreciate there is a current Funding window, however with reference to funding awards under previous rounds could you please advise how many capital and revenue funded projects the supplier is expected to onboard from a Monitoring & Reporting perspective. If possible, could you also provide an indication of how long they need to be monitored for.	Annex M in supporting information outlines the number of projects funded under Rounds 1-6, i.e. those that are required to submit M&R information, noting a proportion of revenue funded projects funded under the current contract will have completed their works (ending their M&R requirements) by the time the new contract starts. Rounds 7-9 are to be completed and the data is not yet available. Capital grant funded projects will be required to continue to provide M&R for 2 years post-completion (construction and commissioning) of funding works. Revenue grant funded projects are required to provide M&R submissions until their Optimisation Study has been completed and all deliverables provided and signed off by the Supplier. Details of project M&R requirements are available in HNES Guidance: <a href="https://www.gov.uk/government/publications/heat-network-efficiency-scheme-hnes">https://www.gov.uk/government/publications/heat-network-efficiency-scheme-hnes</a>	08/11/2024

**Order Schedule 4 (Order Tender)**

Order Ref:

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10	Can you please advise whether there is a requirement to provide documents in Welsh for applicants in Wales.	There is no requirement to translate documents into Welsh.	08/11/2024
11	<p>There are 2 statements in relation to the PQP Plus mechanism in the ITT Pack HNES Extension Contract:</p> <ul style="list-style-type: none"><li>- Page 44 "For the PQP Standard Plus where highest quality score within a 5% range of the lowest PQP score will win."</li><li>- Page 31 "PQP Plus: lowest cost per quality point 'wins' the tender. If within a 5% range of the lowest PQP score, then the highest quality score wins"</li></ul> <p>There is the potential for inconsistency between these two statements, therefore we have a number of clarification queries we would like to raise in respect of this important element of the price and overall evaluation.</p> <ol style="list-style-type: none"><li>1. What is the "...5% range..." based on, i.e. how and from what is it calculated?</li><li>2. What happens where the "...highest quality score..." is not "...within a 5% range..." – how will you determine the winning Tender?</li><li>3. Please could you provide at least two worked examples to demonstrate how this could play out, i.e. one showing how the highest quality score being within the "...5% range..." wins and one where the highest quality score is not within the "...5% range...", showing how you arrive at the winning Tender?</li></ol>	<p>Both statements are accurate but worded differently. To clarify we will work out the lowest PQP score and then work out whether any scores are within 5% of this. For any scores that are within a 5% range of the lowest PQP score, the submission with highest quality score will win.</p> <ol style="list-style-type: none"><li>1. The calculation will be: Lowest PQP score * 1.05. Then all submissions within that range will be assessed and the award will go to the highest quality score within that range.</li><li>2. Only scores within a 5% range of the lowest PQP score will be assessed against the 'plus' element. If a tender has the highest quality score but it's overall PQP score is over 5% of the lowest PQP score, it will not win.</li><li>3. Examples:<ol style="list-style-type: none"><li>a) A Supplier has a technical score of 70 and has priced at £3m. This would equate to a PQP score of 42,857. Adding 5% to this score would equate to 45,000. The highest quality score that is 45,000 or lower would 'win'.</li><li>b) A Supplier has a technical score of 85 and has priced at £3.5m. This would equate to a PQP score of 41,176. Adding 5% to this score would equate to 43,235.29. The highest quality score that is 43,235.29 or lower would 'win'.</li></ol></li></ol>	13/11/2024

**Order Schedule 4 (Order Tender)**

Order Ref:

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12	To inform the mobilisation requirements can you please share a copy of the incumbent's exit plan.	We do not have this information immediately available. There is some overlap between the two contracts and full exit of the current contract will be in September 2025. Any handover will be discussed in the kick off meetings to ensure compliance with the mobilisation requirements which are detailed in the specification.	20/11/2024
13	A process map for the monitoring of successful HNES projects has not been provided within the ITT therefore can you please confirm whether as part of the M&R there is an expectation that site visits will take place and if there is, clarify the expected scope; for example, the frequency and type (audit of metrics etc).	Site visits are not a requirement of the M&R process; however the successful bidder will be expected to undertake processes to ensure the funded projects are delivered as agreed and to provide assurance against possible fraudulent activities taking place - this may include site visits on a 'sample' basis.	20/11/2024
14	We note that the intervention rate for capital grants is up to but not including 50% of eligible project costs. Can you please provide an indication of the average intervention rates across rounds 1 to 6 .	We do not have this information immediately available. It can be provided during mobilisation. The majority of capital applications are for funding close to but under 50%, likely to be in the range of 45-49.9%.	20/11/2024
15	1 page per model award criteria is a small amount of space to provide a comprehensive social value response. Would it be possible to include the method statement as an annex to the social value response, or increase the page count for the answers?	This can be increased to 2 pages plus the method statement as an additional attachment.  To confirm: This applies to both Social Value Responses.	20/11/2024
16	1. It is not obvious to us where to show our price for providing pre application support to potential grant applicants. Can you please confirm which price element you expect bidders to include these costs within?  2. It is not obvious to us why the price for assessing capital grant applications should vary by the value of the application. Can you please confirm if you expect the assessments of higher value applications to involve additional steps compared to lower value ones?	1. Within the monthly Base Fee which is payable once mobilisation is complete.  2. Capital applications vary in terms of grant request and overall value of funded works. To ensure the assessor review and assessment process is broadly proportionate to the value of the grant ask, it may be necessary for Bidders to undertake additional checks for applications of a higher value such as analysis/assurance of cost evidence, additional finance/fraud checks etc. Having an assessment fee that varies depending on the grant application value allows for these additional checks.	20/11/2024

**Order Schedule 4 (Order Tender)**

Order Ref:

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17	Can you please confirm if it is permissible for bidders to cross-reference between their responses to the technical questions (Criteria 1.1 to 3.1)?	This is not permitted. Each question must be answered as an individual response.	20/11/2024
18	Could you clarify what is required against row 65 in the Selection Questionnaire. The section relates to Prompt Payment however the Description/Note Details (cell C65) refers to question 6.1 which does not appear in the questionnaire.	No response is required for row 65. This has been included in error.	20/11/2024

## Order Schedule 5 (Pricing Details)

Order Ref:

Crown Copyright 2022

## Order Schedule 5 (Pricing Details)

### 1. Definitions

1.1 In this Order Schedule the following definitions shall apply save where the context requires otherwise:

<b>Actual Milestone Date</b>	the actual date on which the relevant Milestone is Achieved.
<b>Adjusted Milestone Payment</b>	the Milestone Payment less any Delay Payment.
<b>Appropriate</b>	for the purposes of paragraph 6.6 appropriate Exit Fees are charges that could reasonably be expected to be incurred in the conduct of delivering the relevant Services pursuant to this Order Contract and that is capable of withstanding public scrutiny as to it being justifiable on this basis.
<b>Attributable</b>	for the purposes of paragraph 6.6 attributable means Exit Fees that: <ul style="list-style-type: none"><li>a) are wholly attributable to, and only incurred in direct pursuit of the aims of, the provision of Services under this Call Off Contract;</li><li>b) are necessary to deliver the requirements of this Order Contract;</li><li>c) are not being (and will not be) recovered in any way from another contract (whether past, existing or proposed) of the Supplier;</li><li>d) are consistent with generally accepted accounting principles; and</li><li>e) has a causal relationship with the delivery of this Order Contract.</li></ul>
<b>Base Fee</b>	the base fees to be paid by the Buyer to the Supplier and relating to delivery of the Base Services in accordance with the terms of this Order Schedule.
<b>Base Fee Fixed</b>	means the services to be provided pursuant to: <ul style="list-style-type: none"><li>a) Section B1 (Business development activity) &amp; B2 (HNES Project Application Support) of Order Schedule 20 (Order Specification);</li><li>b) Section C1.1.4 (HNES portfolio reporting (benefits realisation)), C1.2 (Project Change Control), C1.3 (Escalation/Remedial Action), C1.1.5 (Engaging with projects and escalating issues to the Buyer); C1.1.6 (Database design and JSON outputs; C2 (Independent Evaluation), and C3 (Supplier performance monitoring) of Order Schedule 20 (Order Specification); and</li><li>c) Section D (Continuous Elements) of Order Schedule 20 (Order Specification),</li></ul> or otherwise described or reasonably to be inferred from Order Schedule 20 (Order Specification).
<b>Base Fee Variable</b>	means the services to be provided pursuant to:

	<p>Variable Application Assessment Fee</p> <ul style="list-style-type: none"> <li>a) B3 (HNES Project Assessment)</li> <li>b) B4 (Investment Committee)</li> <li>c) B5 (Funding)</li> </ul> <p>Variable Monitoring and Reporting</p> <ul style="list-style-type: none"> <li>a) C1.1.2 Reporting Requirements</li> <li>b) C1.1.3 Accuracy, completeness and punctuality of reports submitted by HNES Projects</li> </ul> <p>or otherwise described or reasonably to be inferred from Order Schedule 20 (Order Specification).</p>
<b>Capital Grant</b>	HNES Grant awarded to an HNES Applicant to deliver capital works for an HNES Project.
<b>Contract Year</b>	<ul style="list-style-type: none"> <li>a) a period of twelve (12) months commencing on the Funding Phase Commencement Date; or</li> <li>b) thereafter a period of twelve (12) months commencing on each anniversary of the Funding Phase Commencement Date,</li> </ul> <p>provided that the final Contract Year shall end on the expiry or earlier termination of the Order Contract.</p>
<b>Disputed Amount</b>	has the meaning given to it in paragraph 6.5.1 of this Order Schedule 5.
<b>Exit Fee</b>	the fee payable by the Buyer to the Supplier for providing the Termination Assistance during the Termination Assistance Period calculated by reference to the Rate Card.
<b>Exit Price</b>	the maximum price to be paid by the Buyer for Termination Assistance provided during the Termination Assistance as more particularly described in Order Schedule 10 (Exit Management).
<b>Grant Agreement</b>	the grant funding agreement pursuant to which a HNES Grant will be made available to a HNES Applicant following approval of the relevant HNES Application pursuant to the terms of the HNES Application Approval Process.
<b>Funding Phase Fees</b>	<p>the Charges payable to the Supplier from the Funding Phase Commencement Date for the delivery of the Funding Phase Services being:</p> <ul style="list-style-type: none"> <li>a) the Base Fee Fixed (until the date of termination); and</li> <li>b) the Base Fee Variable (until the date of termination);</li> </ul> <p>as applicable in the Relevant Month.</p>
<b>Funding Phase Commencement Date</b>	<p>in relation to the Funding Phase Services, the later of:</p> <ul style="list-style-type: none"> <li>a) the Actual Milestone Date for Milestone 1 and the Actual Milestone Date for Milestone 2; and</li> </ul>

	b) the date identified in the Implementation Plan upon which the Funding Services are to commence.
<b>Funding Phase Services</b>	<p>means the:</p> <ol style="list-style-type: none"> <li>1. Base Fees (Fixed); and</li> <li>2. Base Fees (Variable);</li> </ol> <p>and references to a <b>Funding Phase Service</b> in this Order Contract shall be construed accordingly.</p>
<b>HNES</b>	Heat Network Efficiency Scheme – DESNZ scheme providing capital grant support for addressing customer detriment and improving performance efficiency of existing district heating and communal heating projects, and revenue grant support for informing existing district heating and communal heating projects of the causes of sub-optimal performance and costed measures for improving performance.
<b>HNES Applicant</b>	an applicant to HNES for a HNES Grant.
<b>HNES Application</b>	an application for a HNES Grant submitted by a HNES Applicant and relating to a HNES Project.
<b>HNES Application Approval Process</b>	the application process for assessing and where applicable recommending for funding an HNES Application.
<b>HNES Demonstrator</b>	Heat Network Efficiency Scheme Demonstrator - completed one-year BEIS scheme providing capital grant support for addressing customer detriment and improving performance efficiency of existing district heating and communal heating projects, and revenue grant support for informing existing district heating and communal heating projects of the causes of sub-optimal performance and costed measures for improving performance.
<b>HNES Grant</b>	a grant to an HNES Applicant following approval of the relevant HNES Application pursuant to the HNES Application Approval Process drawn down (or to be drawn down) from HNES in accordance with the terms of the relevant Grant Agreement.
<b>HNES Project</b>	a heat network project identified in an HNES Application.
<b>Impact Assessment</b>	<p>an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including:</p> <ol style="list-style-type: none"> <li>a. details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>b. details of the cost of implementing the proposed Variation;</li> <li>c. details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the DPS Pricing/Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</li> <li>d. a timetable for the implementation, together with any proposals for the testing of the Variation; and</li> </ol>

	e. such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;
<b>Milestone Payment</b>	a payment identified in the Mobilisation Plan to be made following the issue of a Satisfaction Certificate and references to <b>Milestone Payments</b> shall be construed accordingly.
<b>Mobilisation Period</b>	a period of three (3) Months commencing on the Order Start Date and expiring on the Actual Completion Date of Milestone 2.
<b>Monthly Base Fee</b>	in respect of the relevant Contract Year, one twelfth (1/12) of the Base Fees.
<b>Optimisation Study</b>	means the primary deliverable/output of an HNES Revenue Grant, based on a defined draft scope of work.
<b>Rate Card</b>	means the Rate Card set out in Annex A.
<b>Reasonable</b>	for the purposes of paragraph 6.6 reasonable means Exit Fees that: <ul style="list-style-type: none"> <li>a) does not exceed what might reasonably be expected to be incurred in all the circumstances in relation to the particular activity in question;</li> <li>b) is consistent with available market benchmarks;</li> <li>c) represents value for money for the UK taxpayer; and</li> <li>d) can be evidenced on a sound, and preferably empirical, basis.</li> </ul>
<b>Relevant Month</b>	means the Month in which the relevant Services are delivered.
<b>Relevant Quarter</b>	means a period of three (3) Months commencing on the Funding Phase Commencement Date.
<b>Revenue Grant</b>	HNES Grant awarded to an HNES Applicant to deliver an Optimisation Study for an HNES Project.
<b>Service Period</b>	means: <ul style="list-style-type: none"> <li>a) a Relevant Month; and/or</li> <li>b) a Relevant Quarter, as the context so requires</li> </ul>
<b>Supporting Documentation</b>	sufficient information in writing to enable the Buyer reasonably to assess whether the Charges and/or other sums due from the Buyer detailed in the relevant invoice are properly payable, including copies of invoices, receipts, and/or any such other evidence to demonstrate that the Charges are payable by the Supplier together with such other information as the Buyer may reasonably require pursuant to Order Schedule 20.

## 2 Milestone Payments in the Mobilisation Period

- 2.1 During the Mobilisation Period, and subject to the remaining parts of this paragraph 2, the Supplier will be paid the Milestone Payment on the Actual Milestone Date for the relevant Milestone.
- 2.2 The Supplier shall only be entitled to invoice for a Milestone Payment once the Supplier has received the Satisfaction Certificate in respect of that Milestone. Following receipt of the



Satisfaction Certificate the Supplier shall be entitled to submit its invoice for payment of the Milestone Payment.

- 2.3 The terms of:
  - 2.3.1 clause 4 of the Core Terms; and
  - 2.3.2 the remaining provisions in this paragraph 2, shall apply to Milestone Payments.
- 2.4 Each invoice relating to a Milestone Payment shall be supported by a statement by the Supplier including:
  - 2.4.1 the value of the Milestone Payment;
  - 2.4.2 the value of any Deduction (including, without limitation, any Delay Payment) relating to the relevant Milestone;
  - 2.4.3 the Adjusted Milestone Payment (where applicable);
  - 2.4.4 a description of the Services provided in Achieving the Milestone;
  - 2.4.5 a Satisfaction Certificate in respect of the Achievement of the Milestone; and
  - 2.4.6 details of any VAT or other sales tax payable in respect of the Milestone Payment or Adjusted Milestone Payment (as the case may be); and
  - 2.4.7 such other information as the Buyer (acting reasonably) may require.
- 2.5 Where the Supplier fails to Achieve the Milestone on or before the relevant Milestone Date, the Supplier shall pay the Delay Payment to the Buyer in accordance with the terms of this paragraph 2 and paragraph 6 of Order Schedule 13 (Mobilisation Plan and Testing).
- 2.6 Achievement of a Milestone after the relevant Milestone Date shall not permit or entitle the Supplier to repayment or reimbursement of any Delay Payment applied in relation to the relevant Milestone.

### **3 Payments of the Base Fee Fixed**

- 3.1 The Base Fee shall be payable from the Funding Phase Commencement Date until expiry or earlier termination of the Order Contract
- 3.2 The Supplier shall be entitled to invoice for the Monthly Base Fees each Monthly in arrears. The Buyer shall pay to the Delivery Partner the Monthly Base Fees less any Deductions applicable in the relevant Service Period.
- 3.3 The Monthly Base Fees payable by the Buyer to the Supplier shall be calculated in respect of the Relevant Month to which the invoice relates.

### **4 Payment of the Base Fee Variable**

- 4.1 The Base Fee Variable will be payable from the Funding Phase Commencement Date until expiry or earlier termination of the Order Contract.
- 4.2 The Supplier shall be entitled to invoice the Base Fee Variable - Application Assessment Fee each Month in arrears, following completion of B3 (HNES Project Assessment), B4 (Investment Committee) and B5 (Funding).

- 4.3 The Supplier shall be entitled to the Base Fee Variable - Monitoring and Reporting Fee each Quarter in arrears, following completion of C1.1.2 Reporting Requirements and C1.1.3 Accuracy, completeness and punctuality of reports submitted by HNES Projects.

**5 Exit Fees**

- 5.1 During the Termination Assistance Period, the Supplier will be entitled to recover the Exit Fees up to the Exit Price, in accordance with the terms of this Order Schedule 5 and Order Schedule 10 (Exit Management) provided always that the Buyer has not terminated the Order Contract under Core Term 10.4 (When CCS or the buyer can end a contract).

**6 Invoicing**

- 6.1 The Supplier shall issue a single invoice each calendar month in relation to the preceding Month when it is entitled to do so under the terms of this Order Schedule 5 (Pricing Details).
- 6.2 The Supplier shall issue the invoice no later than the fifth (5<sup>th</sup>) Working Day of the Month following the Relevant Month.
- 6.3 The terms of:
- 6.3.1 clause 4 of the Core Terms; and
- 6.3.2 the remaining provisions in this paragraph 6, shall apply to the Funding Phase Fees and the Exit Fees (as the case may be).
- 6.4 Each invoice relating in whole or in part to the payment of Funding Phase Fees or Exit Fees (as the case may be) shall be supported by:
- 6.4.1 a statement by the Supplier of the amount considered to be due and the basis upon which it is calculated including:
- 6.4.1.1 a description of the Services (including Termination Assistance) provided in the applicable Service Period;
- 6.4.1.2 the dates on which such Services (including Termination Assistance) were performed; and
- 6.4.1.3 the Supplier's calculation of the Funding Phase Fees and Exit Fees calculated in accordance the requirements of this Order Schedule 5 (Pricing Details);
- 6.4.2 Supporting Documentation; and
- 6.4.3 details of any VAT or other sales tax payable in respect of the Charges;
- 6.4.4 the Supplier's calculation of:
- 6.4.4.1 any Deductions;
- 6.4.4.2 any entitlement of the Buyer to any other payment by the Supplier under this Order Contract;
- 6.4.4.3 the entitlement of the Buyer to payment of any over-payment made to the Supplier; and
- 6.4.5 a contact name and telephone number of a responsible person in the Supplier's finance department in the event of administrative queries.
- 6.5 If the Buyer disputes the Supplier's entitlement to any part of the amount claimed by the Contractor pursuant to this Order Schedule 5, in respect of any Service Period, then, subject to paragraphs 6.2, 6.3 and 6.4(Invoicing) of this Order Schedule 5, the provisions of this paragraph 6.5 (Invoicing) shall apply:
- 6.5.1 the Buyer shall notify the Supplier in writing within ten (10) Working Days of receipt by the Buyer of the relevant invoice and supporting material referenced in paragraph 6.4 (Invoicing) of this Order Schedule of that part of the amount (insofar as at the time of such notice the Buyer is reasonably able to quantify it) which the Buyer (acting in good faith) disputes (a

- Disputed Amount**) and submit to the Supplier such supporting evidence as the Buyer may have; and
- 6.5.2 the Buyer may withhold payment of any Disputed Amount pending agreement or determination of the Supplier's entitlement in relation to the Disputed Amount but shall pay on the due date any undisputed amounts.
- 6.6 The Supplier shall be entitled to be paid the Exit Fees (as the case may be) for the relevant Service Period provided and to the extent that such charges meet all of the following requirements:
- 6.6.1 the Exit Fees (as the case may be) are Appropriate;
- 6.6.2 the Exit Fees (as the case may be) are Attributable; and
- 6.6.3 the Exit Fees (as the case may be) are Reasonable.
- 6.7 The Supplier shall provide to the Buyer promptly on being requested to do so such Open Book Data or other information as the Buyer may reasonably request from time to time to verify that the Exit Fees (as the case may be) for which the Supplier is or may be seeking payment under this Order Contract meet the requirements of paragraph 6.6. Without prejudice to the generality of the foregoing, the Supplier shall ensure that any such invoice is presented with Supporting Documentation for the purpose of verifying that the Exit Fees (as the case may be).
- 7 Double counting**
- 7.1 There shall be no double counting by the Supplier in relation to the calculation of the Charges or parts thereof.
- 8 Pricing of Variations**
- 8.1 The cost of any Variation pursuant to Contract Term 24 (Changing the contract) and Joint Schedule 2 (Variation Form) shall be calculated and, for the purposes of adjusting the Milestone Payments and/or the other Charges (as the case may be) to reflect such cost where necessary, an appropriate and proportionate adjustment shall be made to the basis on which such Milestone Payments and/or any other part of the Charges (as the case may be) are payable under Order Schedule 5 (Pricing Details).
- 8.2 The Supplier shall be entitled to increase the Milestone Payment or the relevant component of the Charges (as the case may be) only if it can demonstrate in the Impact Assessment that:
- 8.2.1 the proposed Variation requires additional resources or additional activity;
- 8.2.2 any change to the Milestone Payments or the relevant component of the Charges (as the case may be) resulting from a Variation (whether the Variation will cause an increase or a decrease in the Milestone Payments or the relevant component of the Charges (as the case may be)) will be strictly proportionate to the requirements of the Variation and consistent with the approach of the Supplier in its tender submission set out in Order Schedule 4 (Order Tender); and
- 8.2.3 any increase or decrease in the level of resources or activity required for the provision of the Services as amended by the Variation shall:
- 8.2.3.1 not result in an adjustment to the economic balance of this Order Contract in favour of the Supplier;
- 8.2.3.2 not result in an increase to the Supplier Profit Margin;
- 8.2.3.3 be priced using the Rate Card; and
- 8.2.3.4 be subject to Audit and shall be treated as Open Book Data.

## **9 Indexation**

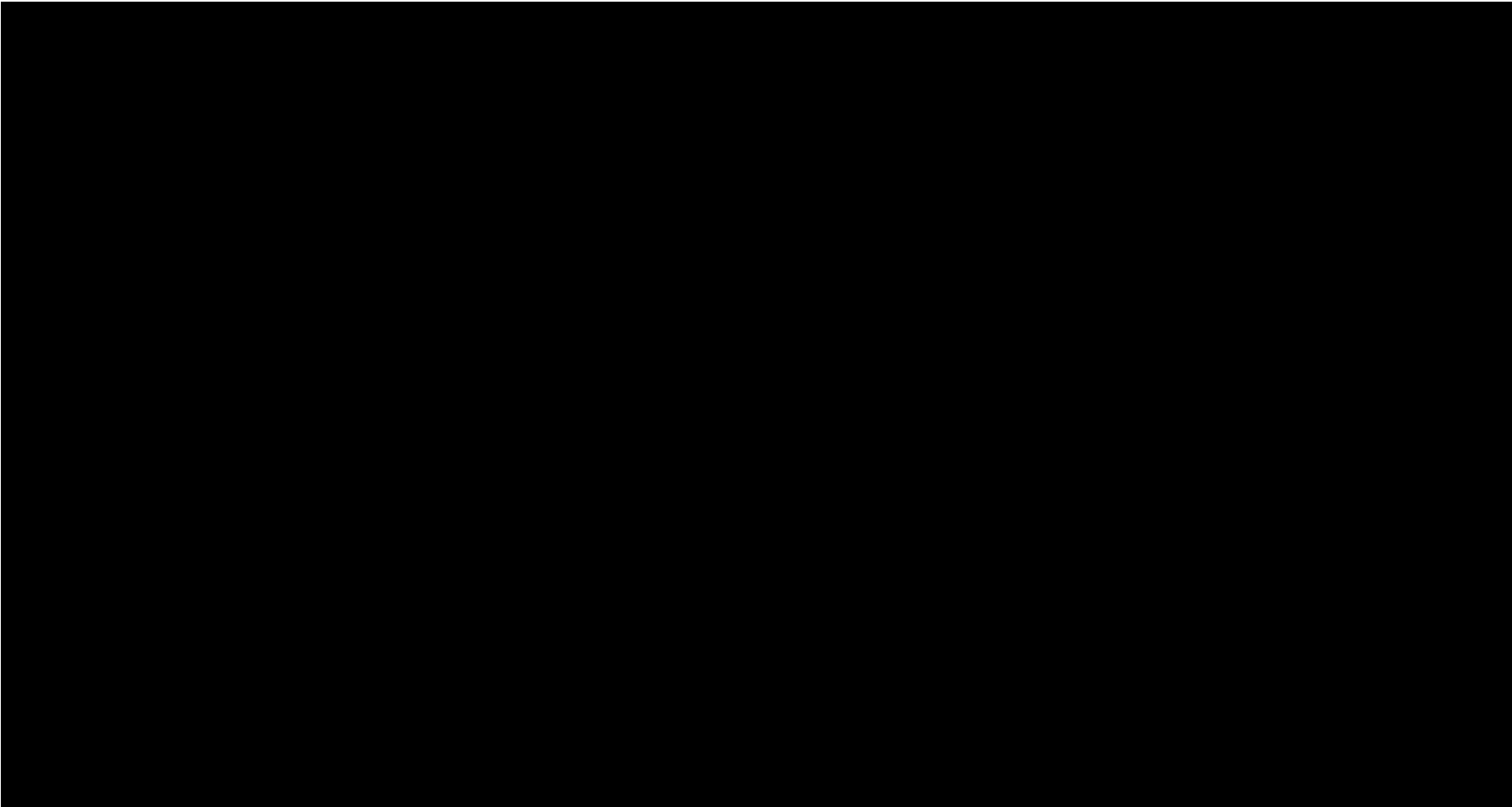
9.1 The pricing mechanism is Fixed Price although will be subject to increase on the second and fourth (if extended) anniversary of the contract start date. The rates that relate to staff wages in the pricing schedule may be amended in line with by the ONS (Office of National Statistics) Average Weekly Earnings via contract variation. The maximum increase will be calculated using 'AWE: Whole Economy Index: Seasonally Adjusted Total Pay Excluding Arrears' document, calculating the percentage increase from the start date figure/ figure from the previous review to the most up to date available figure. The supplier will need to evidence that their wages relating to the contract have increased, and any increase may be up to their actual increase and not more than by the calculated percentage in order for the variation to apply.

## **10 Assumptions**

- 10.1 The Buyer and the Supplier acknowledge and agree that any assumptions relating to the Charges whether:
- 10.1.1 submitted by the Supplier as part of its Order Tender; or
  - 10.1.2 set out in Order Schedule 20 (Order Specification),
- are for information only and shall not be used or relied on for the purposes of requesting or requiring Variations to the Charges payable by the Buyer under this Order Contract.

**Order Schedule 5 (Pricing Details)**

Order Ref:  
Crown Copyright 2022



## Call-Off Schedule 5 (Call-Off Pricing)

Crown Copyright 2017



Crown  
Commercial  
Services

Ref: RM3830

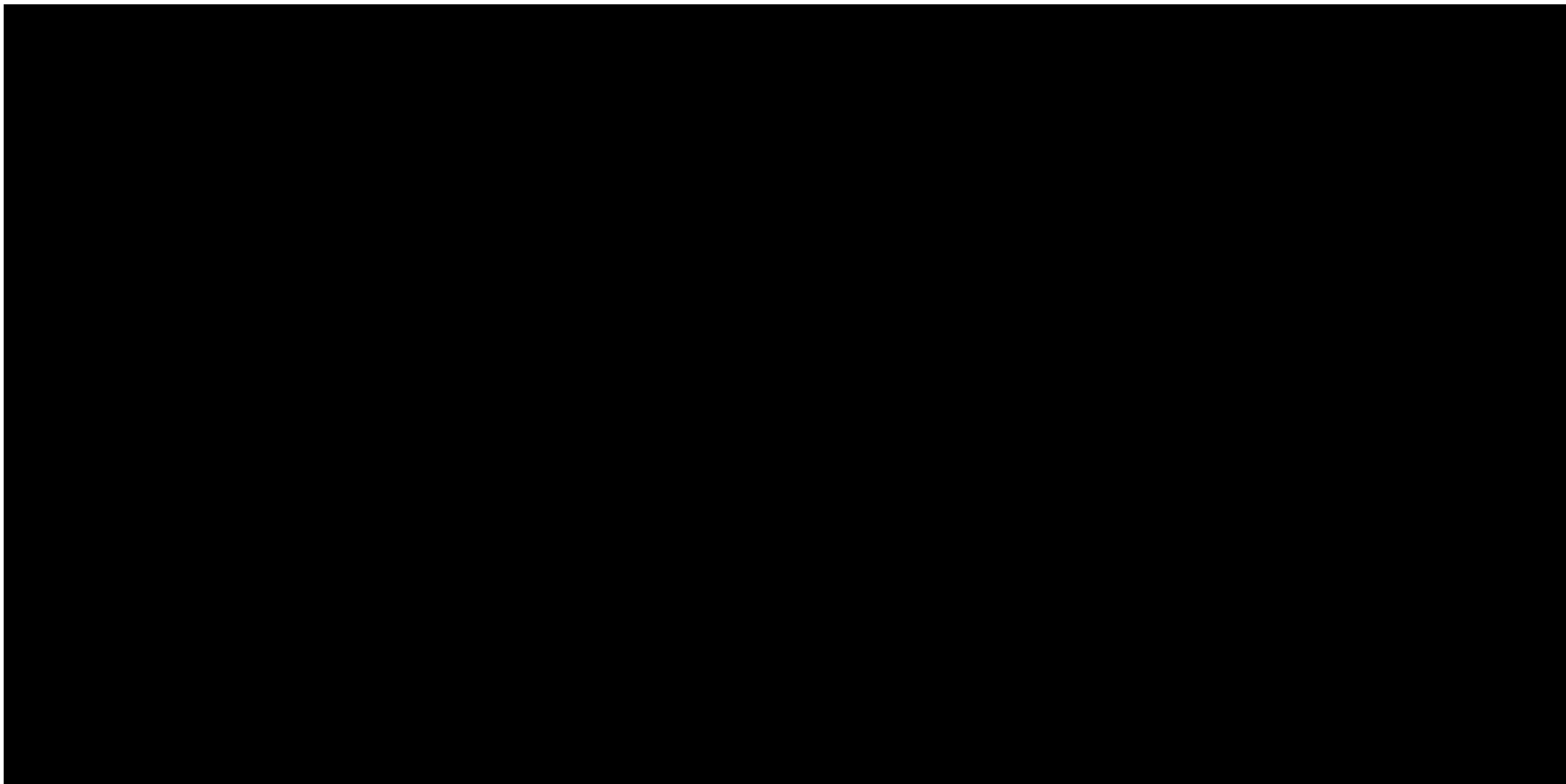
FM Project Version: 1.A

## Call-Off Schedule 5 (Call-Off Pricing)

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Crown  
Commercial  
Service



Ref: RM3830

FM Project Version: 1.A

**Call-Off Schedule 5 (Call-Off Pricing)**

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Crown  
Commercial  
Service



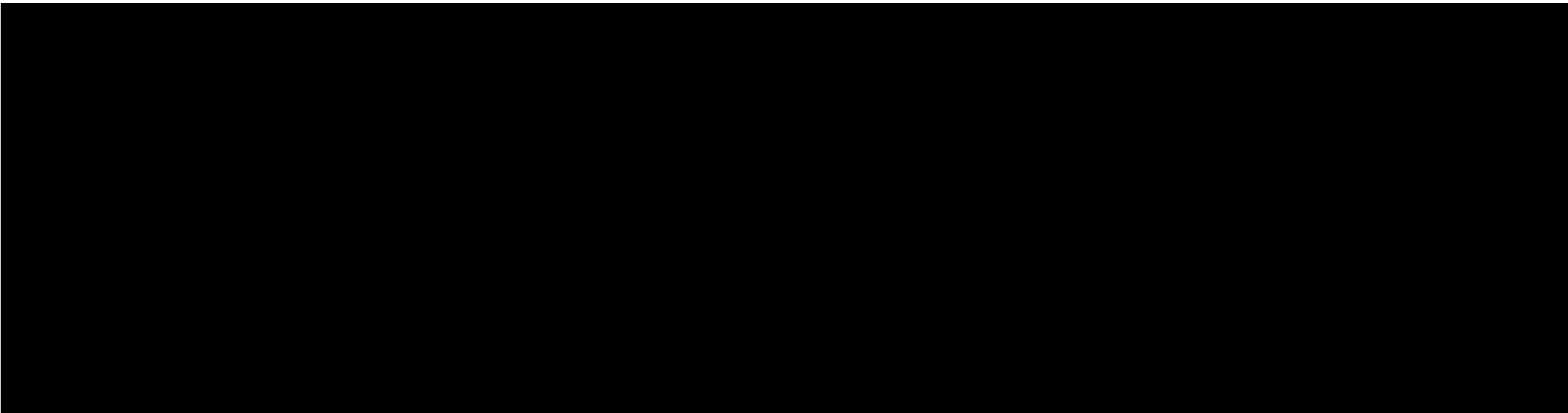


## Call-Off Schedule 5 (Call-Off Pricing)

Crown Copyright 2017



Crown  
Commercial  
Service



**Call-Off Schedule 5 (Call-Off Pricing)**

Crown Copyright 2017



Crown  
Commercial  
Service

Ref: RM3830

FM Project Version: 1.A

## Call-Off Schedule 5 (Call-Off Pricing)

Crown Copyright 2017



Crown  
Commercial  
Service

## Call-Off Schedule 5 (Call-Off Pricing)

Crown Copyright 2017



Crown  
Commercial  
Service

Ref: RM3830

FM Project Version: 1.A

## **Order Schedule 7 (Key Supplier Staff)**

- 1.1 The Order Form lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date.
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
  - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
  - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully

**Order Schedule 7 (Key Supplier Staff)**

Order Ref:

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competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.

- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.
- 1.7 The Supplier shall ensure that all Services are provided on an independent and impartial basis and in particular (but without limitation) that no actual or potential conflict of interest arises, or could reasonably be perceived as being at risk of arising.

**Order Schedule 7 (Key Supplier Staff)**

Order Ref:

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## Order Schedule 8 (Business Continuity and Disaster Recovery)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>“Annual Revenue”</b>	<p>means, for the purposes of determining whether an entity is a Public Sector Dependent Supplier, the audited consolidated aggregate revenue (including share of revenue of joint ventures and Associates) reported by the Supplier or, as appropriate, the Supplier Group in its most recent published accounts, subject to the following methodology:</p> <p>figures for accounting periods of other than 12 months should be scaled pro rata to produce a proforma figure for a 12 month period; and</p> <p>1 where the Supplier, the Supplier Group and/or their joint ventures and Associates report in a foreign currency, revenue should be converted to British Pound Sterling at the closing exchange rate on the Accounting Reference Date;</p>
<b>“Appropriate Authority” or “Appropriate Authorities”</b>	<p>2 means the Buyer and the Cabinet Office Markets and Suppliers Team or, where the Supplier is a Strategic Supplier, the Cabinet Office Markets and Suppliers Team;</p>
<b>“Associates”</b>	<p>3 means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;</p>
<b>"BCDR Plan"</b>	<p>4 has the meaning given to it in Paragraph 2.2 of this Schedule;</p>
<b>"Business Continuity Plan"</b>	<p>5 has the meaning given to it in Paragraph 2.3.2 of this Schedule;</p>
<b>“Class 1 Transaction”</b>	<p>6 has the meaning set out in the listing rules issued by the UK Listing Authority;</p>
<b>“Control”</b>	<p>7 the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person</p>



(whether through the ownership of voting shares, by contract or otherwise) and “**Controls**” and “**Controlled**” shall be interpreted accordingly;

**“Corporate  
Change Event”**

means:

- (1) any change of Control of the Supplier or a Parent Undertaking of the Supplier;
- (2) any change of Control of any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Deliverables;
- (3) any change to the business of the Supplier or any member of the Supplier Group which, in the reasonable opinion of the Buyer, could have a material adverse effect on the Deliverables;
- (4) a Class 1 Transaction taking place in relation to the shares of the Supplier or any Parent Undertaking of the Supplier whose shares are listed on the main market of the London Stock Exchange plc;
- (5) an event that could reasonably be regarded as being equivalent to a Class 1 Transaction taking place in respect of the Supplier or any Parent Undertaking of the Supplier;
- (6) payment of dividends by the Supplier or the ultimate Parent Undertaking of the Supplier Group exceeding 25% of the Net Asset Value of the Supplier or the ultimate Parent Undertaking of the Supplier Group respectively in any 12 month period;
- (7) an order is made or an effective resolution is passed for the winding up of any member of the Supplier Group;
- (8) any member of the Supplier Group stopping payment of its debts generally or becoming unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986 or any member of the Supplier Group ceasing to carry on all or substantially all its business, or any compromise, composition, arrangement or

## Order Schedule 8 (Business Continuity and Disaster Recovery)

Order Ref:

Crown Copyright 2022

agreement being made with creditors of any member of the Supplier Group;

- (9) the appointment of a receiver, administrative receiver or administrator in respect of or over all or a material part of the undertaking or assets of any member of the Supplier Group; and/or

8 any process or events with an effect analogous to those in paragraphs (e) to (g) inclusive above occurring to a member of the Supplier Group in a jurisdiction outside England and Wales;

### **“Critical National Infrastructure”**

means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in:

major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or

9 significant impact on the national security, national defence, or the functioning of the UK;

### **“Critical Service Contract”**

10 a service contract which the Buyer has categorised as a Gold Contract using the Cabinet Office Contract Tiering Tool or which the Buyer otherwise considers should be classed as a Critical Service Contract;

### **“CRP Information”**

means, together, the:

Group Structure Information and Resolution Commentary; and

11 UK Public Sector and CNI Contract Information;

### **“Dependent Parent Undertaking”**

12 means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into the Contract, including for the avoidance of doubt the provision of the Deliverables in accordance with the terms of the Contract;

## Order Schedule 8 (Business Continuity and Disaster Recovery)

Order Ref:

Crown Copyright 2022

	13
<b>"Disaster"</b>	14 the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
<b>"Disaster Recovery Deliverables"</b>	15 the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
<b>"Disaster Recovery Plan"</b>	16 has the meaning given to it in Paragraph 2.3.3 of this Schedule;
<b>"Disaster Recovery System"</b>	17 the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster;
<b>"Group Structure Information and Resolution Commentary"</b>	18 means the information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 2 to 4 and Appendix 1 to Part B;
<b>"Parent Undertaking"</b>	19 has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Public Sector Dependent Supplier"</b>	20 means a supplier where that supplier, or that supplier's group has Annual Revenue of £50 million or more of which over 50% is generated from UK Public Sector Business;
<b>"Related Supplier"</b>	21 any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
<b>"Review Report"</b>	22 has the meaning given to it in Paragraph 6.3 of this Schedule; and
<b>"Strategic Supplier"</b>	means those suppliers to government listed at 23 <a href="https://www.gov.uk/government/publications/strategic-suppliers">https://www.gov.uk/government/publications/strategic-suppliers</a> ;
<b>"Subsidiary Undertaking"</b>	24 has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Supplier Group"</b>	25 means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
<b>"Supplier's Proposals"</b>	26 has the meaning given to it in Paragraph 6.3 of this Schedule;

**“UK Public Sector Business”**

27 means any goods, service or works provision to UK public sector bodies, including Central Government Departments and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police, fire and rescue, education bodies and devolved administrations; and

**“UK Public Sector / CNI Contract Information”**

28 means the information relating to the Supplier Group to be provided by the Supplier in accordance with Paragraphs 2 to 4 and Appendix 2 of Part B;

## Part A: BCDR Plan

### 1. BCDR Plan

1.1 The Buyer and the Supplier recognise that, where specified in DPS Schedule 4 (DPS Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.

1.2 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a **“BCDR Plan”**), which shall detail the processes and arrangements that the Supplier shall follow to:

1.2.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and

1.2.2 the recovery of the Deliverables in the event of a Disaster

1.3 The BCDR Plan shall be divided into four sections:

1.3.1 Section 1 which shall set out general principles applicable to the BCDR Plan;

1.3.2 Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**);

1.3.3 Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**); and

1.3.4 Section 4 which shall relate to an Insolvency Event of the Supplier, and Key Subcontractors and/or any Supplier Group member (the **“Insolvency Continuity Plan”**).

1.2 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

## **2. General Principles of the BCDR Plan (Section 1)**

### **2.1 Section 1 of the BCDR Plan shall:**

- 2.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 2.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 2.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 2.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 2.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 2.1.6 contain a risk analysis, including:
  - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
  - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
  - (c) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
  - (d) a business impact analysis of different anticipated failures or disruptions;
- 2.1.7 provide for documentation of processes, including business processes, and procedures;
- 2.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 2.1.9 identify the procedures for reverting to "normal service";
- 2.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 2.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan;
- 2.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans;

## **Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

- 2.1.13 set out how the business continuity and disaster recovery elements of the BCDR Plan link to the Insolvency Continuity Plan, and how the Insolvency Continuity Plan links to the business continuity and disaster recovery elements of the BCDR Plan;
  - 2.1.14 contain an obligation upon the Supplier to liaise with the Buyer and (at the Buyer's request) any Related Supplier with respect to issues concerning insolvency continuity where applicable; and
  - 2.1.15 detail how the BCDR Plan links and interoperates with any overarching and/or connected insolvency continuity plan of the Buyer and any of its other Related Suppliers in each case as notified to the Supplier by the Buyer from time to time.
- 2.2 The BCDR Plan shall be designed so as to ensure that:
- 2.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
  - 2.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
  - 2.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
  - 2.2.4 it details a process for the management of disaster recovery testing.
- 2.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 2.4 The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI's) or Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

### **3. Business Continuity (Section 2)**

- 3.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
- 3.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
  - 3.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 3.2 The Business Continuity Plan shall:
- 3.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;

## **Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

- 3.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
- 3.2.3 specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
- 3.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

### **4. Disaster Recovery (Section 3)**

- 4.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 4.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
  - 4.2.1 loss of access to the Buyer Premises;
  - 4.2.2 loss of utilities to the Buyer Premises;
  - 4.2.3 loss of the Supplier's helpdesk or CAFM system;
  - 4.2.4 loss of a Subcontractor;
  - 4.2.5 emergency notification and escalation process;
  - 4.2.6 contact lists;
  - 4.2.7 staff training and awareness;
  - 4.2.8 BCDR Plan testing;
  - 4.2.9 post implementation review process;
  - 4.2.10 any applicable Performance Indicators (PI's) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI's) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
  - 4.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
  - 4.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
  - 4.2.13 testing and management arrangements.

## **5. Insolvency Continuity Plan (Section 4)**

- 5.1 The Insolvency Continuity Plan shall be designed by the Supplier to permit continuity of the business operations of the Buyer supported by the Deliverables through continued provision of the Deliverables following an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Insolvency Continuity Plan shall include the following:
- 5.2.1 communication strategies which are designed to minimise the potential disruption to the provision of the Deliverables, including key contact details in respect of the supply chain and key contact details for operational and contract Supplier Staff, Key Subcontractor personnel and Supplier Group member personnel;
  - 5.2.2 identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the Supplier, Key Subcontractors and Supplier Group members where failure of those dependencies could reasonably have an adverse impact on the Deliverables;
  - 5.2.3 plans to manage and mitigate identified risks;
  - 5.2.4 details of the roles and responsibilities of the Supplier, Key Subcontractors and/or Supplier Group members to minimise and mitigate the effects of an Insolvency Event of such persons on the Deliverables;
  - 5.2.5 details of the recovery team to be put in place by the Supplier (which may include representatives of the Supplier, Key Subcontractors and Supplier Group members); and
  - 5.2.6 sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an Insolvency Event of the Supplier.

## **6. Review and changing the BCDR Plan**

- 6.1 The Supplier shall review the BCDR Plan:
- 6.1.1 on a regular basis and as a minimum once every six (6) Months;
  - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 8; and
  - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.



## Order Schedule 8 (Business Continuity and Disaster Recovery)

Order Ref:

Crown Copyright 2022

- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

## 7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
  - 7.1.1 regularly and in any event not less than once in every Contract Year;
  - 7.1.2 in the event of any major reconfiguration of the Deliverables
  - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.

## **Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- 7.5.1 the outcome of the test;
  - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

### **8. Invoking the BCDR Plan**

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.
- 8.2 The Insolvency Continuity Plan element of the BCDR Plan, including any linked elements in other parts of the BCDR Plan, shall be invoked by the Supplier:
- 8.2.1 Where an Insolvency Event of a Key Sub-contractor and/or Supplier Group member (other than the Supplier) could reasonably be expected to adversely affect delivery of the Deliverables; and/or
  - 8.2.2 Where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan.

### **9. Circumstances beyond your control**

- 9.1 The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

### **10. Amendments to this Schedule in respect of Bronze Contracts**

10.1 Where a Buyer's Order Contract is a Bronze Contract, if specified in the Order Form, the following provisions of this Order Schedule 8, shall be disapplied in respect of that Contract:

10.1.1 Paragraph 1.3.4 of Part A so that the BCDR plan shall only be required to be split into the three sections detailed in paragraphs 1.3.1 to 1.3.3 inclusive;

10.1.2 Paragraphs 2.1.13 to 2.1.15 of Part A, inclusive;

**Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

10.1.3 Paragraph 5 (Insolvency Continuity Plan) of Part A;

10.1.4 Paragraph 8.2 of Part A; and

10.1.5 The entirety of Part B of this Schedule.

10.2 Where a Buyer's Order Contract is a Bronze Contract, if specified in the Order Form, the following definitions in Paragraph 1 of this Order Schedule 8, shall be deemed to be deleted:

10.2.1 Annual Review;

10.2.2 Appropriate Authority or Appropriate Authorities;

10.2.3 Associates;

10.2.4 Class 1 Transaction;

10.2.5 Control;

10.2.6 Corporate Change Event;

10.2.7 Critical National Infrastructure;

10.2.8 Critical Service Contract;

10.2.9 CRP Information;

10.2.10 Dependent Parent Undertaking;

10.2.11 Group Structure Information and Resolution Commentary;

10.2.12 Parent Undertaking;

10.2.13 Public Sector Dependent Supplier;

10.2.14 Subsidiary Undertaking;

10.2.15 Supplier Group;

10.2.16 UK Public Sector Business; and

10.2.17 UK Public Sector/CNI Contract Information.

## **Part B: Corporate Resolution Planning**

### **1. Service Status and Supplier Status**

- 1.1 This Contract is not a Critical Service Contract.
- 1.2 The Supplier shall notify the Buyer in writing within 5 Working Days of the Effective Date and throughout the Order Contract Period within 120 days after each Accounting Reference Date as to whether or not it is a Public Sector Dependent Supplier.

### **2. Provision of Corporate Resolution Planning Information**

- 2.1 Paragraphs 2 to 4 of this Part B shall apply if the Contract has been specified as a Critical Service Contract under Paragraph 1.1 of this Part B or the Supplier is or becomes a Public Sector Dependent Supplier.
- 2.2 Subject to Paragraphs 2.6, 2.10 and 2.11 of this Part B:
  - 2.2.1 where the Contract is a Critical Service Contract, the Supplier shall provide the Appropriate Authority or Appropriate Authorities with the CRP Information within 60 days of the Effective Date; and
  - 2.2.2 except where it has already been provided, where the Supplier is a Public Sector Dependent Supplier, it shall provide the Appropriate Authority or Appropriate Authorities with the CRP Information within 60 days of the date of the Appropriate Authority's or Appropriate Authorities' request.
- 2.3 The Supplier shall ensure that the CRP Information provided pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B:
  - 2.3.1 is full, comprehensive, accurate and up to date;
  - 2.3.2 is split into two parts:
    - (a) Group Structure Information and Resolution Commentary;
    - (b) UK Public Service / CNI Contract Information and is structured and presented in accordance with the requirements and explanatory notes set out at Annex I of the latest published version of the Resolution Planning Guidance published by the Cabinet Office Government Commercial Function and available at <https://www.gov.uk/government/publications/the-outsourcingplaybook> and contains the level of detail required (adapted as necessary to the Supplier's circumstances);
  - 2.3.3 incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the Appropriate Authority or Appropriate Authorities to understand and consider the information for approval;
  - 2.3.4 provides a clear description and explanation of the Supplier Group members that have agreements for goods, services or works provision

**Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

- in respect of UK Public Sector Business and/or Critical National Infrastructure and the nature of those agreements; and
- 2.3.5 complies with the requirements set out at Appendix 1 (Group Structure Information and Resolution Commentary) and Appendix 2 (UK Public Sector / CNI Contract Information) respectively.
- 2.4 Following receipt by the Appropriate Authority or Appropriate Authorities of the CRP Information pursuant to Paragraphs 2.2, 2.8 and 2.9 of this Part B, the Buyer shall procure that the Appropriate Authority or Appropriate Authorities shall discuss in good faith the contents of the CRP Information with the Supplier and no later than 60 days after the date on which the CRP Information was delivered by the Supplier either provide an Assurance to the Supplier that the Appropriate Authority or Appropriate Authorities approves the CRP Information or that the Appropriate Authority or Appropriate Authorities rejects the CRP Information.
- 2.5 If the Appropriate Authority or Appropriate Authorities rejects the CRP Information:
- 2.5.1 the Buyer shall (and shall procure that the Cabinet Office Markets and Suppliers Team shall) inform the Supplier in writing of its reasons for its rejection; and
- 2.5.2 the Supplier shall revise the CRP Information, taking reasonable account of the Appropriate Authority's or Appropriate Authorities' comments, and shall re-submit the CRP Information to the Appropriate Authority or Appropriate Authorities for approval within 30 days of the date of the Appropriate Authority's or Appropriate Authorities' rejection. The provisions of paragraph 2.3 to 2.5 of this Part B shall apply again to any resubmitted CRP Information provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure under Clause 34 of the Core Terms at any time.
- 2.6 Where the Supplier or a member of the Supplier Group has already provided CRP Information to a Department or the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its CRP Information from that Department and the Cabinet Office Markets and Suppliers Team (or, in the case of a Strategic Supplier, solely from the Cabinet Office Markets and Suppliers Team), then provided that the Assurance remains Valid (which has the meaning in paragraph 2.7 below) on the date by which the CRP Information would otherwise be required, the Supplier shall not be required to provide the CRP Information under Paragraph 2.2 if it provides a copy of the Valid Assurance to the Appropriate Authority or Appropriate Authorities on or before the date on which the CRP Information would otherwise have been required.
- 2.7 An Assurance shall be deemed Valid for the purposes of Paragraph 2.6 of this Part B if:
- 2.7.1 the Assurance is within the validity period stated in the Assurance (or, if no validity period is stated, no more than 12 months has elapsed since

**Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

it was issued and no more than 18 months has elapsed since the Accounting Reference Date on which the CRP Information was based); and

- 2.7.2 no Corporate Change Events or Financial Distress Events (or events which would be deemed to be Corporate Change Events or Financial Distress Events if the Contract had then been in force) have occurred since the date of issue of the Assurance.
- 2.8 If the Contract is a Critical Service Contract, the Supplier shall provide an updated version of the CRP Information (or, in the case of Paragraph 2.8.3 of this Part B its initial CRP Information) to the Appropriate Authority or Appropriate Authorities:
- 2.8.1 within 14 days of the occurrence of a Financial Distress Event (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 2.11 of this Part B) unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 of Joint Schedule 7 (Financial Distress) (if applicable);
- 2.8.2 within 30 days of a Corporate Change Event unless not required pursuant to Paragraph 2.10;
- 2.8.3 within 30 days of the date that:
- (a) the credit rating(s) of each of the Supplier and its Parent Undertakings fail to meet any of the criteria specified in Paragraph 2.10; or
  - (b) none of the credit rating agencies specified at Paragraph 2.10 hold a public credit rating for the Supplier or any of its Parent Undertakings; and
- 2.8.4 in any event, within 6 months after each Accounting Reference Date or within 15 months of the date of the previous Assurance received from the Appropriate Authority (whichever is the earlier), unless:
- (a) updated CRP Information has been provided under any of Paragraphs 2.8.1 2.8.2 or 2.8.3 since the most recent Accounting Reference Date (being no more than 12 months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 2.8.4; or
  - (b) unless not required pursuant to Paragraph 2.10.
- 2.9 Where the Supplier is a Public Sector Dependent Supplier and the Contract is not a Critical Service Contract, then on the occurrence of any of the events specified in Paragraphs 2.8.1 to 2.8.4 of this Part B, the Supplier shall provide at the request of the Appropriate Authority or Appropriate Authorities and within the applicable timescales for each event as set out in Paragraph 2.8 (or such longer timescales as may be notified to the Supplier by the Buyer), the CRP Information to the Appropriate Authority or Appropriate Authorities.

## **Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

- 2.10 Where the Supplier or a Parent Undertaking of the Supplier has a credit rating of either:

2.10.1 Aa3 or better from Moody's;

2.10.2 AA- or better from Standard and Poors;

2.10.3 AA- or better from Fitch;

the Supplier will not be required to provide any CRP Information unless or until either (i) a Financial Distress Event occurs (unless the Supplier is relieved of the consequences of the Financial Distress Event under Paragraph 7.1 to Joint Schedule 7 (Financial Distress), if applicable) or (ii) the Supplier and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 2.10, in which cases the Supplier shall provide the updated version of the CRP Information in accordance with paragraph 2.8.

- 2.11 Subject to Paragraph 4, where the Supplier demonstrates to the reasonable satisfaction of the Appropriate Authority or Appropriate Authorities that a particular item of CRP Information is highly confidential, the Supplier may, having orally disclosed and discussed that information with the Appropriate Authority or Appropriate Authorities, redact or omit that information from the CRP Information provided that if a Financial Distress Event occurs, this exemption shall no longer apply and the Supplier shall promptly provide the relevant information to the Appropriate Authority or Appropriate Authorities to the extent required under Paragraph 2.8.

### **3. Termination Rights**

- 3.1 The Buyer shall be entitled to terminate the Contract if the Supplier is required to provide CRP Information under Paragraph 2 of this Part B and either:

3.1.1 the Supplier fails to provide the CRP Information within 4 months of the Effective Date if this is a Critical Service Contract or otherwise within 4 months of the Appropriate Authority's or Appropriate Authorities' request; or

3.1.2 the Supplier fails to obtain an Assurance from the Appropriate Authority or Appropriate Authorities within 4 months of the date that it was first required to provide the CRP Information under the Contract,

which shall be deemed to be an event to which Clause 10.4.1 of the Core Terms applies and Clauses 10.6.1 and 10.6.2 of the Core Terms shall apply accordingly.

### **4. Confidentiality and usage of CRP Information**

- 4.1 The Buyer agrees to keep the CRP Information confidential and use it only to understand the implications of an Insolvency Event of the Supplier and/or Supplier Group members on its UK Public Sector Business and/or services in respect of CNI and to enable contingency planning to maintain service continuity for end users and protect CNI in such eventuality.

## **Order Schedule 8 (Business Continuity and Disaster Recovery)**

Order Ref:

Crown Copyright 2022

- 4.2 Where the Appropriate Authority is the Cabinet Office Markets and Suppliers Team, at the Supplier's request, the Buyer shall use reasonable endeavours to procure that the Cabinet Office enters into a confidentiality and usage agreement with the Supplier containing terms no less stringent than those placed on the Buyer under paragraph 4.1 of this Part B and Clause 15 of the Core Terms.
- 4.3 The Supplier shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the CRP Information to enable disclosure of that information to the Appropriate Authority or Appropriate Authorities pursuant to Paragraph 2 of this Part B subject, where necessary, to the Appropriate Authority or Appropriate Authorities entering into an appropriate confidentiality agreement in the form required by the third party.
- 4.4 Where the Supplier is unable to procure consent pursuant to Paragraph 4.3 of this Part B, the Supplier shall use all reasonable endeavours to disclose the CRP Information to the fullest extent possible by limiting the amount of information it withholds including by:
  - 4.4.1 redacting only those parts of the information which are subject to such obligations of confidentiality;
  - 4.4.2 providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:
    - (a) summarising the information;
    - (b) grouping the information;
    - (c) anonymising the information; and
    - (d) presenting the information in general terms
- 4.5 The Supplier shall provide the Appropriate Authority or Appropriate Authorities with contact details of any third party which has not provided consent to disclose CRP Information where that third party is also a public sector body and where the Supplier is legally permitted to do so.



## **Appendix 1: Group structure information and resolution commentary**

1. The Supplier shall:

- 1.1 provide sufficient information to allow the Appropriate Authority to understand the implications on the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Appendix 2 if the Supplier or another member of the Supplier Group is subject to an Insolvency Event;
- 1.2 ensure that the information is presented so as to provide a simple, effective and easily understood overview of the Supplier Group; and
- 1.3 provide full details of the importance of each member of the Supplier Group to the Supplier Group's UK Public Sector Business and CNI contracts listed pursuant to Appendix 2 and the dependencies between each.

## **Appendix 2: UK Public Sector / CNI Contract Information**

1. The Supplier shall:
  - 1.1 provide details of all agreements held by members of the Supplier Group where those agreements are for goods, services or works provision and:
    - 1.1.1 are with any UK public sector bodies including: central Government departments and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police fire and rescue, education bodies and the devolved administrations;
    - 1.1.2 are with any private sector entities where the end recipient of the service, goods or works provision is any of the bodies set out in paragraph 1.1.1 of this Appendix 2 and where the member of the Supplier Group is acting as a key sub-contractor under the agreement with the end recipient; or
    - 1.1.3 involve or could reasonably be considered to involve CNI;
  - 1.2 provide the Appropriate Authority with a copy of the latest version of each underlying contract worth more than £5m per contract year and their related key sub-contracts, which shall be included as embedded documents within the CRP Information or via a directly accessible link.

## **Order Schedule 9 (Security)**

### **Part A: Not Used**

## Part B: Long Form Security Requirements

### 1. Definitions

1.1 In this Schedule the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**"Breach of Security"**

1 means the occurrence of:

- a) any unauthorised access to or use of the Goods and/or Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or
- b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,

2 in either case as more particularly set out in the security requirements in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 3.4.3 d;

**"ISMS"**

3 the information security management system and process developed by the Supplier in accordance with Paragraph 3 (ISMS) as updated from time to time in accordance with this Schedule; and

**"Security Tests"**

4 tests to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.

### 2. Security Requirements

2.1 The Buyer and the Supplier recognise that, where specified in DPS Schedule 4 (DPS Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.

2.2 The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Contract will be met.

## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

2.3 The Parties shall each appoint a security representative to be responsible for Security. The initial security representatives of the Parties are:

2.3.1

2.3.2

2.4 The Buyer shall clearly articulate its high level security requirements so that the Supplier can ensure that the ISMS, security related activities and any mitigations are driven by these fundamental needs.

2.5 Both Parties shall provide a reasonable level of access to any members of their staff for the purposes of designing, implementing and managing security.

2.6 The Supplier shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing Government Data and any system that could directly or indirectly have an impact on that information, and shall ensure that Government Data remains under the effective control of the Supplier at all times.

2.7 The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to the Buyer.

2.8 The Buyer and the Supplier acknowledge that information security risks are shared between the Parties and that a compromise of either the Supplier or the Buyer's security provisions represents an unacceptable risk to the Buyer requiring immediate communication and co-operation between the Parties.

### **3. Information Security Management System (ISMS)**

3.1 The Supplier shall develop and submit to the Buyer, within twenty (20) Working Days after the Start Date, an information security management system for the purposes of this Contract and shall comply with the requirements of Paragraphs 3.4 to 3.6.

3.2 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Supplier shall be responsible for the effective performance of the ISMS.

3.3 The Buyer acknowledges that;

3.3.1 If the Buyer has not stipulated during a Further Competition that it requires a bespoke ISMS, the ISMS provided by the Supplier may be an extant ISMS covering the Services and their implementation across the Supplier's estate; and

3.3.2 Where the Buyer has stipulated that it requires a bespoke ISMS then the Supplier shall be required to present the ISMS for the Buyer's Approval.

## Order Schedule 9 (Security)

Order Ref:

Crown Copyright 2022

### 3.4 The ISMS shall:

- 3.4.1 if the Buyer has stipulated that it requires a bespoke ISMS, be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract;
- 3.4.2 meet the relevant standards in ISO/IEC 27001 and ISO/IEC27002 in accordance with Paragraph 7;
- 3.4.3 at all times provide a level of security which:
  - (a) is in accordance with the Law and this Contract;
  - (b) complies with the Baseline Security Requirements;
  - (c) as a minimum demonstrates Good Industry Practice;
  - (d) where specified by a Buyer that has undertaken a Further Competition - complies with the Security Policy and the ICT Policy;
  - (e) complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4)(<https://www.gov.uk/government/publications/security-policy-framework/hmg-security-policy-framework>);
  - (f) takes account of guidance issued by the Centre for Protection of National Infrastructure <https://www.cpni.gov.uk/>
  - (g) complies with HMG Information Assurance Maturity Model and Assurance Framework (<https://www.ncsc.gov.uk/articles/hmg-ia-maturity-model-iamm>);
  - (h) meets any specific security threats of immediate relevance to the ISMS, the Deliverables and/or Government Data;
  - (i) addresses issues of incompatibility with the Supplier's own organisational security policies; and
  - (j) complies with ISO/IEC27001 and ISO/IEC27002 in accordance with Paragraph 7;
- 3.4.4 document the security incident management processes and incident response plans;
- 3.4.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Deliverables of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing of

## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

security patches, application of security patches, a process for Buyer approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy; and

- 3.4.6 be certified by (or by a person with the direct delegated authority of) a Supplier's main board representative, being the "Chief Security Officer", "Chief Information Officer", "Chief Technical Officer" or "Chief Financial Officer" (or equivalent as agreed in writing by the Buyer in advance of issue of the relevant Security Management Plan).

3.5 Subject to Paragraph 2 the references to Standards, guidance and policies contained or set out in Paragraph 3.3 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.

3.6 In the event that the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in Paragraph 3.3, the Supplier shall immediately notify the Buyer Representative of such inconsistency and the Buyer Representative shall, as soon as practicable, notify the Supplier as to which provision the Supplier shall comply with.

3.7 If the bespoke ISMS submitted to the Buyer pursuant to Paragraph 3.1 is Approved by the Buyer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the ISMS is not Approved by the Buyer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit it to the Buyer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission of the ISMS to the Buyer. If the Buyer does not Approve the ISMS following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Buyer pursuant to this Paragraph 3 may be unreasonably withheld or delayed. However any failure to approve the ISMS on the grounds that it does not comply with any of the requirements set out in Paragraphs 3.4 to 3.6 shall be deemed to be reasonable.

3.8 Approval by the Buyer of the ISMS pursuant to Paragraph 3.6 or of any change to the ISMS shall not relieve the Supplier of its obligations under this Schedule.

## **4. Security Management Plan**

4.1 Within twenty (20) Working Days after the Start Date, the Supplier shall prepare and submit to the Buyer for Approval in accordance with Paragraph 4 fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of Paragraph 4.2.

4.2 The Security Management Plan shall:

- 4.2.1 be based on the initial Security Management Plan set out in Annex 2 (Security Management Plan);

## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

- 4.2.2 comply with the Baseline Security Requirements and, where specified by the Buyer in accordance with paragraph 3.4.3 d, the Security Policy;
- 4.2.3 identify the necessary delegated organisational roles defined for those responsible for ensuring this Schedule is complied with by the Supplier;
- 4.2.4 detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Goods and/or Services, processes associated with the delivery of the Goods and/or Services, the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
- 4.2.5 unless otherwise specified by the Buyer in writing, be developed to protect all aspects of the Deliverables and all processes associated with the delivery of the Deliverables, including the Buyer Premises, the Sites, the Supplier System, the Buyer System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- 4.2.6 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the delivery of the Deliverables and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Schedule (including the requirements set out in Paragraph 3.4);
- 4.2.7 demonstrate that the Supplier's approach to delivery of the Deliverables has minimised the Buyer and Supplier effort required to comply with this Schedule through consideration of available, appropriate and practicable pan-government accredited services (for example, 'platform as a service' offering from the G-Cloud catalogue);
- 4.2.8 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Start Date to those incorporated in the ISMS within the timeframe agreed between the Parties;
- 4.2.9 set out the scope of the Buyer System that is under the control of the Supplier;
- 4.2.10 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
- 4.2.11 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the Deliverables and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.



## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

4.3 If the Security Management Plan submitted to the Buyer pursuant to Paragraph 4.1 is Approved by the Buyer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved by the Buyer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit it to the Buyer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of the first submission to the Buyer of the Security Management Plan. If the Buyer does not Approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Buyer pursuant to this Paragraph may be unreasonably withheld or delayed. However any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.

4.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3 or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Schedule.

## **5. Amendment of the ISMS and Security Management Plan**

5.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier and at least annually to reflect:

- 5.1.1 emerging changes in Good Industry Practice;
- 5.1.2 any change or proposed change to the Supplier System, the Deliverables and/or associated processes;
- 5.1.3 any new perceived or changed security threats;
- 5.1.4 where required in accordance with paragraph 3.4.3 d, any changes to the Security Policy;
- 5.1.5 any new perceived or changed security threats; and
- 5.1.6 any reasonable change in requirement requested by the Buyer.

5.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:

- 5.2.1 suggested improvements to the effectiveness of the ISMS;
- 5.2.2 updates to the risk assessments;
- 5.2.3 proposed modifications to the procedures and controls that affect information security to respond to events that may impact on the ISMS; and
- 5.2.4 suggested improvements in measuring the effectiveness of controls.

5.3 Subject to Paragraph 5.4, any change which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a review carried

## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

out pursuant to Paragraph 5.1, a Buyer request, a change to Annex 1 (Security) or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved in writing by the Buyer.

- 5.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the ISMS or Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## **6. Security Testing**

- 6.1 The Supplier shall conduct Security Tests from time to time (and at least annually across the scope of the ISMS) and additionally after any change or amendment to the ISMS (including security incident management processes and incident response plans) or the Security Management Plan. Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Deliverables and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Buyer. Subject to compliance by the Supplier with the foregoing requirements, if any Security Tests adversely affect the Supplier's ability to deliver the Deliverables so as to meet the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Security Tests.
- 6.2 The Buyer shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Buyer with the results of such Security Tests (in a form approved by the Buyer in advance) as soon as practicable after completion of each Security Test.
- 6.3 Without prejudice to any other right of audit or access granted to the Buyer pursuant to this Contract, the Buyer and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Buyer may notify the Supplier of the results of such tests after completion of each such test. If any such Buyer's test adversely affects the Supplier's ability to deliver the Deliverables so as to meet the KPIs, the Supplier shall be granted relief against any resultant under-performance for the period of the Buyer's test.
- 6.4 Where any Security Test carried out pursuant to Paragraphs 6.2 or 6.3 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Buyer of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Buyer's prior written Approval, the Supplier shall implement such changes to the ISMS and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable

## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

agreed with the Buyer or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Annex 1 (Baseline Security Requirements) to this Schedule) or the requirements of this Schedule, the change to the ISMS or Security Management Plan shall be at no cost to the Buyer.

6.5 If any repeat Security Test carried out pursuant to Paragraph 6.4 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default of this Contract.

## **7. Complying with the ISMS**

7.1 The Buyer shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001 and/or the Security Policy where such compliance is required in accordance with paragraph 3.4.3 d.

7.2 If, on the basis of evidence provided by such security audits, it is the Buyer's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 and/or, where relevant, the Security Policy are not being achieved by the Supplier, then the Buyer shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Supplier does not become compliant within the required time then the Buyer shall have the right to obtain an independent audit against these standards in whole or in part.

7.3 If, as a result of any such independent audit as described in Paragraph the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 and/or, where relevant, the Security Policy then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Buyer in obtaining such audit.

## **8. Security Breach**

8.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any breach of security or any potential or attempted Breach of Security.

8.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 8.1, the Supplier shall:

8.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:

- (a) minimise the extent of actual or potential harm caused by any Breach of Security;

## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

- (b) remedy such Breach of Security or any potential or attempted Breach of Security in order to protect the integrity of the Buyer Property and/or Buyer Assets and/or ISMS to the extent that this is within the Supplier's control;
- (c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to provide the Deliverables so as to meet the relevant Service Level Performance Indicators, the Supplier shall be granted relief against any resultant under-performance for such period as the Buyer, acting reasonably, may specify by written notice to the Supplier;
- (d) prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure; and
- (e) supply any requested data to the Buyer (or the Computer Emergency Response Team for UK Government ("GovCertUK")) on the Buyer's request within two (2) Working Days and without charge (where such requests are reasonably related to a possible incident or compromise); and
- (f) as soon as reasonably practicable provide to the Buyer full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Buyer.

8.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the ISMS with the Security Policy (where relevant) or the requirements of this Schedule, then any required change to the ISMS shall be at no cost to the Buyer.

## **9. Vulnerabilities and fixing them**

9.1 The Buyer and the Supplier acknowledge that from time to time vulnerabilities in the ICT Environment will be discovered which unless mitigated will present an unacceptable risk to the Buyer's information.

9.2 The severity of threat vulnerabilities for COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the ISMS and using the appropriate vulnerability scoring systems including:

**Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

- 9.2.1 the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST <http://nvd.nist.gov/cvss.cfm>); and
- 9.2.2 Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.
- 9.3 The Supplier shall procure the application of security patches to vulnerabilities within a maximum period from the public release of such patches with those vulnerabilities categorised as 'Critical' within 14 days of release, 'Important' within 30 days of release and all 'Other' within 60 Working Days of release, except where:
- 9.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of any Service (e.g. because it resides in a software component which is not running in the service) provided vulnerabilities which the Supplier asserts cannot be exploited within the context of a Service must be remedied by the Supplier within the above timescales if the vulnerability becomes exploitable within the context of the Service;
- 9.3.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Buyer; or
- 9.3.3 the Buyer agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the ISMS.
- 9.4 The Specification and Mobilisation Plan (if applicable) shall include provisions for major version upgrades of all COTS Software to be upgraded within 6 Months of the release of the latest version, such that it is no more than one major version level below the latest release (normally codified as running software no older than the 'n-1 version') throughout the Term unless:
- 9.4.1 where upgrading such COTS Software reduces the level of mitigations for known threats, vulnerabilities or exploitation techniques, provided always that such upgrade is made within 12 Months of release of the latest version; or
- 9.4.2 is agreed with the Buyer in writing.
- 9.5 The Supplier shall:
- 9.5.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by GovCertUK, or any other competent Central Government Body;
- 9.5.2 ensure that the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
- 9.5.3 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment by actively monitoring the threat landscape during the Contract Period;

**Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

- 9.5.4 pro-actively scan the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS as developed under Paragraph 3.3.5;
  - 9.5.5 from the date specified in the Security Management Plan provide a report to the Buyer within five (5) Working Days of the end of each Month detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and any elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report;
  - 9.5.6 propose interim mitigation measures to vulnerabilities in the ICT Environment known to be exploitable where a security patch is not immediately available;
  - 9.5.7 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment); and
  - 9.5.8 inform the Buyer when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the ICT Environment and provide initial indications of possible mitigations.
- 9.6 If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under this Paragraph 9, the Supplier shall immediately notify the Buyer.
- 9.7 A failure to comply with Paragraph 9.3 shall constitute a Default, and the Supplier shall comply with the Rectification Plan Process.

## Part B – Annex 1:

### Baseline security requirements

#### 1. Handling Classified information

- 1.1 The Supplier shall not handle Buyer information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Supplier shall seek additional specific guidance from the Buyer.

#### 2. End user devices

- 2.1 When Government Data resides on a mobile, removable or physically uncontrolled device it must be stored encrypted using a product or system component which has been formally assured through a recognised certification process of the National Cyber Security Centre ("NCSC") to at least Foundation Grade, for example, under the NCSC Commercial Product Assurance scheme ("CPA").
- 2.2 Devices used to access or manage Government Data and services must be under the management authority of Buyer or Supplier and have a minimum set of security policy configuration enforced. These devices must be placed into a 'known good' state prior to being provisioned into the management authority of the Buyer. Unless otherwise agreed with the Buyer in writing, all Supplier devices are expected to meet the set of security requirements set out in the End User Devices Security Guidance (<https://www.ncsc.gov.uk/guidance/end-user-device-security>). Where the guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Buyer and a joint decision shall be taken on whether the residual risks are acceptable. Where the Supplier wishes to deviate from the NCSC guidance, then this should be agreed in writing on a case by case basis with the Buyer.

#### 3. Data Processing, Storage, Management and Destruction

- 3.1 The Supplier and Buyer recognise the need for the Buyer's information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Supplier must be able to state to the Buyer the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Government Data will be subject to at all times.
- 3.2 The Supplier shall agree any change in location of data storage, processing and administration with the Buyer in accordance with Clause 14 (Data protection).

## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

### **3.3 The Supplier shall:**

- 3.3.1 provide the Buyer with all Government Data on demand in an agreed open format;
- 3.3.2 have documented processes to guarantee availability of Government Data in the event of the Supplier ceasing to trade;
- 3.3.3 securely destroy all media that has held Government Data at the end of life of that media in line with Good Industry Practice; and
- 3.3.4 securely erase any or all Government Data held by the Supplier when requested to do so by the Buyer.

## **4. Ensuring secure communications**

- 4.1 The Buyer requires that any Government Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system component which has been formally assured through a certification process recognised by NCSC, to at least Foundation Grade, for example, under CPA.
- 4.2 The Buyer requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

## **5. Security by design**

- 5.1 The Supplier shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Government Data.
- 5.2 When designing and configuring the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or NCSC certification (<https://www.ncsc.gov.uk/section/products-services/ncsc-certification>) for all bespoke or complex components of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier).

## **6. Security of Supplier Staff**

- 6.1 Supplier Staff shall be subject to pre-employment checks that include, as a minimum: identity, unspent criminal convictions and right to work.
- 6.2 The Supplier shall agree on a case by case basis Supplier Staff roles which require specific government clearances (such as 'SC') including system administrators with privileged access to IT systems which store or process Government Data.



## **Order Schedule 9 (Security)**

Order Ref:

Crown Copyright 2022

- 6.3 The Supplier shall prevent Supplier Staff who are unable to obtain the required security clearances from accessing systems which store, process, or are used to manage Government Data except where agreed with the Buyer in writing.
- 6.4 All Supplier Staff that have the ability to access Government Data or systems holding Government Data shall undergo regular training on secure information management principles. Unless otherwise agreed with the Buyer in writing, this training must be undertaken annually.
- 6.5 Where the Supplier or Subcontractors grants increased ICT privileges or access rights to Supplier Staff, those Supplier Staff shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.

## **7. Restricting and monitoring access**

- 7.1 The Supplier shall operate an access control regime to ensure all users and administrators of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) are uniquely identified and authenticated when accessing or administering the Services. Applying the 'principle of least privilege', users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Supplier shall retain an audit record of accesses.

## **8. Audit**

- 8.1 The Supplier shall collect audit records which relate to security events in the systems or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include:
  - 8.1.1 Logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier). To the extent the design of the Deliverables allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers.
  - 8.1.2 Security events generated in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and shall include: privileged account log-on and log-off events, the start and termination of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.
- 8.2 The Supplier and the Buyer shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 8.3 The Supplier shall retain audit records collected in compliance with this Paragraph 8 for a period of at least 6 Months.

## Part B – Annex 2 - Security Management Plan

The Security Management Plan shall include and be organised as follows:

Introduction	Provides an introduction to the document describing its purpose along with the document's intended audience, scope, structure, references to other documents as well as the acronyms, abbreviations, and terms used throughout the document.
Security Requirements	Provides an overview of the Baseline Security Requirements and organisational requirements as set out by the Buyer, and proposed by international best practices.
Security Controls	Sets out the security controls to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the delivery of the Services.
Security Activities Roadmap	Depicts the security activities roadmap, and identifies the necessary delegated organisational roles which will be responsible for ensuring that this Schedule will be in compliance with the Buyer's requirements.
Risk Management	Provides an overview of the process for managing any security risks from Subcontractors of the Supplier and third parties authorised by the Buyer with access to the system, Services, and data.
Supporting Tools	Lists the potential tools to be used by the security experts during the security assessment.
Standards and Methodologies	Enumerates the standards and methodologies to be used.
Annexures	A data-sharing process map and a data protection policy which sets out <i>inter alia</i> how the Supplier will protect the personal and commercially sensitive applicant data they hold. A Data Sharing Agreement (DSA) setting out the approach to data transfer between the Supplier to the Buyer.

## Order Schedule 10 (Exit Management)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Exclusive Assets"</b>	1 Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
<b>"Exit Information"</b>	2 has the meaning given to it in Paragraph 3.1 of this Schedule;
<b>"Exit Manager"</b>	3 the person appointed by each Party to manage their respective obligations under this Schedule;
<b>"Exit Plan"</b>	4 the plan produced and updated by the Supplier during the Initial Period in accordance with Paragraph 4 of this Schedule;
<b>"Net Book Value"</b>	5 the current net book value of the relevant Supplier Asset(s) calculated in accordance with the DPS Application or Order Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
<b>"Non-Exclusive Assets"</b>	6 those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
<b>"Registers"</b>	7 the register and configuration database referred to in Paragraph 2.2 of this Schedule;
<b>"Replacement Goods"</b>	8 any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	9 any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date,

## Order Schedule 10 (Exit Management)

Order Ref:

Crown Copyright 2022

	whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Termination Assistance"</b>	10 the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
<b>"Termination Assistance Notice"</b>	11 has the meaning given to it in Paragraph 5.1 of this Schedule;
<b>"Termination Assistance Period"</b>	12 the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
<b>"Transferable Assets"</b>	13 Exclusive Assets which are capable of legal transfer to the Buyer;
<b>"Transferable Contracts"</b>	14 Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
<b>"Transferring Assets"</b>	15 has the meaning given to it in Paragraph 8.2.1 of this Schedule;
<b>"Transferring Contracts"</b>	16 has the meaning given to it in Paragraph 8.2.3 of this Schedule.

## 2. Supplier must always be prepared for contract exit

2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Contract Period, the Supplier shall promptly:

- 2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and

## Order Schedule 10 (Exit Management)

Order Ref:

Crown Copyright 2022

- 2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables

("Registers").

2.3 The Supplier shall:

- 2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
- 2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.
- 2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

### 3. Assisting re-competition for Deliverables

- 3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

### 4. Exit Plan

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in

## Order Schedule 10 (Exit Management)

Order Ref:

Crown Copyright 2022

Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.

4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
- 4.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
- 4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
- 4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
- 4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
- 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
- 4.3.7 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
- 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
- 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
- 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.

4.4 The Supplier shall:

- 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
  - (a) every 12 months throughout the Contract Period; and
  - (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
  - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;

## Order Schedule 10 (Exit Management)

Order Ref:

Crown Copyright 2022

- (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and

4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.

4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.

4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

## 5. Termination Assistance

5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 the start date and initial period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.

5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:

5.2.1 no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and

5.2.2 the Buyer shall notify the Supplier of any such extension no later than twenty (20) Working Days prior to the date on which the Termination Assistance Period is otherwise due to expire.

5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.

5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## **6. Termination Assistance Period**

6.1 Throughout the Termination Assistance Period the Supplier shall:

- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
- 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
- 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
- 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
- 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
- 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.

6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.

6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

## **7. Obligations when the contract is terminated**

7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:

- 7.2.1 vacate any Buyer Premises;
- 7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;



## Order Schedule 10 (Exit Management)

Order Ref:

Crown Copyright 2022

7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
- (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.2.4 comply with such reasonable instructions as the Buyer may provide in respect of the following matters:

- (a) The administration of HNES; and
- (b) Communications in relation to HNES, including instructions requiring the Supplier to cease or modify particular communications directed at Applicants participating in HNES.

7.2.5 On being requested to do so from time to time, the Supplier shall promptly include in its then current Exit Plan such provision in relation to the matters referred to in paragraph 7.2.4 of this Order Schedule 10 as the Buyer may reasonably require.

7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

## 8. Assets, Sub-contracts and Software

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

- 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
- 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");

**Order Schedule 10 (Exit Management)**

Order Ref:

Crown Copyright 2022

8.2.2 which, if any, of:

(a) the Exclusive Assets that are not Transferable Assets;  
and

(b) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.

8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.

8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:

8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which

8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.

8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.

8.7 The Buyer shall:

8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and

8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising

## **Order Schedule 10 (Exit Management)**

Order Ref:

Crown Copyright 2022

under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.

8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

### **9. No charges**

9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

### **10. Dividing the bills**

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

## Order Schedule 13 (Mobilisation Plan and Testing)

### Part A - Mobilisation

#### 1. definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Delay"</b>	a) a delay in the Achievement of a Milestone by its Milestone Date; or b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Mobilisation Plan;
<b>"Deliverable Item"</b>	1 an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Mobilisation Plan;
<b>"Mobilisation Period"</b>	2 has the meaning given to it in Paragraph 7.1;
<b>"Milestone Payment"</b>	3 a payment identified in the Mobilisation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone.

#### 2. Agreeing and following the Mobilisation Plan

- 2.1 A draft of the Mobilisation Plan is set out in the Annex to this Schedule. The Supplier shall provide a further draft Mobilisation Plan within fifteen (15) Working Days after the Order Start Date.
- 2.2 The draft Mobilisation Plan:
- 2.2.1 must contain information at the level of detail necessary to manage the mobilisation stage effectively and as the Buyer may otherwise require; and
  - 2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 2.3 Following receipt of the draft Mobilisation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Mobilisation Plan. If the Parties are unable to agree the contents of the Mobilisation Plan within twenty (20) Working Days of its

submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 2.4 The Supplier shall provide each of the Deliverable Items identified in the Mobilisation Plan by the date assigned to that Deliverable Item in the Mobilisation Plan so as to ensure that each Milestone identified in the Mobilisation Plan is Achieved on or before its Milestone Date.
- 2.5 The Supplier shall monitor its performance against the Mobilisation Plan and Milestones and report to the Buyer on such performance.

### **3. Reviewing and changing the Mobilisation Plan**

- 3.1 Subject to Paragraph 4.3, the Supplier shall keep the Mobilisation Plan under review in accordance with the Buyer's instructions and ensure that it is updated on a regular basis.
- 3.2 The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Mobilisation Plan.
- 3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
- 3.4 Time in relation to compliance with the Mobilisation Plan shall be of the essence and failure of the Supplier to comply with the Mobilisation Plan shall be a material Default.

### **4. Security requirements before the Start Date**

- 4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Order Start Date. The Supplier shall ensure that this is reflected in their Mobilisation Plans.
- 4.2 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.
- 4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.
- 4.4 The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Buyer of any alterations and additions as they take place throughout the Order Contract.
- 4.5 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior

approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.

- 4.6 If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.

## 5. What to do if there is a Delay

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
- 5.1.1 notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
  - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
  - 5.1.3 comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
  - 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

## 6. Compensation for a Delay

- 6.1 If Delay Payments have been included in the Mobilisation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Mobilisation Plan) and the following provisions shall apply:
- 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;
  - 6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:
    - (a) the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 (When CCS or the Buyer can end this contract); or
    - (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Mobilisation Plan commencing on the relevant Milestone Date;
  - 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;

- 6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
- 6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 11 (How much you can be held responsible for).

## **7. Mobilisation Plan**

- 7.1 The Mobilisation Period will be a three (3) Month period.
- 7.2 During the Mobilisation Period, the incumbent Supplier shall retain full responsibility for all existing services until the Order Start Date or as otherwise formally agreed with the Buyer. The Supplier's full service obligations shall formally be assumed on the Order Start Date as set out in Order Form.
- 7.3 In accordance with the Mobilisation Plan, the Supplier shall:
  - 7.3.1 work cooperatively and in partnership with the Buyer, incumbent supplier, and other DPS Supplier(s), where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;
  - 7.3.2 work with the incumbent Supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
  - 7.3.3 liaise with the incumbent Supplier to enable the full completion of the Mobilisation Period activities; and
  - 7.3.4 produce a Mobilisation Plan, to be agreed by the Buyer, for carrying out the requirements within the Mobilisation Period including, key Milestones and dependencies.
- 7.4 The Mobilisation Plan will include detail stating:
  - 7.4.1 how the Supplier will work with the incumbent Supplier and the Buyer Authorised Representative to capture and load up information such as asset data; and
  - 7.4.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
- 7.5 In addition, the Supplier shall:
  - 7.5.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Mobilisation Period, to ensure that the Mobilisation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;

### **Order Schedule 13: (Mobilisation Plan and Testing)**

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- 7.5.2 mobilise all the Services specified in the Specification within the Order Contract;
- 7.5.3 Not used.
- 7.5.4 manage and report progress against the Mobilisation Plan;
- 7.5.5 construct and maintain a Mobilisation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
- 7.5.6 attend progress meetings (frequency of such meetings shall be as set out in the Order Form) in accordance with the Buyer's requirements during the Mobilisation Period. Mobilisation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier; and
- 7.5.7 ensure that all risks associated with the Mobilisation Period are minimised to ensure a seamless change of control between incumbent provider and the Supplier.



**Order Schedule 13: (Mobilisation Plan and Testing)**

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**Annex 1: Mobilisation Plan**

The Mobilisation Plan is set out below and the Milestones to be Achieved are identified below:

Milestone	Deliverable Items	Duration*	Milestone Date*	Buyer Responsibilities	Milestone Payments	Delay Payments
	1. Mobilisation Plan and Joint Delivery Plan submitted to the Buyer for review	07/02/2025 (or equivalent contract signing date) – <b>21/02/2025</b> (deliverable item delivery date)		<ul style="list-style-type: none"> <li>• Draft and submit Mobilisation Plan and Joint Delivery Plan to Buyer</li> <li>• Provide inputs into the Project Programme</li> <li>• Collaborate with the Supplier to review, agree and approve the deliverable items</li> </ul>		
	2. Supplier review of products and processes completed, and proposed changes/amends submitted for review by the Buyer	07/02/2025 (or equivalent contract signing date) – <b>28/02/2025</b> (deliverable item delivery date)		<ul style="list-style-type: none"> <li>• Collaborate with the Supplier to review, agree and approve the deliverable items</li> </ul>		
<b>Milestone 1</b>  Draft revised products and processes submitted by the Supplier	Deliverable Items 1 and 2  Draft revised products and processes	07/02/2025 (or equivalent contract signing date) – <b>21/03/2025</b>	<b>21/03/2025</b>	<ul style="list-style-type: none"> <li>• Collaborate with the Supplier to review, agree and approve the deliverable items</li> </ul>	Upon completion	Subject to paragraph 6.1.3, during the Delay Limit Period, a Delay Payment of one (1) percent of the value of the Milestone Payment for Milestone 1 shall be applied.

**Order Schedule 13: (Mobilisation Plan and Testing)**

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Milestone	Deliverable Items	Duration*	Milestone Date*	Buyer Responsibilities	Milestone Payments	Delay Payments
	3. Final revised products/processes submitted by the Supplier	07/02//2025 (or equivalent contract signing date) – <b>11/04/2025</b> (deliverable item delivery date)		<ul style="list-style-type: none"> <li>Collaborate with the Supplier to review, agree and approve the deliverable items</li> </ul>		
<b>Milestone 2</b> All products and processes accepted by the Buyer	Deliverable Item 3 All products and processes accepted by the Buyer	07/02/2025 (or equivalent contract signing date) – <b>25/04/2025</b>	<b>25/04/2025</b>	<ul style="list-style-type: none"> <li>Collaborate with the Supplier to review, agree and approve the final deliverable items</li> </ul>	Upon completion	Subject to paragraph 6.1.3, during the Delay Limit Period, a Delay Payment of one (1) percent of the value of the Milestone Payment for Milestone 2 shall be applied.
<p>The Milestones will be Achieved in accordance with this Order Schedule 13: (Mobilisation Plan and Testing)</p> <p>For the purposes of Paragraph 6.1.2 the Delay Period Limit shall be <b>ten (10) Working Days</b>.</p>						
The Funding Phase Commencement Date is w/c 12 May 2025						

\*All Dates are subject to change subject to contract signing date.

## Part B - Testing

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Component"</b>	4 any constituent parts of the Deliverables;
<b>"Material Test Issue"</b>	5 a Test Issue of Severity Level 1 or Severity Level 2;
<b>"Satisfaction Certificate"</b>	6 a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
<b>"Severity Level"</b>	7 the level of severity of a Test Issue, the criteria for which are described in Annex 1;
<b>"Test Issue Management Log"</b>	8 a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;
<b>"Test Issue Threshold"</b>	9 in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
<b>"Test Reports"</b>	10 the reports to be produced by the Supplier setting out the results of Tests;
<b>"Test Specification"</b>	11 the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6 of this Schedule;
<b>"Test Strategy"</b>	12 a strategy for the conduct of Testing as described further in Paragraph 3 of this Schedule;
<b>"Test Success Criteria"</b>	13 in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule;

## Order Schedule 13: (Implementation Plan and Testing)

Order Ref:

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### "Test Witness"

14 any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and

### "Testing Procedures"

15 the applicable testing procedures and Test Success Criteria set out in this Schedule.

## 2. How testing should work

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 2.2 The Supplier shall not submit any Deliverable for Testing:
  - 2.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
  - 2.2.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
  - 2.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 2.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 2.4 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

## 3. Planning for testing

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Start Date but in any case no later than twenty (20) Working Days after the Start Date.
- 3.2 The final Test Strategy shall include:
  - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
  - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
  - 3.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
  - 3.2.4 the procedure to be followed to sign off each Test;
  - 3.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;

## **Order Schedule 13: (Implementation Plan and Testing)**

Order Ref:

Crown Copyright 2018

- 3.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;
- 3.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;
- 3.2.8 the technical environments required to support the Tests; and
- 3.2.9 the procedure for managing the configuration of the Test environments.

### **4. Preparing for Testing**

- 4.1 The Supplier shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than twenty (20) Working Days prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 4.2 Each Test Plan shall include as a minimum:
  - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
  - 4.2.2 a detailed procedure for the Tests to be carried out.
- 4.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.

### **5. Passing Testing**

- 5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

### **6. How Deliverables will be tested**

- 6.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
- 6.2 Each Test Specification shall include as a minimum:
  - 6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;
  - 6.2.2 a plan to make the resources available for Testing;
  - 6.2.3 Test scripts;

## **Order Schedule 13: (Implementation Plan and Testing)**

Order Ref:

Crown Copyright 2018

6.2.4 Test pre-requisites and the mechanism for measuring them;  
and

6.2.5 expected Test results, including:

- (a) a mechanism to be used to capture and record Test results; and
- (b) a method to process the Test results to establish their content.

## **7. Performing the tests**

7.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.

7.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.

7.3 The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.

7.4 The Buyer may raise and close Test Issues during the Test witnessing process.

7.5 The Supplier shall provide to the Buyer in relation to each Test:

7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and

7.5.2 the final Test Report within 5 Working Days of completion of Testing.

7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:

7.6.1 an overview of the Testing conducted;

7.6.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;

7.6.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;

7.6.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and

7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.

## **Order Schedule 13: (Implementation Plan and Testing)**

Order Ref:

Crown Copyright 2018

- 7.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 7.9 If the Supplier successfully completes the requisite Tests, the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with this Contract.

### **8. Discovering Problems**

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Buyer upon request.
- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

### **9. Test witnessing**

- 9.1 The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 9.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 9.3 The Test Witnesses:
  - 9.3.1 shall actively review the Test documentation;
  - 9.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an

## **Order Schedule 13: (Implementation Plan and Testing)**

Order Ref:

Crown Copyright 2018

informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;

- 9.3.3 shall not be involved in the execution of any Test;
  - 9.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
  - 9.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
  - 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 9.4 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

### **10. Auditing the quality of the test**

- 10.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
- 10.2 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 10.3 The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 10.4 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 10.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 10.6 In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

### **11. Outcome of the testing**

- 11.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.



### **Order Schedule 13: (Implementation Plan and Testing)**

Order Ref:

Crown Copyright 2018

- 11.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
  - 11.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
  - 11.2.2 the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
  - 11.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer's other rights and remedies, such failure shall constitute a material Default.
- 11.3 The Buyer shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.
- 11.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
  - 11.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
  - 11.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 11.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
- 11.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues any other reasons for the relevant Milestone not being Achieved.
- 11.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 11.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer's other rights and remedies, such failure shall constitute a material Default.
- 11.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion

## **Order Schedule 13: (Implementation Plan and Testing)**

Order Ref:

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(without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:

11.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer's report pursuant to Paragraph 10.5); and

11.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

## **12. Risk**

12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:

12.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or

12.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

## **Annex 1: Test Issues – Severity Levels**

### **1. Severity 1 Error**

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

### **2. Severity 2 Error**

- 2.1 This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:
  - 2.1.1 causes a Component to become unusable;
  - 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
  - 2.1.3 has an adverse impact on any other Component(s) or any other area of the Deliverables;

### **3. Severity 3 Error**

- 3.1 This is an error which:
  - 3.1.1 causes a Component to become unusable;
  - 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
  - 3.1.3 has an impact on any other Component(s) or any other area of the Deliverables;but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

### **4. Severity 4 Error**

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables; and

### **5. Severity 5 Error**

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

## Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

### Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Order Contract**") [insert Order Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [*insert Buyer name*] ("**Buyer**") and [*insert Supplier name*] ("**Supplier**") dated [*insert Order Start Date dd/mm/yyyy*].

The definitions for any capitalised terms in this certificate are as set out in the Order Contract.

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

## Order Schedule 14 (Service Levels)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

<b>"Critical Service Level Failure"</b>	has the meaning given to it in the Order Form;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Credit Cap"</b>	has the meaning given to it in the Order Form;
<b>"Service Level Failure"</b>	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
<b>"Service Level Performance Measure"</b>	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and
<b>"Service Level Threshold"</b>	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

### 2. What happens if you don't meet the Service Levels

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4 Service credits are not used in this contract, however the Buyer is entitled to terminate this contract pursuant to Clause 10.4 (CCS and Buyer Termination Rights).
- 2.4.1 Not used
- 2.4.2 Not used

2.4.3 Not used

2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:

2.5.1 the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;

2.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and

2.5.3 there is no change to the Service Credit Cap.

### **3. Critical Service Level Failure**

On the occurrence of a Critical Service Level Failure:

3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

## Part A: Service Levels and Service Credits

### 1. Service Levels

If the level of performance of the Supplier:

- 1.1 is likely to or fails to meet any Service Level Performance Measure; or
- 1.2 is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

- 1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;
- 1.2.2 instruct the Supplier to comply with the Rectification Plan Process;
- 1.2.3 Not used; and/or
- 1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

### 2. Service Credits

- 2.1 Not used.
- 2.2 Not used.

## Annex A to Part A: Services Levels Table

Service Level	Service Level performance Criterion	Detail	Further Comments	Frequency	Key Indicator	Service Level Thresholds
	Mobilisation / Scheme Setup					
	No Service Level Proposed, managed through milestone payments.					
	Investment Committee					
SL1	Quality of Investment Committee Submissions	Percentage of assessed applications deemed to be of insufficient standard for Investment Committee review due to mistakes, errors or lack of clarity or detail within final Investment Committee Funding Report.	Ensuring a robust Investment Committee process which operates on a timely and efficient basis and responds to applicants promptly.	Quarterly	Quality	Target – 0% Good – 0% Approaching – 10% Requires Improvement – 25% Inadequate – 50%
	Draft & Close Out of Funding Agreements					
SL2	Funding Agreement (GFA) Closeout	100% of funding agreements should be closed out (signed copy received from successful applicant) within 20 working days of completed DESNZ approval (Ministerial) for S98 grants.	Ensures that funding is agreed in a timely manner and that the delivery partner is not the cause of delay.	Quarterly	Timeliness	Target – 100% Good – 100% Approaching – 80% Requires Improvement – 70% Inadequate – 50%
SL3	Funding Agreement (MoU) Issue	100% of funding agreements (Memorandum of Understanding) should be issued within 5 working days of completed DESNZ/other	Ensures that funding agreements are issued in a timely manner and that the delivery partner is not the cause of delay.	Quarterly	Timeliness	Target – 100% Good – 100% Approaching – 90% Requires Improvement – 75% Inadequate – 50%



**Order Schedule 14 (Service Levels)**

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Service Level	Service Level performance Criterion	Detail	Further Comments	Frequency	Key Indicator	Service Level Thresholds
		approvals (Ministerial, HMT and MHCLG) for S31 grants.				
	<b>Monitoring &amp; Reporting, Exit &amp; Termination</b>					
SL4	Supplier performance in event of non-submission of M&R returns to Supplier by HNES Projects	Self-declaration by Supplier of percentage of HNES Projects within HNES Portfolio Report where either: <ul style="list-style-type: none"> <li>- the HNES Projects M&amp;R templates have been submitted to the Supplier, or</li> <li>- (where HNES Projects M&amp;R templates have not been submitted to the Supplier) the Supplier has taken appropriate rectification actions to obtain the HNES Project M&amp;R template(s).</li> </ul>	Ensure Supplier compliance with rectification tiers 1-3 (as defined in C.1.1.3 of Order Schedule 20 (Order Specification)) in the event of M&R submissions not being provided to the Supplier by HNES Projects.  An HNES M&R reporting schedule will be agreed during Mobilisation to define the reports that are due each month and by what date. The Buyer is open to discussing the exact reporting method of this Service Level.	Quarterly	Accuracy / Timeliness	Target – 100% Good – 100% Approaching – 80% Requires Improvement – 70% Inadequate – 50%
	<b>Supplier HNES Reporting</b>					
SL5	Supplier HNES Reporting Milestones	Percentage of actual milestone dates that differ from the milestone dates baselined within the Joint Delivery Plan, and as defined in Order Schedule 20 (Order Specification) – Annex A.	Ensure that the Supplier delivers the reporting requirements as outlined in OS 20 – Annex A. Any relevant change processes to be agreed as part of Mobilisation.	Various	Accuracy / Timeliness	Target – 100% Good – 100% Approaching – 90% Requires Improvement – 80% Inadequate – 70%

**Order Schedule 14 (Service Levels)**

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Service Level	Service Level performance Criterion	Detail	Further Comments	Frequency	Key Indicator	Service Level Thresholds
	Exit Management					
	No Service Level proposed, performance is managed through milestones / payment mechanism.					

All of the KPIs above are publishable.

Service Level	Service Level performance Criterion	Detail	Further Comments	Frequency	Key Indicator	Service Level Thresholds
	Social Value					
Social Value 1	Tackling Economic Inequality	Create opportunities for entrepreneurship and help new organisations to grow, supporting economic growth and business creation.	To be agreed at mobilisation, in line with tender submission	Quarterly		To be agreed at mobilisation, in line with tender submission
Social Value 2	Fighting Climate Change	Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions.	To be agreed at mobilisation, in line with tender submission	Quarterly		To be agreed at mobilisation, in line with tender submission

## Part B: Performance Monitoring

### 3. Performance Monitoring and Performance Review

- 3.1 Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 3.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
  - 3.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
  - 3.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
  - 3.2.3 details of any Critical Service Level Failures;
  - 3.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
  - 3.2.5 Not used; and
  - 3.2.6 such other details as the Buyer may reasonably require from time to time.
- 3.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**", **part of the HNES Management Board**) on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
  - 3.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
  - 3.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
  - 3.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 3.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.

## **Order Schedule 14 (Service Levels)**

Crown Copyright 2022

- 3.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier for any specified Service Period.

### **4. Satisfaction Surveys**

- 4.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

## Order Schedule 15 (Order Contract Management)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**"HNES Management Board"** the board established in accordance with paragraph 2.1 of this Schedule;

**"Project Manager"** the manager appointed in accordance with paragraph 2.1 of this Schedule;

### 2. Project Management

2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.

2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

2.3 Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

### 3. Role of the Supplier Contract Manager

3.1 The Supplier's Contract Manager shall be:

3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;

3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be the delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;

3.1.3 able to cancel any delegation and recommence the position himself; and

3.1.4 replaced only after the Buyer has received notification of the proposed change.

3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to the Contract and it will be the Supplier's Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.

- 3.3 Receipt of communication from the Supplier's Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

#### **4. Role of the HNES Management Board**

- 4.1 The HNES Management Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The HNES Management Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the HNES Management Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the HNES Management Board meetings will be to review the Supplier's performance under this Contract, as well as the purposes and requirements set out in Annex 1 below and Order Schedule 20 (Order Specification). The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

#### **5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Order Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
- 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Order Contract which the Buyer and the Supplier have identified.

## Annex 1: Contract Boards

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

### 1. HNES Management Board

- 1.1 The HNES Management Board shall be established by the Buyer.
- 1.2 In relation to the HNES Management Board the:
  - 1.2.1 Buyer's members of the HNES Management Board;
  - 1.2.2 Supplier's members of the HNES Management Board;
  - 1.2.3 frequency that the HNES Management Board shall meet (unless otherwise agreed between the Parties);
  - 1.2.4 location of the HNES Management Board's meetings; and
  - 1.2.5 planned start date by which the HNES Management Board shall be established,shall be as set out in Annex 2.
- 1.3 In the event that either Party wishes to replace any of its appointed members of the HNES Management Board, that Party shall notify the other in writing of the proposed change for agreement by the other Party (such agreement not to be unreasonably withheld or delayed). Notwithstanding the foregoing it is intended that each Buyer member of the HNES Management Board has at all times a counterpart Supplier member of the HNES Management Board of equivalent seniority and expertise.
- 1.4 Each Party shall ensure that its HNES Management Board members shall make all reasonable efforts to attend Board meetings at which that HNES Management Board member's attendance is required. If any HNES Management Board member is not able to attend an HNES Management Board meeting, that person shall use all reasonable endeavours to ensure that:
  - 1.4.1 a delegate attends the relevant HNES Management Board meeting in his/her place who (wherever possible) is properly briefed and prepared; and
  - 1.4.2 that he/she is debriefed by such delegate after the relevant meeting.
- 1.5 A chairperson shall be appointed by the Buyer for the HNES Management Board as identified in Annex 2. The chairperson shall be responsible for:
  - 1.5.1 scheduling HNES Management Board meetings;
  - 1.5.2 setting the agenda for the HNES Management Board meetings and circulating to all attendees in advance of such meeting;
  - 1.5.3 chairing the HNES Management Board meetings;
  - 1.5.4 monitoring the progress of any follow up tasks and activities agreed to be carried out following HNES Management Board meetings;
  - 1.5.5 ensuring that minutes for HNES Management Board meetings are recorded and disseminated electronically to the appropriate persons and

- to all HNES Management Board meeting participants within seven (7) Working Days after the HNES Management Board meeting; and
- 1.5.6 facilitating the process or procedure by which any decision agreed at any HNES Management Board meeting is given effect in the appropriate manner.
- 1.6 Management Board meetings shall be quorate as long as at least two (2) representatives from each Party are present.
- 1.7 The Parties shall ensure, as far as reasonably practicable, that the Management Board shall as soon as reasonably practicable resolve the issues and achieve the objectives placed before them. Each Party shall endeavour to ensure that Management Board members are empowered to make relevant decisions or have access to empowered individuals for decisions to be made to achieve this.

## **2. Role of the Management Board**

- 2.2 The HNES Management Board shall:
  - 2.2.1 provide senior level guidance, leadership and strategy for the overall delivery of the Services;
  - 2.2.2 assess the performance of the Supplier against its obligations under this Order Contract including, without limitation, Service Levels;
  - 2.2.3 ensure that this Order Contract is operated throughout the Order Initial Term and the Order Optional Extension Period (as the case may be) in a manner which optimises the value for money and operational benefit derived by the Buyer;
  - 2.2.4 identify and manage any risks;
  - 2.2.5 ensure compliance with the requirements of this Order Contract;
  - 2.2.6 receive and review reports on technology, service and other developments that offer potential for improving the benefit that the Buyer is receiving, in particular value for money;
  - 2.2.7 determine strategy and provide guidance on policy matters which may impact on the implementation of the Services; and
  - 2.2.8 provide guidance on relevant Variations.



## Annex 2: Board Structures

### Management Board Representation and Structure

<b>Buyer Members of the Management Board</b>	Alex Trebowicz - Head of Capital Schemes, Katie Adams - Contract and Project Manager, Julie Harker – Delivery Manager
<b>Supplier Members of the Management Board</b>	David Hiller – Programme Director, Louise Singleton – Programme and Exit Manager, Yunus Lunat - PMO
<b>Start Date for the Management Board meetings</b>	24 <sup>th</sup> February 2025
<b>Frequency of the Management Board meetings</b>	Fortnightly (during Mobilisation) Monthly (post-Mobilisation)
<b>Location of Management Board meetings</b>	Virtual (MS Teams), hybrid (in-person and online) or in-person at the Buyer's offices (if unavailable the Supplier's offices).

## Order Schedule 18 (Background Checks)

### 1. When you should use this Schedule

This Schedule should be used where Supplier Staff must be vetted before working on the Contract.

### 2. Definitions

**“Relevant Conviction”** means any conviction listed in Annex 1 to this Schedule.

### 3. Relevant Convictions

3.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

3.2 Notwithstanding Paragraph 3.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

- (a) carry out a check with the records held by the Department for Education (DfE);
- (b) conduct thorough questioning regarding any Relevant Convictions; and
- (c) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

## **Annex 1 – Relevant Convictions**

### **Relevant Convictions**

Means the following offences and any having equivalence in any other jurisdiction where applicable:

#### **Fraud Offences:**

- Fraud by false representation, fraud by failing to disclose information, fraud by abuse of position, Fraud Act 2006 (section 1);
- Conspiracy to defraud, Common Law;
- False accounting, Theft Act 1986 (section 17);

**Order Schedule 20 (Order Specification)**

**Order Ref: itt\_74815**

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## **Order Schedule 20 (Order Specification)**

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyer under this Order Contract

## Purpose of this document

This document provides:

- A high-level summary of the Buyer's requirements; and
- What is required of the Supplier to deliver these requirements.

### **These are draft requirements and are subject to change**

Following the introduction which summarises the Heat Network Efficiency Scheme (HNES) and provides a glossary of key terms, this document is structured into five phases to reflect the high-level phase plan for the Supplier involvement with HNES:

A – HNES Mobilisation

B – Application Period

C – Monitoring and Reporting

D – Continuous Elements

E – Exit

Each of the five phases is set out with a brief summary, followed by a high-level requirements table for that phase setting out the sub-sections for the phase. Each sub-section then provides a summary, table of key outputs and outcomes, and detailed requirements.

This Order Specification refers to several reporting documents throughout. The table in Annex A of this Order Specification details which document or template has been issued as part of the ITT. This is not an exhaustive list and should not be relied upon.

## Definitions

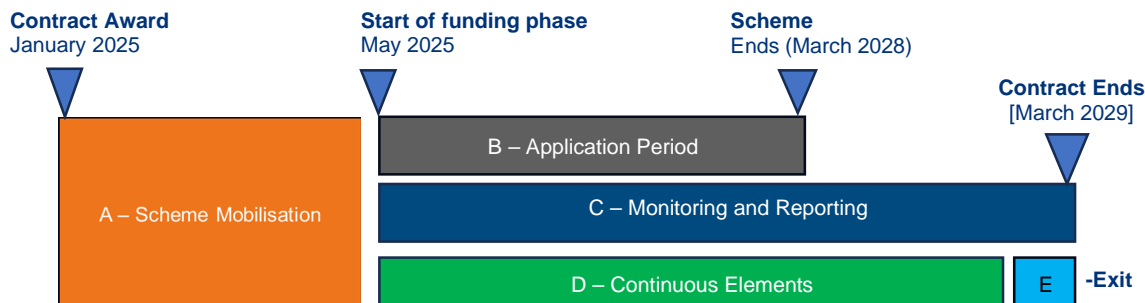
A glossary is provided for definitions throughout this document. The following key definitions are used to describe the elements of HNES:

- **“Scheme”**: means the Heat Network Efficiency Scheme (HNES);
- **“Programme”**: refers to the Supplier's management of HNES through a programme of activity;
- **“HNES Project”**: has the meaning given in Order Schedule 5 (Pricing Details).

## High-level phase plan

The Supplier will deliver the requirements throughout the Contract Period. These requirements have been grouped into five phases as set out in Figure 1.

Figure 1 High-level phase plan for the Supplier involvement with the HNES Project



## A – HNES Mobilisation

From Contract Award target date of January 2025 (noting Contract Signed by February 2025) to Funding Phase Commencement Date (FPCD, May 2025). The Supplier will be required to review and agree on HNES governance and processes, and review/accept the products that will be used from the FPCD to manage HNES. As part of knowledge transfer and handover of the existing HNES, the Buyer is looking to work together with the Supplier, through a series of Working Groups, to refine and improve processes, tools and templates (where appropriate).

## B – Application Period

Following FPCD to the Order Contract end date, the Supplier will manage the application and assessment process for HNES grants. The application period is the period in which HNES Applications are accepted for each funding round and will include: submission by applicants, and receipt, processing and assessment of HNES Applications by the Supplier. The application period will only begin once the Buyer is satisfied that the HNES Mobilisation has been completed and once HNES products are ready to be published. Key personnel roles during the Application Period include Supplier applicant support and assessors with relevant technical and commercial experience.

## C – Monitoring and Reporting

Following FPCD to the end of the Order Contract, the Supplier will monitor the progress of HNES (including HNES benefits), the progress of HNES Projects seeking and receiving grants, and provide evidence to support the performance monitoring of the Supplier. Key Supplier roles during this phase include a Project Management Office (PMO) and stakeholder engagement.

## D – Continuous Elements

Following FPCD to the end of the Order Contract, the Supplier will operate the agreed processes, systems and products to effectively manage and administer HNES. Key Supplier roles and capabilities during this phase include a PMO, scheme administration (i.e. forecasting and budget management) and communications.

## E – Exit

The Supplier shall comply with its obligations pursuant to Order Schedule 10 (Exit requirements.)

## Key HNES Activity

Following FPCD, there will be funding rounds every 4 months, each completed within approximately 19 weeks (subject to volume of applications). The first funding round under this contract is currently planned to open in May 2025 and close in July 2025, with a regular cycle of additional funding round closures in November and March (TBC) for each year of the funding phase, subject to budget availability.

The target dates for Deliverables and Milestones for Mobilisation are:

*Table 1 Mobilisation Deliverables and Milestones*

Mobilisation Deliverables/Milestones	Dates
Contract Award target date	15 <sup>th</sup> Jan 2025
Discretionary Standstill Period	15 <sup>th</sup> Jan 2025 – 27 <sup>th</sup> Jan 2025
Contract Signed	27 <sup>th</sup> Jan 2025 – 7 <sup>th</sup> Feb 2025
Kick-off meetings	TBC
Deliverable 1: Mobilisation Plan and Joint Delivery Plan submitted to the Buyer for review	21 <sup>st</sup> Feb 2025
Deliverable 2: Supplier review of products/processes completed and proposed changes/amends submitted for review by the Buyer	28 <sup>th</sup> Feb 2025
<b>Milestone 1:</b> Draft revised products/processes submitted by the Supplier	21 <sup>st</sup> Mar 2025
Deliverable 3: Final revised products/processes submitted by the Supplier	11 <sup>th</sup> Apr 2025
<b>Milestone 2:</b> All products/processes accepted by the Buyer	25 <sup>th</sup> Apr 2025
Funding Phase Commencement Date (FPCD)	13 <sup>th</sup> May 2025

## Summary of HNES

HNES is a capital and revenue grant project supporting existing/operational communal and district heating networks. Through this contract it is expected to deploy an additional £45m of capital grants (installation of measures to improve efficiency and address sub-optimal outcomes) and £3m of revenue funding (successful applicants procuring third party support to identify causes of sub-optimal performance and recommend costed improvement options).

Subject to any contract extensions, the HNES DP contract will deliver a funding and M&R phase from May 2025 onwards and will run for three years through to March 2028. This will be followed by a single year of M&R. Delivery of this contract will continue/extend the ongoing delivery of the HNES, a grant scheme initially delivering across FY22/23 to FY24/25. HNES has, to date run six completed funding rounds and funded 61 capital projects and 174 revenue projects.

HNES forms part of the Heat Network Transformation Programme (HNTTP). The purpose of the HNTTP is to help drive the continued development of a sustainable heat network marketplace and to prepare the market for future regulations as part of a long-term strategy for the sector. Alongside HNES, the HNTTP brings together several inter-related projects to accelerate heat network deployment, including: development stage support via the Heat Network Delivery Unit, HNDU; capital schemes (Green Heat Network Fund, GHNF, and Heat Network Investment Project, HNIP); Heat Network Zoning; Heat Network Regulation (including the Heat Network Technical Assurance Scheme, HNTAS).

## **Service Levels**

Please refer to DPS Order Schedule 14 (Service Levels) for details on the performance regime including the applicable Service Levels.

## **Summary of HNES objectives**

The primary aim of HNES is to deploy funding to improve the performance of existing heat networks. The HNES scheme objectives are as follows:

### **Objective 1 – Reduce carbon emissions by making heat networks more efficient**

HNES will expect to deliver an estimated 1,677GWh of gas savings and 43 GWh of electricity savings and therefore 309 ktCO<sub>2</sub>e of total carbon savings (over the appraisal period of 2025 to 2056). These figures are a current best estimate and may change in the future.

### **Objective 2 – Reduce customer detriment to improve consumer confidence**

HNES is expected to continue the delivery of estimated average reductions to the cost of delivered heat by 0.4p/kWh across all funded projects and reduce project unplanned service interruptions by 3 interruptions (average number per project per year).

### **Objective 3 – Help prepare the heat network market for sector regulation and standards**

HNES will continue to deliver baselining information for HNTAS, cost and benefit impact data for the HNTAS evidence base and compliance tool, and source participant projects for the HNTAS pilot.

## **Summary of Benefits**

The primary HNES quantifiable benefits are listed below – further benefits may be included in advance of the Mobilisation period.

- Primary fuel savings
- Carbon emissions reductions



**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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- Improved network efficiency
- Reduced cost of heat
- Reduced service interruptions

Secondary benefits will be monitored where possible to understand HNES, but are not key success measures for the project. They include:

- Preparedness for regulation compliance
- Heat networks have Positive Reputation with Public, Investors (private and public), within Heat Market
- Heat networks sector market growth (skills/ skill pipeline, number of properties supplied by heat networks).

## Glossary

Acronym	Term	Definition
	Application Assessor	The Application Assessor is a specific role to review and technically assess submitted HNES Applications and determine if the application should be recommended for funding.
	Buyer	Buyer has the meaning given in the Order Contract (Joint Schedule 1).
CDEL	Capital Departmental Expenditure Limit	The government budget that is allocated to and spent by government departments is known as the Departmental Expenditure Limit (DEL). This amount, and how it is split between government departments, is set at Spending Reviews. CDEL is allocated to be spent on investment.
	Conditions Precedent	Conditions placed on the HNES Funding award that must be achieved before HNES Funding is released to HNES Projects.
	Conditions Subsequent	If the applicant has received written (electronic or hardcopy) confirmation that outstanding conditions precedent can be fulfilled subsequent to receipt of funds.  Conditions placed on the HNES Funding award that must be achieved after HNES Funding is realised to HNES Projects which must be satisfied by a future agreed date.
COI	Conflict of Interest	A situation in which an individual, or organisation, has opposing interests or loyalties. In the case of an individual, the conflict of interest could compromise or appear to compromise their decisions if it is not properly managed. Refer to DPS Joint Schedule 1 (Definitions) and the ITT for further detail.
DSA	Data Sharing Agreement	Sets out the purpose of the data sharing, covers what happens to the data at each stage, sets standards, helps all the parties involved in sharing data and clarifying their roles and responsibilities (see Order Schedule 9 for more information).

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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Acronym	Term	Definition
DD	Due Diligence	Due Diligence is an investigation or <a href="#">audit</a> of a potential <a href="#">investment</a> or product to confirm all facts and assess risks, such as reviewing all financial records, plus anything else deemed material.
FPCD	Funding Phase Commencement Date	Has the meaning given in Order Schedule 5 (Pricing Details).
	Gaming	Gaming is the act of exploiting scheme rules and/or the absence of rules, to maximise the benefit of a party, against the objectives and spirit of HNES.
GHNF	Green Heat Network Fund	DESNZ capital grant support scheme for the development of new and existing low carbon heat networks.  <a href="https://www.gov.uk/government/publications/green-heat-network-fund-ghnf">https://www.gov.uk/government/publications/green-heat-network-fund-ghnf</a>
HNES	Heat Network Efficiency Scheme	DESNZ scheme providing capital grant support for addressing customer detriment and improving performance efficiency of existing district heating and communal heating projects, and revenue grant support for informing existing district heating and communal heating projects of the causes of sub-optimal performance and costed measures for improving performance.  <a href="https://www.gov.uk/government/publications/heat-network-efficiency-scheme-hnes">https://www.gov.uk/government/publications/heat-network-efficiency-scheme-hnes</a>
	HNES Application Approval Process	Has the meaning given in Order Schedule 5 (Pricing Details).
HNES Demonstrator	Heat Network Efficiency Scheme Demonstrator	Completed one-year DESNZ scheme providing capital grant support for addressing customer detriment and improving performance efficiency of existing district heating and communal heating projects, and revenue grant support for informing existing district heating and communal heating projects of the causes of sub-optimal performance and costed measures for improving performance.  <a href="https://www.gov.uk/government/publications/heat-network-efficiency-scheme-demonstrator">https://www.gov.uk/government/publications/heat-network-efficiency-scheme-demonstrator</a>
	HNES Project(s)	Has the meaning given in Order Schedule 5 (Pricing Details).
	HNES Public Privacy notice	An external document that specifies to the public how their data will be handled, their rights, and duties of the Supplier and Buyer. The notice outlines how that personal data will be processed and how data protection principles will be applied throughout the HNES Programme.

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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Acronym	Term	Definition
HICF	DESNZ HNES Intelligent Client Function	The DESNZ HNES Intelligent Client Function (HICF) will act as the primary interface between the Supplier and DESNZ HNES Team and other Buyer stakeholders that the Supplier will need to interact with.
	Heat Network	A network that distributes thermal energy from a central source through a network to multiple buildings or sites for the use of space or process heating, cooling or hot water.
HNDU	Heat Network Delivery Unit	The Heat Networks Delivery Unit provides grant funding and guidance to local authorities in England and Wales for Heat Network project development.  <a href="https://www.gov.uk/guidance/heat-networks-delivery-unit">https://www.gov.uk/guidance/heat-networks-delivery-unit</a>
HNTPB	Heat Networks Transformation Programme Board	DESNZ internal Heat Networks Transformation Programme Board, which governs HNES and GHNF.
IC	Investment Committee	Governance body for reviewing recommendations put forward by the Supplier for HNES Projects to receive funding, before submission of funding outcomes to the DESNZ Minister.
JDP	Joint Delivery Plan	The Joint Delivery Plan will be developed by the Supplier and is akin to a Programme Initiation Document. It will include a detailed project programme (Gantt chart format) with the identification of a critical path. The Joint Delivery Plan will set out how the Supplier will operate HNES. It will include the risk management strategy, stakeholder engagement strategy, and approach for continuous improvement of HNES administration, either as annexes or within the document itself. Further detail is set out in A.1.1.
KT	Knowledge Transfer	The process by which information and data is passed from the Buyer to the Supplier during the Mobilisation period.
M&R	Monitoring and Reporting	The process by which HNES project information forming the basis of the award of HNES funding is tracked and confirmed at critical stages in the HNES project development and during HNES operation. This also provides critical data for tracking progress against HNES benefits and collecting data for HNES evaluation.
	Optimisation Study	Primary deliverable/output of an HNES revenue grant, based on a defined draft scope of work, covering: assessment of network operational performance, including reporting; development of network optimisation opportunities, including reporting and recommendations.

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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Acronym	Term	Definition
PMR	Performance Monitoring Report	Performance progress and evaluation reporting format used to collect performance information from recipients of funds awarded under programs.
PMO	Project Management Office	Defines, maintains and ensures project management standards across an organisation/ programme.
PSED	Public Sector Equality Duty	Public sector equality duty, s.149 of the Equality Act 2010.
RDEL	Resource Departmental Expenditure Limit	The government budget that is allocated to and spent by government departments is known as the Departmental Expenditure Limit (DEL). This amount, and how it is split between government departments, is set at Spending Reviews. RDEL is allocated to be spent on public services, grants and administration.
	SharePoint (or equivalent)	The Buyer's preferred method of shared document storage where the documents reside on the Buyer's server. At present Microsoft SharePoint is used by the Buyer. Should a system migration to an equivalent data storing facility occur during the period of the contract, such a transition will be managed by the Buyer.
	Supplier	The supplier has the meaning given in the Order Contract (Joint Schedule 1).
TOR	Terms of Reference	The defined scope and limitations of an activity.
QA	Quality Assurance	Monitoring and evaluation of the various aspects of the programme, service, or facility to ensure that standards of quality are being met.
	Working Groups	A group with membership from the Buyer and Supplier appointed to provide insights and make recommendations on matters in their area of expertise during HNES Mobilisation. The Working Groups will be used to test the Mobilisation Deliverables and Milestones in accordance with Order Schedule 13.

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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<b>Annex within Schedule 20</b>		
<b>Annex Ref.</b>	<b>Annex Title</b>	<b>Contents</b>
A	Supplier HNES Reporting Requirements	<ul style="list-style-type: none"> <li>• HNES Reporting Products</li> <li>• HNES Service Levels</li> </ul>
B	High-Level Governance and Reporting	Shows the relationship between different governance and reporting groups that will be implemented for HNES, highlighting the purpose and attendance of each.
C	Mobilisation deliverables for ITT	Identifies deliverables and processes required during the Mobilisation Period and sets out the responsibilities of drafts for each.
<b>Additional Annexes – Separate Attachments</b>		
<b>Annex Ref.</b>	<b>Annex Title</b>	<b>Document Type</b>
D	DPS order form and Terms and Conditions	PDF
E.1	HNES Market Engagement slide-deck	PDF
E.2	HNES Market Engagement Supplier Q&A	Excel
F	HNES Project Plan	Excel
G	HNES Guidance for Applicants	PDF
H.1	HNES Application Form – capital grants	Excel
H.2	HNES Application Form – revenue grants	Excel
I	HNES Privacy Policy	Word
J.1	HNES Monitoring and Reporting template (capital grants)	Excel
J.2	HNES Monitoring and Reporting template (revenue grants)	Excel
K	Supplier Code of Conduct	PDF
L.1	JSON schema – HN_HNES_MR_FUNDING	Word
L.2	JSON schema – HN_HNES_MR_TIME_IND	Word
L.3	JSON schema – HN_HNES_MR_RISK_REGISTER	Word
L.4	JSON schema – HN_HNES_MR_PERFORMANCE	Word
L.5	JSON schema – HNES_APP_KEY_VALUE	Word
L.6	JSON schema – HNES_APP_APPLICATION_STATUS	Word
M	HNES Application and Funded Project Volumes	PDF
N	DESN & DSIT Environmental Policy	PDF
O	ITT Pack	Word

## A. HNES Mobilisation

The Mobilisation Period is split into the following groups of activities: (A.1) Order Contract and HNES Mobilisation; (A.2) Information handover; (A.3) Review of existing HNES processes, structures, and products; (A.4) Funding Phase Commencement Date (FPCD) Run-up; and (A.5) Supplier Resourcing.

HNES Mobilisation intends to ensure that agreed products and processes are in place to successfully operate from the FPCD.

There are various Deliverables (products and processes) to be reviewed / agreed (and where required, updated) by the Supplier during the Mobilisation Period. These must be accepted by the Buyer before completion of the Mobilisation Period and FPCD in May 2025.

Once Mobilisation activities have been agreed in kick-off meetings, they will be incorporated into a finalised Mobilisation Plan. All activities in the Mobilisation Plan will be in-scope of the service as described in the Supplier's proposal and will fall within the overall budget envelope.

## A. HNES Mobilisation – High-level requirements table

Table 2 Mobilisation High-Level Requirements

Ref	Section	Ref	Subsection
A.1	Order Contract and HNES Mobilisation	A.1.1	Order Contract Mobilisation
		A.1.2	Order Contract and Project Governance
		A.1.3	Project Management Artefacts
		A.1.4	Continuous Elements
A.2	Information Handover	A.2.1	Kick-off Meeting Series
		A.2.2	Information Handover
		A.2.3	Data Handover
A.3	Finalising HNES processes, structures, and products	A.3.1	Acceptance Process
		A.3.2	HNES Structures
		A.3.3	Operational Processes
		A.3.4	Operations Products
A.4	FPCD run-up	A.4.1	Stakeholder and Communications Engagement Plan
		A.4.2	Funding Award Agreements and Processes
		A.4.3	FPCD run-up
A.5	Supplier Resourcing	A.5.1	Supplier Skills and Experience
		A.5.2	Skills and capability requirements for applicant support
		A.5.3	Skills and capability requirements for application assessors
		A.5.4	Skills and Capability Requirements for Investment Committee
		A.5.5	Skills and Experience vs Requirements Matrix

## A.1 – Order Contract and HNES Mobilisation

Table 3 Mobilisation Order Contract and HNES Mobilisation Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
A.1.1 Order Contract and Project Governance	<p>Review of existing processes and structures for:</p> <ul style="list-style-type: none"> <li>Scheduling fortnightly HNES Management Boards<sup>1</sup> and weekly Progress Meetings<sup>2</sup></li> <li>Appropriate governance structures to support the decision-making process for HNES reviewed and agreed</li> <li>Structures for Performance Monitoring Report (PMR) to the Buyer reviewed and agreed</li> </ul> <p>Review of Products for acceptance by the Buyer:</p> <ul style="list-style-type: none"> <li>The Joint Delivery Plan</li> <li>Exit Plan</li> <li>Performance Monitoring Report (PMR)</li> </ul>
A.1.2 Project Management Artefacts	<p>Review of existing products/processes for acceptance of:</p> <ul style="list-style-type: none"> <li>Project change control process</li> <li>Contents of a project programme</li> <li>Project Dashboard template</li> <li>Risk Management Strategy</li> <li>Continuous Improvement log agreed</li> </ul>
A.1.3 Continuous Elements	<p>Review of existing products/processes for acceptance of:</p> <ul style="list-style-type: none"> <li>Conflict of Interest management regime</li> <li>Resource and training plan</li> <li>Gaming and fraud mitigation</li> <li>Risk management approach</li> <li>Budget management approach</li> </ul>

- Post contract award, no new terms or obligations will be introduced.
- The Buyer will share the existing HNES guidelines, tools, products and processes with the Supplier in an information handover (A.2).
- The Supplier will discuss and finalise the guidelines, tools, products and processes (A.1.2) for contract and project governance (A.1.1) in collaboration with the Buyer in a Project Management Working Group. This will include a Joint Delivery Plan and an Exit Plan.
- The Supplier will review and agree on the guidelines, tools, products and processes for project management (A.1.3) with the Buyer in weekly Progress Meetings.
- The Supplier will create a Project Management Office function (PMO) for HNES.
- The Mobilisation Period has two Milestones (see Table 1), linked to the acceptance of Key Deliverables by the Buyer. The Supplier will agree any changes to the timing of the Deliverables in Table 1 with the Buyer in a kick-off meeting series during information handover (A.2) noting that there will be no changes to the Mobilisation Milestones. For further detail, refer to Order Schedule 13.

<sup>1</sup> Management Boards to be fortnightly during the Mobilisation Period, followed by monthly post FPCD

<sup>2</sup> Progress Meetings to be weekly during the Mobilisation Period, followed by fortnightly post FPCD

## A.1 Detailed Requirements

### A.1.1 Order Contract and Project Governance

- The Supplier, in relation to key arrangements for governing HNES and reporting to the Buyer, will:
  - Review and accept the current governance map and framework for escalations through the layers of governance. It will build on the high-level governance diagram provided in Annex B.
- The Supplier and Buyer will agree the Terms of References for the HNES Management Board during the Mobilisation Period. The Terms of Reference and membership will be reviewed during the kick-off meetings (see Annex B for the high-level governance diagram).
- The Supplier will review and accept the current Joint Delivery Plan as set out in the Mobilisation Milestones (Table 1).
- The Joint Delivery Plan will be reviewed by the Supplier and is akin to a Programme Initiation Document. It will include, either as annexes or within the document itself, the following:
  - Detailed project programme (Gantt Chart Format), to cover the delivery of HNES including reporting milestones (see Annex A). Following FPCD, this will be updated regularly.
  - Continuous Improvement Plan
  - Stakeholder and Communications Engagement Plan
  - Resource and Training Plan
  - Communications Plan
  - Risk Management Strategy
  - Conflicts of Interest (COI) Management Plan
  - Information Security Management Plan and Security Management Plan
  - Gaming and fraud mitigation strategy
  - Budget management approach
- The Supplier will agree with the Buyer the contents of the Performance Monitoring Report (PMR).
- The Supplier will have to provide an Exit Plan which complies with the requirements of Section E and DPS Order Schedule 10 (Exit Management).

### A.1.2 Project Management Artefacts

- The Supplier will be required to create a Project Management Office function (PMO) to deliver HNES. The PMO will ensure the adoption of a standardised set of project management tools and processes across HNES Projects supported by the fund.
- The Supplier will be responsible for establishing and coordinating a temporary project management Working Group to agree and finalise processes, structures and products set out in this section. For detailed reporting requirements refer to Annex A.
- The Joint Delivery Plan will be reviewed by the Supplier and is akin to a Programme Initiation Document. The Programme Management artefacts set out in this Mobilisation Period will be managed through the duration of the Order Contract as Continuous Elements (see Section D).
- During the Mobilisation Period, the Supplier will review and accept the current Change Control Process and advise the Buyer of any enhancements that can be made to the current process. This process will provide a framework for the assessment of the potential impact of implementing a change, including whether or not such changes are required to



undergo a separate approval by the IC which will be in conjunction with Section C.1.2 (additional change requests). As part of this process, the Supplier will review the current Change Control Log and advise if any improvements can be made.

- The Supplier will be required to refine and agree with the Buyer a HNES Dashboard template (initially drafted by the Buyer) to be used for monthly Programme reporting. The dashboard will capture items such as progress made, planned activity, pipeline and pre-engagement information, key risks, benefits, finance, activity milestones, service levels and highlight updates from reports submitted by funded HNES Projects. The Supplier will complete the dashboard each month post- FPCD and share it with the Buyer to be reviewed at the monthly Management Board.
- The Supplier PMO will be required to review key project management products and process and advise where changes / improvements can be made to ensure the effective management of HNES. Further detail on purpose, frequency and format is set out in Annex A of this Order Schedule. These products include:
  - Performance Monitoring Report (PMR)
  - Project Dashboard
  - Project Programme
  - Risk Register
  - Continuous Improvement Log and Report
  - Change Control Log
  - Investment Committee Funding Report(s)
  - Annual Benefits Report
  - Information Security Management Plan
  - Communications Plan
  - Quarterly Stakeholder Engagement and Communications Report
  - Exit Plan
  - Data Protection Policy
  - Data Protection Impact Assessment
  - Annual Review
  - HNES Projects Pipeline
- Templates and/or working documents for these products will be provided by the Buyer and reviewed/agreed by the Supplier during the Mobilisation Period. Refer to Annex A for further details.
- The Supplier will be responsible for delivering and agreeing the contents of the Gantt chart project programme (and element of the Joint Delivery Plan, and which should be submitted in both PDF and Excel), clearly identifying HNES Project milestones and activities to be delivered. The Buyer will provide key dates to inform the programme.
- These project management products will be used by the Buyer to provide updates to the HNES Management Board meetings post-FCDP.
- Although formal oversight and review of these documents will be used by the HNES Management Board, they may be reference in Progress Meetings.

## **A.1.3 Continuous Elements**

### **A.1.3.1 Conflict of Interest (COI) Management Plan**

- During the Mobilisation Period, the Supplier will review and accept the current COI Management Plan with the Buyer as part of the Joint Delivery Plan.
- The Supplier is required to consider the COI that might occur through the delivery of these requirements and therefore review and accept the current conflicts register and management plan to mitigate any COI risks throughout the agreement term. For example,

personnel within the Supplier organisations cannot bid for work that could be funded by HNES without appropriate ethical walls in place and evidenced.

- Ongoing management of the COI Management Plan is set out in Section D.3.1.

#### **A.1.3.2 Gaming/Fraud Mitigation**

- As part of the Joint Delivery Plan, the Supplier is required to review and accept the processes during the Mobilisation Period to identify and manage and minimise the risk of gaming by applicants.
- Any specific training requirements must be set out in the Supplier's Resource and Training Plan.
- Ongoing management of gaming and fraud is set out in Section D.3.2.

#### **A.1.3.3 Risk Management**

- During the Mobilisation Period, as part of the Joint Delivery Plan, the Supplier will need to review and accept the Risks and Issues Management Strategy demonstrating how they will actively identify and mitigate risks associated with the operational delivery of HNES.
- Ongoing risk management requirements are set out in Section D.3.

#### **A.1.3.4 Budget Management**

- During the Mobilisation Period, the Supplier will need to review the Budget Management approach demonstrating how they will actively report and track actual vs outline forecast/budget at a project and programme level.
- The Supplier must produce an outline forecast of expected spending against confirmed spending and report any anticipated variance between the two that might occur in the future.
- The Supplier will need to manage the grant funding allocated to HNES and monitor the variation between the forecasted and the actual spend per individual HNES Project and for HNES as a whole.
- The Supplier will be required to produce a drawdown forecast and allow a minimum of 6 weeks once all necessary verification checks have been completed (see section B.3.3) to notify the Buyer of drawdown requirements. The Buyer will authorise the payment(s) which will be made by UK Shared Business Services Ltd (UK SBS).
- Ongoing budget management requirements are set out in Section D.2.

#### **A.1.3.5 Continuous Improvement (CI)**

- The Supplier will be required to review the current HNES CI process including review cycles for the duration of HNES and ensure that there is an iterative CI approach to HNES products and operational delivery. During the Mobilisation Period, the Supplier will review the outline approach to continuous improvement management as part of the Joint Delivery Plan.

#### **A.1.3.6 Security Clearance**

- All Supplier personnel including any sub-contractors deployed to HNES by the Supplier require minimum security clearance of Baseline Personnel Security Standard (BPSS). It will be the Supplier's responsibility to ensure that the security clearance is in place by the contract start date (in alignment with Order Schedule 13) and remains valid during the Order Contract.
- In addition, Supplier personnel including any sub-contractors with wide access to live data will require a Security Check (SC) level clearance.
- The Supplier is required to establish the roles that would require SC level clearance as part of their resourcing proposal. This will be discussed with the Buyer during the Mobilisation Period.

- The Supplier will be responsible for all costs associated with security clearance throughout the Order Contract.

## A.2 Information Handover

The Mobilisation Period will begin with a series of kick-off meetings between the Supplier and the Buyer through which the Buyer will grant the Supplier access to the latest HNES guidelines, tools products and processes, including external-facing documents. The Supplier will be given approximately 10 Working Days to familiarise themselves with the information while engaging in other Knowledge Transfer activities.

As part of this process, the Supplier will set up a shared SharePoint library (or equivalent). The shared SharePoint library (or equivalent) will be used as the file storage location for the entirety of the Order Contract.

*Table 4 Mobilisation Information Handover Key Outputs and Outcomes*

Ref	Key Outputs /Outcomes (not exhaustive)
A.2 Information Handover	Delivery of: <ul style="list-style-type: none"><li>• Kick-Off meetings</li></ul> Review and acceptance of: <ul style="list-style-type: none"><li>• HNES information and data handover</li></ul>

## A.2 Detailed Requirements

### A.2.1 Kick-off Meeting series

- The Supplier will participate in a series of kick-off meetings organised by the Buyer in which the Buyer shares further details on the processes, structures, and products that will underpin HNES design and delivery.
- During kick-off meetings, both parties will discuss the Mobilisation process and timeframe. Based on those discussions, the Supplier will review the draft Mobilisation Plan (as defined in Order Schedule 13). This will be agreed by the Buyer, and will include the acceptance process for Mobilisation deliverables and milestones.

### A.2.2 Information and Data Handover

- The Supplier will be given access to the Buyer's repository of information regarding HNES, Order Contract governance, and project management. They will be given approximately 10 Working Days to familiarise themselves with the information while engaging with other Knowledge Transfer activities.
- Monitoring of HNES Demonstrator funded projects is carried out by the Buyer, and is not a Supplier requirement.
- Monitoring of existing HNES funded projects will be handed over to the Supplier as part of Mobilisation.

## A.3 Finalising HNES processes, structures, and products

The Buyer is open to suggestions for improvements to all existing products and processes (e.g. approach to application and M&R data capture/processing). Working Groups will be established

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during the Mobilisation Period – this will allow the Supplier (alongside the Buyer) to review any existing HNES processes, structures and products. The Supplier and Buyer will agree on any improvements before adoption by the Supplier.

Complete sets of HNES products and processes that outline how HNES Applications are to be submitted, processed, and assessed, funding disbursed, and HNES Projects monitored will be provided by the Buyer to the Supplier (i.e. the HNES Application Approval Process).

The Supplier will be required to review HNES Applications for accuracy, correctness, and alignment with final operational procedures and issue the updated and finalised external products following agreement by the Buyer.

This will include publishing updated HNES Application documents, online content for the HNES page, and submitting them to the Buyer for publication on the HNES .gov.uk website.

*Table 5 Detailed Mobilisation Activities for finalising HNES processes, structures, and products*

Ref	Key Outputs /Outcomes (not exhaustive)
A.3.1 Acceptance Process	Delivery of: <ul style="list-style-type: none"> <li>• Knowledge Transfer sessions</li> <li>• Working Groups</li> </ul>
A.3.2 HNES Structures	Review and acceptance of: <ul style="list-style-type: none"> <li>• HNES Management Board TOR</li> <li>• Investment Committee TOR</li> </ul>
A.3.3 Operational Processes	Review and acceptance of: <ul style="list-style-type: none"> <li>• HNES Application process map</li> <li>• HNES Application Assessment process, and process map</li> <li>• HNES Application supporting evidence assessment process map</li> <li>• Decision review process map</li> <li>• Fund disbursement process map</li> <li>• Subsidy control reporting process map</li> <li>• Monitoring of successful HNES Projects process map</li> <li>• Complaints process map</li> <li>• Data sharing process map</li> <li>• Security Management Plan</li> <li>• Quality Assurance process</li> <li>• Resource Management (including allocating resources to avoid COI and ensure ethical walls across application submission and assessment stages)</li> </ul>
A.3.4 Operational Products	Review and acceptance of: <ul style="list-style-type: none"> <li>• HNES Assessment guidance</li> <li>• IT system(s) supporting HNES operation including: processing of application / M&amp;R forms, database, file storage and data transfer to Buyer functions</li> <li>• Standard Operating Procedures (SOPs)</li> <li>• Email System</li> <li>• Content and format of reports for monitoring HNES Projects, operations and benefits monitoring</li> <li>• Data Capture Design</li> </ul>

### A.3 Detailed requirements

The supplier will be responsible for ensuring that any processes, structures and products that are updated during the Mobilisation period are appropriately quality assured through a final pre-submission quality review and signed off by the Buyer by May 2025.

#### A.3.1 Acceptance Process

- An acceptance process for Mobilisation Deliverables will be agreed upon with the Supplier during the kick-off meetings. In accordance with Order Schedule 13, the Mobilisation Deliverables submitted by the Supplier will be reviewed and (where relevant) tested by the Buyer during a period of acceptance and the Buyer will confirm acceptance in writing or issue certificates of acceptance prior to triggering the milestone payments.
- The Supplier is required to comply with its obligations under Order Schedule 13 (Mobilisation Plan and Testing).

##### A.3.1.1 Knowledge Transfer (KT) sessions

- The Supplier will be required to engage in a series of KT sessions to discuss the shared information and its application to HNES. These sessions will include KT from HNES.
- The Mobilisation Period activity will draw on selected guidelines, tools, products and processes used for HNES. The Buyer will ensure that the Supplier is given access to those documents as part of KT and that their application (where relevant/appropriate) to HNES has been discussed in both KT sessions and Working Groups. The Buyer and the Supplier will work together to ensure any lessons learnt from HNES are taken account of and implemented (where agreed).
- KT sessions will be organised by the Buyer and cover the following themes:
  - Strategic HNES aims, and interactions with other DESNZ support programmes such as the GHNF, the Heat Network Technical Assurance Scheme (HNTAS) and the Heat Network Delivery Unit (HNDU)
  - Scheme design and the application / application assessment process
  - Grant administration and budget management
  - Data Management and Permissions
  - Communications and market engagement

##### A.3.1.2 Working Groups

- The Supplier will be required to set up and lead a series of temporary Working Groups (as defined in the Glossary) with the Buyer to discuss, finalise, and agree on the guidelines, tools, products and processes presented to the Supplier in the information handover. These items support the Mobilisation Deliverables.
- The Supplier will be able to update and/or refine the guidelines, tools, products and processes to the extent that they need to and will present the results to the Buyer in relevant Working Groups.
- These recurring Working Groups will be set up to discuss the subjects set out in Table 6. Four Working Groups have been suggested but the Buyer remains open to the Supplier's suggestions presented in the draft Mobilisation Plan.

- The timeframes for Working Group meetings will be agreed with the Supplier, incorporating flexibility to accommodate the Working Groups' specific needs.
- The Supplier will set out the topics of discussion in the final draft Mobilisation Plan (based on the draft Mobilisation Plan set out in Order Schedule 13) for agreement with the Buyer during the Kick-Off meeting.
- The Supplier will be responsible for organising the Working Groups, preparing agendas, and leading the discussions.

*Table 6 Proposed Working Groups*

Working Group
1. Application; assessment; grant awards and administration.
2. Operational delivery (project management; conflict management and order contract change management, project change control, financial management) processes and artefacts.
3. Data management: M&R including benefits realisation, evaluation, data and security management; data transfer.
4. Stakeholder engagement and communications, and online presence (HNES webpage as part of a wider heat networks campaign website).

### A.3.2 HNES Structures

- Structures are expected to be discussed and finalised in the Working Groups.
- The Buyer's HNES Intelligent Client Function (HICF) will act as the primary interface between the Supplier, the Buyer, and other Buyer stakeholders that the Supplier will need to interact with.
- Refer to Annex B for the High-Level Governance and Reporting diagram.

#### A.3.2.1 HNES Management Board

- The HNES Management Board Terms of Reference (ToR) will be provided to the Supplier following the Order Contract award. The Supplier will be required to agree on membership during the kick-off meetings and engage with the HNES Management Board during the Mobilisation Period. Alongside Progress Meetings, this is the main interface of the Supplier with the Buyer's HICF.
- The Buyer will require the Supplier to engage with the HNES Management Board. The Buyer will chair the Management Board meetings, whilst the Supplier will provide secretariat duties in accordance with Order Schedule 15 (Order Contract Management).
- The HNES Management Board will be the forum for the Buyer and Supplier to work together and jointly solve issues that arise during the course of HNES.
- For the HNES Management Board process to be successful, the Supplier and the Buyer must collaborate and communicate to identify and devise mitigation plans to prevent/resolve any potential risks and/or issues that are foreseen.
- The HNES Management Board will be decision-making. During the Mobilisation Period it will:
  - Establish the Order Contract and project governance relationship, structures, and ways of working as set out in Order Schedule 15 (Order Contract Management).
  - Agree on the HNES governance structure and a structure for reporting information to the Buyer.

- Review and agree with the Buyer the following: a Joint Delivery Plan, contents of the Performance Monitoring Report (PMR), and an Exit Plan (see Section E).
- Following FPCD, these meetings will be used to review HNES progress and discuss any risks and issues for the delivery of HNES, as well as to discuss the Supplier's performance. The HNES Management Board standing agenda will include:
  - Review of the HNES Management Board Reporting Requirements products which are referenced in Annex A.
  - Review and update minutes from previous meetings, including actions and decisions.
  - Delivery update, which will include reference to the HNES Dashboard (which includes key risks, finance, activity milestones and highlight updates), Annual Benefits Report, Risk Register, and the IC Funding Report(s).
  - The Supplier will also provide a Delivery Confidence Assessment (DCA) ahead of each monthly meeting as part of the HNES Dashboard report. The DCA will provide an overall indication (RAG status) of the likelihood of successful HNES delivery. The Buyer will provide detailed descriptors to enable the Supplier to identify the DCA RAG status.
  - Change requests, as per the change control process (see Section C.1.2).
  - Agree to refer/escalate matters to the Heat Networks Programme Board as required.
- During the Mobilisation Period the HNES Management Board will be fortnightly, changing to monthly after the start of the HNES funding phase.

#### **A.3.2.2 Progress Meetings**

- The Supplier will agree the standing agenda for Progress Meetings with the Buyer during the Mobilisation Period. The Supplier will lead/chair the meetings to report on progress and the Supplier will record minutes and actions.
- The Progress Meetings are not decision-making. The standing agenda will include, as a minimum, the following items:
  - A review of recorded actions from previous Progress Meetings
  - A review of performance against the Mobilisation Plan and Milestones (during the Mobilisation Period only)
  - Updates on HNES Project spend-to-date and drawdown schedule
  - Funded HNES Project updates
  - Updates against HNES Project Programme, including key activity milestones
  - Updates on project risks and issues with reference to the Risk Register and Issues Log
  - Update on HNES communications
  - Updates on future HNES Project pipeline
- From the start of the Order Contract, both parties will engage in weekly Progress Meetings which re-occur for the duration of Mobilisation. Following FPCD, the Progress Meetings will take place fortnightly. The nature of the Progress Meeting is expected to change from an "on-boarding" focus to a discussion of matters related to the Order Contract and project governance during the HNES Mobilisation.

#### **A.3.2.3 Heat Networks Transformation Programme Board (HNTPB)**

- The Supplier will not be required to attend Buyer's internal HNTPB (unless by exception), which governs HNES.
- HICF will ensure that any key messages arising from HNTPB are communicated to the Supplier in a timely manner.
- The HNTPB will be the escalation route for strategic decisions, in accordance with the TORs for the HNES Management Board.

- The Buyer may be required to provide additional information for the HNTPB periodically from the Supplier.

#### **A.3.2.4 Heat Networks Management Group**

- The Supplier will not be required to attend Buyer's internal Heat Networks Management Group.
- The primary function of the Heat Networks Management Group is to provide delivery confidence of projects to the Heat Network Transformation Programme senior management.
- The Heat Networks Management Group will review project progress and, if required, support decisions regarding what needs to be escalated to the HNTPB.
- HICF will ensure that any key messages arising from the Heat Networks Management Group are communicated to the Supplier in a timely manner.

#### **A.3.2.5 Investment Committee (IC)**

- The Investment Committee (IC) is a Buyer-only governance forum aligned to HNES funding rounds, through which funding recommendations as drafted and submitted by the Supplier are reviewed.
- Upon completion of review (and clarification if necessary) the IC will decide whether to submit funding recommendations for HNES Projects for final DESNZ approvals.
- Membership of the IC will be aligned to (but not exclusive to) the HICF – membership of the IC will be confirmed to the Supplier during the Mobilisation Period.
- Further detail on the role and required functions of the IC are set out in B.4.1.

### **A.3.3 Operational Processes**

- The Supplier will develop a Security Management Plan in line with Order Schedule 9. The Security Management Plan will incorporate the following: a data-sharing process map, a data protection policy which is to set out how the delivery partner will protect the personal and commercially sensitive applicant data they hold and a Data Sharing Agreement (DSA) that will set out the approach to data transfer between the Supplier to the Buyer. The DSA and data protection policy will be annexed to the Security Management Plan.
- In the DSA, the Supplier will set out the timings of the data transfer, data formats used, and how the data will be managed in line with the Buyer's data protection requirements.
- Clear alignment is required between policy and operational procedures, including management of COI. This includes a Security Management Plan (as set out in Order Schedule 9), Joint Controller Agreement (as set out in Joint Schedule 11) and a privacy notice.
- The Supplier will be responsible for reviewing, and accepting the following operational processes:
  - HNES Application process map
  - HNES Application Assessment process, and process map
  - HNES JSON file transfer process map
  - HNES Application supporting evidence assessment process map
  - Decision review process map
  - Fund disbursement process map
  - Subsidy control reporting process map
  - Monitoring regime, including monitoring of successful HNES Projects process map
  - Complaints process map



- Data sharing process map
  - Security Management Plan delivered and agreed
- The Buyer has developed a power bi tool for processing HNES Projects data (including Application and M&R data/information). The Supplier will be required to provide timely JSON file transfers following funding rounds for application data and each M&R period (see section C.1.1.6).
- The Supplier is required to develop a resource management process to allocate sufficient resources across HNES requirements.
- The Supplier is required to develop a COI Management Plan to avoid COI and ensure ethical walls are in operation across the application submission and assessment stages.
- The Supplier is required to develop a data capture and management process to ensure that application documents are filed on SharePoint (or equivalent) following the Buyer's file structure.
- The Supplier will request and verify invoices from applicants to ensure they are legitimate and reflect HNES Project-related costs. For some grantees, the funds must have been spent before a claim is submitted and the grant funds are issued. Monthly reporting templates are appended in Annexes J.1 and J.2.

#### **A.3.3.1 Quality Assurance Process**

- The quality assurance (QA) process will set out the steps the Supplier will take to ensure that applications undergo the correct pre-application processes to verify that applications reflect accurate information, and that M&R information submitted by HNES Projects is accurate and complete. It is anticipated that some projects will not submit their reports in a timely, complete or accurate manner, and the Supplier will be expected to establish processes to better ensure that reports are received in a timely, accurate and complete manner (see B.3.3 and C.1 for further details). .
- The Supplier will develop a QA process for assessing HNES Applications to ensure that the correct processes are being followed and that details provided by HNES Project applicants and application assessors are accurate. It is expected that separate processes will continue to be used for capital grant application and revenue grant applications.
- During the QA process roles and responsibilities for those involved will be assigned as well as prescribed timescales for key activities to be undertaken as part of the process.
- The Buyer will review and approve the QA process.

#### **A.3.4 Operational Products**

- Products are expected to be reviewed and agreed in the Working Groups (A.3.1.2).
- The Supplier will be required to develop their own detailed Standard Operating Procedures (SOPs) based on the information provided by the Buyer and ensure that they align with the high-level processes provided to them.
- The Supplier will be required to familiarise themselves with HNES tools, products, processes and project pipeline.
- All assessments and supporting workings (e.g. cost benchmarking, reconciliations etc.) can be hosted on the Supplier's servers.
- Refer to Table 7 for the minimum supporting IT and Web systems necessary for administration of HNES.
- Refer to Order Schedule 13 for the deliverable testing requirements.

Table 7 Required IT and Web systems for HNES administration

	System Required	Provided by
IT	Database/Data Repositories	Supplier: all assessments, supporting workings (e.g. cost benchmarking, reconciliations etc.) should be hosted on the Supplier's servers (e.g. a dedicated SharePoint site or equivalent) with access provided to the Buyer.
	File storage	Supplier
	Email System	Supplier
Web	HNES Webpage as part of a wider heat networks campaign website	Buyer

#### A.3.4.1 Internal Operational Products

- The Supplier is required to manage product version control and to convert draft versions of agreed HNES products into final versions.
- The Supplier will be responsible for creating/amending, reviewing, and accepting the following internal operational products:
  - HNES Assessment guidance.
  - Internal operational products for the Supplier to produce.
  - Standard Operating Procedures (for all processes).
  - Email system – A fully UK GDPR-compliant email database system containing carefully segmented data for stakeholders that will be operated by the Supplier.
  - Plan for monitoring of successful HNES Projects and a bespoke format for benefits monitoring.

#### A.3.4.2 External Operational Products

- The Supplier will be responsible for managing the production, review, approval and publishing (where required on [gov.uk](https://www.gov.uk) webpages) of external products.
- These include:
  - HNES Guidance for Applicants (updated where required to reflect the Supplier processes). The latest version is appended in Annex G as an example.
  - HNES Application Forms (design and underlying calculations to be developed by the Buyer). The latest HNES Application Forms are appended in Annex H.1 and H.2 as examples.
  - HNES Application Checklist (as part of the HNES Guidance for Applicants).
  - Frequently Asked Questions (FAQs) form.
  - Project case studies.
  - Funding agreement templates – Grant Funding Agreements (GFA's) and Memorandum of Understanding (MoU's) - Buyer to provide pro-forma templates.
  - Monitoring and Reporting templates for successful applicants (the latest HNES M&R templates are provided in Annexes J.1 and J.2).
  - Data protection and privacy notice (updated to reflect the Supplier organisation and processes).
  - HNES complaints process (to be annexed to the HNES Guidance for Applicants).
- The Supplier is required to ensure all changes to HNES products are version controlled and draft versions are approved by the Buyer prior to their release as final versions.

#### A.3.4.2.1 Website Content

- The Supplier shall generate website content for approval by the Buyer. Once approved, the content shall be published by the Buyer on its HNES webpage on [gov.uk](https://gov.uk), as well as the Supplier's website, and will be updated by the supplier as required.
- The extent of this website content and development of the supplier site itself will be discussed in the Stakeholder Engagement and Communications Working Group. During the Mobilisation Period, the Buyer will confirm what accessibility standards the Supplier website will need to comply with and whether any Government logos must be added to the site to show that the supplier is delivering a Government scheme and deploying government funding to the market. See guidance below for information:
  - Branding and identify guidelines <https://gcs.civilservice.gov.uk/publications/hmg-identity-guidelines/>
  - Understanding accessibility requirements for public sector bodies <https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps#:~:text=The%20accessibility%20regulations%20came%20into,accessibility%20statement%20on%20your%20website>
  - Suppliers will need to demonstrate that they are working towards being compliant with WCAG 2.2 Level AA ([Government Resources for Accessibility](#) and <https://www.w3.org/TR/WCAG21/>).

#### A.3.4.2.2 HNES Application Process

- Currently applicants request a SharePoint space from the Supplier up to 1 week prior to the funding round deadline. They are then required to submit their Application Form and supporting evidence (documents set out in the Excel Application Form and the Application Form checklist) via this SharePoint folder following the structure instructed in the HNES Guidance for Applicants. Applicants receive confirmation with a corresponding reference number for use throughout the application process.
- The SharePoint space is the primary submission point for the submission of documents as needed during the HNES lifecycle.
- The Supplier will need to manage the application documentation storage. The Supplier will need to ensure that all applications and corresponding evidence are also filed into the relevant folders on the Buyer's servers/folders (SharePoint or equivalent) once received. This will be monitored and regularly updated by the Supplier.
- A call centre is not required. Applicants will be supported by an online helpdesk, as such, the Supplier will need to monitor a dedicated Outlook mailbox during office hours and support the application process by providing clarification to applicants within two Working Days.
- As part of tender returns and in the context of CI and process efficiency/innovation, Suppliers are encouraged to consider/propose alternative ways of managing the Application process (data capture and management), e.g. to reduce the administrative burden on both the applicants and the Supplier.

#### A.3.4.2.3 Content and format of reports for monitoring HNES Projects, operations and benefits monitoring

- The required reports will be defined and agreed by the Buyer and Supplier during the Mobilisation Period (see section C.1).

- To create some reports, the Supplier will be required to gather and process data provided by HNES Projects – this could be from the HNES Project's initial application form, or monthly/quarterly M&R submissions (a requirement for funded projects). Collecting and processing this data will allow the Supplier to ascertain how likely it is that the programme will achieve the targeted HNES benefits and will be used for the quarterly benefits report and the HNES project dashboard. The Supplier will be required to finalise and make publicly available a Privacy Notice that the Supplier must adhere to when dealing with personal data.
- A draft privacy notice, the HNES Privacy Policy, is included in Annex I and the Supplier will be required to update it to reflect HNES processes. Following this, the Privacy Policy must be uploaded onto the HNES webpage and signposted to in order to notify applicants how their data will be stored, controlled, and processed by both the Supplier and Buyer. The Supplier will be required to keep the privacy notice up-to-date and to notify applicants of any changes to it that may occur.
- The reports will be delivered by the Supplier as part of the M&R requirements (see section C.1), with ongoing continuous improvement and enhancement as needed.
- As part of tender returns and in the context of CI and process efficiency/innovation, Suppliers are encouraged to consider/propose alternative ways of managing the Monitoring and Reporting process (data capture and management), e.g. to reduce the administrative burden on both the applicant and the Supplier.

#### **A.3.4.2.4 – Reporting Data Submission Design**

- The Supplier will establish a mechanism to ensure key data points supporting the agreed reporting requirements are available to the Buyer.
- The Supplier will be required to provide timely JSON file transfers following funding rounds for application data, and for each M&R period (see section C.1.1.6).

### **A.4 Funding Phase Commencement Date (FPCD) run-up**

A programme of proactive stakeholder engagement will play a critical role during all stages of HNES. The Supplier will be required to engage with all relevant stakeholders in the Heat Networks sector, primarily prospective applicants and their supply chain partners. The Stakeholder Engagement and Communications Plan must be reviewed, updated and accepted during the Mobilisation Period as part of the Joint Delivery Plan.

The Supplier will be required to finalise and review the processes for funding award and will review and confirm the funding agreements provided by the Buyer to ensure they align with the eligibility criteria and data requirements of HNES M&R.

All required Mobilisation activities must be signed off by the Buyer by May 2025. The Supplier and the Buyer will be jointly responsible for a timely FPCD in May 2025.

Table 8 HNES Mobilisation FPCD Run-up Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
A.4.1 Stakeholder Engagement and Communications Plan	Review, update and acceptance of: <ul style="list-style-type: none"><li>Stakeholder Engagement and Communications Plan</li></ul>
A.4.2 Funding Award Agreements and Processes	Review and acceptance of: <ul style="list-style-type: none"><li>Processes for funding award</li><li>Funding agreement templates</li></ul>
A.4.3 Funding Phase Commencement Date Run-up	Meeting of all Mobilisation requirements in advance of Funding Phase Commencement Date.

## A.4 Detailed requirements

### A.4.1 Stakeholder and Communications Engagement Plan

- The Supplier will be responsible for engaging with key stakeholders in preparation for the FPCD.
- The Supplier will be required to develop a Stakeholder and Communications Engagement Plan as an annex to the Joint Delivery Plan and ensure that the engagement plan is implemented.
- The Supplier will host a Stakeholder Workshop in advance of the FPCD (workshop date as agreed with the Buyer) to support preparing prospective applicants and their supply chain partners for the FPCD and the first funding round under this contract.
- The stakeholder engagement requirements are set out in Section B1 of this document.

### A.4.2 HNES Main Grant Agreements and Processes

- The Supplier will be required to review and adapt/accept existing processes for HNES Grant Agreements:
  - Drawing down funding in collaboration with the Buyer.
  - Interface with the Buyer Treasury function to set up new vendors, for grant payments, and manage accruals.
  - The Supplier will need to ensure that HNES applicants countersign their funding agreement with DESNZ.
- The Buyer will provide draft Grant Funding Agreement (GFA) and Memorandum of Understanding (MoU) templates during the Mobilisation Period, which the Supplier will review, confirm and accept. The Supplier's review will focus on whether the draft GFA and MoU templates are suitable and align with the eligibility criteria, and data requirements for HNES M&R.
- The Supplier will validate HNES Project invoices that applicants have submitted to them to ensure that all invoices are legitimate and that they reflect HNES Project-related costs necessary for the progression of the HNES Projects. For certain grantees, it must be evidenced that the costs incurred have been spent before the grant being issued. For final invoices relating to revenue grants, this includes checking that deliverables have been completed in accordance with the Optimisation Study scope of works.
- The validation processes will be agreed during the Mobilisation Period.

### A.4.3 Funding Phase Commencement Date Run-up

- The Supplier and the Buyer will be jointly responsible for a timely FPCD on 13<sup>th</sup> May 2025.
- The Supplier will ensure that HNES is open for applications at FPCD.

## A.5 Supplier Resourcing

The Supplier will need to ensure they onboard and maintain sufficient resources with the appropriate range of skills and experience needed to deliver the Order Schedule 20 (Order Specification). Security clearance will be required as set out in A.1.3.6

The Supplier will need to produce (and maintain) a resourcing plan, including a training plan.

*Table 9 Mobilisation Supplier Resourcing Key Outputs and Outcomes*

Ref	Key Outputs /Outcomes (not exhaustive)
A.5.1 Supplier Skills and Experience	Confirm (incl Buyer sign-off) of Supplier team including: <ul style="list-style-type: none"> <li>• Range of multi-disciplinary skills and experience required</li> <li>• Supplier team resourced across all stages of HNES</li> </ul>
A.5.2 Skills and capability requirements for applicant support	Supplier to confirm resourcing for: <ul style="list-style-type: none"> <li>• Provision of one-to-one support to qualifying project applicants and their supply chain partners</li> <li>• Provision of HNES Applicant support</li> <li>• Provision of HNES application submission support</li> <li>• Provision of post-HNES Application support</li> <li>• Market development and engagement</li> </ul>
A.5.3 Skills and capability requirements for HNES application assessors	Supplier to confirm resourcing for: <ul style="list-style-type: none"> <li>• Review and technical assessment of submitted HNES Applications from a techno-economic, costing and deliverability perspective.</li> <li>• Clarification of outstanding queries on HNES Applications before the HNES application assessor submits an Investment Committee (IC) report for consideration by the IC.</li> <li>• Moderation of HNES Applications in advance of each IC.</li> <li>• Identification of opportunities, risks and issues relating to grant funding applications, and communication of these to the IC.</li> </ul>

## A.5 Detailed Requirements

### A.5.1 Supplier Skills and Experience

The Buyer has determined that the skills and experience outlined in this section will be needed across the Supplier functions to successfully deliver HNES:

- Experience in delivery, management or advisory of district heating and communal heating design or operation, with particular focus on commissioning, operation, maintenance and upgrade. This must be across a range of technical solutions and heat sources, and covering residential, commercial and mixed projects.
- Experience in administration of grant processes and management of funding / draw-down etc.
- Specialist cost consultants with experience in Heat Network projects, to allow detailed benchmarking of project costs, and review/challenge of cost estimates.

- Advanced knowledge of UK supply chain and procurement issues.
- Experience in creating and operating a PMO to administer complex projects.
- High-level influencing, negotiation and presentation skills and the ability to engage with senior stakeholders from a wide range of organisations and bodies (including internal stakeholders).

#### **A.5.1.1 Techno-Economic Advisory**

- The Supplier will have a detailed understanding of the range of technical solutions and the social, economic and environmental drivers around district heating and the benefits schemes can provide.
- The Supplier will have a detailed understanding of the operation of district and communal heating systems, including the range of factors and issues that impact on network performance. This should be across network development stages, i.e. design, construction, commissioning, operation, maintenance.
- The Supplier will have a detailed understanding of how network performance may impact network customers (residential or commercial), and how improvements to performance can improve customer outcomes.
- The Supplier will have a detailed understanding of Heat Network distribution infrastructure issues including operating pressures, temperatures, flow rates and controls, civil engineering and highways issues relating to installation, heat interface/substation design, etc.
- The Supplier will have an understanding of possible incentive and support mechanisms for district heating (e.g. Public Sector Decarbonisation Fund, Warm Homes: Social Housing, Green Gas Levy, Climate Change Levy (CCL), Energy Company Obligation (ECO) etc.).
- The Supplier will have an understanding of the cost base of Heat Network projects to allow detailed benchmarking of HNES Projects and provide a challenge to applicants cost estimates.
- The Supplier will have an understanding of the technical, economic and environmental characteristics of different heat sources.
- The Supplier will have the ability to review technical, costing and benefits information/modelling provided by Projects to ensure application information is robust, sufficiently detailed, accurate and complete.
- The Supplier will have an understanding of relevant industry guidance and legislation, e.g. Building Regulations (including Part L and building service compliance guides), ADE/CIBSE Code of Practice for Heat Networks, relevant industry learning around the delivery of good quality networks, low-temperature networks, consumer protection (including Heat Trust), and other relevant good practice guidance (e.g. CIBSE Code of Practice for Heat Pumps, London Heat Network Manual).
- The Supplier will have an understanding of the UK supply chain for district heating, the options for procuring schemes and assigning risk.

#### **A.5.1.2 Mobilising and operating a Project Management Office**

- The Supplier will create and operate a Project Management Office to effectively administer the processing, reporting and analysis of a portfolio of HNES Projects.
- The Supplier will carry out basic statistical analyses, particularly descriptive statistics to produce quality, robust management information/dashboards.
- The Supplier will assess and optimise operational processes and products as well as continually monitor HNES for improvements.

- The Supplier will design and review processes/systems (if applicable) in line with data security best practice including but not limited to controlling access, implementing technical and operational processes to ensure the security of information, and processing personal data in line with the principle of data minimisation and legislative requirements.
- The Supplier will have sufficient skills, experience and resources to produce the reporting requirements set out in Annex A of this Order Schedule.

#### **A.5.1.3 Legal**

- The Supplier will need to be able to commission (if required) specialist legal support to review the template HNES GFA's and MoU's during the Mobilisation Period. These template documents are anticipated to be consistent for the scheme duration.
- The Supplier may also need to commission legal support in the event that successful applicants have queries, clarifications or proposed amendments regarding the content of the GFA or MoU before they are signed which require amendment to the document(s).
- Legal support may be required by the Supplier on Exit Management planning and activation.

#### **A.5.1.4 Communications**

- The Supplier will manage Public Relations, marketing and communications for HNES across a diverse range of stakeholders. The Supplier will establish contact details, preferred channels of communication, agreed response times, and how to escalate issues.
- The Supplier will manage negotiation, conflict resolution, facilitation and change.
- Key skills required include analytical and problem-solving, effectively communicate both orally and in writing with internal and external customers, negotiation and liaison skills including the ability to establish effective networks.
- The Supplier will familiarise themselves with the events and promotional material that they will need to communicate to the market. The Supplier will produce informative materials to communicate and promote HNES successes post-FPCD. The Supplier will prepare templates ready to be used when necessary. For more information on specific requirements, refer to Section B.1.

#### **A.5.2 Skills and capability requirements for applicant support**

- The Supplier will provide support to prospective applicants and applicants through good knowledge of Heat Network projects, with particular focus on existing and operational district heating and communal heating systems – this role is critical for ensuring high quality project applications and maintaining a pipeline of prospective projects.
- This support will ensure that prospective applicants are made aware of HNES, the extent to which their HNES Project does or does not align with the principles and objectives of HNES support, what actions might need to be taken before applying to ensure the best foot forward and how to make a clear and compelling application.
- The Supplier will support applicants throughout the pre-application stage, submission stage (and reapplication stage, if necessary) and until the HNES Project is able to draw down the funding agreed.



### **A.5.2.1 Pre-Application Support**

- The Supplier will work proactively to source projects to apply to HNES from across England and Wales (also see B.1 Business Development Activity), which could include through:
  - Delivering virtual and in-person engagement events covering different regions and types of applicant.
  - Revenue grant projects being supported to convert to Capital grant applications.
  - Focus on ensuring that particularly poor performing heat networks are supported and encouraged to apply to HNES.
- The applicant support role will work with applicants before application. Where required by the applicant, the Supplier will assist by:
  - Discussing project eligibility and application requirements.
  - Carrying out a high-level review of the evidence provided to identify if and where additional focus is needed.
  - Utilising their market knowledge to help guide the applicants in optimising their HNES Project and application.

### **A.5.2.2 Submission Support**

- When a project is ready to make an application, the Supplier will help the HNES Project applicant by:
  - Offering clarity and guidance for applicants completing the HNES application form; and
  - Directing the applicant to relevant guidance and published examples of good and less successful HNES applications (anticipated during or after the first year of the HNES). Refer to Section B.1.1.2 for further detail.
- The provision of applicant support is for guidance only and will never be in the form of advice. The prospective applicant is under no obligation to follow the guidance provided but should be mindful that the guidance provided would be expected to always follow published HNES guidance.

### **A.5.2.3 Post HNES Project Application Support**

- The Supplier will support HNES Projects throughout the pre-application stage and through the entirety of the application process, and up until the applicant is able to draw down the Grant Award agreed.
- The Supplier will be required to support successful applicants to meet any Conditions Precedent before the HNES Project can commence / funding is drawn down.
- Where HNES Projects are successful, the M&R requirements (refer to Section C), will be managed by the Supplier's administrative function.
- In addition to any M&R requirements described in Section C, where projects are submitting final deliverables for revenue grant funded works, the Supplier will check that deliverables have been completed in accordance with the Optimisation Study scope of works.
- If HNES Projects are unsuccessful, the Supplier will support the applicant to reapply and resubmit an application for consideration if the original application was deemed to be a worthwhile endeavour.
- The Supplier must ensure that they have the necessary skills, experience and resources to provide adequate support to applicants.

### **A.5.2.4 Market Development**

- When not directly assisting HNES project applicants, the Supplier shall also proactively seek opportunities for new HNES Projects and identify potential opportunities.

- The market development will be supported by HNES events hosted by the Supplier, targeting opportunities within various sectors.

### **A.5.3 Skills and capability requirements for Application Assessors**

- The Application Assessor is a specific role to review and techno-economically assess submitted HNES Applications and determine if funding should be recommended for award.
- Application assessment will be an interactive process over circa 9 weeks, where the Application Assessor and applicant clarify any outstanding queries on the application before the Application Assessor completes the application assessment and submits an assessment report for consideration by the Investment Committee.
- Application Assessors must be able to assess HNES Projects from a techno-economic, costing and deliverability perspective, identify opportunities, risks and issues and effectively communicate these (via the Buyer) to the Investment Committee and Ministers.
- The Application Assessor will be independent and impartial of the provision of applicant support, and there will be sufficient ethical walls in place to allow for independent assessment of the application by the Supplier and prevent conflicts of interest. Applicants should feel comfortable discussing their HNES Project with the Supplier without concern that a judgement will be passed onto the assessment team.
- The Supplier is required to develop an application assessment moderation process and agree this with the Buyer during the Mobilisation period. Following FPCD, the Supplier will operate the application moderation process to ensure that all HNES Applications have been fairly assessed and that the assessment of all HNES Applications is consistent (refer to Section B.3.1 for more information).

## B. Application period

Post Mobilisation and FPCD, the Supplier will manage the application and assessment process for all prospective applicants. This section sets out the requirements for the Supplier to create market awareness of HNES and support applicants as they prepare their submissions for grant funding.

## B. Application period - High-level requirements table

Table 10 Application High-Level Requirements

Ref	Section	Ref	Subsection
B.1	Business Development Activity	B.1.1	Promotional Material
		B.1.2	Emailed Newsletters
		B.1.3	Public Relations and Communications
		B.1.4	HNES Workshops and Events
		B.1.5	External Events (speaking slots)
		B.1.6	Co-ordination with the Buyer
		B.1.7	Geographic Representation
B.2	HNES Project Application Support	B.2.1	The Application Rounds
		B.2.2	Types of HNES Applications that can be made
		B.2.3	Operate the HNES Application Form
		B.2.4	Register Interest
		B.2.5	Manage the application process
		B.2.6	HNES Evidence Requirements
		B.2.7	Maintain the Buyer's Subsidy Control Process
		B.2.8	Applicant support (throughout the application process)
B.3	HNES Project Assessment	B.3.1	The Application Assessment Process
		B.3.2	The Application Investment Committee decision
		B.3.3	Quality Assurance (QA) and Due Diligence Process
		B.3.4	Decision Review and Complaints Process
B.4	Investment Committee	B.4.1	Investment Committee (IC)
		B.4.2	Conditions Precedent and Subsequent
B.5	Funding	B.5.1	Funding Awards
		B.5.2	Funding Agreements

### B.1 Business Development Activity

A programme of proactive stakeholder engagement and business development activity will play a critical role during all stages of HNES. The Supplier will be required to engage with all relevant stakeholders in the Heat Networks sector, e.g. prospective applicants and their supply chain partners to ensure high awareness of the scheme nationally and to encourage a broad range of applications from all parts of the country including from the worst-performing networks.

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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**OFFICIAL-SENSITIVE: COMMERCIAL***Table 11 Business Development Key Outputs and Outcomes*

Ref	Key Outputs /Outcomes (not exhaustive)
B.1.1 Promotional Material	Review and acceptance of: <ul style="list-style-type: none"> <li>• HNES overview brochure</li> <li>• Case studies</li> </ul>
B.1.2 Emailed Newsletters	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>• Operate UK GDPR-compliant email system</li> <li>• Distribute news emails to stakeholders</li> <li>• Distribute tailored event and programme-specific emails</li> </ul>
B.1.3 Public Relations and Communications	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>• Publicise successful HNES Projects</li> <li>• Operate media monitoring service (cuttings), including reporting.</li> <li>• Engage with prospective applicants to ensure high awareness of the scheme and encourage applications from across the country.</li> </ul>
B.1.4 HNES Workshops and Events	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>• Manage a calendar of ongoing workshops and events</li> <li>• Survey stakeholder satisfaction levels at each event</li> <li>• Report stakeholder satisfaction level to the Buyer</li> </ul>
B.1.5 External Events (speaking slots)	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>• Proactively seek speaking opportunities at external trade events for all relevant sectors to reach core stakeholder groups</li> <li>• Co-ordinate an events calendar with the Buyer's Heat Network teams</li> </ul>
B.1.6 Co-ordination with the Buyer	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>• Operate series of co-ordination meetings for Stakeholder Engagement</li> </ul>
B.1.7 Geographic representation	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>• Ensure fair representation across English and Welsh regions, including delivery of regional events and workshops.</li> </ul>

**B.1 Detailed requirements***Table 12 Summary of Communication activities*

Activity	Example of activity	Anticipated Frequency	Anticipated Volume per cycle
Email Newsletters	Write and distribute an email to subscribers on the HNES Projects	Quarterly	1
News articles/press releases	Write and distribute a press release/news item on the HNES Projects	Quarterly	1
Feature articles	Write and distribute feature articles for the trade media based on HNES Projects	Quarterly	1

Activity	Example of activity	Anticipated Frequency	Anticipated Volume per cycle
HNES events/workshops	Arrange workshops and events during the HNES Application Period to cover multiple topics (see B.1.4)	Quarterly	1

### B.1.1 Promotional Material

- The Supplier will develop a suite of promotional materials, during the Mobilisation Period that will continue to be developed and added to during the Order Contract. These promotional materials include brochures and case studies. All materials will need to be tailored to meet the requirements of different audiences within the key stakeholder groups.
- The Supplier will create and deliver ongoing communications and engagement material.
- The Supplier will require a dedicated communications resource to manage the promotional activity.
- The Supplier will need to consider the accessibility of the material they produce. All documents and promotional materials must be produced in digital formats that facilitate accessibility for all users i.e. WCAG 2.1 accessibility standards and to an agreed style guide.

The following items will be reviewed and accepted (and where required amended) by the Supplier:

#### B.1.1.1 HNES Overview Brochure

- Detailing all aspects of HNES, its context in the pathway to net-zero / addressing customer detriment, the high-level criteria for applicants, examples of best practice projects and signposting where to find out more information, how to apply, etc.

#### B.1.1.2 Case Studies

- Showcase a minimum of ten exemplar HNES Projects per year that would meet the HNES criteria to demonstrate 'what good looks like'. Case studies can start to be developed from the FPCD and will primarily need to cover the funded measures, technologies and solutions that have been successfully supported.

### B.1.2 Emailed Newsletters

- The Supplier will issue tailored and relevant email content to its database of subscribers. Further emails will be sent to targeted groups with relevant content – such as events, workshops, deadlines, etc.

### B.1.3 Public Relations and Communications

- Projects supported by HNES must be publicised (e.g. through regular press notices). Web content will be submitted to the Buyer for approval and subsequently be uploaded to the Buyer's HNES webpage.
- The Supplier will write and distribute news items to relevant media, based on HNES Projects.

- The Supplier will write and distribute feature articles for the trade media based on HNES Projects. This will include case-study-led content, which, where possible, should be supported by the applicants. This material shall also be submitted to the Buyer for inclusion on their HNES webpage (subject to approval).
- The Supplier will manage a media monitoring service to capture cuttings and external articles, including regular reporting to the Buyer.
- The Supplier will engage with prospective applicant to ensure a high awareness off HNES and encourage applications from across the country.

### **B.1.4 HNES Workshops and Events**

- The Supplier will provide a rolling calendar of HNES-focussed events and workshops to promote the funding opportunities and develop a healthy pipeline of prospective HNES Projects that can apply for support.
- The workshops will provide detailed support to help applicants scope their HNES Projects and hone their applications to ensure an optimal uptake for each prospective round of funding.
- It is important that the Supplier provides hybrid events that offer online access to those that are unable to physically travel to any given event.
- Where appropriate, the Buyer's HICF and wider Heat Networks team will offer support to the Supplier by means of providing speakers.
- Feedback – each event hosted by the Supplier must include stakeholder satisfaction surveys that provide vital feedback. The results of these surveys must be collated and reported back to the Buyer.

### **B.1.5 External Events (speaking slots)**

- Securing speaking slots at external industry events will provide the Supplier with opportunities to promote HNES and encourage greater stakeholder engagement.
- It is likely that key figures from the Buyer's teams will also be speaking at many of the prospective events and as such, it is important that there is a level of coordination put in place.

### **B.1.6 Co-ordination with the Buyer**

- The Supplier will have already established an ongoing channel of communication with the Buyer's HICF to coordinate events, communications activities and HNES Project data.
- With the Buyer having many different teams operating in the wider energy sector, opportunities for collaboration with other teams must be explored – where there is a mutual benefit for positive publicity and furthering the drive towards net-zero and addressing customer detriment.

### **B.1.7 Geographic Representation**

- All business development activities should work to ensure fair representation is given to the English and Welsh regions to avoid a London-centric bias.
- The Supplier will monitor the geographic distribution of applications and successful projects to ensure a fair geographic representation at least in line with the geographic distribution of heat networks in England and Wales.
- The Supplier will work proactively to source projects to apply to HNES from across England and Wales (also see A.5.2.1 Pre-Application Support), which could include through:
  - Virtual and in-person engagement events aimed at different regions and types of applicant.

- Revenue grant projects being supported to convert to Capital grant applications.
- Focus on ensuring that particularly poor performing heat networks are supported and encouraged to apply to HNES.

## B.2. HNES Project Application Support

The Supplier will be responsible for supporting potential HNES applicants to prepare for HNES application, prior to assessment via the HNES Application Assessment Processes.

Table 13 Project Application Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
B.2. HNES Project Application support	<p>Review and acceptance of processes to:</p> <ul style="list-style-type: none"><li>• Proactively engage with potential projects to assist them in preparing for HNES application and support with application form completion</li><li>• Provide administrative functions to support applicants during the HNES Application Assessment process.</li><li>• Provide post-application support to successful HNES Projects to assist them in understanding and complying with their obligations.</li><li>• Provide post-application support to failed HNES Applications supporting them in reapplying if they choose to do so.</li><li>• Providing detailed feedback to applicants.</li></ul>

## B.2 Detailed requirements

The HNES Project application preparation stage is iterative, prior to commencement of the HNES Main Application Approval process.

### B.2.1 The Application Rounds

- The application process is expected to follow a cycle of a funding round every 4 months, repeated for the three years of HNES duration starting in May 2025 running through to at least March 2028 (subject to budget availability and final number of funding rounds).

### B.2.2 Types of application that can be made

- HNES Applications for Revenue Grants (Optimisation Studies) and Capital Grants can be made. A summary of the volume of grant applications received and funded through HNES to date (Rounds 1-6) is provided in Annex M.
- It is anticipated that projects that were awarded Revenue Grants under HNES to date are likely to consider coming forward for Capital Grants through HNES, and will form a key part of the HNES project pipeline. The Supplier will engage with these projects to ensure high quality capital grant funding applications during the Order Contract.

### B.2.3 Operate the Application Form

- The Supplier will review the HNES Application Forms during Mobilisation Period, with the Buyer subsequently ageing any suggested updates proposed by the Supplier. As part of Continuous Improvement and process efficiency/innovation, Suppliers are encouraged to consider/propose alternative ways of managing the Application process (data capture/management), e.g. to reduce the administrative burden on both the applicants and the Supplier.

## **B.2.4 Register Interest**

- Prospective applicants will be able to register their interest in HNES via processes put in place by the Supplier, and receive applicant support from the Supplier.

## **B.2.5 Manage the application process**

- HNES applicants will be able to complete the application process at any time before the closure of each application assessment round window, however the Supplier will be expected to encourage prospective applicants to start the application process as soon as possible within a round to allow time to support applicants effectively through the application process.

## **B.2.6 HNES Evidence Requirements**

- Minimum/supporting evidence requirements lists will be provided to the Supplier. The application process (as agreed between the Buyer and the Supplier) will need to ensure that applicants have submitted all required documents according to the application checklist to the Supplier.
- The Supplier will be required to check applicants have submitted all documents according to the application checklist and validate that they have been wholly completed and that supporting documents have been sent. The Supplier must notify applicants if they have submitted an incomplete checklist.
- It will be the responsibility of the Supplier to review, recommend refinements, expand and maintain those evidence lists and supporting guidance as appropriate through a continuous improvement process to ensure that the applicants have submitted all required evidence to an appropriate standard.

## **B.2.7 Maintain the Buyer's Subsidy Control Process**

- Determining subsidy control mechanisms is the responsibility of the Buyer. The Supplier will be required to undertake sufficient due diligence throughout the application process to ensure that the Buyer's subsidy control requirements are being met. Should those requirements change, the Supplier would be expected to update their processes and the application such that any new requirements can be met.
- At this time the subsidy control requirement is to ensure that up to but not including 50% of the eligible costs of a project Capital Grant application are being met by government grant funding, up to 100% of the eligible costs of a project Revenue Grant application are being met by government grant funding, and to ensure that no other government grant funding is being used to meet these eligible project costs. The Supplier will also need to confirm that there are no relevant interactions with Northern Ireland.
- The Supplier will be responsible for carrying out additional checks on any grant application of £1m or above.
- The Supplier will be responsible for checking the central grants database for project matches to prevent double subsidy and for preparing the information to be uploaded on successful HNES Projects whilst the Buyer will upload onto the database and provide the QA function for the successful application database entry.

## **B.2.8 Applicant Support (throughout the application process)**

- The Supplier is required throughout the HNES Mobilisation, application period and post-application period to engage and support potential and existing HNES Applicants, before, during and after submitting a HNES application.



- The Supplier will provide pre-application support to HNES Projects to assist their understanding of the HNES requirements, ensuring that they are well equipped to apply for funding so that the HNES Applications that are submitted are of good quality.
- The Supplier will provide ongoing application support throughout the application process ensuring clarification questions are raised, issued and discussed with applicants.
- A call centre or help desk is not required – ongoing applicant support will be provided through a dedicated email mailbox, managed by the Supplier.
- The Supplier will be required to manage responses to HNES clarifications, with the Buyer's HICF supporting this process as appropriate.
- The Supplier will provide applicant support by ensuring the Buyer's HNES web content is regularly updated and submitted to the Buyer for publishing.
- The Supplier will provide feedback to all HNES Projects. Successful HNES Projects will be informed of any Conditions Precedent/Subsequent set, the reasons for those conditions and support the projects in understanding how to meet them. For HNES Projects that are not successful, the Supplier will communicate where the HNES Project fell short and what remedial action might be taken before future reapplication.
- The Supplier will provide administrative functions, application form IT support, applicant support and assessor functions to support the applicant through the application process.
- The Supplier will be expected to be the main point of contact for each HNES Project. The Supplier will support the applicant through the whole HNES life-cycle: from the initial approach to HNES before application, through creating/submitting the application itself, and engaging with the applicant HNES Project post-application assessment.
- The Supplier will discuss the application with the applicant and manage pre-application queries.
- On the closure of an application round the Supplier will assign an application assessor(s) with sufficient technical understanding (as per A.5 above) to review the technical, costing and deliverability aspects of the HNES Applications made.
- The finance and treasury function will be provided by the Buyer. The Supplier will be required to provide project information such that a payment can be made (bank details, confirmation from the applicant, grant claim form, invoices and evidence of payment), including undertaking financial due diligence checks, checking verified payment information and confirming that payments are eligible and have been approved with HNES Project Milestone dates (as set out in the HNES Project Grant Agreements) and conditions met, within the timescales required by DESNZ internal finance processes.
- The Supplier must ensure that the information and interface they provide between the applicants and the Buyer meets the Buyer's needs i.e. information requirements and timelines, due diligence, etc.

### B.3. HNES Project Assessment

The HNES Application Assessment Process will clarify any outstanding queries on the application with the applicants, through an iterative process with formal evaluation metrics, before submitting an assessment report for consideration by the Investment Committee.

Table 14 Application HNES Project Assessment Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
B.3.1 The HNES Application Assessment Process	<p>Review and acceptance of processes to ensure:</p> <ul style="list-style-type: none"><li>• HNES Applications that have been quality assured.</li><li>• The identification of changes required to HNES Applications to ensure they meet the required quality.</li></ul>

## Order Schedule 20 (Order Specification)

Order Ref: itt\_74815

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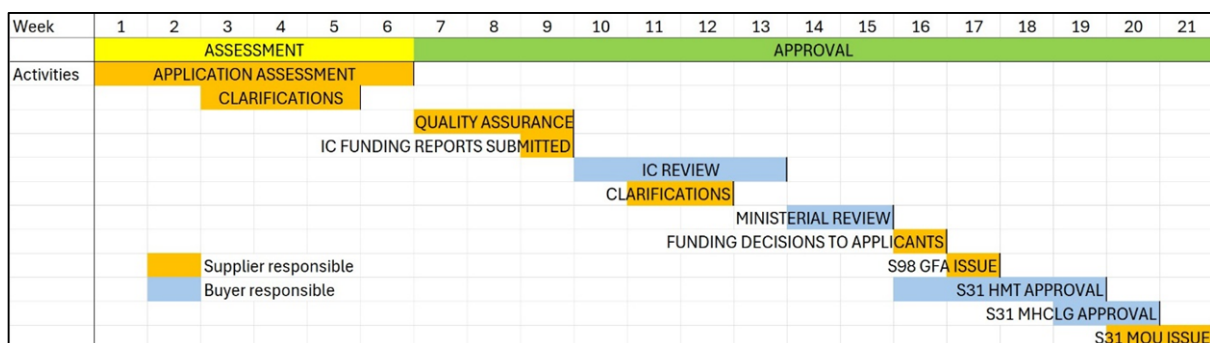
OFFICIAL-SENSITIVE: COMMERCIAL

Ref	Key Outputs /Outcomes (not exhaustive)
	<ul style="list-style-type: none"> <li>Communication of IC decisions / recommendations and other internal approvals.</li> </ul>
B.3.2 The Application of Investment Committee decision / recommendations	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>Undertake assessment and scoring of HNES Applications.</li> <li>Decide on the recommendation of funding amounts to HNES Applications.</li> </ul>
B.3.3 Quality Assurance (QA) and Due Diligence Process	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>Operate a robust QA process during the application process.</li> <li>Perform due diligence and Cabinet Office checks on applying entities.</li> </ul>
B.3.4 Decision Review and Complaints Process	Review and acceptance of processes to: <ul style="list-style-type: none"> <li>Operate a robust decision review process.</li> </ul>

### B.3.1 The HNES Application Assessment Process

An indicative timeline (and corresponding roles and responsibilities) for Application Assessment is shown in Figure 2 below.

Figure 2 – Draft HNES funding approvals timeline



- The Supplier will need to ensure that all required due diligence checks and QA processes on the application have been completed and satisfied, including checks that application data submitted is accurate.
- The application assessors will review the HNES Applications made and supporting documentation. The Supplier must ensure they have the capacity and capability to assess all areas of all HNES Applications received in every funding round. It is anticipated that the application assessor may raise clarification questions and issue these to the applicant for comment.
- The Supplier will need to ensure that any grant requests of £5m or above are subject to stricter value for money criteria to justify the size of grant requested. This could include (e.g.) closer alignment to HNES criteria and/or benefit realisation.
- The applicant will be given a period of four Working Days to respond to Supplier clarifications, after which the application assessor may request discussing the responses with the applicant.

- Successful HNES Applications will have defined eligibility and assessment criteria set out by the Buyer, and the assessor will be expected to score against this.
- Following submission of an application, the assessment process will include a Supplier-led moderation meeting or process (to be agreed with the Buyer during the Mobilisation Period) which will ensure consistency of assessments across the application reviews, clarify any complex areas that assessors are unsure of and inform the IC Funding Report. Through the moderation process, all assessments will be quality assured (including those that have not satisfied the assessment criteria), to ensure the HNES Applications have been assessed consistently and fairly.
- The moderation process will need to confirm that application assessments have been fully completed and that the assessment of each application is consistent and of a suitable standard, before being included in the IC Funding Report(s). The moderation process will need to be completed before unsuccessful applicants are notified and the IC Funding Report(s) are submitted by the end of week nine.
- As part of the IC Funding Report(s), the application assessor will recommend whether, should the application succeed, conditions precedent and/or conditions subsequent should be attached to the grant offer and include the details of any recommended conditions to the report.
- If the assessor determines that the application does not meet the minimum requirements of HNES or will not be recommended for funding, this will be confirmed through the assessment moderation process which will report this failure to the applicant clearly indicating where the HNES Project falls short, by no later than the end of the week sixteen.
- An individual assessor is not empowered to fail an application. Once the assessor has completed their assessment of an application, a senior moderator will review the assessment. Only if the moderator agrees with the assessor will a failure notification be triggered.
- Following the moderation process, all HNES Applications that have failed the assessment process will form part of a Continuous Improvement report that will be submitted to the Management Board.
- Once the Supplier communicates this decision to the applicant, the applicant will have the option to accept the decision and potentially amend their HNES Project such that they can apply in a later round or request a review of the decision and enter the review process.

### **B.3.2 HNES Application approvals**

- HNES Applications will be collated by the Supplier and ranked by assessment score in a collated application approvals pack (the IC Funding Reports). This will be issued to the IC by the Buyer via correspondence. The IC members will have one week for initial review followed by one week for the final review of the Funding Report. This period will include raising questions or clarifications with the Application Assessors. The Supplier may choose to convene a drop-in session for IC members to allow clarification questions to be verbally raised in addition to/in place of written clarifications. The method of clarification is at the discretion of individual IC members.
- The Application Assessors will have two weeks to follow up with the applicants if required and respond to the IC by the end of week twelve with either clarification responses, or (if required) an updated Funding Report.
- The IC will communicate to the Buyer by the end of week thirteen whether to recommend full, partial or no grant offer(s) to assessed projects.
- Recommendations for funding awards made by the IC will be submitted to the DESNZ Minister to note, with an estimated response expected within five working days (to be confirmed). This will increase to ten working days during Parliamentary recess.

- For successful Local Authority applicants, additional approvals are required by HMT and MHCLG (see B.5.1). These will be led by the Buyer, based on information provided by the Supplier.
- The Buyer will notify the Supplier of the decisions and approvals made. The Supplier will then issue a letter of success (with conditions if applicable) or failure to the applicants. All unsuccessful applicants will be provided with feedback on their application.

### **B.3.3 Quality Assurance (QA) and Due Diligence Process**

- The Supplier will be required to carry out due diligence on each application. The Supplier will carry out due diligence (such as Companies House and credit score) and Cabinet Office checks<sup>3</sup> on the applicant and the applying entity. It is anticipated that confirmation that the applicant has the authority to submit an application on behalf of the applying entity will be incorporated into the application process.
- The Supplier will be required to carry out further creditworthiness checks of potential applicants (this will include background checks to ensure the applying organisation is legitimate and capable of receiving and appropriately managing grant funds). The checks will be proportionate to the value of the applicant grant request.
- The Application Assessment process provides the QA and scrutiny process for the IC.
- The Supplier will operate the QA process during the application stage and may request changes to an application should it be determined that processes have not been followed or that details provided by HNES Project applicants are inaccurate.
- The Supplier will be required to operate an assessment moderation process to Quality Assure the application assessment and scoring process. This is to ensure all HNES Applications have been evaluated fairly and consistently.

### **B.3.4 Decision Review and Complaints process**

- The Supplier will operate the HNES Decision Review process as agreed during the Mobilisation Period – this will set out the applicants right to have their outcome reviewed.
- The Supplier will review the Decision Review process for unsuccessful applicants, and ensure it continues to adhere to the following:
  - There will be a process to review decisions made on procedural grounds as distinct from the decision itself;
  - The emphasis/burden will be on the unsuccessful applicant to provide evidence that material evidence in their application wasn't considered in accordance with the HNES Application Approval Process;
  - The process will not be open to abuse nor cumbersome for the unsuccessful applicant or Supplier; and
  - The review process will be considered by person(s) independent from the HNES decision-making chain, ensuring there are no conflicts of interest.
  - Complaints will follow the Supplier's usual complaints procedure. Any complaints made to the Buyer about HNES will follow the Buyer's standard complaints procedure<sup>4</sup>.

<sup>3</sup> E.g. Government Functional Standard, requirement 7: Risk, Controls and Assurance;

<https://www.gov.uk/government/publications/grants-standards>

<sup>4</sup> <https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy/about/complaints-procedure>

## B.4. Investment Committee (IC)

The terms of reference (TORs) for the IC will be shared with the Supplier during the Mobilisation Period. Through the HNES IC, the Buyer will confirm funding recommendations which will then be issued to the DESNZ Minister to note.

*Table 15 Investment Committee Key Outputs and Outcomes*

Ref	Key Outputs /Outcomes (not exhaustive)
B.4.1 Investment Committee	<p>Review and acceptance of processes to:</p> <ul style="list-style-type: none"> <li>Review funding recommendations as drafted by Application Assessors in IC Funding Reports</li> <li>Raise questions and clarifications regarding funding recommendations as drafted by Application Assessors in the IC funding reports</li> </ul>
B.4.2 Conditions Precedent and Subsequent	<p>Review and acceptance of processes to:</p> <ul style="list-style-type: none"> <li>Assess whether 'Conditions Precedent/Subsequent' are required for awards</li> </ul>

### B.4.1 Investment Committee (IC)

- The HNES IC will consider all HNES Application Assessment recommendations received in the IC Funding Report (to be submitted by the Supplier) to determine whether the HNES Applications that the assessor(s) and moderators deem to 'pass' the assessment should be recommended for funding, and passed to the Minister to note. It is anticipated that IC review of each Funding Report will be via correspondence.
- The HNES IC will consider all HNES Applications, received within a period (funding round) and at a volume such to drive reasonable competition to be determined by the Supplier. The IC will recommend whether the HNES award(s) can be submitted to the DESNZ Minister (to note), and review and amend the 'Conditions Precedent/Subsequent' that the Application Assessors have proposed if necessary.
- The IC will be the Buyers internal diligence check for funding recommendations, including any Conditions Precedent/Subsequent. The Minister will then note the funding recommendations. Following this, Grant Funding Agreements can be issued to successful HNES Projects.
- For successful Local Authority applicants, additional approvals are required by HMT and MHCLG (see B.5.1). These will be led by the Buyer, based on information provided by the Supplier. On completion of these additional approvals, MoU's can be issued to the successful Local Authorities.
- HNES Project award decisions will be batched for regular announcements.
- The Supplier will consider/review general conditions anticipated in the funding agreements and agree on these with the Buyer.
- The Supplier will also need to develop a risk-based approach to setting HNES Project-specific conditions for HNES.
- Unsuccessful applicants will be given the opportunity to request a review of the decision made which led to the failure of their application. This process will be undertaken following the review process in which the IC will be the arbiter. The Supplier will be responsible for capturing review requests and including supporting information in the papers submitted to the IC.
- The input for each IC will be through a Funding Report covering (but not limited to) the following, to be agreed during the Mobilisation Phase:
  - Summary list of project applications assessed, including requested funding amounts, recommended funding awards and assessment scores;
  - For each project for which funding is recommended:
    - An overview of the project;

- A summary recommendation (narrative and quantified details/metrics);
  - Application Assessor scoring against each assessment category and summary rationale;
  - Application Assessor scoring narrative against each assessment category;
  - Confirmation of moderation and QA checks by the Supplier (including credit checks);
  - Any Conditions Precedent or Subsequent;
  - Any change request recommendations for previously awarded grants (i.e. from previous funding rounds).
  - Anticipated HNES benefits accrued based on funding recommendations;
  - HNES (Programme level) budget status;
  - Summary of recommended project details and metrics for inclusion in Ministerial submission.
- Capital grant assessments and revenue grant assessments will be presented in separate funding reports.
- The output from each IC process will be a summary (drafted by the Supplier, as above) of funding recommendations that will be submitted by the Buyer to the Minister. The Buyer will communicate to the Supplier the outcomes of the IC/Ministerial process within approximately six weeks of the Supplier submitting the IC Funding Reports to the Buyer.

#### **B.4.2 Conditions Precedent and Subsequent**

- Conditions Precedent and Subsequent that apply to each HNES Project will be recommended by the Application Assessors (and confirmed or amended as necessary by the IC), moderated by a senior Supplier team member and reviewed by the Minister as part of the Application Assessment process.
- Conditions Precedent will relate to specific activities being required to be met in advance of approval for drawdown to be given.
- It will be the responsibility of the Supplier to ensure:
  - The Supplier has identified and agreed on any conditions specific to individual HNES Projects with the Buyer and communicated these to the applicant.
  - The applicant is aware of all Conditions Precedent and Subsequent relevant to their HNES Project.
  - That the applicant has satisfied relevant Conditions Precedent before funding can be drawn down.

#### **B.5. Funding**

The Supplier is required to ensure that available funding for each financial year is deployed in line with HNES policy on CDEL recognition for Section 31 and Section 98 Grant Awards. Grants to Local Authorities will be made under the provisions of the Local Government Act Section 31 (S31). Grants to all other applicants will be made under the provisions of the Natural Environment and Rural Communities Act Section 98 (S98).



Table 16 Application Funding Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
B.5.1. Funding Awards	<p>Review and acceptance of processes to:</p> <ul style="list-style-type: none"> <li>• Agree the process for drawing down funds</li> <li>• Liaise with applicants whilst applications are internally (DESNZ) approved</li> <li>• Undertake appropriate due diligence before co-signing of funding agreements</li> <li>• Ensure Buyer finance team make payments in accordance with the Grant Funding Agreement / Memorandum of Understanding</li> </ul>
B.5.2. Funding Agreements	<p>Review and acceptance of products and processes to deliver:</p> <ul style="list-style-type: none"> <li>• Draft funding agreement(s)</li> <li>• Unique (project specific) funding agreement conditions as required by the Investment Committee where necessary</li> </ul>

## B.5. Detailed Requirements

### B.5.1 Funding Awards

- Once the success of the application has been formalised, the Supplier will liaise with the relevant applicant to determine whether they will accept the Funding Agreement.
- The Supplier is required to undertake due diligence on successful applicants before co-signing of funding agreements, refer to Section B.3.3.
- The Supplier is required to ensure that available funding for each financial year is deployed in line with HNES policy on CDEL recognition for S31 and S98 Grant Awards. Grants to Local Authorities will be made under the provisions of the Local Government Act S31, including approval by HMT and issue of a grant determination by MHCLG. Grants to all other applicants will be made under the provisions of the Natural Environment and Rural Communities Act S98.
- S31 grants crystallise a liability at the point when the grant award determination number has been issued by the MHCLG (formally the Department of Levelling Up, Housing and Communities (DLUHC)). When the Memorandum of Understanding (MoU) is signed, the CDEL budget of that financial year is recognised within the Buyer's accounts to the full value of the grant for the first phase of work.
- For S98 awards, the recognition of CDEL is directly aligned to the grantee's incurrence of costs associated with the grant awarded.
- The Buyer will be responsible for securing HMT and MHCLG approvals, based on information provided by the Supplier.
- The Supplier will agree on the process for drawing down the funds in collaboration with the Buyer during the Mobilisation Period.
- The Supplier will be required to ensure Conditions Precedent have been met before funding can be drawn down.
- The Supplier will be required to manage the process for notifying the Buyer's Treasury function ahead of funding drawdown.
- This process will begin at the point of a formal application for funding from the applicant, through to the payment of grant funding to the applicant by the Buyer and will adhere to the points below.

- Following completion of the IC/Ministerial processes, the Supplier will be required to liaise with the applicants to inform them of the likely outcome whilst the application goes through internal processes.
- The Supplier is required to undertake appropriate/proportionate due diligence (on the entity receiving the funds and the funding agreement) and drawdown funding requests.
- S98 grant checks should be undertaken by looking at a sample of invoices to confirm they support the associated activities and to evidence cash defrayal by the applicant.
- S31 grant invoices and cash defrayal should be evidenced in line with monthly reporting requirements by HNES Projects, up to the value of the grant awarded.
- If funding is accepted, the Supplier will tailor the funding agreement template as necessary (see section B.5.2 Funding Agreements) and will obtain evidence of acceptance of the funding agreement from the applicant and submit the evidence to the Buyer. The Supplier needs to ensure that HNES applicants countersign the funding agreements with the Buyer.
- Once the funding agreement has been signed by the Buyer, the Buyer will commission its finance department to make payments in accordance with the funding agreement. It will be the responsibility of the Supplier to coordinate this exercise.
- If funding is not accepted, the Supplier will be required to engage with the applicant and the Buyer to determine whether there is a realistic prospect of the HNES Project obtaining the funding it requires and to advise the applicant and the Buyer accordingly.

## **B.5.2 Funding Agreements**

- Funding agreements provide the terms and conditions within which the grant money can be spent by the applicant and will need to be agreed upon and signed by the relevant parties for all HNES Projects.
- Using the process agreed as part of Mobilisation for the drafting of funding agreements, the Supplier will draft funding agreement for each successful applicant and will reflect any conditions agreed.
- The Supplier will be required to tailor funding agreements as necessary to reflect the unique requirements for each HNES Project and obtain the Buyer's approval for the funding agreement document.
- Draft funding agreements must be shared with the Buyer if requested as part of the report for the IC so that they can be updated (if successful). This will ensure that funding agreements can be amended with any requirements raised by the IC/Minister immediately and allow the process to be accelerated. This should ensure that the HNES Projects plan for delivery is not impacted.



## C – Monitoring & Reporting

Following FPCD to the end of the Order Contract, the Supplier will monitor the progress of HNES, monitor the progress of all successful HNES Projects and provide evidence to support the performance monitoring of the Supplier. Key Supplier roles during this phase include the PMO and scheme administration.

### C. Monitoring & Reporting - High-level requirements table

Table 17 Monitoring & Reporting High-level Requirements

Ref	Section	Ref	Subsection
C.1	HNES Monitoring and Reporting	C.1.1	Monitoring Regime
		C.1.2	Project Change Control
		C.1.3	Escalation/Remedial Action
C.2	Independent HNES Evaluation	C.2.1	Independent Evaluation of the HNES
		C.2.2	HNES Gateway Assurance Reviews
C.3	Supplier Performance Monitoring and Reporting	C.3.1	Supplier Performance Assurance

### C.1 HNES Monitoring and Reporting

Table 18 HNES Monitoring & Reporting Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
C.1.1 Monitoring Regime	<p>Review and acceptance of products and processes to:</p> <ul style="list-style-type: none"> <li>• Capture and manage data relating to HNES Project application forms and M&amp;R reporting</li> <li>• Better ensure accuracy, completeness and punctuality of monitoring reports/data being provided by HNES Projects</li> <li>• Produce regular reports based on application and M&amp;R information reported by HNES Projects</li> <li>• Provide portfolio level reporting to the Buyer (benefits realisation)</li> <li>• Escalate issues with M&amp;R reporting by HNES Projects to the Buyer</li> <li>• Transfer HNES data to the Buyer</li> </ul>
C.1.2 Project Change Control	<p>Review and acceptance of products and processes to enable:</p> <ul style="list-style-type: none"> <li>• Reporting of requests for additional funding and changes to existing funded HNES Applications</li> <li>• Operation of the project change control process to monitor approval/ rejection of proposed changes to projects</li> </ul>
C.1.3 Escalation/ Remedial Action	<p>Confirmation of resourcing and staffing to:</p> <ul style="list-style-type: none"> <li>• Carry out agreed processes for escalating issues to the Buyer</li> <li>• Ensure the Supplier has sufficient resources for the entirety of the HNES Project to provide support to identify and mitigate risks associated with Monitoring and Reporting</li> </ul>

## C.1. Detailed Requirements

### C.1.1 Monitoring Regime

#### C.1.1.1 Overview

- The Supplier will be responsible for collating and processing HNES application data and ensuring, as far as possible, that successful HNES Projects are submitting accurate M&R reports in a timely fashion (see C.1.1.3).
- Where projects are highlighting issues as part of M&R reporting, these need to be followed up with the relevant HNES Project and a decision made by the Supplier whether the issue needs to be escalated to the Buyer.
- The Supplier will be required to report to the Department in two ways:
  - Summary HNES reports setting out scheme-level themes (spend-to-date, progress of project development, benefits realisation, issues and themes, supply chain etc.); and
  - The raw data extracted from the application forms and M&R reports submitted by individual HNES Projects as JSON files batched into files of no more than 1,000 records per file.
- HNES application and M&R requires HNES Projects to submit MS Excel based templates. There are templates for projects that have have applied for and/or secured revenue grant support and separate templates for projects that have applied for and/or secured capital grant support.
- The M&R reporting frequency of projects that have secured revenue grant support is monthly. The reporting frequency of projects that have secured capital grant support is monthly up to completion of delivery of funded works (including commissioning), and quarterly after completion of commissioning.
- HNES Projects (capital grant) are required to submit M&R returns from the first month after funding award and stop submitting M&R returns 24 months after the point at which funded measures have been installed and commissioned. HNES Projects (revenue grants) are required to submit M&R returns from the first month after funding award and stop submitting M&R returns once their Optimisation Study is complete (received and signed off by the Supplier).
- Each quarter the Supplier will need to provide a full export of data collected over the period from their database as JSON files uploaded to a DESNZ SharePoint folder. See section C.1.1.6 below.
- The M&R regime will be developed by the Supplier such that additional administrative and data management services to provide the sharing of industry intelligence and monitoring and reporting between Buyer Capital schemes, the Heat Network Zoning Central Authority, Zone Coordinators, Ofgem, National Underground Asset Register (NUAR) and the Heat Network Technical Assurance Scheme (HNTAS) can be undertaken through manual and automated processes as required by the Buyer.

### C.1.1.2 Reporting requirements

- The Supplier will provide monthly reporting (M&R Report) to the Buyer. The core purpose of these reports is to summarise for each HNES Project:
  - Issues facing projects, particularly those that require Buyer decisions / involvement (see C.1.1.5);
  - Draw down of funds and project forecast of spend (grant funding and match funding) within current and future financial years;
  - Project performance metrics such as heat delivered, fuel consumption, unplanned outages, customer tariffs etc.
  - Supply chain information such as key contractors being contracted by projects to deliver funded works.
- The Supplier should also utilise the reports to support the Buyer in the following:
  - Increase understanding of heat network operations and consumer experience, to inform future Heat Networks policy decisions.
  - Drawing on the Suppliers heat networks skills and expertise, support the Buyer in understanding, improving and disseminating the evidence base for the performance of existing heat networks.
  - Monitor and report non-compliance or fraud.
- Beyond the HICF, different teams within the Buyer's wider Heat Networks team will have different uses of the information gathered and it is important that the Supplier is aware of these to ensure that reporting meets each team's needs:
  - Heat Networks Senior management: focus on budget and project issues;
  - Heat Network Analysts: focus on project performance / benefits realisation;
  - External Evaluation Partners: focus on impact and value for money;
  - Heat Network Future Markets Growth: focus on supply chain and project performance;
  - Heat Network Delivery Unit: focus on supply chain and project performance;
  - Heat Network Data Team: raw data (JSON files) for internal dashboard, cross checking of Supplier portfolio reporting and parallel monitoring function.

### C.1.1.3 Accuracy, completeness and punctuality of reports submitted by HNES Projects impacting reporting to the Buyer

- It is anticipated that some projects will not submit their M&R reports to the Supplier in a timely, complete or accurate manner. The Supplier will be expected to establish processes to better ensure that HNES Project M&R Reports (and subsequent Portfolio Reports, see C.1.1.4 below) are received in a timely, accurate and complete manner. As a minimum this must include:

#### **Not submitted**

- Tier 1: Automated chase emails;
- Tier 2: if Tier 1 has failed: a phone call / personalised email;
- Tier 3: if Tier 2 has failed, where continued failure to submit in a timely manner, or there is a persistent poor level of reporting:
  - send a template Buyer-headed letter notifying them of their obligations under either the Grant Funding Agreement or Memorandum of Understanding (as appropriate). This template

letter will be agreed between the Supplier and Buyer within the Mobilisation Period.

- Tier 4: if Tier 3 has failed:
  - notify the Buyer contract manager and a bespoke letter will be drafted by an appropriate Buyer official and sent to the CEO (or equivalent) of the grant recipient organisation informing them of their failure to meet reporting obligations that formed part of their funding requirements.

#### **Inaccurate**

- The Supplier must review each report submitted and assess the accuracy of the information reported. While the Supplier will not be able to comment on whether a value is “correct”, it will be able to assess if a value appears “reasonable”. This can be established through an understanding of the application data which was made available to the Supplier between application submission and contract award.
  - For example, where a report submits an annual heat demand of 10,000 kWh but the project was forecasting 10GWh, then a clarification would be submitted to the project querying the value submitted.
- Further, while templates have data validation, we are aware that some applicants do not use Microsoft Excel to amend Microsoft Excel spreadsheet templates used. This can cause data validation rules to be ignored resulting in text being submitted where values are required. It is essential that the Supplier clarifies this with the applicant and ensures that values are submitted where a value is required. The Supplier is welcome to suggest/develop alternative methods of data capture/management providing they do not deviate from the data requirements in the excel template.

#### **Incomplete**

- Where templates have not been completed, responses are too brief or dismissive (e.g. “n/a” when they do need to provide an update) then the Supplier needs to have in place a system that will pick this up and prompt a follow up email / call requiring the applicant to complete the template and resubmit it to the Supplier.

#### **Further implications for reporting to DESNZ**

- For each Supplier report issued to the Buyer, a section of the report must be provided that sets out which projects have failed to meet the reporting expectations for the reporting period against accuracy, completeness and punctuality. The Supplier needs to have in place a system that will identify the root causes of the reporting failure and an escalation process to manage inconsistent reporting.

### **C.1.1.4 HNES Portfolio Report (benefits realisation)**

- The key purpose of the portfolio report is for benefits realisation monitoring and allowing the Buyer to make improvements and/or adjustments to the scheme if necessary.
- The existing HNES M&R report templates received from projects that would form the basis of the portfolio report are:
  - HNES capital scheme M&R report: Annex J.1
  - HNES revenue scheme M&R report: Annex J.2
- The Supplier will be required to collate data from HNES M&R reports received from projects into a quarterly report that is submitted to the Buyer 1 month following the project report submission date for a given reporting period.
- The report will cover the following in relation to HNES objectives and benefits:

- Portfolio operational analysis:
  - Total heat delivered in reporting period
  - Total fuel reductions by fuel type (and associated CO2e abated relative to baseline) in reporting period
  - Average tariff analysis (operational reporting only),
  - Project service interruptions.
- Portfolio level financial analysis:
  - Grant drawn down in reporting period
  - Total grant drawn down (financial year)
  - Total match funding spend in reporting period
  - Match funding spend remaining (financial year, and overall)
- Contributions of HNES data and information to wider policy development (see HNES Objective 3)
- List of projects that have capital grant funding.

#### **C.1.1.5 Engaging with projects and escalating issues to the Buyer**

- The Supplier is expected to be the first point of contact if an HNES Project encounters a problem that may impact forecast outcomes relating to: the timing of HNES benefits realisation and/or the extent of HNES benefits realisation.
- Where HNES Projects indicate a “Red” RAG rating in their submitted report, the Supplier is required to contact the nominated HNES Project lead within 10 working days having received the report. For HNES Projects that have yet to make grant drawdowns either in the current or future financial years, the Supplier must assess whether the “Red” RAG rating is likely to impact the grant draw down timing and / or if there is a significant enough change in the project’s timing or extent to warrant escalation with the Buyer outside of the monthly M&R or quarterly portfolio reporting cycle.

#### **C.1.1.6 Database design and JSON outputs**

- The Buyer Data Team manage a relational database that stores all heat network project data across the various schemes and programmes that the Buyer manages. Each data point that is gathered within an application form and a M&R template must be provided to the Buyer as part of this contract. The application forms and M&R template reports, set out in this Order Schedule, have been mapped to existing tables within that database.
- The Supplier is required to collate all these datapoints from the MS Excel templates and export these as batched JSON files that are uploaded to a Buyer-specified folder at the frequency and timing required. The JSON schemas are provided in sections below for each report.
- JSON files must be batched to include no more than 1,000 records per file. For a given table, records must be sorted in “Newer to Older” such that a given table’s first export batch file reflects the latest records imported into the Supplier’s database. This is to help the Buyer prioritise its import sequencing.
- For any given JSON file, the JSON schemas must include the fields below that are additional to the M&R Report key-value pairs within a given M&R report:
  - The project’s Application ID (provided by Buyer Heat Network Data Team)
  - The Supplier’s database time stamp
  - A report name to ensure that data across tables / JSON files can be mapped to a given report (e.g. Q1\_2024)

### Capital and revenue application form templates

- The MS Excel template has been split across two tables and are provided in Annex L:
  - *HNES\_APP\_KEY\_VALUE*
  - *HNES\_APP\_APPLICATION\_STATUS*
- The mapping of individual cells to these tables and their respective fields can be seen in the tab <DESNZ\_Extract> - see Annex H.1: HNES Application Form – Capital Grants and Annex H.2: HNES Application Form – Revenue Grants

### Capital grant M&R template

- The MS Excel template has been split across four tables and are provided in Annex L:
  - *HN\_HNES\_MR\_FUNDING*
  - *HN\_HNES\_MR\_TIME\_IND*
  - *HN\_HNES\_MR\_RISK\_REGISTER*
  - *HN\_HNES\_MR\_PERFORMANCE*
- The mapping of individual cells to these tables and their respective fields can be seen in the tab <DESNZ\_Extract> - see Annex J.1: HNES Capital Grant M&R Report Template.

### Revenue grant M&R template

- The MS Excel template maps onto the first three tables of the HNES Capital Grant M&R Template (i.e. excluding the *HN\_HNES\_MR\_Performance* table) – see above. There is one further table that is specific to the HNES Revenue Grant M&R Report Template:
  - *HN\_HNES\_REV\_WORKPACKAGES*
- This table will follow (is not provided as an annex to this ITT) but the mapping of individual cells to these tables and their respective fields can be seen in the tab <DESNZ\_Extract> - see Annex J.2: HNES Revenue Grant M&R Report Template.

### JSON file-naming conventions for data transfers to the Buyer

- As stated above JSON export files must not exceed 1,000 records per file. The records need to be sorted by each table as Newer to Older. The JSON file name must adhere to the following convention:
  - Table Name (as set out above) + "\_" + file number
  - For example:
    - *HN\_HNES\_REV\_WorkPackages\_1*
    - *HN\_HNES\_REV\_WorkPackages\_2*
    - Etc.

## C.1.2 Project Change Control

- The Supplier will operate the change control process as agreed with the Buyer during the Mobilisation to consider and approve or reject proposed changes to successful HNES Projects benefits, cost, time and scope during delivery. A change control process diagram will be shared with the Supplier during the Mobilisation Period.
- Examples of changes that fall under the Change Control process include:
  - Requests for additional funding;
  - Requests for changes that result in reductions in targeted benefits;
  - Requests by the Supplier through M&R-initiated project reviews (e.g. material risks/issues flagged through M&R returns);
  - Requests for a change in Grant Recipient organisation/name;
  - Requests to move funding across financial years;

- Requests for a reduction to HNES grant award;
  - Requests for a change to terms, or milestones, or conditions to payment;
  - Etc.
- The process will provide a framework for the assessment of the potential impact of implementing a change. This should include whether or not such changes are required to undergo a separate review by the IC.

### C.1.3 Escalation/Remedial Action

- The Supplier must be sufficiently resourced for continual engagement post-approval of each HNES Project, to provide support to mitigate risks identified and to ensure accurate reporting.

## C.2 Independent HNES Evaluation

Table 19 Independent HNES Evaluation Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
C.2.1. Independent Evaluation of HNES	<p>Review and acceptance of products and processes to:</p> <ul style="list-style-type: none"><li>• Support independent evaluation (through co-operation with the appointed evaluation contractor and the Buyer)</li><li>• Provide staff time where required (e.g. meetings, interviews)</li><li>• Provide data when required</li><li>• Provide information on benefits realisation when required</li><li>• Fill any data gaps and fix any data inaccuracies in application and M&amp;R data</li></ul>
C.2.2 HNES Gateway Assurance Reviews	<p>Review and acceptance of existing Buyer Governance arrangements to ensure:</p> <ul style="list-style-type: none"><li>• Support to Gateway Assurance Reviews throughout the contract term</li></ul>

### C.2.1 Independent Evaluation of HNES

- An independent evaluation contractor has been appointed to evaluate HNES (including the HNES Demonstrator). They have been appointed through a separate procurement and contract.
- The evaluation began in June 2023 and will end in March 2027. So far there have been three interim reports, with a fourth expected at the end of 2024. Findings from these reports allow for in flight adjustments to the scheme where necessary and relevant findings will be provided to the successful supplier.
- The Supplier will be expected to engage constructively with, and where necessary participate in, the evaluation. This will include taking part in interviews. A list of evaluation requests for the Supplier will be shared with the successful Supplier.
- The Supplier will be expected to share any necessary data with the evaluation contractor. This will include HNES application and M&R data and risk reports alongside contact details for HNES projects to facilitate surveys and interviews.
- The Supplier will be expected to fix any data gaps in project data i.e. missing or incorrect application and M&R data, as robust data is required for the impact evaluation. This is discussed further in section C.1.1.3.
- HNES Projects will be required to participate fully in any required evaluation as part of their funding agreement. The Supplier may be required to encourage projects to participate e.g. via email prompts.

- Detailed information on the evaluation, including the project plan, theory of change, timelines and outputs, will be shared with the successful Supplier.

## C.2.2 HNES Gateway Assurance Reviews

- HNES will be subject to approximately yearly Gateway Assurance Reviews, coordinated by the HICF, where independent practitioners from outside HNES examine the progress and likelihood of the successful delivery of HNES. The Gateway Reviews are used to provide an additional perspective on the issues facing the delivery team and an external challenge to the robustness of plans and processes.
- Gateway Assurance Reviews consist of a documentation review and a series of interviews with members of the Delivery Team.
- Throughout the contract term, there are planned to be three Gateway Assurance Reviews (dates to be confirmed, and subject to change):
  - Gateway 0/5 in April-October 25, which will review operations and benefits realisation of the scheme.
  - Gateway 5a in July-December 26, which will again review operations and benefits realisation of the scheme.
  - Gateway 5b in October 27-April 28 plans for benefits realisation and exit in advance of scheme closure.
- More information on the purpose/ scope of each review can be found here: <https://www.gov.uk/government/collections/infrastructure-and-projects-authority-assurance-review-toolkit>
- The Supplier will be required to make the appropriate resources available to participate in the Buyer's HNES Gateway Assurance Reviews.
- The Supplier will be required to provide key documents and engage in interviews with the delivery team when requested to do so.
- The Supplier is required to make available the correct and appropriately senior staff to participate in any internal assurance activity.
- In collaboration with the Buyer, the Supplier must be prepared to adjust HNES or their operation in line with the Gateway Review recommendations.

## C.3 Supplier Performance Monitoring and Reporting

In addition to Monitoring and Reporting HNES Project performance and scheme performance (in meeting scheme objectives), the Supplier will also report on their own performance in operating.

This will include any Key Performance Indicators and Service Levels (Annex A) identified in the Order Contract Terms and Conditions, as well as data points linked to other activities included in the requirements. For more information on Supplier Performance Monitoring and Reporting key outputs, see below. The data collected on Supplier performance in relation to stakeholder engagement activity is set out in Table 20. This data will be reported in the Stakeholder Engagement Communications Report provided to the HNES Management Board as set out in Annex A.



*Table 20 Supplier Performance Monitoring & Reporting Key Outputs and Outcomes*

Data	Content	Frequency
Satisfaction Data	Collated feedback from the satisfaction surveys issued after each engagement event, workshop, etc.	Quarterly
Events Activity Data	Includes the frequency, attendance, themes and other activity from Stakeholder Forums and Event/Workshops	Quarterly
Communication Activity Data	Includes the media engagement, articles published in the previous quarter	Quarterly

### C.3.1 Supplier Performance Assurance

- The Supplier will be required to make the appropriate resources available to participate in the Buyer's Supplier Performance Reviews.
- The Supplier is required to make available the correct and appropriately senior staff to participate in any internal assurance activity.
- Through agreement with the Buyer, the Supplier must be prepared to adjust their processes, products or operation in line with the review outputs.

## D. Continuous Elements

Following FPCD until expiry or earlier termination of the contract, the Supplier will operate the agreed processes, systems and products to effectively manage and govern HNES. Key Supplier roles and capabilities during this phase include PMO, scheme administration (i.e. forecasting and budget management) and communications.

### D. Continuous Elements – High-Level requirements table

Table 21 Continuous Elements High-Level Requirements

Ref	Section	Ref	Subsection
D.1	Project Management Office		
D.2	Budget Management		
D.3	Risk Management	D.3.1	Conflict of Interest Management Plan
		D.3.2	Gaming/Fraud Mitigation
D.4	Continuous Improvement		
D.5	Data Management	D.5.1	Updates of HNES Documents
		D.5.2	Submitting reporting data
D.6	Supplier Resourcing		

### D.1 Project Management Office

Table 22 Project Management Office Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
D.1 Project Management Office	<p>Review and acceptance of products and processes to ensure:</p> <ul style="list-style-type: none"> <li>Project Management Products are reviewed and updated monthly</li> <li>Project Management Products are shared with the Buyer monthly</li> <li>Satisfactory delivery of regular meetings between the Supplier and Buyer</li> <li>HNES administration tasks are regularly monitored to ensure timely delivery of reports</li> </ul>

- The Supplier will be required to operate a PMO function with the processes agreed during the Mobilisation Period to deliver HNES.
- The PMO will ensure the adoption of a standardised set of project management tools and processes across HNES Projects supported by the fund.
- The Supplier PMO will be required to review and maintain key project management products to ensure the effective management of HNES.
- These products will be made available for review by the Buyer during the Mobilisation period, for the full list refer to A.1.3.
- In the event of a consortia/ sub-contractor arrangement, the Supplier PMO will be responsible for the integration of any Key Subcontractors and Subcontractor standardisation of process across subcontractors.

Table 23 Objectives of regular meetings between the Supplier and the Buyer post HNES Mobilisation

	HNES Management Board meetings	HNES Progress Meetings
Purpose	Decision Making	Reporting
Objectives	<ul style="list-style-type: none"> <li>Monitor HNES Project progress, against a Joint Delivery Plan. The Joint Delivery Plan will be reviewed and agreed by the Supplier during the Mobilisation Period</li> <li>Manage and monitor the HNES portfolio and individual HNES Projects risks using a joint risk register.</li> <li>The Buyer and Supplier will be jointly responsible for agenda-setting.</li> </ul>	<ul style="list-style-type: none"> <li>Use the project management tools agreed during the Mobilisation Period to provide regular progress updates to the Buyer.</li> <li>The Supplier may use this as an opportunity to raise ad-hoc topics and issues with the Buyer for decision-making and guidance.</li> <li>The Supplier will be responsible for agenda-setting.</li> </ul>

- The Supplier shall regularly update the HNES Programme document library, filing, recording and reporting systems. This includes ensuring that all HNES Applications and corresponding evidence are uploaded into the correct SharePoint folders (or equivalent), following a file structure agreed by the Buyer. The Supplier will need to regularly update and monitor the file structure to ensure that the filing of documents remains in order and continues to meet the Buyer's needs.
- The Supplier will ensure that all agreed project management methods, standards and processes are maintained throughout the Programme.
- The Supplier will coordinate the review and/or production of all reports (as set out in Annex A) and ensure they are delivered to the Buyer in a timely manner.

## D.2 Budget Management

Table 24 Budget Management Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
D.2 Budget Management	<p>Review and acceptance of products and processes to ensure:</p> <ul style="list-style-type: none"> <li>Day-to-day processing and quality assurance of project invoices and grant payments</li> <li>Collation of accurate project financial details and evidence as requested by the Buyer to support grant payments</li> <li>Production of outline forecasts for HNES Project CDEL/RDEL spend, updated monthly, including clear HNES Project Milestone dates as set out in the HNES Project Grant Agreements / Memorandum of Understanding, and planning of grant claims over £500k</li> <li>Production of budget reporting to support Buyer internal Finance function</li> <li>A year-end financial report is provided to the Buyer at the end of March each year</li> </ul>

- The Supplier must comply with the HMT guidance 'Managing Public Money'<sup>5</sup> and ensure that all funds spent will be used responsibly and for the purposes intended.
- At the beginning of each financial year, the Supplier is required to submit to the Buyer an outline HNES capital grant budget (CDEL grants) forecast, an outline HNES revenue grant budget (RDEL grants) forecast, and an outline HNES scheme administration budget (RDEL programme) forecast, detailing how the HNES budget is likely to be spent across the financial year. The CDEL/RDEL grants forecasts will be based on assumptions around funding HNES Projects and the RDEL programme forecast will be based on agreed Mobilisation Deliverables.
- The above forecasts will need to be updated for Management Board meetings and IC funding reports to reflect application outcomes and HNES Project drawdown forecasts. The Supplier will be responsible for continuous management of the budget forecasts and financial information.
- All financial reporting requests from the Buyer will need to be actioned and returned within five Working Days of month-end and within eight Working Days at year-end (end of March).
- For the financial year-end (end-March), the Supplier will need to send the Buyer financial information for its year-end reporting process by a date agreed with DESNZ. This will be before the end of March. This will include committed spend for the next financial year (which will be within the previously notified parameters around future commitments), so accruals can be set. The accruals process will be managed by the Supplier.

## D.3 Risk Management

Table 25 Risk Management Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
D.3. Risk Management	Review and acceptance of products and processes to ensure: <ul style="list-style-type: none"> <li>• Updating of Risk and Issue Management Strategy as required.</li> <li>• Risks and issues are identified, assessed and shared with the Buyer.</li> <li>• Mitigations are identified and executed to reduce risk and issue exposure.</li> <li>• Regular review of Supplier and shared Risk Register</li> </ul>
D.3.1. Conflicts of Interest Management Plan	Review and acceptance of products and processes to ensure ongoing management of the: <ul style="list-style-type: none"> <li>• Conflicts of Interest Management Plan.</li> <li>• Conflicts Register.</li> <li>• Resource Plan.</li> </ul>
D.3.2. Gaming/ Fraud Mitigation	Review and acceptance of products and processes to ensure: <ul style="list-style-type: none"> <li>• A set of controls to mitigate against fraud risk including a process to minimise gaming risk</li> <li>• A procedure for managing whistleblowing and reporting instances and content to the Buyer.</li> </ul>

- The Supplier will be required to continuously manage risk for HNES.
- Risks and Issues will be shared with the Buyer using a shared risk register.
- The Buyer will provide written guidance and definitions for the assessment of risks and issues in terms of likelihood and probability.

<sup>5</sup> [Managing public money - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/managing-public-money)

## D.3 Risk Management

- The Supplier will identify and execute mitigations to reduce the level of exposure for each identified risk, documented through a shared risk register presented at the HNES Management Board meetings.
- The Buyer will provide any updates to written guidance and definitions i.e. risk probability scales and definitions.
- This section should be read in conjunction with Order Schedule 15 (Order Contract Management).

### D.3.1 Conflicts of Interest Management Plan

- The Supplier will maintain a Conflicts of Interest Management Plan and Conflicts Register (created during the Mobilisation Period) that is updated as required throughout the duration of the Order Contract.
- The Supplier will be expected to operate a resource plan which is appropriate to deliver the requirements of the agreement along with mitigating any risk or perceived risk, of conflict of interest.

### D.3.2 Gaming/Fraud Mitigation

- The Supplier shall manage the risk of gaming by applicants and develop processes to identify and minimise this risk.
- The Supplier shall undertake a comprehensive review of fraud risk in the application of HNES and develop a series of mitigating controls, which will be kept under review throughout HNES operation and undertaken at least annually. The Supplier should align their Fraud Strategy to Government Functional Standard 13 – Counter Fraud, contributing towards the HNES Fraud Risk Assessment and quarterly reporting.
- The Supplier will operate the procedure for managing whistleblowing and report instances and content to the Buyer as necessary.
- The Buyer reserves the right to carry out an independent assessment of the Supplier's gaming/ fraud controls and processes to ensure that they are fit for purpose.
- The Supplier shall be responsible for ongoing training requirements in accordance with the resource and training plans.

## D.4 Continuous Improvement

Table 26 Continuous Improvement Key Outputs and Outcomes

Ref	Key Outputs /Outcomes (not exhaustive)
D.4. Continuous Improvement	<p>Review and acceptance of products and processes to ensure:</p> <ul style="list-style-type: none"><li>• Processes for continuous improvement, linked to the change control process.</li><li>• Lessons learned log (as part of the Continuous Improvement Log) shared with the Buyer on a quarterly basis.</li><li>• Identification of changes through the continuous improvement process to be considered through the change control process.</li><li>• Facilitation of capturing and onward sharing of learning across projects, building a body of knowledge that can be used to enhance the capability and competency of staff within grant recipient organisations to manage and improve the performance of heat networks.</li><li>• Support of independent assessment, including engagement with evaluation research for the delivery of HNES.</li></ul>

## D.4 Continuous Improvement

- The Supplier will develop a process to continuously improve and capture learnings from HNES.
- The Supplier will be required to maintain a quarterly review cycle for the duration of HNES and ensure that there is an iterative continuous improvement approach to HNES products and operational delivery. This includes:
  - The Supplier will be required to review all HNES design elements and embed them in operational delivery planning.
  - Recommend operational improvements and alterations for consideration by the Buyer if necessary – both during the Mobilisation Period, and throughout the Order Contract. This must take into consideration operational performance against reporting metric performance ranges when developing improvement proposals. The Supplier will need to report on HNES performance to the Buyer in the Performance Monitoring Report, refer to Annex A for further detail. Refer to Order Schedule 14 (Service Levels) for more information on the Service Levels.
  - Develop a continuous improvement approach to the application process review cycle.
- The Supplier and Buyer will be required to agree on the process for any adjustments due to unforeseen changes to scheme design during the Mobilisation Period.
- The Supplier will need to collate acquired learnings and present recommendations to the Buyer as part of the HNES improvement process through the continuous improvement cycle and implement agreed changes, this includes integration of findings from independent evaluators.
- The Buyer will review the results from the independent evaluation and Gateway Assurance Reviews, and confirm what findings should be acted upon and/or potential solutions to resolve any potential shortcomings.
- Any changes to HNES documents or processes agreed as a result of the continuous improvement process must be appropriately communicated to stakeholders, including applicants and potential applicants.
- The Stakeholder Engagement and Communications Plan will be updated quarterly taking into account feedback from the DESNZ Market Growth team so as to complement other communications during the Order Contract.
- The supplier will develop processes to capture the learning from projects and build the body of knowledge on how to improve the efficiency and performance of heat network systems. They will implement mechanisms through their stakeholder and communications plan to share these learnings in a way that will build capabilities within the target organisations for the scheme.
- The Supplier will engage with the Independent Evaluators as required, to support an independent evaluation of HNES and ensure co-ordination of activities i.e. to avoid duplicating surveys or demands on HNES Projects.
- The Supplier is required to:
  - Provide a report to the Buyer which outlines any proposed improvements to HNES management and performance.
  - Participate in evaluation research (across a range of people in the Supplier involved in delivery, assessment, management, investment etc.) including in-person attendance at workshops, and additional provision to respond to ad-hoc data requests.
  - Capture any lessons learned within a Lessons Learned Log to be shared with the Buyer (refer to Annex A for further detail).
  - Consider and respond to recommendations from the independent evaluation, see Section C.2.

## D.5 Managing Data and Information

The requirements to be delivered under the HNES agreement will generate significant volumes of data (both quantitative and qualitative) that will need to be effectively managed by the Supplier and reported to the Buyer.

Data collected will be both qualitative and quantitative and not just metrics used for monitoring purposes. Some data collected through HNES will be classified as Personal Data under UK GDPR. Commercially sensitive data will also be received.

A Data Sharing Agreement (DSA) is required to be reviewed/accepted in agreement with the Buyer during the Mobilisation Period. Knowledge sharing processes should also be agreed upon as part of Mobilisation.

Management of personal data will need to comply with the UK GDPR, PECR and any other relevant legislation.

*Table 27 Managing Data and Information Key Outputs and Outcomes*

Ref	Key Outputs /Outcomes (not exhaustive)
D.5. Managing Data and Information	<p>Review and acceptance of products and processes to ensure HNES delivery:</p> <ul style="list-style-type: none"><li>• Remains compliant with relevant data protection legislation</li><li>• Remains compliant with UK General Data Protection Regulation</li><li>• Remains compliant with the privacy notice, data protection policy and Security Management Plan</li><li>• Includes regular updates to HNES documents</li><li>• Submits reporting data (as per section C above)</li></ul>

## D.5 Data Management

- HNES data will include information generated during HNES and monitoring of successful HNES Projects. This includes, but is not limited to, the content of application materials, communications between applicants and the Supplier during the submission, assessment, scoring and award stages and subsequent information collected for the operation of HNES, including the contents of monitoring reports.
- The Supplier is required to:
  - Comply with Joint Schedule 11 in relation to processing data
  - Develop a secure case management system and a data repository hosted by the Buyer to store HNES data and facilitate reporting.
  - The DSA will include making sure that consent to share contact details etc. with the evaluation contractor is built into the funding agreements for HNES Projects, and the requirements for the Supplier.

### D.5.1 Updates of HNES Documents

- HNES documents/products may need updating as part of the continuous improvement process throughout the Order Contract.
- The Supplier will update HNES documents as required and communicate changes to potential applicants via the Buyer's website and other appropriate channels.
- The Supplier will ensure that the Buyer has reviewed and approved changes prior to publication and must ensure a version control process is in place.
- Updates made to HNES Documents will be submitted to the HNES Management Board for approval.



## D.5.2 Submitting reporting data

- The Supplier will operate a secure transfer mechanism to transmit the data identified in Mobilisation for the periodic reporting to the Buyer in the required formats.

## D.6 Supplier Resourcing

The Supplier will need to ensure they have and maintain sufficient resources with the appropriate range of skills and experience (refer to Section A.5 for more detail) needed to deliver the requirements set out in Order Schedule 20 (Order Specification).

Key to the successful delivery will be the knowledge, across a range of specialist multidisciplinary skills spanning technical, financial, commercial and legal aspects of Heat Networks.

The Supplier should operate and manage a resource plan which is appropriate to deliver the requirements of the agreement along with mitigating any risk, or perceived risk, of COI.

*Table 28 Supplier Resourcing Key Outputs and Outcomes*

Ref	Key Outputs /Outcomes (not exhaustive)
D.6. Skills and Experience	<p>Provide information regarding the Supplier HNES delivery team to ensure:</p> <ul style="list-style-type: none"><li>• Sufficient resources with appropriate skills and experience.</li><li>• Monitoring of the Supplier resource profile to ensure suitable fit with HNES requirements.</li></ul>



## **E. Exit**

The Supplier must always be prepared for Order Contract exit. During the Mobilisation Period, the Exit Plan will be developed in accordance with the DPS Order Schedule 10 (Exit Management) and agreed with the Buyer. It will then be updated regularly during the Contract term.

Exit is considered an integral part of the Contracts operations and stability and is not confined to arriving at Exit at the natural end of contract life but instead must be sufficiently defined to enable a coordinated, efficient and cost-effective exit of the Contract in the event of early termination by either party at any time.

## Annex A – Supplier HNES Reporting Requirements

Table 29 HNES Reporting Products

Report Name	Purpose of Report	Forum	Frequency	Format	Template/working document to be provided <sup>6</sup>
Performance Monitoring Report (PMR)	To update the Buyer on performance against all Service Levels (alongside other indicators), any failures, and/or rectification plans. To keep a historical record of performance against Service Levels, the provision of evidence against relevant Service Levels...	HNES Management Board	Quarterly	Excel	Yes
Annual Benefits Report	Summary report covering progress against benefits (primary and secondary) aligned to HNES objectives.	Annual Review	Annually	Word (supporting material to be produced in Excel)	Yes
Change control log	Monitor all change to the programme and project Milestones with corresponding status updates.	HNES Progress meetings	Fortnightly	Excel	Yes
Annual Review	Reviewed by the Buyer and any recommendations discussed in Annual Review Meeting. To capture: Service Level review; Highlights; a summary of CI activity; Order Contract Changes; Forward look.	Annual Review	Annually	Word	No

<sup>6</sup> Where templates are currently in use by the Buyer for other programmes these will be made available to the Supplier at Contract Award, however, the Supplier can update, iterate or propose alternatives for agreement during the Mobilisation Period.

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Report Name	Purpose of Report	Forum	Frequency	Format	Template/working document to be provided <sup>6</sup>
Lessons Learned Log	Findings discussed at the Management Board.	HNES Management Board	Quarterly	Excel	Yes
Data Protection Policy incl. Data Sharing Agreement	Reviewed and agreed by the Buyer during the Mobilisation Period	HNES Management Board	Updated if required	Word	Yes
HNES M&R Report	To inform the Buyer of key updates on funded HNES Projects. The report will require a collation of information provided as part of monthly M&R reports submitted by each funded HNES Project.	HNES Management Board	Monthly	Word / Excel (report)	Yes
HNES Portfolio Report	To allow benefits realisation monitoring and allow the Buyer to make improvements and/or adjustments to the scheme if necessary.	HNES Management Board	Quarterly	Word / Excel (report)	No
HNES Projects Pipeline	To inform the Buyer of potential HNES revenue and capital projects.	HNES Management Board	Aligned with each funding round	Excel	No
Information Security Management Plan and Security Management Plan	Strategy set out in the Joint Delivery Plan during the Mobilisation Period. Maintained and updated during the Order Contract.	Annual Review	Annually	Word	No

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Report Name	Purpose of Report	Forum	Frequency	Format	Template/working document to be provided <sup>6</sup>
Investment Committee Funding Reports	Summary list of project applications assessed including requested funding amounts, recommended funding awards and assessment scores, for projects where funding is recommended an overview of the project, summary recommendation, scoring against category and rationale, scoring narrative, confirmation of moderation and QA checks by the Supplier, any conditions precedent. The report should also include any change requests recommendations for previously awarded grants, anticipated HNES benefits accrued, HNES (Programme level) budget status, summary of recommended project details and metrics to include in Ministerial submission.	Investment Committee	Aligned with each funding round	Word	Yes
Order Contract Exit Plan	Reviewed and agreed by the Buyer.	Annual Review	Annually	Word	No

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Report Name	Purpose of Report	Forum	Frequency	Format	Template/working document to be provided <sup>6</sup>
HNES Dashboard	Provide update of Supplier's overall delivery confidence assessment, summary of financial, pipeline Service Levels, benefits progress, in month achievements and next steps/month ahead, top risks, issues and mitigations, financial profile and spend forecast, Service Levels met/relevant to the previous month, summary of HNES Projects pipeline.	HNES Management Board	Monthly	PowerPoint	Yes
HNES Programme	To provide a clear critical path and capture of all key Milestones as agreed with the Buyer.	HNES Management Board	Monthly	Pdf, Excel, MPP File or similar	No
Resource and Training Plan	To ensure sufficient resource with the correct skill set is allocated to the Programme	HNES Management Board	Quarterly	Word	No
Risk Register	To capture and assess Risks and Issues and report to the Buyer. Mitigations and controls will also be captured.	HNES Progress Meetings	Fortnightly	Excel	No

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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Report Name	Purpose of Report	Forum	Frequency	Format	Template/working document to be provided <sup>6</sup>
Continuous Improvement Log and Report	Provide updates on any proposed improvements to service delivery in line with the agreed continuous improvement process, highlight opportunities and changes, lessons learned from the application assessment and moderation process to ensure any common themes that result in application failure can be communicated to the Buyer/Supplier	HNES Management Board	Quarterly	Excel (Log) Word (Report)	No
Stakeholder Engagement and Communications Plan	Report on key business development management and applicant support communication activities, quarterly communication activity and events activity, number of emails broadcast and number of stakeholders reached, workshop events activity including satisfaction surveys, stakeholder forums and focus groups.	HNES Management Board	Quarterly	Word/PPT	Yes

**Order Schedule 20 (Order Specification)**

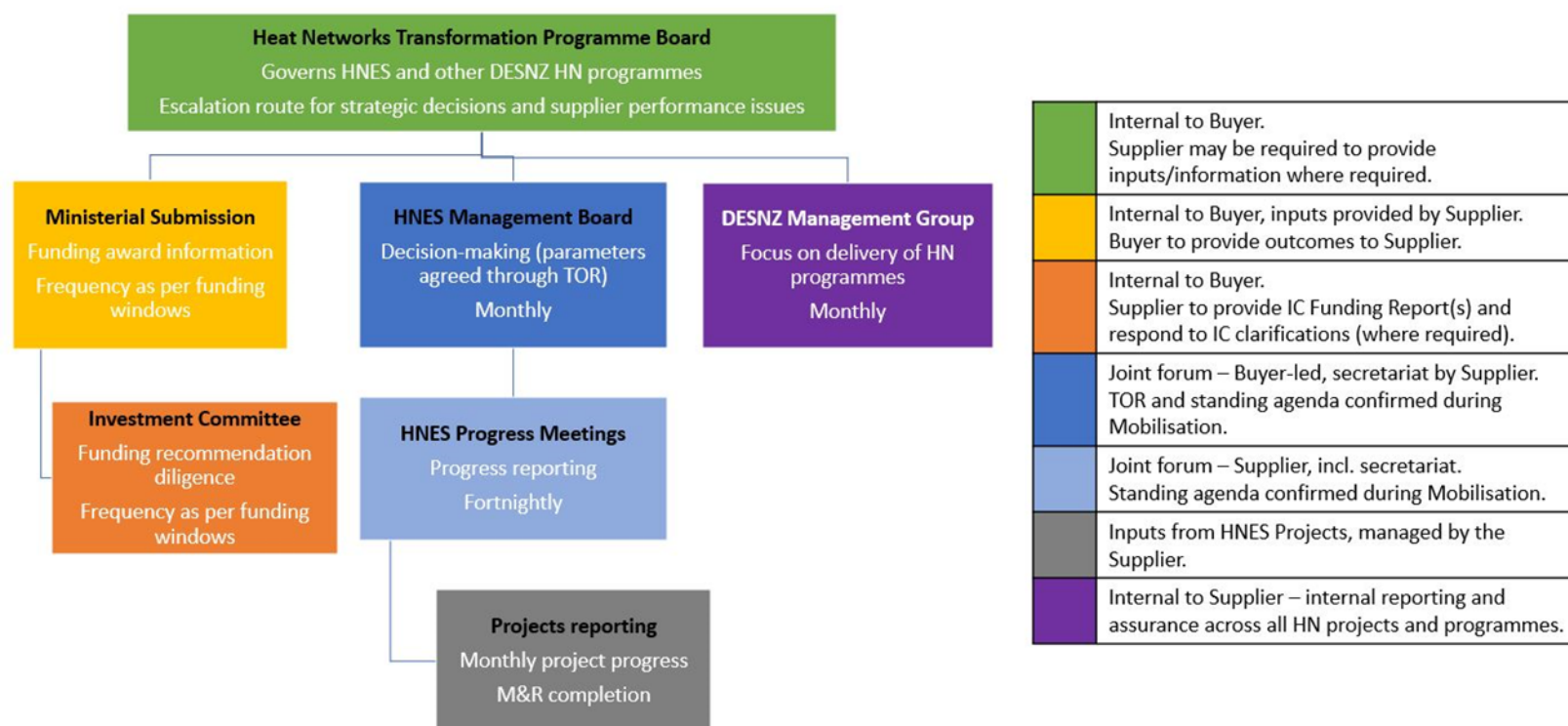
Order Ref: itt\_74815

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**OFFICIAL-SENSITIVE: COMMERCIAL***Table 30 Required Service Levels, see also Order Schedule 14 (Service Levels)*

Service Level	Service Level performance Criterion	Detail	Further Comments
SL1	Quality of Investment Committee Submissions	Percentage of assessed applications deemed to be of insufficient standard for Investment Committee review due to mistakes, errors or lack of clarity or detail within final Investment Committee Funding Report.	Ensuring a robust Investment Committee process which operates on a timely and efficient basis and responds to applicants promptly.
SL2	Funding Agreement (GFA) Closeout	100% of funding agreements should be closed out (signed copy received from successful applicant) within 20 working days of completed DESNZ approval (Ministerial) for S98 grants.	Ensures that funding is agreed in a timely manner and that the delivery partner is not the cause of delay.
SL3	Funding Agreement (MoU) Issue	100% of funding agreements (Memorandum of Understanding) should be issued within 5 working days of completed DESNZ/other approvals (Ministerial, HMT and MHCLG) for S31 grants.	Ensures that funding agreements are issued in a timely manner and that the delivery partner is not the cause of delay.
SL4	Supplier performance in event of non-submission of M&R returns to Supplier by HNES Projects	Self-declaration by Supplier of percentage of HNES Projects within HNES Portfolio Report where either: <ul style="list-style-type: none"> <li>- The HNES Projects M&amp;R templates have been submitted to the Supplier, or</li> <li>- (where HNES Projects M&amp;R templates have not been submitted to the Supplier) The Supplier has taken appropriate rectification actions to obtain the HNES Project M&amp;R template(s).</li> </ul>	<p>Ensure Supplier compliance with rectification tiers 1-3 (as defined in C.1.1.3 of Order Schedule 20 (Order Specification)) in the event of M&amp;R submissions not being provided to the Supplier by HNES Projects.</p> <p>An HNES M&amp;R reporting schedule will be agreed during Mobilisation to define the reports that are due each month and by what date. The Buyer is open to discussing the exact reporting method of this Service Level.</p>
SL5	Supplier HNES Reporting Milestones	Percentage of actual milestone dates that differ from the milestone dates baselined within the Joint Delivery Plan, and as defined in Order Schedule 20 (Order Specification) – Annex A.	Ensure that the Supplier delivers the reporting requirements as outlined in OS 20 – Annex A. Any relevant change processes to be agreed as part of Mobilisation.

## Annex B – High-Level Governance and Reporting



For additional detail, refer to Order Schedule 15 (Order Contract Management)



## Annex C – Mobilisation deliverables for ITT

Category	Requirements Reference	Key knowledge products (list not exhaustive; includes selected processes)	Template / first draft shared as part of ITT	Responsibility for template, draft or working document	Responsibility for second draft / final version	Reference to ITT Annex
Business Development Activity	B.1.1.1	<b>HNES overview brochure</b>	No	Buyer	Supplier	
Business Development Activity	B.1.2	<b>Email Newsletter template</b>	No	Supplier	Supplier	
Business Development Activity	B.1.3	<b>Public Relations and Communications templates</b>	No	Supplier	Supplier	
Business Development Activity	B.1.1.2	<b>Case study templates (Revenue and Capital)</b>	No	Buyer	Supplier	
Business Development Activity	B.1.3	<b>Reports containing coverage</b>	No	Supplier	Supplier	
Continuous Elements	D.3.1	<b>Conflict of Interest Management Plan</b>	No	Supplier	Supplier	
Continuous Elements	D.6	<b>Resource and training plan</b>	No	Supplier	Supplier	
Continuous improvement	D.4	<b>Lessons Learned Log</b>	No	Buyer	Supplier	
Funding Award Agreements and Processes	A.4.2	<b>Funding agreement templates</b>	No	Buyer	Supplier	
Funding Award Agreements and Processes	A.4.2	<b>Processes for funding award</b>	No	Buyer	Supplier	
Managing Data and Information	A.3.3 / D.5	<b>Public privacy policy (internal processes; annex to the Security Management Plan)</b>	No	Buyer	Supplier	
Managing Data and Information	A.3.4.2 / D.5	<b>Public privacy notice (see HNES Demonstrator data protection notice in annex)</b>	Yes	Buyer	Supplier	Annex I
Managing Data and Information	A.3.3	<b>Security Management Plan (see Order Schedule 9 for details)</b>	No	Supplier	Supplier	
Operational processes and products	A.3.4.2	<b>Application form (Capital / Revenue)</b>	Yes	Buyer	Supplier	Annex H.1 / H.2

**Order Schedule 20 (Order Specification)**

Order Ref: itt\_74815

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Category	Requirements Reference	Key knowledge products (list not exhaustive; includes selected processes)	Template / first draft shared as part of ITT	Responsibility for template, first draft or working document	Responsibility for second draft / final version	Reference to ITT Annex
Operational processes and products	A.3.4.2	<b>HNES Guidance for Applicants including Application Checklist</b>	Yes	Buyer	Supplier	Annex G
Operational processes and products	A.3.3	<b>Application process map</b>	No	Buyer	Supplier	-
Operational processes and products	A.3.3	<b>Application assessment process, and process map</b>	No	Buyer	Supplier	-
Operational processes and products	A.3.3	<b>Supporting evidence assessment process map</b>	No	Supplier	Supplier	
Operational processes and products	A.3.3	<b>Decision review process map</b>	No	Buyer	Supplier	
Operational processes and products	A.3.3	<b>Fund disbursement process map</b>	No	Buyer	Supplier	
Operational processes and products	A.3.3	<b>Subsidy control reporting process map</b>	No	Buyer	Supplier	
Operational processes and products	A.3.3	<b>Monitoring of successful HNES Projects process map</b>	No	Buyer	Supplier	
Operational processes and products	A.3.3	<b>Data sharing process map (part of the Security Management Plan)</b>	No	Buyer	Supplier	
Operational processes and products	A.3.3	<b>Data Sharing Agreement (annex to the Security Management Plan)</b>	No	Supplier	Supplier	
Operational processes and products	A.3.4	<b>HNES Main Assessment guidance (internal to assessors)</b>	No	Supplier	Supplier	
Operational processes and products	A.3.3	<b>Complaints process map</b>	No	Buyer	Supplier	

**Order Schedule 20 (Order Specification)**

**Order Ref: itt\_74815**

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Category	Requirements Reference	Key knowledge products (list not exhaustive; includes selected processes)	Template / first draft shared as part of ITT	Responsibility for template, first draft or working document	Responsibility for second draft / final version	Reference to ITT Annex
Operational processes and products	A.3.4	<b>IT system supporting HNES operation including, database, file storage and data transfer to Buyer functions</b>	No	Supplier	Supplier	
Operational processes and products	A.3.4	<b>Standard Operating Procedures (SOPs)</b>	No	Supplier	Supplier	
Operational processes and products	A.3.4	<b>Email System</b>	No	Supplier	Supplier	
Operational processes and products	A.3.4	<b>Content and format of reports for monitoring HNES projects, operations and benefits monitoring</b>	No	Buyer	Supplier	
Operational processes and products	A.3.4	<b>Data capture design</b>	No	Supplier	Supplier	
Operational processes and products	A.3.4.2	<b>Frequently Asked questions (FAQs) form</b>	No	Buyer	Supplier	
Operational processes and products	A.3.4.2	<b>Monitoring and reporting templates and requirements for successful applicants</b>	Yes	Buyer	Supplier	Annex J.1 Annex J.2
Operational processes and products	B.3.4	<b>Decision Review and Complaints Process</b>	No	Buyer	Supplier	
Order Contract and Project Governance	A.3.2.1	<b>Management Board ToR</b>	No	Buyer	Supplier	
Order Contract and Project Governance	E	<b>Order Contract Exit Plan (see Order Schedule 10 for details)</b>	No	Supplier	Supplier	
Order Contract and Project Governance	A.1.1	<b>Performance Monitoring Report (PMR) template</b>	No	Supplier	Supplier	
Order Contract and Project Governance	A.1.1	<b>Joint Delivery Plan (JDP) including Project Programme</b>	No	Supplier	Supplier	
Order Contract Mobilisation	A.2.1	<b>Mobilisation Plan (see Order Schedule 13 for details)</b>	Yes	Buyer	Supplier	
Order Contract Mobilisation	A.3.1	<b>Test Strategy (part of the Mobilisation Plan)</b>	No	Supplier	Supplier	

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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**OFFICIAL-SENSITIVE: COMMERCIAL**

Category	Requirements Reference	Key knowledge products (list not exhaustive; includes selected processes)	Template / first draft shared as part of ITT	Responsibility for template, first draft or working document	Responsibility for second draft / final version	Reference to ITT Annex
Project management artefacts and products	A.1.2	<b>Change Control Log</b>	No	Buyer	Supplier	
Project management artefacts and products	A.1.2	<b>Project Dashboard template</b>	No	Buyer	Supplier	
Project management artefacts and products	A.1.1	<b>Risk Management Strategy</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.2	<b>Continuous Improvement Log</b>	No	Buyer	Supplier	
Project management artefacts and products	A.1.2	<b>Continuous Improvement Report template</b>	No	Supplier	Supplier	
Project management artefacts and products	D.3	<b>Shared Risk Register template</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.2	<b>Investment Committee Funding Report template</b>	No	Buyer	Supplier	
Project management artefacts and products	A.1.2	<b>Annual Benefits Report template</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.2	<b>Information Security Management Plan</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.2	<b>Stakeholder Engagement and Communications Report template</b>	No	Buyer	Supplier	
Project management artefacts and products	A.1.2	<b>Annual Review template</b>	No	Buyer	Supplier	
Stakeholder Engagement and Communications Plan	A.1.2	<b>Stakeholder engagement and communications plan</b>	No	Buyer	Supplier	
Project management artefacts and products	A.1.2	<b>HNES Projects pipeline</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.2	<b>Data Protection Policy</b>	No	Buyer	Supplier	
Project management artefacts and products	A.1.3.4 / B.3.3 / D.2	<b>Budget Management Approach (JDP)</b>	No	Supplier	Supplier	

**Order Schedule 20 (Order Specification)****Order Ref: itt\_74815**

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**OFFICIAL-SENSITIVE: COMMERCIAL**

Category	Requirements Reference	Key knowledge products (list not exhaustive; includes selected processes)	Template / first draft shared as part of ITT	Responsibility for template, first draft or working document	Responsibility for second draft / final version	Reference to ITT Annex
Project Management artefacts and products	A.1.3.5	<b>Continuous Improvement Plan (JDP)</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.3.2 / D.3.1	<b>Gaming and Fraud Mitigation Strategy (JDP)</b>	No	Buyer	Supplier	
Project management artefacts and products		<b>Social Value Tracker</b>	No	Supplier	Supplier	
Project management artefacts and products		<b>Data Protection Impact Assessment (DPIA)</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.3.2 / D.3.2	<b>Fraud Risk Assessment</b>	No	Buyer	Supplier	
Project management artefacts and products	B.5.2	<b>Grant Funding Agreement Tracker</b>	No	Supplier	Supplier	
Project management artefacts and products	A.1.2	<b>HNES Scheme Change Control Process</b>	No	Supplier	Supplier	
Project management artefacts and products	C.1.1.3	<b>Template M&amp;R letter to HNES Project</b>	No	Supplier	Supplier	
Project management artefacts and products	C.1.2	<b>HNES Project Change Control Process</b>	No	Buyer	Supplier	
Project management artefacts and products	B.1	<b>Branding Development</b>	No	Supplier	Supplier	
Project management artefacts and products	C.1.1.6	<b>Data Flow Process Map</b>	No	Buyer	Supplier	
Project management artefacts and products	Order Schedule 8	<b>Business Continuity Plan</b>	No	Supplier	Supplier	
Project management artefacts and products		<b>Freedom of Information Request Process</b>	No	Buyer	Buyer	

[Subject to Contract]

**Order Schedule 24 (Intellectual Property Rights)**

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## **Schedule 24 (Intellectual Property Rights)**

DPS Ref: RM6322

Project Version: v1.0

Model Version: Mid-Tier Contract v1.1

**Order Schedule 24 (Intellectual Property Rights)**

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**Part A**

**1. Default IPR Clause**

In the event that this Schedule is not amended to select only one option, the default option that will apply to the Contract is Option 1.

**Part B**

**1. Intellectual Property Rights**

1.1. Each Party keeps ownership of its own Existing IPR. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under the Contract or otherwise agreed in writing.

1.2. Except as expressly granted elsewhere under the Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.

**1.3. Licences granted by the Supplier: Supplier Existing IPR**

1.3.1. Where the Buyer orders Deliverables which contain or rely upon Supplier Existing IPR, the Supplier hereby grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 1.3.2.

1.3.2. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-license any Supplier Existing IPR which is reasonably required by the Buyer to enable it:

1.3.2.1. or any End User to use and receive the Deliverables; or

1.3.2.2. to use, sub-licence or commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items,

for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

#### **1.4. Licences granted by the Buyer and New IPR**

- 1.4.1. Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier for the term of the Contract licence to use the Buyer Existing IPR and the New IPR which the Supplier reasonably requires for the purpose of fulfilling its obligations during the Contract Period or using or exploiting the New IPR developed under the Contract, including (but not limited to) the right to grant sub-licences to Subcontractors provided that:
- 1.4.1.1. any relevant Subcontractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 15 (Confidentiality) of the Core Terms; and
  - 1.4.1.2. the Supplier shall not without Approval use the materials licensed under this clause for any other purpose or for the benefit of any person other than the Buyer. Where a Party acquires ownership of IPR incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 1.4.2. Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR in the table at Annex 1 to this Schedule 24 and keep this updated throughout the Contract Period.

#### **1.5. Third Party IPR**

- 1.5.1. The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless Approval is granted by the Buyer and it has procured that the owner or an authorised licensor of the relevant Third Party IPR has granted a Third Party IPR Licence on the terms set out in Paragraph 1.5.2. If the Supplier cannot obtain for the Buyer a licence on the terms set out in Paragraph 1.5.2 in respect of any Third Party IPR the Supplier shall:
- 1.5.1.1. notify the Buyer in writing; and
  - 1.5.1.2. use the relevant Third Party IPR only if the Buyer has provided authorisation in writing, with reference to the acts authorised and the specific IPR involved.



**Order Schedule 24 (Intellectual Property Rights)**

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1.5.2. In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.

1.5.3. The Third Party IPR Licence granted to the Buyer shall be a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-licence any Third Party IPR which is reasonably required by the Buyer to enable it or any End User to receive and use the Deliverables and make use of the deliverables provided by a Replacement Supplier.

**1.6. Termination of licences**

1.6.1. The Supplier Existing IPR Licence granted pursuant to Paragraph 1.3 and the Third Party IPR Licence granted pursuant to Paragraph 1.5 shall survive the Expiry Date and termination of this Contract.

1.6.2. The Supplier shall, if requested by the Buyer in accordance with Order Schedule 10 (Exit Management) and to the extent reasonably necessary to ensure continuity of service during exit and transition to any Replacement Supplier, grant (or procure the grant) to the Replacement Supplier a licence to use any Supplier Existing IPR or Third Party IPR on terms equivalent to the Supplier Existing IPR Licence or Third Party IPR Licence (as applicable) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.

1.6.3. On expiry of the licence granted to the Supplier pursuant to Paragraph 1.4 (Licence granted by the Buyer) the Supplier shall:

1.6.3.1. immediately cease all use of the New IPR and Buyer Existing IPR (including the Buyer Data within which the Buyer Existing IPR may subsist);

**Order Schedule 24 (Intellectual Property Rights)**

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- 1.6.3.2. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the New IPR, Buyer Existing IPR and the Buyer Data, provided that if the Buyer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the New IPR, the Buyer Existing IPR and the Buyer Data (as the case may be); and
- 1.6.3.3. ensure, so far as reasonably practicable, that any New IPR, Buyer Existing IPR and Buyer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such New IPR, Buyer Existing IPR or Buyer Data.”

**1.7. Supplier’s Exploitation of New IPR**

- 1.7.1. Notwithstanding the Supplier’s ownership of the New IPR or licence which allows it to exploit and commercialise the New IPR:
  - 1.7.1.1. the Supplier must always offer a price and solution to the Buyer which is in accordance with the Charges and must licence the New IPR and Supplier Existing IPR to the Buyer on equivalent terms as apply under this Contract;
  - 1.7.1.2. where the Supplier proposes to exploit the New IPR, that it provides a detailed proposal of its plans for exploitation of the New IPR and the forecast returns, including (but not limited to) details of the goods and services to be offered by the Supplier which use the New IPR, the target markets and territory, the estimated level of orders, the marketing strategy; full details of the estimated costs, prices, revenues and profits; impact assessment on services delivered under the Contract; and any other information that would reasonably be required by the Buyer to enable it to consider the commercial, legal and financial implications to the Parties of the proposal and any further information which the Buyer may reasonably request; and

**Order Schedule 24 (Intellectual Property Rights)**

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- 1.7.1.3. where the Supplier proposes to discount the prices offered to the Buyer in return for the right to exploit the New IPR, that it provides clear evidence to demonstrate how the exploitation plans and financial information provided under Paragraph 1.7.1.2 above have been applied to the price for the Deliverables offered to the Buyer and other potential End Users;
- 1.7.1.4. The Buyer shall be under no obligation to:
  - (a) offer the New IPR (where this is owned by the Buyer) or the Buyer Existing IPR on an exclusive licence basis or on any other alternative terms of licensing and ownership; or
- 1.7.1.5. accept any alternative arrangement proposed by the Supplier under this Clause and the Buyer shall be entitled to require the Supplier to deliver the solution on the basis of the same position on ownership and licensing of the New IPR (where this is owned by the Buyer) or Buyer Existing IPR as applies under this Contract. Such agreement does not confer any exclusive right on the Supplier to negotiate with the Buyer in relation to the New IPR (where this is owned by the Buyer), Buyer Existing IPR or any Crown IPR and the Buyer shall be entitled to licence, assign and otherwise deal with such IPR (where it owns such IPR) with any other person (except to the extent that the Buyer has entered into an exclusive licence with the Supplier in respect of such IPR pursuant to this Contract).
- 1.7.1.6. The Supplier acknowledges and agrees that the Buyer is under an obligation to comply with procurement Laws and state aid rules when considering proposals for alternative IPR arrangements and the Buyer will need to consider its position and approach on a case by case basis.

[Subject to Contract]

**Order Schedule 24 (Intellectual Property Rights)**

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**ANNEX 1: NEW IPR**

Name of New IPR	Details

DPS Ref: RM6322

Project Version: v1.0

Model Version: Mid-Tier Contract v1.1