



# **Conditions of Contract**

## **Short Form Services**

### **NCEA England Peat Map Survey**

### **Pilot**

### **ECM\_63247**

**December 2021**

THIS CONTRACT is dated 10 December 2021

BETWEEN

NATURAL ENGLAND Foss House, Kings Pool, 1-2 Peasholme Green, York YO1 7PX (the “Authority”); and

UK Centre for Ecology & Hydrology (UKCEH) of Maclean Building, Benson Lane, Crowmarsh Gifford, Wallingford, Oxfordshire OX10 8BB (the “Supplier”)

(each a “Party” and together the “Parties”).

BACKGROUND

- a) The Authority requires the services set out in Schedule 1 (the “Services”).
- b) The Authority has awarded this Contract for the Services to the Supplier and the Supplier agrees to provide the Services in accordance with the terms of the Contract.

AGREED TERMS

## **1. Definitions and Interpretation**

1.1 In the Contract, unless the context requires otherwise, the following terms shall have the meanings given to them below:

‘Approval’: the prior written consent of the Authority.

‘Authority Website’: [www.naturalengland.org.uk](http://www.naturalengland.org.uk)

‘Contract Term’: the period from the Commencement Date to the Expiry Date.

‘Contracting Authority’: an organisation defined as a Contracting authority in Regulation 2 of the Public Contracts Regulations 2015.

‘Controller’: has the meaning given in the GDPR.

‘Data Loss Event’: any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

‘Data Protection Impact Assessment’: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

‘Data Protection Legislation’: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy.

‘Data Protection Officer’: has the meaning given in the GDPR.

‘Data Subject’: has the meaning given in the GDPR.

‘Data Subject Request’: 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.

‘Default’: a breach by the Supplier or Staff of its obligations under the Contract or any other default, negligence or negligent statement in connection with the Contract.

‘Dispute Resolution Procedure’: the dispute resolution procedure set out in Clause 20.

‘DPA 2018’: the Data Protection Act 2018.

‘Force Majeure’: any cause affecting the performance by a Party of its obligations under the Contract arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Supplier, its Staff or any other failure in the Supplier’s supply chain.

‘Fraud’: any offence under laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Authority or any other Contracting Authority.

‘GDPR’: the General Data Protection Regulation (Regulation (EU) 2016/679).

‘Good Industry Practice’: standards, practices, methods and procedures conforming to the law and 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 in a similar type of undertaking under similar circumstances.

‘Goods’: all products, documents, and materials developed by the Supplier or its agents, Sub-Contractors, consultants, suppliers and Staff in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

‘Intellectual Property Rights’: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites.

‘IP Materials’: all Intellectual Property Rights which are:

- a) furnished to or made available to the Supplier by or on behalf of the Authority; or
- b) created by the Supplier or Staff in the course of providing the Services or exclusively for the purpose of providing the Services.

‘Law’: any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, 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.

‘LED’: Law Enforcement Directive (Directive (EU) 2016/680).

‘Personal Data’: has the meaning given in the GDPR.

‘Personal Data Breach’: has the meaning given in the GDPR.

‘Price’: the price for the Services set out in Schedule 2.

‘Processor’: has the meaning given in the GDPR.

‘Protective Measures’: 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.

‘Replacement Supplier’: any third party supplier of services appointed by the Authority to replace the Supplier.

‘Staff’: all employees, staff, other workers, agents and consultants of the Supplier and of any Sub-Contractors who are engaged in providing the Services from time to time.

‘Sub-Contract’: any Contract between the Supplier and a third party pursuant to which the Supplier agrees to source the provision of any of the Services from that third party.

‘Sub-Contractor’: third parties which enter into a Sub-Contract with the Supplier.

‘Sub-processor’: any third party appointed to process Personal Data on behalf of the Supplier related to this Contract.

‘Valid Invoice’: an invoice containing the information set out in Clause 3.3.

‘VAT’: Value Added Tax.

‘Working Day’: Monday to Friday excluding any public holidays in England and Wales.

1.2 The interpretation and construction of the Contract is subject to the following provisions:

- a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- b) words importing the masculine include the feminine and the neuter;
- c) reference to any statutory provision, enactment, order, regulation or other similar instrument are construed as a reference to the statutory provision enactment, order regulation or instrument (including any instrument of the European Union) as amended, replaced, consolidated or re-enacted from time to time, and include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it;
- d) reference to any person includes natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

- e) the headings are inserted for ease of reference only and do not affect the interpretation or construction of the Contract;
- f) references to the Services include references to the Goods;
- g) references to Clauses and Schedules are to clauses and schedules of the Contract; and
- h) the Schedules form part of the Contract and have effect as if set out in full in the body of the Contract and any reference to the Contract includes the Schedules.

## **2. Contract and Contract Term**

2.1 The Supplier shall provide the Authority with the services set out in Schedule 1 (the “Services”) in accordance with the terms and conditions of the Contract.

2.2 The Contract is effective on 3 January 2022 (the “Commencement Date”) and ends on 31 March 2022 (the “Expiry Date”) unless terminated early or extended in accordance with the Contract.

## **3. Price and Payment**

3.1 In consideration of the Supplier providing the Services in accordance with the Contract, the Authority shall pay the Price to the Supplier.

3.2 The Authority shall:

- a) provide the Supplier with a purchase order number (“PO Number”); and
- b) pay all undisputed sums due to the Supplier within 30 days of receipt of a Valid Invoice.

3.3 A Valid Invoice shall:

- a) contain the correct PO Number;
- b) express the sum invoiced in sterling; and
- c) include VAT at the prevailing rate as a separate sum or a statement that the Supplier is not registered for VAT.

3.4 The Supplier shall submit invoices as set out in the payment and milestones section of the specification to the Authority [REDACTED]

[REDACTED]

3.5 The Supplier acknowledges that:

- a) if the Supplier does not include VAT on an invoice or does not include VAT at the correct rate, the Authority will not be liable to pay the Supplier any additional VAT;
- b) invoices which do not include the information set out in Clause 3.3 will be rejected.

3.6 Any late payment of an undisputed amount is not made by the Authority by the due date, then the Authority shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

3.7 The Supplier shall not suspend provision of the Services if any payment is overdue.

3.8 The Supplier indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract.

#### **4. Extension of the Contract**

4.1 The Authority may, by written notice to the Supplier, extend the Contract for a further period up to 0 months.

#### **5. Warranties and Representations**

5.1 The Supplier warrants and represents for the Contract Term that:

- a) it has full capacity and authority and all necessary consents and regulatory approvals to enter into the Contract and to provide the Services;
- b) the Contract is executed by a duly authorised representative of the Supplier;
- c) in entering the Contract it has not committed any Fraud;
- d) as at the Commencement Date, all information contained in its tender or other offer made by the Supplier to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information false or misleading;
- e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- f) it is not subject to any Contractual obligation, compliance with which is likely to have a material adverse effect on its ability to provide the Services;
- g) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar in relation to any of the Supplier's assets or revenue;
- h) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary to provide the Services; and
- i) Staff shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- j) it will comply with its obligations under the Immigration, Asylum and Nationality Act 2006.

5.2 The Supplier warrants and represents that in the 3 years prior to the date of the Contract:

- a) it has conducted all financial accounting and reporting activities in compliance with generally accepted accounting principles and has complied with relevant securities;
- b) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as a going concern or its ability to provide the Services; and
- c) it has complied with all relevant tax laws and regulations and no tax return submitted to a relevant tax authority has been found to be incorrect under any anti-abuse rules.

## **6. Service Standards**

6.1 The Supplier shall provide the Services or procure that they are provided with reasonable skill and care, in accordance with Good Industry Practice prevailing from time to time and with Staff who are appropriately trained and qualified.

6.2 If the Services do not meet the Specification, the Supplier shall at its own expense re-schedule and carry out the Services in accordance with the Specification within such reasonable time as may be specified by the Authority.

6.3 The Authority may by written notice to the Supplier reject any of the Goods which fail to conform to the approved sample or fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Authority of the Goods. If the Authority rejects any of the Goods it may (without prejudice to its other rights and remedies) either:

- a) have the Goods promptly either repaired by the Supplier or replaced by the Supplier with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until the repair or replacement has occurred;  
or
- b) treat the Contract as discharged by the Supplier's breach and obtain a refund (if the Goods have already been paid for) from the Supplier in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Authority in obtaining replacements.

6.4 The Authority will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with Clause 6.3.

6.5 If the Authority issues a receipt note for delivery of the Goods it shall not constitute any acknowledgement of the condition, quantity or nature of those Goods or the Authority's acceptance of them.

6.6 The Supplier hereby guarantees the Goods against faulty materials or workmanship for such period as may be specified in the Specification or, if no period is so specified, for 3 years from the date of acceptance. If the Authority shall within such guarantee period or within 30 Working Days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies which the Authority may have) promptly remedy such defects (whether by repair or replacement as the Authority shall choose) free of charge.

6.7 Any Goods rejected or returned by the Authority pursuant to this Clause 6 shall be returned to the Supplier at the Supplier's risk and expense.

## **7. Termination**

7.1 The Authority may terminate the Contract at any time by giving 30 days written notice to the Supplier.

7.2 The Authority may terminate the Contract in whole or in part by notice to the Supplier with immediate effect and without compensation to the Supplier if:

- a) being an individual, the Supplier is the subject of a bankruptcy order; has made a composition or arrangement with his creditors; dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983;
- b) being a company, the Supplier goes into compulsory winding up, or passes a resolution for voluntary winding up, or suffers an administrator, administrative receiver or receiver and manager to be appointed or to take possession over the whole or any part of its assets, is dissolved; or has entered into a voluntary arrangement with its creditors under the Insolvency Act 1986, or has proposed or entered into any scheme of arrangement or composition with its creditors under section 425 of the Companies Act 1985; or has been dissolved;
- c) being a partnership, limited liability partnership or unregistered company, the Supplier or an individual member of it goes into compulsory winding up; is dissolved; suffers an administrator or receiver or manager to be appointed over the whole or any part of its assets; or has entered into a composition or voluntary arrangement with its creditors;
- d) the Supplier is in any case affected by any similar occurrence to any of the above in any jurisdiction;
- e) subject to Clause 7.3, the Supplier commits a Default;
- f) there is a change of control of the Supplier; or
- g) the Supplier or Staff commits Fraud in relation to the Contract or any other Contract with the Crown (including the Authority).

7.3 If the Supplier commits a Default which is capable of being remedied, the Authority may terminate the Contract pursuant to Clause 7.2(e) only if the Supplier has failed to remedy the Default within 20 Working Days of being notified of the Default by the Authority.

## **8. Consequences of Expiry or Termination**

8.1 If the Authority terminates the Contract under Clause 7.2:

- a) and then makes other arrangements for the supply of the Services, the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Term; and



b) no further payments shall be payable by the Authority to the Supplier (for the Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under Clause 8.1(a).

8.2 On expiry or termination of the Contract the Supplier shall:

a) co-operate fully with the Authority to ensure an orderly migration of the Services to the Authority or, at the Authority's request, a Replacement Supplier; and

b) procure that all data and other material belonging to the Authority (and all media of any nature containing information and data belonging to the Authority or relating to the Services) shall be delivered promptly to the Authority.

8.3 Save as otherwise expressly provided in the Contract:

a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and

b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Supplier under Clauses 3, 8 to 13, 17, 26 and 28.

## **9. Liability, Indemnity and Insurance**

9.1 Notwithstanding any other provision in the Contract, neither Party excludes or limits liability to the other Party for:

a) death or personal injury caused by its negligence;

b) Fraud or fraudulent misrepresentation; or

c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or Parts I and II of the Supply of Goods and Services Act 1982.

9.2 The Supplier shall indemnify and keep indemnified the Authority against all claims, proceedings, demands, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which arise in tort (including negligence) default or breach of the Contract to the extent that any such loss or claim is due to the breach of Contract, negligence, wilful default or Fraud of itself or of Staff or Sub-Contractors save to the extent that the same is directly caused by the negligence, breach of the Contract or applicable law by the Authority.

9.3 The Supplier shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Supplier.

9.4 Subject to Clause 9.1:

a) neither Party is liable to the other for any:

(i) loss of profits, business, revenue or goodwill;

(ii) loss of savings (whether anticipated or otherwise); and/or

(iii) indirect or consequential loss or damage

b) each Party's total aggregate liability in respect of all claims, losses damages, whether arising from tort (including negligence), breach of Contract or otherwise under or in connection with the Contract, shall not exceed £1,000,000 (one million pounds) or 2x the value of the Contract whichever is the lower amount.

9.5 The Supplier shall, with effect from the Commencement Date and for such period as necessary to enable the Supplier to comply with its obligations under the Contract, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract, including employer's liability, death or personal injury, loss of or damage to property or any other loss, including financial loss arising from any advice given or omitted to be given by the Supplier. Such insurance shall be maintained for the Contract Term and for a minimum of 6 years following the end of the Contract.

9.6 The Supplier shall give the Authority, on request, copies of all insurance policies referred to in this Clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

9.7 If the Supplier fails to comply with Clauses 9.5 and 9.6 the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.

9.8 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.

9.9 The Supplier shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Supplier, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Supplier is an insured, a co-insured or additional insured person.

## **10. Confidentiality and Data Protection**

10.1. Subject to Clause 10.2, unless agreed otherwise in writing, the Supplier shall, and shall procure that Staff shall, keep confidential all matters relating to the Contract.

10.2. Clause 10.1 shall not apply to any disclosure of information:

- a) required by any applicable law;
- b) that is reasonably required by persons engaged by the Supplier in performing the Supplier's obligations under the Contract;
- c) where the Supplier can demonstrate that such information is already generally available and in the public domain other than as a result of a breach of Clause 10.1; or
- d) which is already lawfully in the Supplier's possession prior to its disclosure by the Authority.

10.3. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor unless otherwise specified in Schedule 3. The only processing that the Supplier is authorised to do is listed in Schedule 3 by the Authority and may not be determined by the Supplier.

10.4. The Supplier shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

10.5. The Supplier shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:

- a. a systematic description of the envisaged processing operations and the purpose of the processing;
- b. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- 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.

10.6. The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

a. process that Personal Data only in accordance with Schedule 3 unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;

b. ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority 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 Data Loss Event;
- (iii) state of technological development; and
- (iv) cost of implementing any measures;

c. ensure that:

(i) the Staff do not process Personal Data except in accordance with this Contract (and in particular Schedule 3);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:

A. are aware of and comply with the Supplier's duties under this clause;

B. are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;

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 Authority or as otherwise permitted by this Contract; and

D. have undergone adequate training in the use, care, protection and handling of Personal Data; and

d. not transfer Personal Data outside of the European Union unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:

(i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Authority;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Supplier 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 Authority in meeting its obligations); and

(iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;

e. at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Supplier is required by Law to retain the Personal Data.

10.7. Subject to clause 10.8 the Supplier shall notify the Authority immediately if, in relation to any Personal Data processed in connection with its obligations under this Contract, it:

a. receives a Data Subject Request (or purported Data Subject 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;

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 Data Loss Event.

10.8. The Supplier's obligation to notify under clause 10.7 shall include the provision of further information to the Authority in phases, as details become available.

10.9. Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Contract and any complaint, communication or request made under Clause 10.7 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

a. the Authority with full details and copies of the complaint, communication or request;

- b. such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- c. the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
- d. assistance as requested by the Authority following any Data Loss Event;
- e. assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

10.10. The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause 10. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

- a. the Authority determines that the processing is not occasional;
- b. the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
- c. the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

10.11. The Supplier shall allow for audits of its Personal Data processing activity by the Authority or the Authority's designated auditor.

10.12. Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.

10.13. Before allowing any Sub-processor to process any Personal Data related to this Contract, the Supplier must:

- a. notify the Authority in writing of the intended Sub-processor and processing;
- b. obtain the written consent of the Authority; and
- c. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 10 such that they apply to the Sub-processor; and.
- d. provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.

10.14. The Supplier shall remain fully liable for all acts or omissions of any of its Sub-processors.

10.15. The Authority may, at any time on not less than 30 Working Days' notice, revise this clause 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 this Contract).

10.16. The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.

10.17. This clause 10 shall apply during the Contract Term and indefinitely after its expiry.

## **11. Freedom of Information**

11.1. The Supplier acknowledges that the Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (the "Information Acts") and may be required to disclose certain information to third parties including information relating to this Contract pursuant to the Information Acts.

11.2. If the Authority receives a request for information relating to the Contract pursuant to either of the Information Acts, the Authority may disclose such information as necessary in order to comply with its duties under the Information Acts.

## **12. Intellectual Property Rights**

12.1 The IP Materials shall vest in the Authority and the Supplier shall not, and shall procure that Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for the Supplier to provide the Services.

12.2 The Supplier shall indemnify and keep indemnified the Authority and the Crown against all actions, claims, demands, losses, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur arising from any infringement or alleged infringement of any Intellectual Property Rights by the availability of the Services except to the extent that they have been caused by or contributed to by the Authority's acts or omissions.

## **13. Prevention of Corruption and Fraud**

13.1. The Supplier shall act within the provisions of the Bribery Act 2010.

13.2. The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Supplier (including its shareholders, members and directors) in connection with the receipt of money from the Authority.

13.3. The Supplier shall notify the Authority immediately if it has reason to suspect that Fraud has occurred, is occurring or is likely to occur.

## **14. Discrimination**

14.1 The Supplier shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment.

14.2 The Supplier shall notify the Authority immediately in writing as soon as it becomes aware of any legal proceedings threatened or issued against it by Staff on the grounds of discrimination arising in connection with the Services.

## **15. Environmental and Ethical Policies**

15.1 The Supplier shall provide the Services in accordance with the Authority's policies on the environment, sustainable and ethical procurement and timber and wood derived products, details of which are available on the Authority Website.

## **16. Health and Safety**

16.1 Each Party will promptly notify the other Party of any health and safety hazards which may arise in connection with the Services.

16.2 While on the Authority's premises, the Supplier shall comply with the Authority's health and safety policies.

16.3 The Supplier shall notify the Authority immediately if any incident occurs in providing the Services on the Authority's premises which causes or may cause personal injury.

16.4 The Supplier shall comply with the requirements of the Health and Safety at Work etc Act 1974, and with any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Authority's premises when providing the Services.

16.5 The Supplier's health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) shall be made available to the Authority on request.

## **17. Monitoring and Audit**

17.1 The Authority may monitor the provision of the Services and the Supplier shall co-operate, and shall procure that Staff and any Sub-Contractors co-operate, with the Authority in carrying out the monitoring at no additional charge to the Authority.

17.2 The Supplier shall keep and maintain until 6 years after the end of the Contract Term full and accurate records of the Contract including the Services supplied under it and all payments made by the Authority. The Supplier shall allow the Authority, the National Audit Office and the Comptroller and Auditor General reasonable access to those records and on such terms as they may request.

17.3 The Supplier agrees to provide, free of charge, whenever requested, copies of audit reports obtained by the Supplier in relation to the Services.

## **18. Transfer and Sub-Contracting**

18.1 The Supplier shall not transfer, charge, assign, sub-Contract or in any other way dispose of the Contract or any part of it without Approval.

18.2 If the Supplier enters into any Sub-Contract in connection with the Contract it shall:

- a) remain responsible to the Authority for the performance of its obligations under the Contract;
- b) be responsible for the acts and/or omissions of its Sub-Contractors as though they are its own;
- c) impose obligations on its Sub-Contractors in the same terms as those imposed on it pursuant to the Contract and shall procure that the Sub-Supplier complies with such terms;

d) pay its Sub-Contractors' undisputed invoices within 30 days of receipt.

18.3 The Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

a) any Contracting Authority or any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or

b) any private sector body which performs substantially any of the functions of the Authority.

18.4 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not affect the validity of the Contract. In such circumstances the Contract shall bind and inure to the benefit of any successor body to the Authority.

## **19. Variation**

19.1 Subject to the provisions of this Clause 19, the Authority may change the Specification provided that such change is not a material change to the Specification (a "Variation").

19.2 The Authority may request a Variation by notifying the Supplier with sufficient information to assess the extent of the Variation and consider whether any change to the Price is required in order to implement it. Variations agreed by the Parties shall be made in writing.

19.3 If the Supplier is unable to accept the Variation or where the Parties are unable to agree a change to the Price, the Authority may:

a) allow the Supplier to fulfil its obligations under the Contract without the Variation; or

b) refer the request to be dealt with under the Dispute Resolution Procedure.

## **20. Dispute Resolution**

20.1 The Parties shall attempt in good faith to resolve any dispute between them arising out of the Contract within 10 Working Days of either Party notifying the other of the dispute and such efforts shall include the escalation of the dispute to the Supplier's representative and the Authority's commercial director or equivalent.

20.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

20.3 If the dispute cannot be resolved by the Parties pursuant to Clause 20.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clauses 20.5 to 20.10.

20.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation and the Supplier and Staff shall comply fully with the requirements of the Contract at all times.



20.5 A neutral adviser or mediator (the “Mediator”) shall be chosen by agreement between the Parties or, if they are unable to agree a Mediator within 10 Working Days after a request by one Party or if the chosen Mediator is unable to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator.

20.6 The Parties shall, within 10 Working Days of the appointment of the Mediator, meet the Mediator to agree a programme for the disclosure of information and the structure to be adopted for negotiations. The Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure.

20.7 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

20.8 If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

20.9 Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.

20.10 If the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then the dispute may be referred to the Courts.

20.11 Subject to Clause 20.2, the Parties shall not institute court proceedings until the procedures set out in Clauses 20.1 and 20.5 to 20.10 have been completed.

## **21. Supplier’s Status**

21.1 Nothing in the Contract shall be construed as constituting a partnership between the Parties or as constituting either Party as the agent for the other for any purposes except as specified by the terms of the Contract.

21.2 The Supplier shall not (and shall ensure that Staff shall not) say or do anything that might lead any person to believe that the Supplier is acting as the agent, partner or employee of the Authority.

## **22. Notices**

22.1 Notices shall be in writing and in English and shall be deemed given if signed by or on behalf of a duly authorised officer of the Party giving the notice and if left at, or sent by first class mail to the address of the receiving Party as specified in the Contract (or as amended from time to time by notice in writing to the other Party).

## **23. Entire Agreement**

23.1 The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations, arrangements and undertakings.

## **24. Third Party Rights**

24.1 No term of the Contract is intended to confer a benefit on, or be enforceable by, any person who is not a Party other than the Crown.

## **25. Waiver**

25.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.

25.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing.

25.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

## **26. Publicity**

26.1 The Supplier shall not without Approval:

- a) make any press announcements or publicise the Contract or its contents in any way; or
- b) use the Authority's name or logo in any promotion or marketing or announcement.

26.2 The Authority may publish the Contract on the Authority Website or another website at its discretion.

## **27. Force Majeure**

27.1 Except to the extent that the Supplier has not complied with any business continuity plan agreed with the Authority, neither Party shall be liable for any failure to perform its obligations under the Contract if, and to the extent, that the failure is caused by act of God, war, riots, acts of terrorism, fire, flood, storm or earthquake and any disaster but excluding any industrial dispute relating to the Supplier, Staff or Sub-Contractors.

27.2 If there is an event of Force Majeure, the affected Party shall use all reasonable endeavours to mitigate the effect of the event of Force Majeure on the performance of its obligations.

## **28. Governing Law and Jurisdiction**

28.1 The Contract shall be governed by and interpreted in accordance with English law and shall be subject to the jurisdiction of the Courts of England and Wales.

28.2 The submission to such jurisdiction shall not limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

## **29. Electronic Signature**

29.1 Acceptance of the award of this Contract will be made by electronic signature carried out in accordance with the 1999 EU Directive 99/93 (Community framework for electronic signatures) and the UK Electronic Communications Act 2000.

29.2 The Contract is formed on the date on which the Supplier communicates acceptance on the Authority's electronic Contract management system.

29.3 No other form of acknowledgement will be accepted.

### **30. Precedence**

In the event of and only to the extent of any conflict between the terms and conditions or the special terms below, the conflict shall be resolved in accordance with the following order of precedence:

- a) the special terms below;
- b) the main terms of the Contract (pages 1 to 15);
- c) any other document referred to in the Agreement

Unless expressly agreed, a document varied pursuant to clause 19 shall not take higher precedence than specified here.

## SCHEDULE 1 - SPECIFICATION OF SERVICES

### NCEA England Peat Map Survey Pilot Specification

#### 1. Summary

The Natural Capital & Ecosystem Assessment (NCEA) is a new Defra Group evidence programme which in the long term aims to deliver high quality national and local evidence to assess the state and condition of biodiversity, ecosystems, and natural capital assets across our terrestrial, freshwater and marine environments. In 2021 we will be piloting approaches to understand how best we can identify the condition of environments and ecosystems and identify detrimental changes and improvements. Natural England wants to improve skills and methods in earth observation, data management and the analysis & modelling of habitats, landscape, soils, and natural capital

One of the elements in the NCEA programme is the England Peat Map (EPM) Project; a Defra-funded 3-year project to map peat resources in England. The project will use a range of modelling and earth observation analysis techniques, combined with earth observation and field-captured data, to describe new baseline evidence of the extent, depth and condition of peat across the country. This Contract forms part of the work to develop a field survey programme to provide data to support the development of the models.

The EPM Project is currently in its first year, testing methods, understanding data quality, costs and resources required to enable Natural England to progress confidently next year with a scaled-up and fit-for-purpose field survey programme. This Contract will facilitate that aim by providing some field data, and an evaluation of the field method, the supporting processes and tools used, and recommendations for improvements for doing larger-scale surveys in 2022/23 and 2023/24. The subsequent, larger scale survey work may be tendered in 2022 as a new requirement and does not form part of this specification.

#### 2. Background

The [Peat Action Plan](#) (2021) sets out Defra's ambitions for reversing the decline of England's peatlands. Defra's aim is to prevent further loss of peatland habitats and to restore more peatland landscapes to their natural state. Re-wetting peatland areas and returning them to their natural state could make a significant contribution to achieving our targets on reducing carbon emissions, as well as having other benefits for water quality, nature, and flood mitigation.

The Action Plan sets out a commitment to "develop a more up to date and detailed England peat map by 2024, establishing a clear evidence base on which to build."

The EPM Project is the initiative which will deliver this new evidence, and this Contract forms part of the work to develop a field survey programme which will provide data to support the modelled outputs.

More specifically, the EPM field method aims to record data that meets the agreed needs of modelling approaches. Those modelling approaches will be tested and refined during the

project, to produce models of peat extent, depth and condition. The fundamental elements of the field method therefore focus on recording peat presence and surface humification, peat depth, vegetation cover and land use/cover types.

### 3. Relevant Legislation

The following legislation relates to this work:

- Climate Change Act (2008)
- Environment Bill (currently in preparation)
- The Freedom of Information Act 2000 (FOIA)
- The Environmental Information Regulations 2004 (EIRs)
- The UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018)

### 4. Aims and Objectives

#### 4.1 Overall aim

The overall aim of this Contract is to test the draft EPM field survey method, and associated/supporting tools, processes, and data management, by organising and conducting field surveys at a range of pre-selected sites broadly representative of the peat types and conditions that we expect to encounter in years 2 and 3 of the EPM Project (when more extensive survey will be required).

Field survey and associated data will be provided back to Natural England (NE), with a report providing details of the work undertaken, an evaluation of the draft EPM field survey method and associated/supporting tools and processes, and recommendations for improvements including how to effectively procure scaled-up survey services to achieve levels required in 2022/23 and 2023/24.

#### 4.2 Detailed aims and objectives

The Supplier will:

**4.2.1. Secure permission from landowners**, and liaise with land managers to access the pre-selected sites in order to undertake EPM surveys. To facilitate this, Natural England will provide a list of landowners and contact postal addresses supplied by Land Registry alongside contact details of land managers from the Rural Payments Agency. Please note that Natural England cannot guarantee the accuracy of owner details especially where there is not a paying arrangement in place with Natural England. The data supplied may not include email addresses, phone numbers, or other contact details which the Supplier will be expected to obtain during the process of negotiating access permissions, to help speed up the process. The Supplier will also secure permission from landowners for Natural England to use and publish survey data recorded on their land. Written permission for site access and use of survey data will be required. As part of these land owner discussions, the Supplier will

need to understand details of individual site access arrangements such as how to access farm tracks and parking arrangements for surveyors' vehicles, and if necessary who to meet on the day of the survey, where and at what time etc.

Natural England will provide to the successful Supplier a template letter to landowners, a document for landowners to sign giving Natural England permission to use the data, and a privacy notice.

The Natural England project officer where capacity allows will be able to provide ad hoc support in contacting landowners in cooperation with Natural England Area Team staff.

**4.2.2. Manage landowners' personal data appropriately and securely.** Personal data relating to landowners of survey sites must be stored securely, and managed and processed according to data protection legislation. See section 11 for further details. The Supplier is also required to follow Natural England's data protection policy (see appendix 1) and to only act on the information supplied to them under our instruction.

**4.2.3. Manage the surveys with a Survey Plan.** The Supplier will share the Survey Plan with the NE Project Officer, which will provide details of which sites will be visited when, by which survey team, and record & share changes to the plan weekly as the Contract progresses.

Liaise with Natural England Area Teams. The Supplier will provide details of planned surveys in each Natural England Area to named contacts NE will provide, and [secure consents](#) for surveys where sites are located on Sites of Special Scientific Interest (SSSIs).

- A map of Natural England Area Teams can be downloaded here: <https://environment.data.gov.uk/dataset/207b5f8d-4ca7-4e97-85fa-33252912831a> and viewed here: <https://naturalengland-defra.opendata.arcgis.com/datasets/natural-england-area-teams>

**4.2.4. Undertake field surveys using the draft EPM field survey method and mobile app.** If a mobile field data capture app cannot be provided, a spreadsheet will be provided as backup.

We estimate that the time taken (once the surveyors have arrived at the quadrat location) to setup a quadrat, record data, and dismantle a quadrat will be on average roughly 1-1.5 hours when they are familiar with the method.

- The EPM field survey protocol is provided in Appendix 2.
- The Supplier should specify which sites they will survey from the sites list provided in Appendix 3 and contained in the shapefile in Appendix 4.
- If the Supplier cannot survey all the sites (e.g. because landowners refuse permission) they should propose a subset which balances across the following criteria: land use and landcover types, accessibility, buried peat, and the range of problems which may be encountered whilst surveying.

**4.2.5. Test different equipment (peat rod types).** The draft EPM field survey method allows for different peat probe types to be used. The Supplier will be asked to use more than one probe type and provide a view on the relative merits of those they test.

**4.2.6. Provide survey data back to us.** Field survey data collected using the mobile app will be automatically available to Natural England, so no additional action is required, beyond checking periodically with the NE Project Officer that data is becoming available to NE from surveys as expected. If the mobile app is not used or not available, the Supplier will be required to provide digital copies of all field data collected in Excel spreadsheet format, together with photos which must have filenames in a standard format including the sample number and compass direction as directed in the field method.

**4.2.7. Provide updated and improved contact details of landowners and details of correspondences with landowners to establish permissions.** The Supplier will track their communications with landowners and provide this detail to Natural England in digital spreadsheet format.

**4.2.8. Evaluate the draft EPM field survey method, and the mobile data capture app.**

Key areas that the evaluation is required to cover include: the landowner permission/consents process, Survey Management and Delivery (including surveyor feedback), Peat Rod evaluation, evaluation of supplied documentation, Health and Safety, and evaluation of the app (including usability, functionality, reliability, data loading and synchronisation, user account management, support, etc). The evaluation should conclude with a list of recommendations on how the Field Survey Method, Process and App could be improved/delivered in a more efficient and cost-effective manner ranked in order of priority. Final details for the evaluation will be agreed between the client and Supplier in the project inception meeting .

**4.2.9. Analyse time and effort taken for each activity.** Provide an assessment of the average time taken to complete the following key activities, based on surveyor feedback and analysis of survey records and project management data: sending initial letters to landowners, subsequent correspondence and communications to achieve permission/refusal, preparing for field survey (including data preparation such as loading map data to mobile app, app synchronisation), travel (driving/public transport, on foot to quadrat locations and returning post-survey), undertaking the survey (setting up quadrat, recording data, dismantling quadrat). Identify and report any significant issues or opportunities for efficiency savings.

**4.2.10. Provide recommendations on improvements to the survey method, app and process for securing permissions.** This Contract is designed primarily to test draft processes and methods, with a view to improving them for years 2 and 3. The Supplier will identify improvements which increase efficiency and therefore lower costs.

## 5. Project Management

**5.1 Project Management Plan** including delivery milestones, timetable, and resource allocation to different stages and activities

**5.2 Project Meetings:** A Project Initiation meeting including a presentation on the Supplier's understanding of the methodology, regular monthly project meetings to discuss

progress, issues arising during delivery etc, and a final Project Close meeting to review and approve the final outputs and conclude the project.

- 5.3 **Survey Plan** with timetable: sites, survey teams and proposed dates; to be kept up to date and shared with the NE Project officer at least weekly
- 5.4 **Fortnightly written update reports** on progress with survey activities, once underway
- 5.5 **Risk assessments** for site surveys, including arrangements required to minimise risks associated with Covid-19
- 5.6 **Field survey data** captured from the sites required on a weekly basis
- 5.7 **Details of any Site of Special Scientific Interest (SSSI)** consents required and obtained to conduct the England Peat Map survey (where applicable)
- 5.8 **Database/spreadsheet of all updated landowner information:** contact details, arrangements, correspondence and notes arising from negotiations with landowners to secure access permissions, to help us understand and develop best practice, effort required, issues arising, and to arrange additional surveys more quickly at these sites in future years
- 5.9 **Survey equipment:** the Supplier must procure and provide their own survey equipment including IT hardware and software, peat probes, tape measures etc as required (see Field Survey Protocol Appendix 2).
- 5.10 **Surveyors will be expected to ensure they minimise travel times** e.g. by negotiating with landowners access for vehicles along farm tracks to avoid long walks to get to the survey cells.
- 5.11 **Reserve sites:** We recognise that some landowners will not respond, or not grant permission for surveys or data use. Additionally, weather conditions may make surveying difficult or, occasionally, hazardous. For these, and other reasons, we provide a reserve list of sites which the Supplier should use to complete the total number of sites they propose to survey.
- 5.12 **Training:** Guidance documentation to support use of the EPM field survey method and use of the mobile app will be provided to the Supplier on commencement of the Contract.

#### 5.13 Payment & Milestone Dates:

Milestone	Payment schedule	Date
Contract start		By 3rd January 2022
Project inception tele/virtual call between the Supplier and Natural England		By 10/01/22
Completion of 30% of agreed Site Surveys and data delivered	1 <sup>st</sup> payment	TBC. Anticipated 31/01/22
Completion of 65% of agreed Site Surveys and data delivered	2 <sup>nd</sup> payment	TBC. Anticipated 28/02/2022



Tele-call/virtual workshop between Natural England and the Supplier to discuss the final report, identify and resolve any problems and agree final approaches and next steps.		28/02/2022
Draft final report to be provided by the Supplier to Natural England.		14/03/2022
Comments on the draft final report to be provided to the Supplier by Natural England.		21/03/2022
Final report and associated products to be delivered by the Supplier to Natural England incorporating additions/ amendments in light of comments received from Natural England.	Final payment	31/03/2022

Any delays to this timetable should be immediately discussed with the Natural England project officer.

**5.14 GDPR/Data Protection:** The Supplier shall not knowingly or negligently do or omit to do anything which places Natural England in breach of its obligations under Data Protection legislation and shall provide Natural England with such information as it may reasonably require to satisfy itself that the Supplier is complying with its legal obligations.

**5.15 Quality Control:** the Supplier will be responsible for ensuring that the quality of the data collected meets or exceeds the project specified quality requirements.

## 6. Outputs

**6.1 Field Survey Data & Associated files/paperwork** to be submitted on a rolling basis (weekly) throughout the length of the Contract

**6.2 A Draft Project Report** to be submitted to the NE Project Officer for comment by the 14<sup>th</sup> March 2022

**6.3 A Final Project Report** to be submitted to the NE Project Office by the 31<sup>st</sup> March 2022 including:

6.3.1 An Executive Summary (no more than 2 sides of A4 text)

6.3.2 the presentation, evaluation and discussion of all requirements and activities undertaken and listed in 4.2 above.

## 7. Methodology

### 7.1 Survey Protocol

A detailed field protocol describing the requirements of the survey can be found in Appendix 2. It is strongly recommended that this protocol is read prior to quoting as it is a key part of the delivery of this Contract.

### 7.2 Survey Area

The survey area is defined as zones 3 and 7 of the [Living England Biogeographic Zones](#) (2021) which cover an area of 9945 km<sup>2</sup> & 10504 km<sup>2</sup> respectively.

### 7.3 Survey Points

A shapefile can be found in Appendix 4 containing all of the survey points (approximately 400 points) in each biogeographical zone. More survey points than required have been provided as some landowners may refuse permission to access their land.

### 7.4 Number of survey points per Biogeographic Zone

In its selection of survey points the Supplier needs to balance its selection against the following criteria: land use and landcover types, accessibility, buried peat, and the range of problems which may be encountered whilst surveying.

**Table 1:** Survey Points

Number of Survey Points per BGZ	Total Number of Survey Points
100	200

### 7.5 Survey Period

**The survey period is from the commencement of the Contract 3rd January 2022 until the 21<sup>st</sup> March 2022 to allow time for completion of the project report and submission of all project data by Thursday the 31<sup>st</sup> of March 2022.**

### 7.6 Soils Desk Survey

Prior to conducting the field survey, it is recommended that a brief desk-based survey is conducted to identify what soil series the surveyors are likely to encounter to ensure

accurate identification and characterisation of the soil layers/horizons which are likely to be encountered.

## 7.7 Buried Peat

The Supplier needs to be aware that where buried peat soils are expected to occur, soil coring down to 1 metre deep will be required. Survey points where buried peat soils can be expected are detailed in appendices 3 and 4. Further details regarding the survey methodology can be found in the survey protocol in Appendix 2.

## 8. Contract Period

The Contract period will be from the 3rd of January 2022 up until the 31<sup>st</sup> March 2022.

## 9. Data Ownership (Intellectual Property Rights)

The Intellectual Property Rights resulting from the work shall belong to Natural England and the cover of all reports or drawings will include a statement © Natural England and the date of creation.

The Supplier shall indemnify and keep indemnified Natural England against all actions, claims, demands, losses, damages, costs and expenses and other liabilities Natural England may suffer or incur arising from any infringement or alleged infringement of any third party Intellectual Property Rights except to the extent that they have been caused by or contributed to by Natural England's acts or omissions. Also see Contract terms and conditions for more detail.

## 10. Performance Measures

The following performance measures will be used to assess the progress of the Contract.

Performance Indicator	Reporting Frequency	Green	Amber	Red
Number of sites surveyed against number agreed with Supplier	Monthly	90% of sites surveyed.	80-90% of sites surveyed.	<80% of sites surveyed.
Data Quality	Monthly	All required fields need to be filled in. The proportion of	All required fields need to be filled in. The proportion	All required fields need to be filled in. The proportion of values in the

		values in the data set which are erroneous should be below 2%	of values in the data set which are erroneous should be below 5%	data set which are erroneous should be below 10%
Data Accuracy	Monthly	90% of plots checked by client match supplied data	70-90% of plots checked by client match supplied data	<70% of plots checked by client match supplied data
Data Delivery – Field survey data supplied to Natural England	Weekly	90% of field data supplied within 7 days of collection	90% of field data supplied within 7-14 days of collection	90% of field data supplied within > 14 days of collection
Landowner Satisfaction	Monthly	90% of landowners happy with the Supplier	70% of landowners happy with the Supplier	50% of landowners happy with the Supplier
<b>Contract Administration</b>				
The Supplier shall deliver complete and accurate management reports within 5 days of the end of each calendar month.	Monthly	Management Report received within 5 working days of end of calendar month.	Management Report received within 6-10 working days of end of calendar month.	Management Report not received, or received > 10 working days from end of calendar month.
The Supplier to ensure Records of Decisions (RoDs) produced and disseminated within 3 working days of each progress meeting held	Monthly	RoDs received within 3 working days of date of previous Progress Meeting.	RoDs received within 4-5 working days of date of previous Progress Meeting.	RoDs not received, or received > 5 working days from date of previous Progress Meeting.

## 11. GDPR/Freedom Of Information

### 11.1 Personal Data Protection

When processing Personal Data, the Supplier shall ensure that it has implemented appropriate technical and organisational measures to ensure the security of the personal data and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to the personal data and promptly notify Natural England of any breach of these measures.

The Supplier shall not knowingly or negligently do or omit to do anything which places Natural England in breach of its obligations under Data Protection legislation and shall provide Natural England with such information as it may reasonably require to satisfy itself that the Supplier is complying with its legal obligations.

The Supplier shall notify Natural England within five Working Days if it receives a request from a data subject to have access to their personal data; or otherwise receives a complaint or request relating to personal data and provide Natural England with full cooperation and assistance in relation to any complaint or request within the relevant time scales and in accordance with Natural England's instructions.

Also see Contract terms and conditions for more detail.

### 11.2 Online Forms

Due to data protection and security issues the Supplier should not use online forms to process personal or sensitive data.

### 11.3 Freedom of Information

The Supplier acknowledges that Natural England is subject to the requirements of, Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("the Information Acts")

and may be required to disclose certain information to third parties including information relating to this Contract pursuant to the Information Acts.

If the Authority receives a request for information relating to the Contract pursuant to either of the Information Acts, the Authority may disclose such information as necessary in order to comply with its duties under the Information Acts.

Also see Contract terms and conditions for more detail.

## 12. Health and Safety

### 12.1 Requirements

The Supplier is required to have:

- health and safety procedures with a commitment to high standards of health and safety
- a method for ensuring safe systems of work in the form of suitable and sufficient written risk assessments and associated method statements

- adequate training, and where appropriate qualifications
- evidence of proven track record of high health and safety standards
- resources available to implement effective health and safety systems relevant to the Contract
- Resources available to implement effective health and safety systems

## 12.2 Open Water/Sphagnum Pools

Due to the risks associated with deep water the Supplier is required to avoid areas of either open or Sphagnum covered deep water and use one of the alternative survey points.

## 12.3 UXO – Unexploded Ordnance

The Supplier is required to conduct a preliminary unexploded ordnance risk assessment to determine the potential level of risk across all the survey locations. The assessment needs to include all factors which have contributed towards the assessment. It also needs to include recommendations for further action. If required a detailed risk assessment should be produced and all actions implemented.

The Supplier is also required to provide its staff/sub-Contractors with suitable training on unexploded ordnance and have clear procedures in place on what to do if unexploded ordnance is discovered during the course of conducting the survey.

## 12.4 Underground Services

It is the responsibility of the Supplier to conduct enquiries about the presence of any underground services within or near to each survey point. A risk assessment and method statement, covering the risk of underground services and what mitigating controls are being implemented, is required. If the risk is too high, an alternative survey point should be selected from the supplied reserve list which is numbered in the order of preference (See appendices 6&7).

**If cables/services are damaged all work must stop immediately and the utility owner should be contacted as soon as possible.**

## 12.5 Over Head Power Lines

The Supplier should not conduct peat depth measurements within a horizontal distance of at least 10 metres from an overhead power line (OHPL). These distances should be measured

from the line of the nearest conductor to the work, projected vertically downwards onto the floor, and perpendicular to the route of the line.

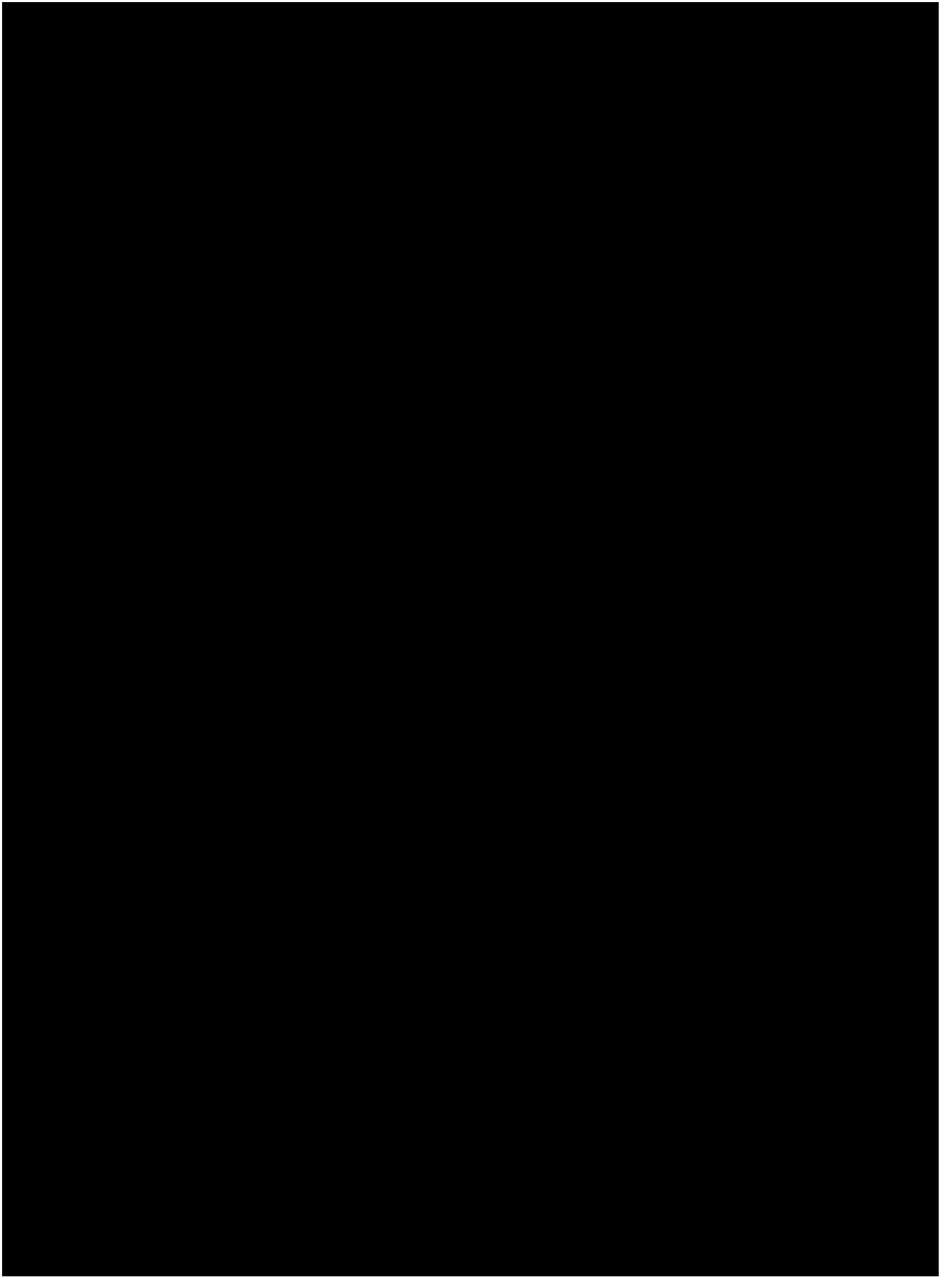
### **13. Biosecurity & Invasive non-native species**

The Supplier is required to follow the biosecurity procedures detailed in Natural England's "good practice guidance on biosecurity" (see appendix 8).

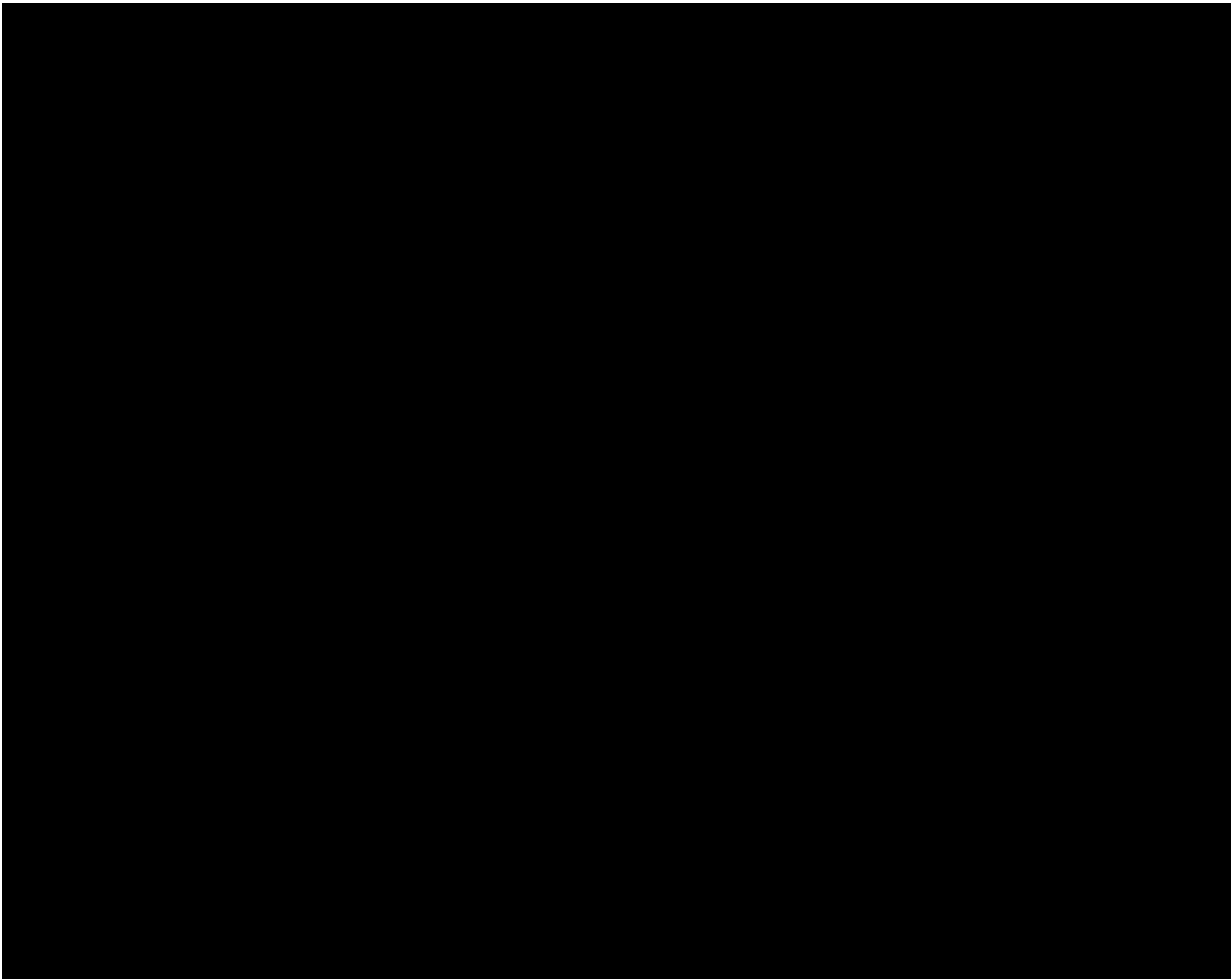
The Supplier is required to record and submit online incidental sightings of Invasive Non-Native Species (INNS) either through a webpage or using an appropriate smartphone app e.g. iRecord.

### **14. Sustainability**

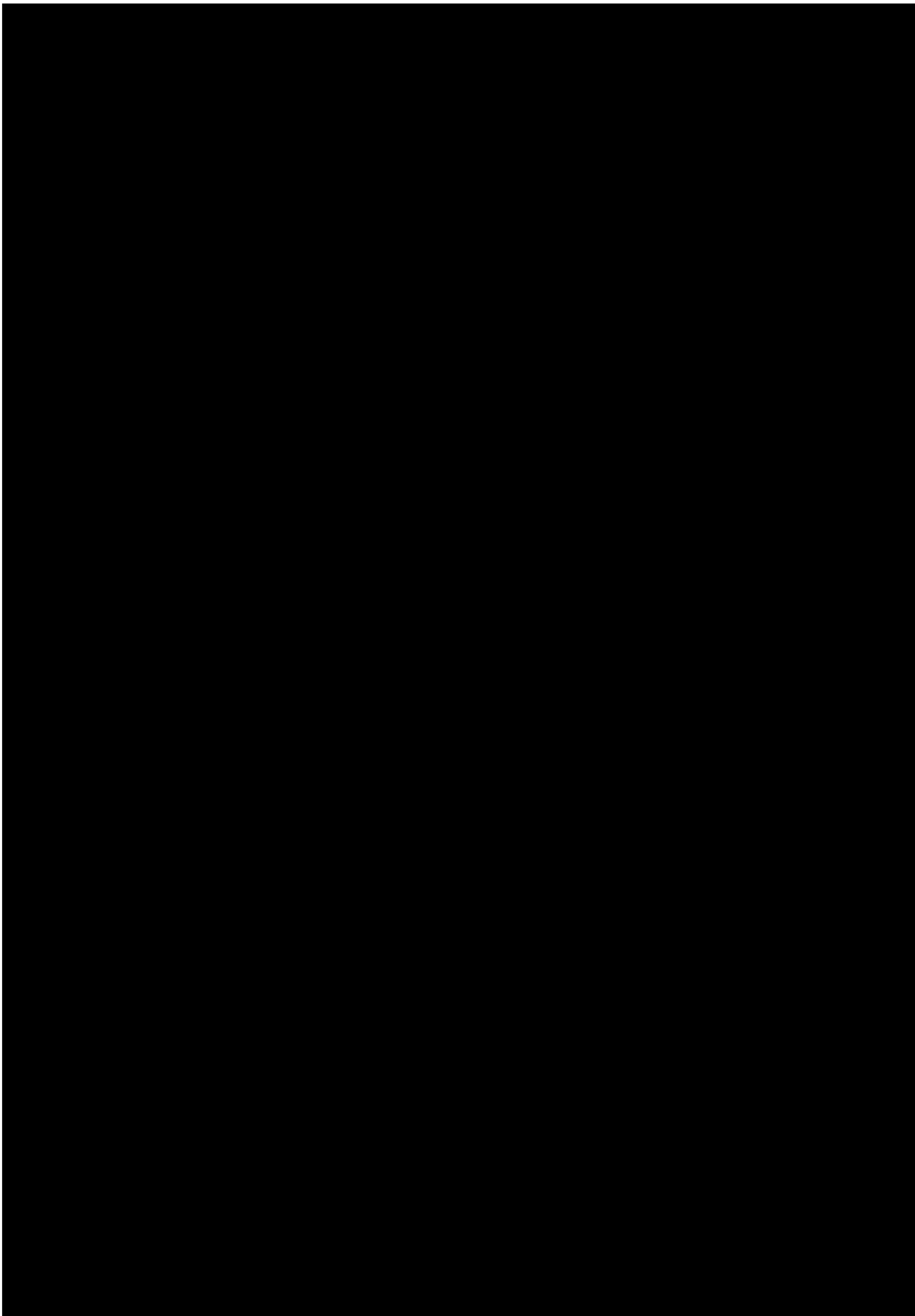
The Supplier should ensure that the work detailed in this specification is delivered with the minimum impact on the environment, and with due regard for social issues such as employment conditions and welfare.

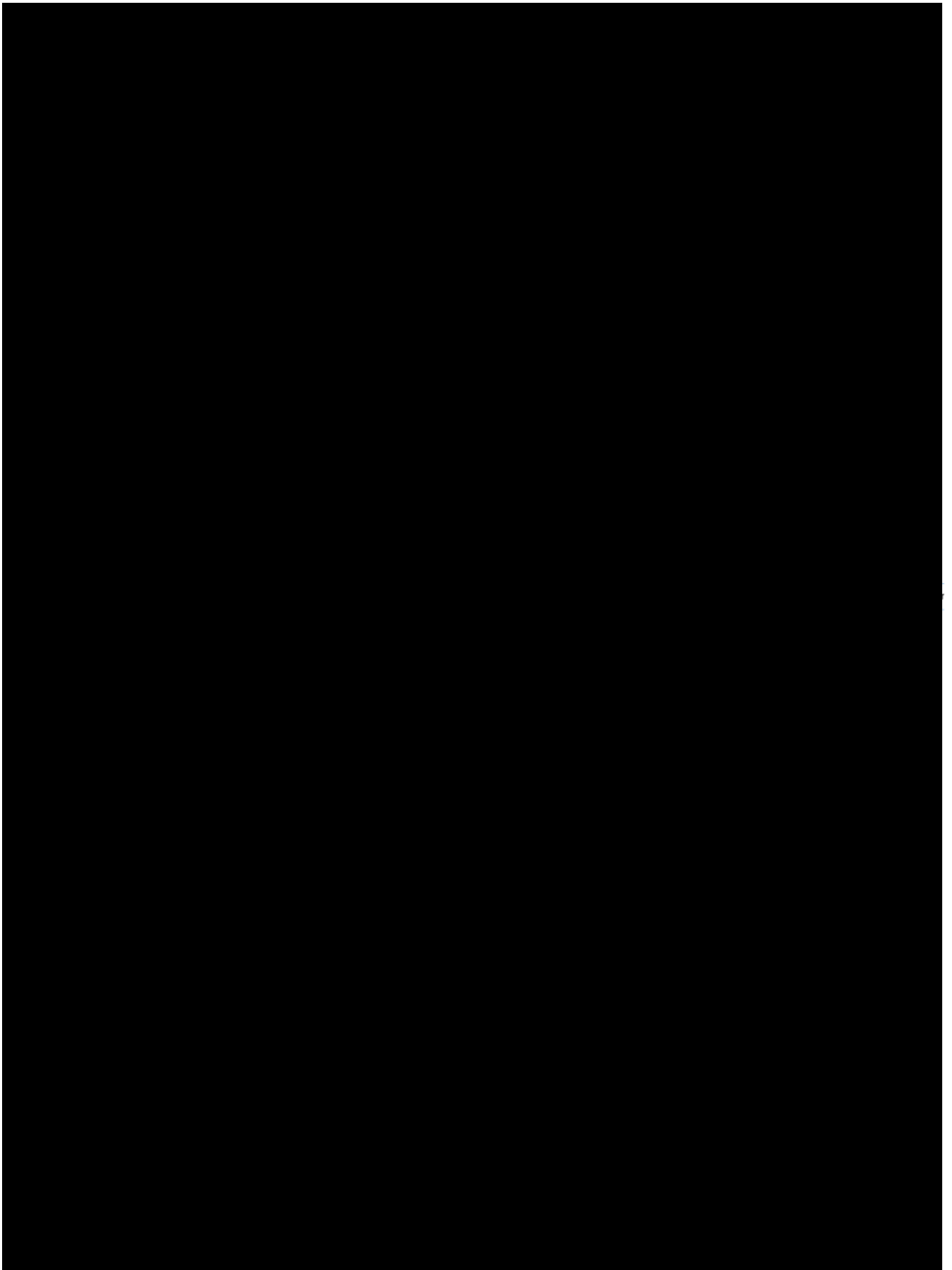


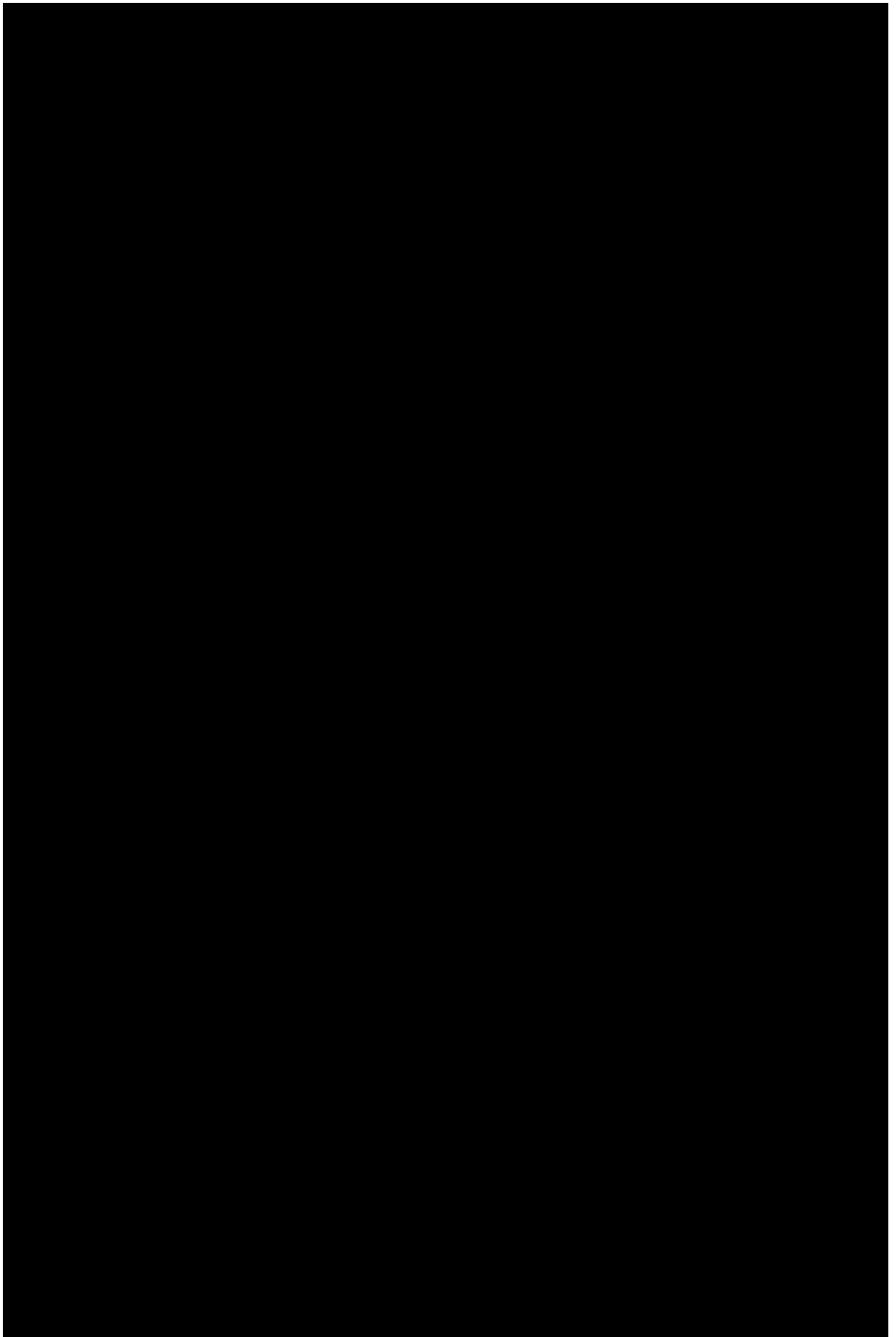


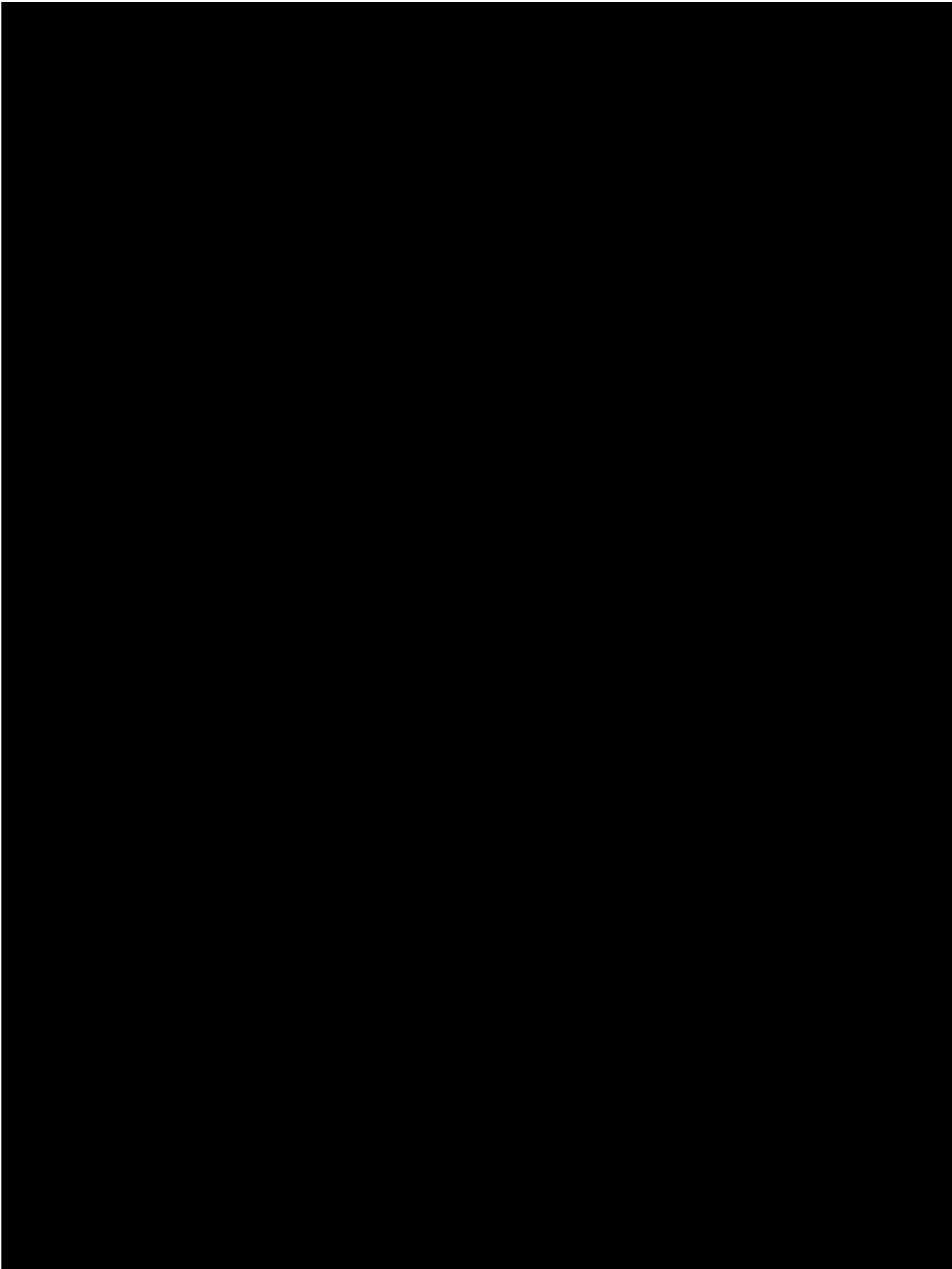


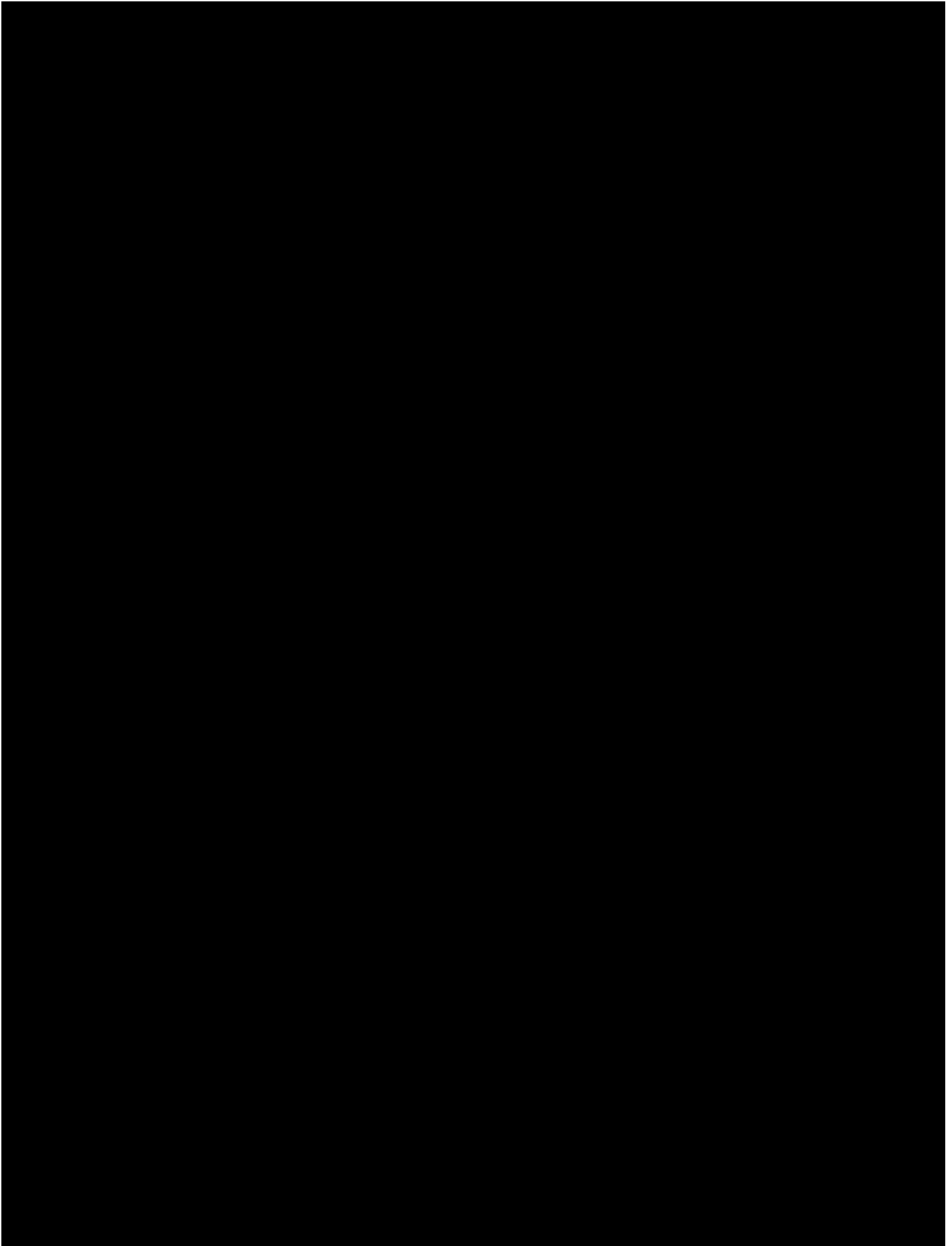


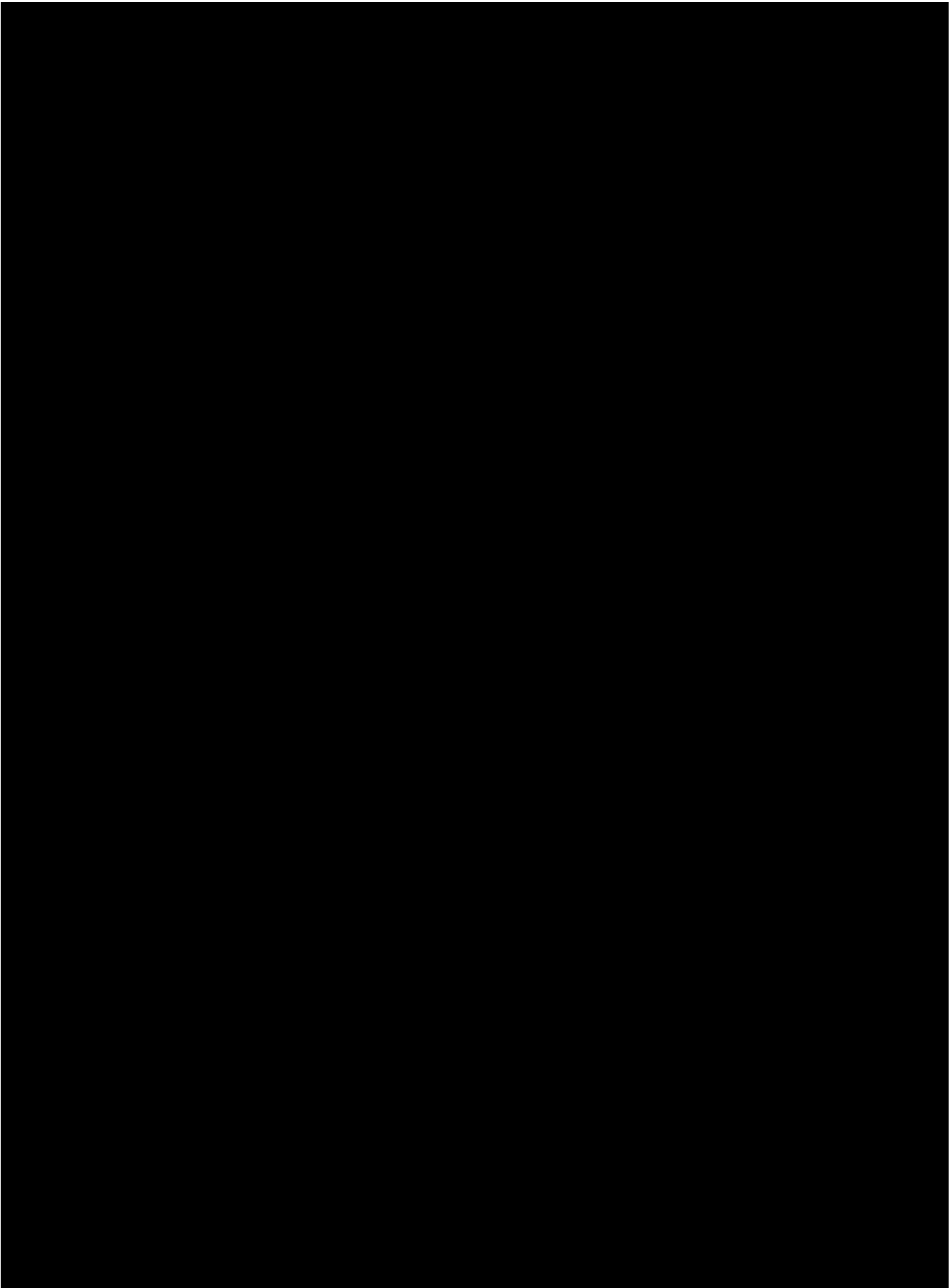








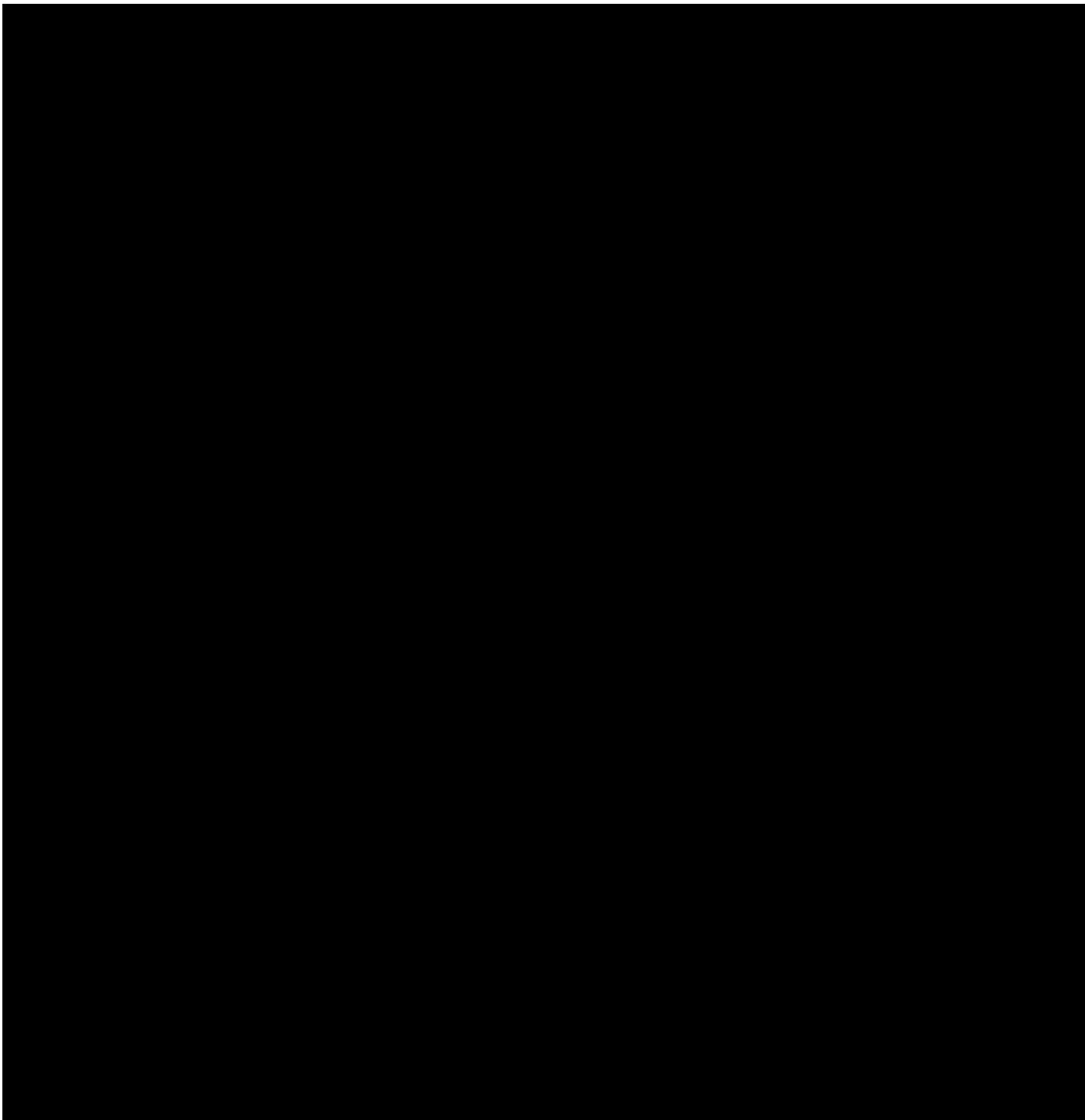












## SCHEDULE 2 – PRICES

The total fixed Price of the Contract Period will not exceed  
£106,341.32 excluding vat  
**£127,609.58 including vat**

