

An nec3 engineering and construction contract

Stage 1 Cost Reimbursable Contract (Option E)

Stage 2 Priced Contract with Activity Schedule  
(Option A)

Between

Croydon Tramtrack Limited

And

Morgan Sindall Construction & Infrastructure Ltd

For

**Blackhorse Lane (North & South)  
Bridge Replacement**

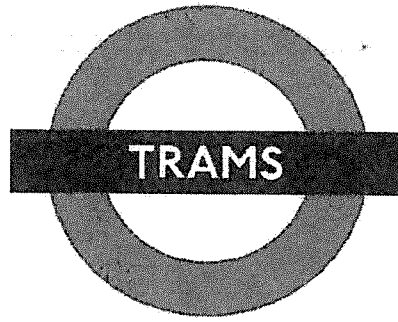
**LT-C-17-435**

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## **SECTION 1**



# **SECTION 1 FORM OF AGREEMENT**

## Call Off Contract Form of Agreement and Contract Data

THE CONTRACT DATE is the 23<sup>rd</sup> day of February

2018

### BETWEEN

1. **Tramtrack Croydon Limited T/a London Trams of Windsor House, 42-50 Victoria Street, London SW1H 0TL** (hereinafter called "the Employer") which expression shall include its successors in title and permitted assignees, and
2. **Morgan Sindall Construction & Infrastructure Ltd**, a company incorporated in and in accordance with the laws of **ENGLAND AND WALES** having as its registered number [REDACTED] and its registered office at [REDACTED] (hereinafter called "the Contractor").

### RECITALS

- (A) This Form of Agreement is made pursuant to a framework agreement between Transport for London and the *Contractor* dated 1<sup>st</sup> April 2017 ("the Framework Agreement").
- (B) The *Employer* wishes to appoint the *Contractor* to carry out works being the renewal works of the London Trams (TfL) Blackhorse Lane Bridge South and London Borough of Croydon's (LBC) Blackhorse Lane Bridge North (Stage One) for which the *Employer* has submitted to the *Contractor* his Request Form.
- (C) The *Employer* has accepted a proposal by the *Contractor* for the design and construction of the works and correction of Defects therein in accordance with the *conditions of contract*.

### OPERATIVE PROVISIONS

1. In this Form of Agreement, unless the context otherwise requires, words and expressions shall have the same meaning as set out in the *conditions of contract*.

2. The *conditions of contract* are the NEC3 Engineering and Construction Contract (Third edition April 2013) together with and as amended by the main Option, dispute resolution Option, and secondary Option clauses as specified in the Contract Data Part One and Z (being the amendments set out in Schedule 2 of the Framework Agreement).
3. This contract shall mean this document and the following documents which are hereby incorporated into and shall comprise this contract
  - 3.1 the *conditions of contract* (including, for the avoidance of doubt, the Option Z clauses set out in Schedule 2 of the Framework Agreement),
  - 3.2 the Contract Data Part One,
  - 3.3 the Contract Data Part Two,
  - [3.4 ~~the BIM Protocol~~ **Not Used**
  - 3.5 the Works Information,
  - 3.6 the Site Information,
  - [3.7 the Pricing Information,
  - 3.8 **Not Used**
  - 3.9 the *Contractor's quality statement*.
4. The several documents forming this contract are to be taken as mutually explanatory of one another. In the event of any ambiguity they shall be construed in the order set out in Clause 3 of this Form of Agreement.
5. The *Contractor* Provides the Works in accordance with this contract.
6. The *Employer* pays the *Contractor* for complying with his obligations to provide the *works* the amount due in accordance with this contract.
7. This contract and the warranties and undertakings in it are deemed to apply to all work and/or services performed by the *Contractor* both before and after the Contract Date.
8. The *Contractor* warrants and undertakes to the *Employer* as a condition of this contract that he has all the resources including financial, technical and human resources as are required to carry out and complete his work in accordance with this contract. The *Contractor* shall neither be entitled to any additional payment nor excused from any obligation or liability under this contract due to any misinterpretation or misunderstanding by it of any fact relating to the *works*.

9. Notwithstanding the manner of execution of this contract it is agreed that:
- 9.1 the limitation period within which any claim may be brought by the *Employer* for breach of this contract by the *Contractor* is 12 years from the date of breach; and
- 9.2 the *Contractor* agrees not to raise in defence of any such claim a shorter limitation period whether pursuant to the Limitation Act 1980 (as the same may be amended or re-enacted from time to time) or otherwise.

This Form of Agreement has been executed as a deed and delivered on the date stated at the start of this Form of Agreement.

**Executed as a Deed by the  
*Contractor*  
acting by a Director and its  
Company  
Secretary or two Directors:**

Director

Director/s

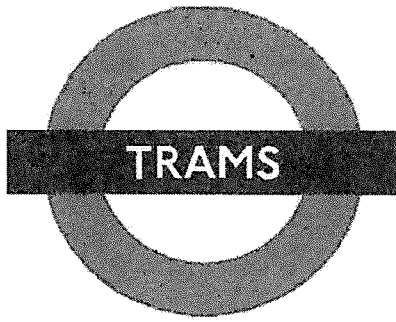
**The Common Seal/Corporate Seal of  
[TfL Company] was affixed to this  
Deed in the presence of:**

[Redacted signature area]

Name and description of authorised signatory



## **SECTION 2**



**SECTION 2**  
**CONTRACT DATA PART 1**

## CONTRACT DATA

### PART ONE - DATA PROVIDED BY THE EMPLOYER

Statements \_\_\_\_\_  
given in all  
contracts

- 1 General
- For Stage One, the conditions of contract are the core clauses and the clauses for main Option E, dispute resolution Option W2 and secondary Options X2, X15, X18, X21, X23 and Z of the NEC3 Engineering and Construction Contract (April 2013).
  - For Stage Two, The conditions of contract are the core clauses and the clauses for main Option A dispute resolution Option W2 and secondary Options X2, X7, X15, X16, X18, X21 and Z of the NEC3 Engineering and Construction Contract (April 2013).

- The *works* are

To carry out the renewal works of the London Trams (TfL) Blackhorse Lane Bridge South and London Borough of Croydon's (LBC) Blackhorse Lane Bridge North as stated in the Works Information (Stage One)

If Option X23 applies, the *works* are more particularly described in the supplemental Contract Data provided with the Notice to Proceed]

The *Employer* is

Name Tramtrack Croydon Limited T/a London Trams (Company registered (Number 03092613).

Address 11th Floor, Knollys House, 17 Addiscombe Road, Croydon, CR0 6SR.

- The *Project Manager* is

Name

Address 11th Floor, Knollys House, 17 Addiscombe Road, Croydon, CR0 6SR.

- The *Supervisor* is

Name **London Trams Head of Engineering**

Address

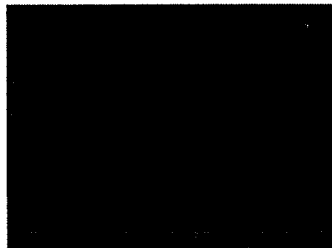
**11th Floor, Knollys House, 17 Addiscombe Road, Croydon, CR0 6SR.**

[if Option X23 applies, the *Supervisor* is named in the supplemental Contract Data provided with the Notice to Proceed]

The *Principal Contractor* is

Name **Morgan Sindall Construction & Infrastructure Ltd**

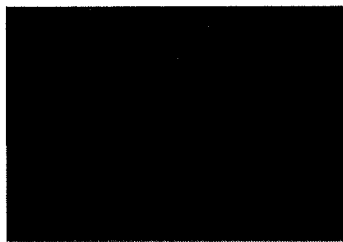
Address



The *Principal Designer* is

Name **Morgan Sindall Construction & Infrastructure Ltd**

Address



- The Works Information is in

**Section 7 – Works Information [and, if Option X23 applies, the Works Information is amended and supplemented by the information referred to as forming part of the Works Information in the supplemental Contract Data provided with the Notice to Proceed]**

- The Site Information is in

**Section 9 – Site Information**

**[and, if Option X23 applies, the Site Information is amended and supplemented by the information referred to as forming part of the Site Information in the supplemental Contract Data provided with the Notice to Proceed]**

- The *boundaries of the site* are identified in the Site Information

Option X23 applies, the boundaries of the site are described in the supplemental Contract Data provided with the Notice to Proceed

- The *language of this contract* is

**English**

- The *law of the contract* is the law of

**England and Wales**

- The *period for reply* is

**2 weeks**

- The *tribunal* is

**The courts of England and Wales**

- The following matters will be included in the Risk Register

**TBA**

**[and, if Option X23 applies, the Risk Register includes the matters referred to in the supplemental Contract Data provided with the Notice to Proceed]**

2 Time

- The *starting date* is

**5<sup>th</sup> February 2018**

- The *access dates* are

Part of the Site

Date

1 Whole of the Site

**5<sup>th</sup> February 2018**

**[and, if Option X23 applies, the *access dates* for Stage Two are identified in the supplemental Contract Data provided with the Notice to Proceed]**

- The *Contractor* submits revised programmes at intervals no longer than **4 weeks** except during any blockade possessions when programmes will be revised no longer than **24 hours**.

#### 4 Testing and Defects

- The *defects date* is **52 weeks** after Completion of the whole of the *works*
- The *defect correction period* is **4 weeks**

#### 5 Payment

- The *currency of this contract* is the **pound sterling**
- The *assessment interval* is **4 weeks**
- The *interest rate* is **2%** per annum (not less than 2) above the **base** rate of the **Bank of England**

#### 8 Risks and insurance

- The minimum amounts of cover or minimum limits of indemnity for the insurances to be maintained in accordance with the Insurance Table are: **In accordance with the Insurance Table in Section 3**

#### Optional statements

- The completion date for the whole of the works is **to be finalised and concluded in Stage 1. [ and if Option X23 applies, the *completion date* for the whole of the *works* is stated in the supplemental Contract Data provided with the Notice to Proceed]**
- The *Employer* is not willing to take over the *works* before the Completion Date.
- The *key dates and conditions* to be met are

**condition to be met**

**key date**

**TBA**

**[and, if Option X23 applies, the *key dates and conditions* to be met for Stage Two are stated in the supplemental Contract Data provided with the Notice to Proceed]**

- The amendment to Clause 25.3 does not apply

- These are additional *Employer's* risks

1	TBA
2	TBA
3	TBA

[and, if Option X23 applies, the additional *Employer's* risks include the *Employer's* risks stated in the supplemental Contract Data provided with the Notice to Proceed]

**Option X1 is not used**

**If Option X2: Changes in the law**

Changes in the law X2

X2.1 A change in the law of the country in which the Site is located is a compensation event if it occurs after the Contract Date.

The Project Manager may notify the Contractor of a compensation event for a change in the law and instruct him to submit quotations. If the effect of a compensation event which is a change in the law is to reduce the total Defined Cost, the Prices are reduced.

**Option X3 is not used**

**Option X5 is not used**

**Option X6 is not used**

**If Option X7 is used (but not if Option X5 is also used)**

- Delay damages for Completion of the whole of the works are **£2,000 per day**

**Option X12 is not used**

**Option X13 is not used**

**Option X14 is not used**

**If Option X16 is used**

- The *retention free amount* is **0%**

if Option X23 applies, the *retention free amount* is stated in the supplemental Contract Data provided with the Notice to Proceed

- The *retention percentage* is **5%**

If Option X23 applies, the *retention percentage* is stated in the supplemental Contract Data provided with the Notice to Proceed

Option X17 is not used

If Option X18 is used

- The *Contractor's* liability to the *Employer* for indirect or consequential loss is limited to **NIL**
- For any one event, the *Contractor's* liability to the *Employer* for loss of or damage to the *Employer's* property is limited to **the Total of the Contract Prices**
- The *Contractor's* liability for Defects due to his design which are not listed on the Defects Certificate is **£10 million**
- The *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than excluded matters, is limited to **the Total of the Contract Prices**
- The *end of liability date* is 12 years after the Completion of the whole of the works.

Option X20 is not used

Option X21 is used

Option X22 is not used

If Option X23 is used

- The *Contractor* prepares forecasts of the total Defined Cost of the work to be done in Stage One at intervals no longer than **4 weeks**.
- The *Contractor* prepares forecasts of the total Project Cost at intervals no longer than **4 weeks**.
- The Pricing Information is in **Section 11 – Price List**



- Clause X23.7.2 (Stage Two Forecast Prices Incentive) does not apply

**If Option X23 is used and there are additional reasons to change the Stage Two Forecast Prices**

- These are additional reasons to change the Stage Two Forecast Prices
  1. []
  2. []
  3. []

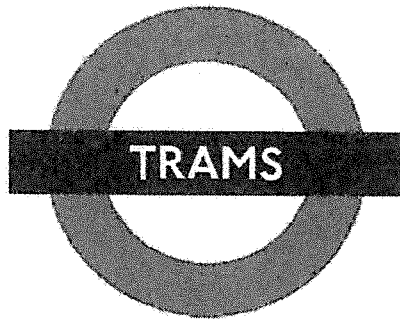
**Option Y(UK)1 is not used**

**Option Y(UK)3 is not used**

**If Option Z is used**

- The *additional conditions of contract* are those set out in **Section 5 of this contract**

### **SECTION 3**



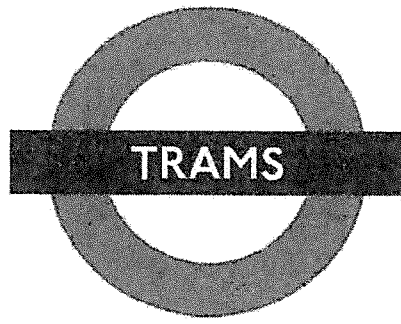
## **SECTION 3**

# **INSURANCE TABLE**

# LT-C-17-435 BLACKHORSE LANE BRIDGE INSURANCE TABLE

INSURANCE AGAINST	WHICH PARTY PROVIDES	MINIMUM AMOUNT OF COVER OR MINIMUM LEVEL OF INDEMNITY
All risks of loss or damage (not excluded by the terms and conditions of the policy) to permanent works and materials or equipment for incorporation therein, any temporary works (i.e. other works erected or constructed for the purpose of making possible the erection or installation of permanent works) constructional plant and equipment temporary buildings and other property owned by or supplied by an <i>Employer</i> .	<i>Contractor</i>	The total cost of the relevant <i>works</i> plus architect and other professional fees plus debris removal costs or such other amount identified in the Call-Off Contract
<b>Public Liability</b> All sums for which the insured shall become legally liable to pay as damages in respect of death of or injury or illness or disease to third parties and/or loss of or damage to third party property obstruction loss of amenities trespass nuisance or any like cause happening during the period of insurance and arising out of or in connection with the Framework Agreement and each Call-Off Contract	<i>Contractor</i>	£10,000,000 any one occurrence and unlimited in the period of insurance or such other amount identified in the Call-Off Contract
<b>Employers Liability</b> Liability for death of or bodily injury or illness sustained by employees of the <i>Contractor</i> arising out of or in the course of their employment in connection with the Framework Agreement and each Call-Off Contract	<i>Contractor</i>	The greater of £5,000,000 or the amount required by the applicable law or such other amount stated in the Call-Off Contract for any one event
Loss or damage to constructional plant, tools, equipment, temporary buildings (including contents therein) belonging to or the responsibility of the <i>Contractor</i>	<i>Contractor</i>	The replacement cost
<b>Professional Indemnity Insurance</b> Negligence omission or default in respect of design for which the <i>Contractor</i> is responsible	<i>Contractor</i>	£10,000,000 each and every claim or such other amount identified in the Call-Off Contract

## **SECTION 4**



**SECTION 4**  
**CONTRACT DATA PART 2**

## PART TWO - DATA PROVIDED BY THE CONTRACTOR

### Statements given in contracts

- The Contractor is

Name **Morgan Sindall Construction & Infrastructure Ltd**

Address

- The *direct fee percentage* is 8.99% for Stage 1 & 6.38% for Stage 2 [Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]
- The *subcontracted fee percentage* is 8.99% for Stage 1 & 18.88% for Stage 2 % [Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]
- The *working areas* are the Site and the site compounds and Morgan Sindall, Supplier and Designer offices used in conjunction with this project including batching plant and fabrication facilities [if Option X23 applies, the *working areas* include the areas identified in the supplemental Contract Data provided with the Notice to Proceed]
- The Stage One *key people* are

(1) Name

Job

Responsibilities

Qualifications

Experience

(2) Name

**Project Manager**

**See Attached CV**

Job Site Agent

Responsibilities

Qualifications See CV in Quality Submission

Experience

(3) Name

Job Designer's Project Manager

Responsibilities

Qualifications See Attached CV

Experience

(4) Name

Job Contractor's Design Manager

Responsibilities

Qualifications See Attached CV

Experience

(5) Name

Job Planning Manager

Responsibilities

Qualifications See Attached CV

Experience

(6) Name

Job Utilities and Logistics Coordinator

Responsibilities

Qualifications See Attached CV



Experience      **See Attached CV**

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- [if Option X23 applies, additional *key people* for Stage Two are identified in the supplemental Contract Data provided with the Notice to Proceed]
  - The following matters will be included in the Risk Register
- 

**[and, if Option X23 applies, the Risk Register includes the matters referred to in the supplemental Contract Data provided with the Notice to Proceed]**

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**Optional  
statements**

**If the *Contractor* is to provide Works Information for his design**

- The Works Information for the *Contractor's* design is in
- 

**TBA [and, if Option X23 applies, the Works Information for the *Contractor's* design is amended and supplemented by the information referred to as forming part of the Works Information for the *Contractor's* design in the supplemental Contract Data provided with the Notice to Proceed]**

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**If a *quality statement* which sets out the *Contractor's* proposals for the management and resourcing of the *works* is to be identified in the Contract Data**

- The *quality statement* is included in our Quality Submission

**If a programme is to be identified in the Contract Data**

- The programme identified in the Contract Data is to be submitted by 4<sup>th</sup> March 2018

**If the *Contractor* is to decide the *completion date* for the whole of the *works***

- The *completion date* for the whole of the *works* is to be finalised and concluded in Stage 1

[if Option X23 applies, the *completion date* for the whole of the *works* is stated in the supplemental Contract Data provided with the Notice to Proceed]

Option A is used

- The *activity schedule* is to be developed in Stage 1

Option A is used

- The tendered total of the Prices is to be agreed during Stage 1

Option Y(UK)1 is not used

If Option A is used

Data for the Shorter  
Schedule of Cost  
Components

- The percentage for people overheads is 12%  
*[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]*
- The published list of Equipment is the last edition of the list published by Civil Engineering Contractors Association (CECA).
- The percentage for adjustment for Equipment in the published list is -40% (state plus or minus).  
*[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]*
- The rates for other Equipment are  
*[Note to Contractor: rates not to exceed the maximum rates stated in the Framework Data]*

Equipment	size or capacity	Rate
-----------	------------------	------

TBA

TBA

TBA

.....

.....

.....

.....

.....

.....

- The daily rates for Defined Cost of design outside the Working Areas are

***[Note to Contractor: rates not to exceed the maximum rates stated in the Framework Data]***

category of employee

day rate

Partner/Director

Principal Consultant

Senior Consultant

Consultant

Junior Consultant



- The percentage for design overheads is 0%.  
***[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]***

The categories of design employees whose travelling

- expenses to and from the Working Areas are included in Defined Cost are **those shown in the Framework Tables**

**If Option E is used**

**Data for Schedule  
of Cost  
Components**

The listed items of Equipment purchased for work on this contract, with an on cost charge, are

Equipment

time-related charge

per time  
period

TBA

TBA

per TBA

.....	.....	per .....
.....	.....	per .....
.....	.....	per .....

The rates for special Equipment are

Equipment	size or capacity	rate
<b>TBA</b>	<b>TBA</b>	<b>TBA</b>

.....	.....	.....
.....	.....	.....
.....	.....	.....

The percentage for Working Areas overhead is **11.5%**.  
**[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]**

The hourly rate for Defined Cost of manufacture and fabrication outside the Working Areas are **[Note to Contractor: rates not to exceed the maximum rates stated in the Framework Data]**

category of employee	hourly rate
<b>TBA</b>	<b>TBA</b>

.....	.....
.....	.....
.....	.....

The percentage of manufacture and fabrication overheads is **0%**.

**[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework**

**Data]**

**Data for both  
schedules of cost  
components**

The daily rates for Defined Cost of design outside the Working Areas are ***[Note to Contractor: rates not to exceed the maximum rates stated in the Framework Data]***

category of employee	daily rate
----------------------	------------

Partner/Director (Designer)	
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Principal Consultant (Designer)	
---------------------------------	--

Senior Consultant (Designer)	
------------------------------	--

Consultant (Designer)	
-----------------------	--

Junior Consultant (Designer)	
------------------------------	--

Partner/Director (Contractor)	
-------------------------------	--

Principal Consultant Contractor)	
----------------------------------	--

Senior Consultant (Contractor)	
--------------------------------	--

Consultant (Contractor)	
-------------------------	--

Junior Consultant (Contractor)	
--------------------------------	--

The percentage for design overheads is 0 %.

***[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]***

The categories of design employees whose travelling expenses to and from the Working Areas are included as a cost of design of the works and Equipment done outside of the Working Areas are **those shown The Framework Tables**

**Data for the Shorter  
Schedule of Cost**

The percentage for people overheads is 0 %.

***[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework***

## Components

### *Data]*

The published list of Equipment is the last edition of the list published by the **Civil Engineering Contractors Association (CECA)**

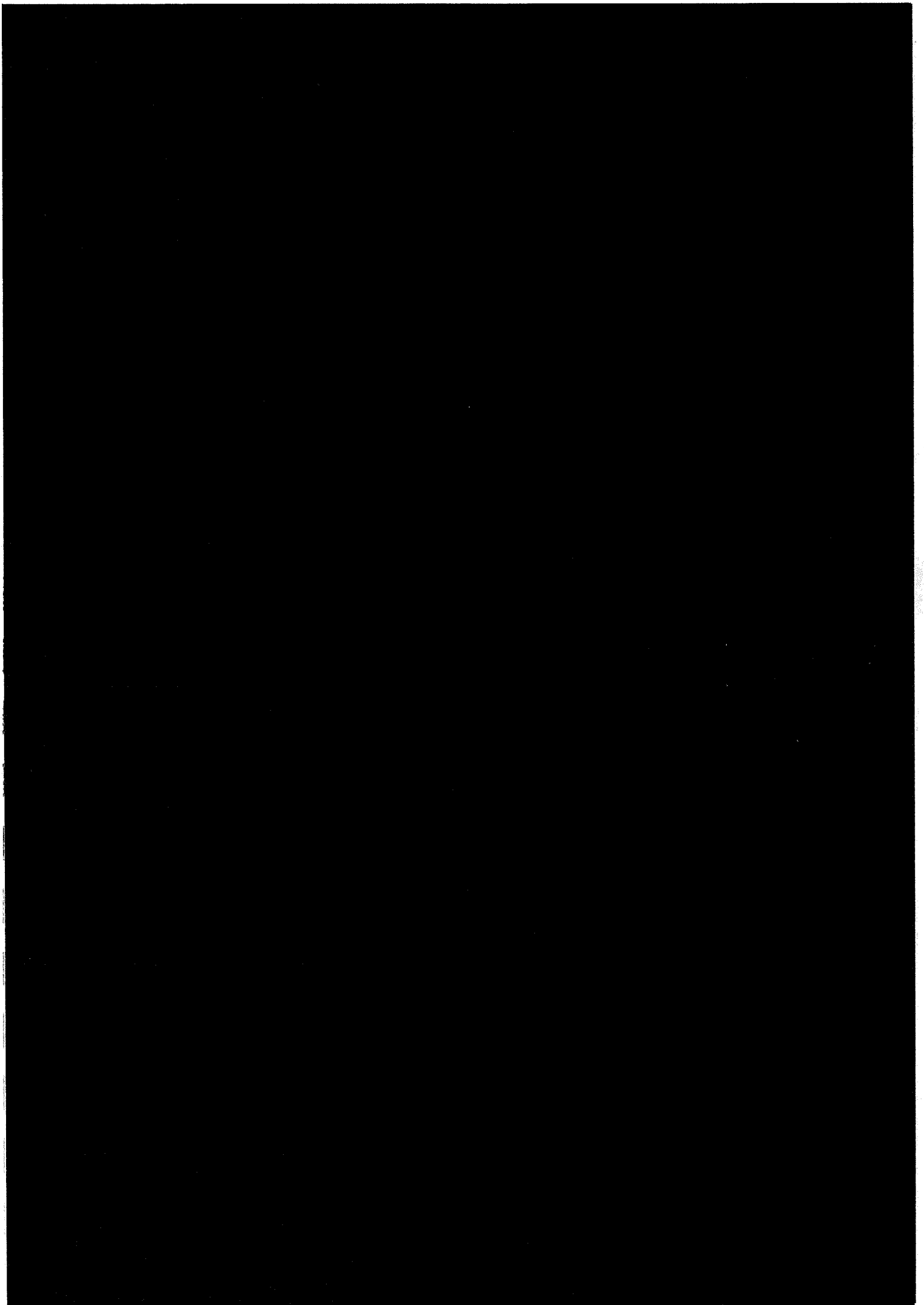
The percentage for adjustment for Equipment in the published list is **-80% (state plus or minus)**.

***[Note to Contractor: percentage not to exceed the maximum percentage figure stated in the Framework Data]***

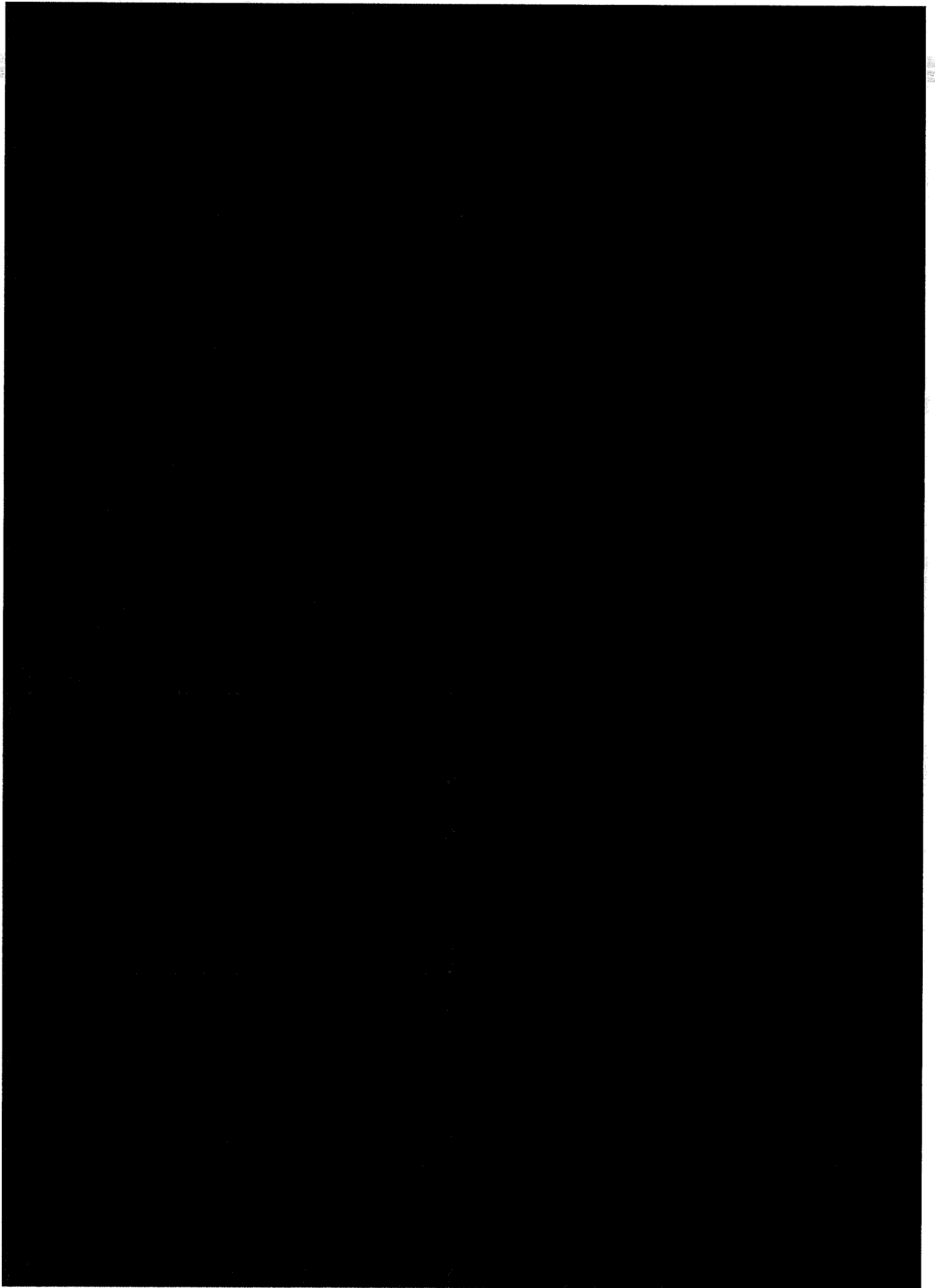
The rates for other Equipment are ***[Note to Contractor: rates not to exceed the maximum rates stated in the Framework Data]***

Equipment	size or capacity	rate
TBA	TBA	TBA
.....	.....	.....

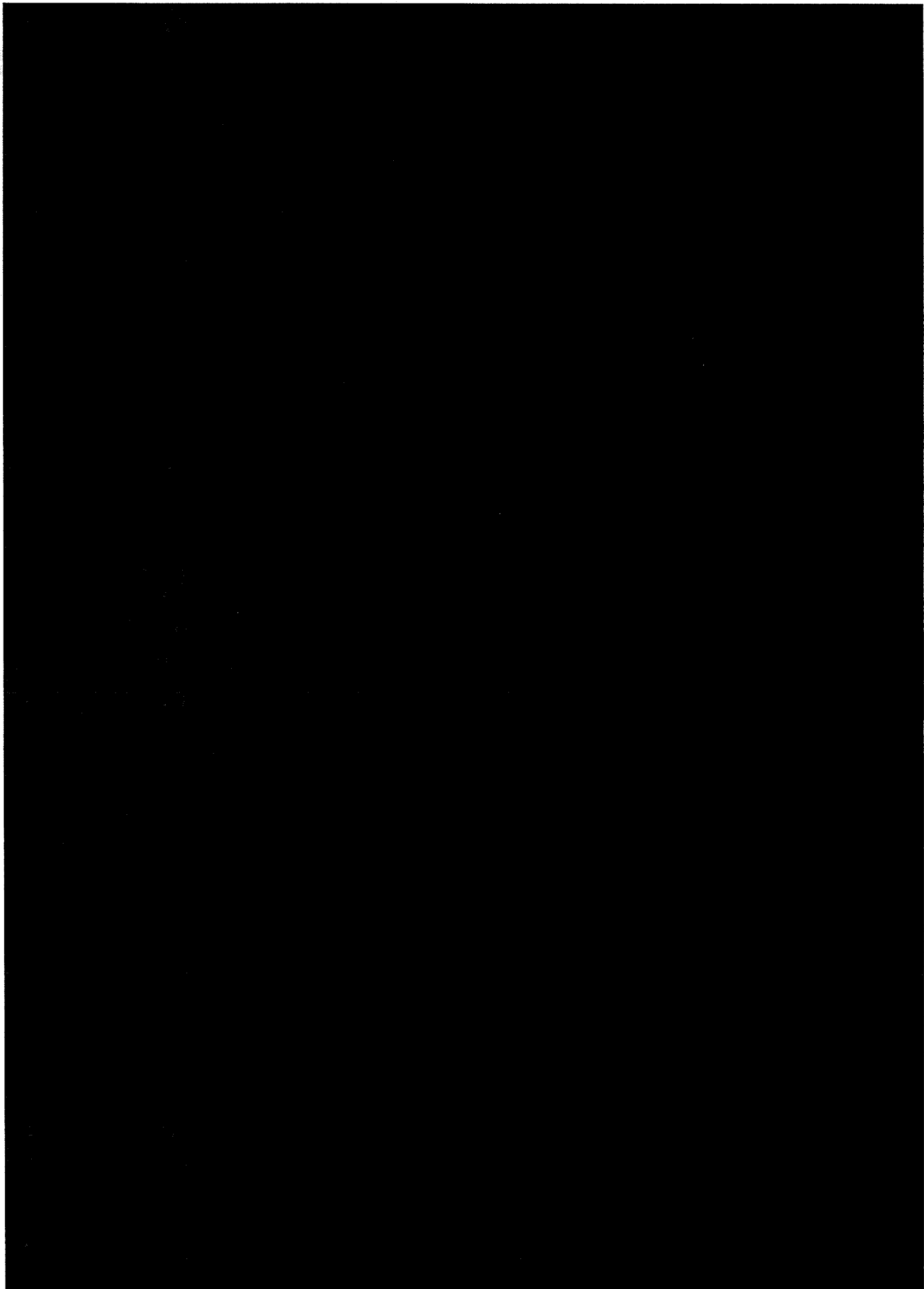


















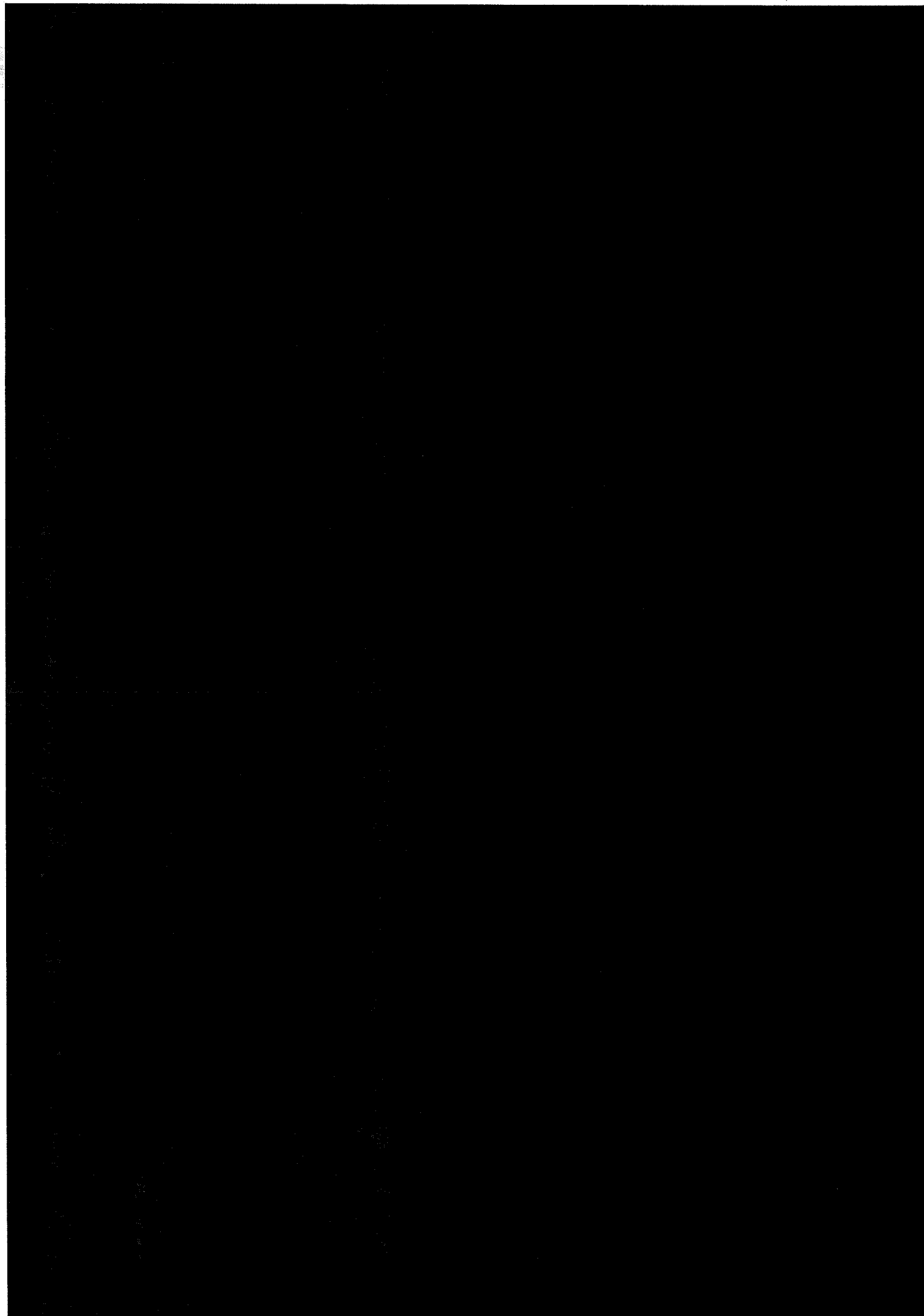








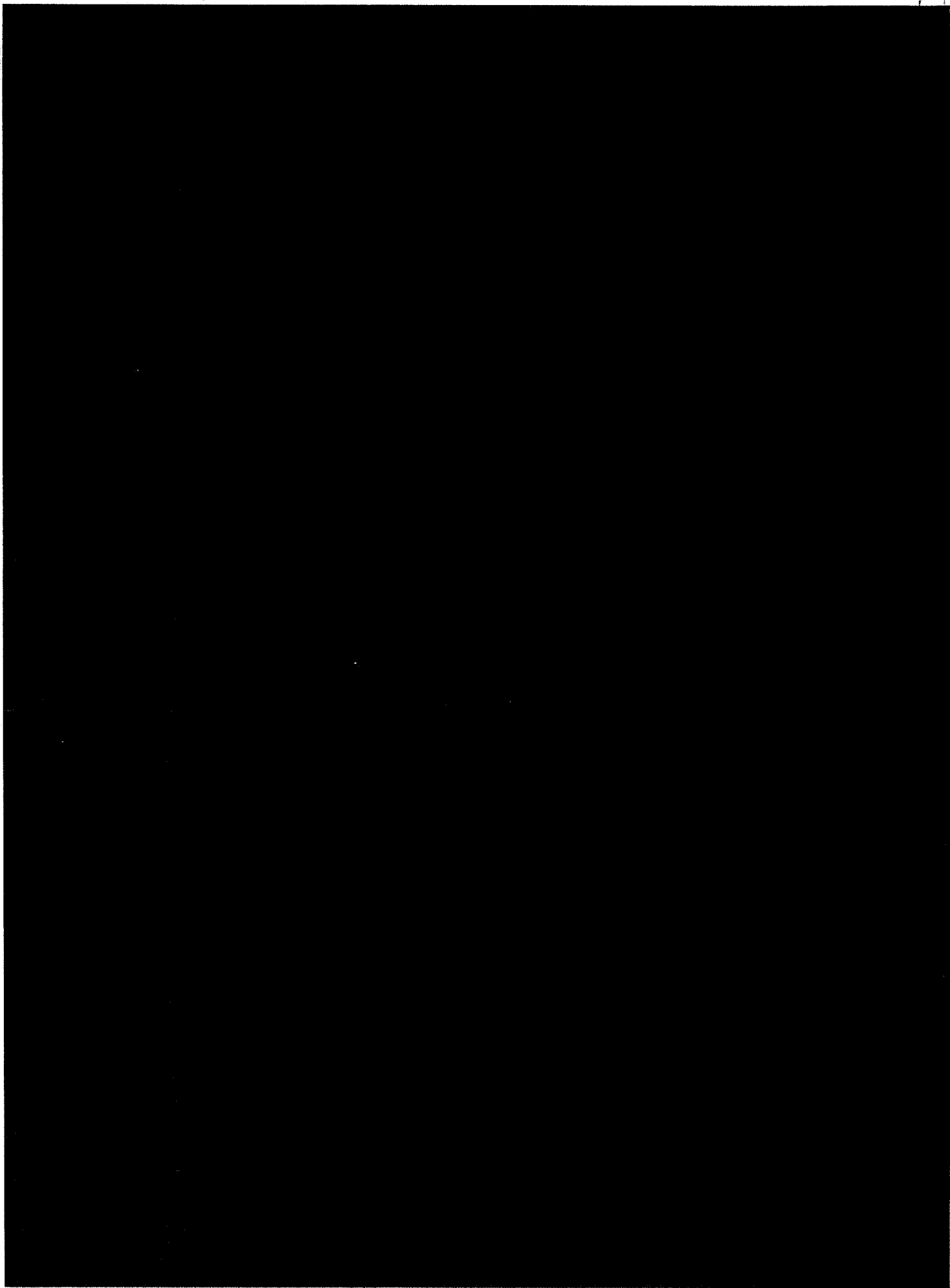






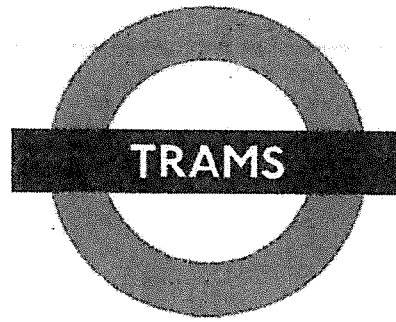






## **SECTION 5**





**SECTION 5**

**AMENDMENTS TO NEC3**

**ENGINEERING AND CONSTRUCTION**

**CONTRACT**

**AMENDMENTS TO NEC 3  
ENGINEERING CONSTRUCTION  
CONTRACT**