

DPS FRAMEWORK SCHEDULE 4: LETTER OF APPOINTMENT AND CONTRACT TERMS

Part 1: Letter of Appointment

London Economics Limited
Somerset House,
New Wing,
Strand,
London,
United Kingdom
WC2R 1LA

Dear [REDACTED]

Letter of Appointment

This letter of Appointment dated 07th January 2022, is issued in accordance with the provisions of the DPS Agreement (RM6018) between CCS and the Supplier.

Capitalised terms and expressions used in this letter have the same meanings as in the Contract Terms unless the context otherwise requires.

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| Order Number: | PS21212 |
| From: | Department of Business Energy and Industrial Strategy , 1 Victoria St, Westminster, London, United Kingdom, SW1H 0ET ("Customer") ("Customer") |
| To: | London Economics Limited , Somerset House, New Wing, Strand, London, United Kingdom, WC2R 1LA ("Supplier") |
| Effective Date: | 07 th January 2022 |
| Expiry Date: | 29th March 2022 |
| Services required: | Set out in Section 2, Part B (Specification) of the DPS Agreement and refined by: The Customer's Project Specification attached at Annex A and the Supplier's Proposal attached at Annex B. |
| Key Individuals: | [REDACTED] |

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| Contract Charges (including any applicable discount(s), but excluding VAT): | <p>As per AW5.2 Price Schedule response highlighted within the RM6018 Contract Terms, section; Annex 1 – Contract Charges.</p> <p>The total call-off contract value shall not exceed £29,930.00 excluding VAT.</p> <p>Full payment will be given upon completion of the project.</p> |
| Insurance Requirements | <p>Additional public liability insurance to cover all risks in the performance of the Contract, with a minimum limit of £5million for each individual claim.</p> <p>Additional employers' liability insurance with a minimum limit of £5 million indemnity.</p> <p>Additional professional indemnity insurance adequate to cover all risks in the performance of the Contract with a minimum limit of indemnity of £1 million for each individual claim.</p> <p>Product liability insurance cover all risks in the provision of Deliverables under the Contract, with a minimum limit of £5million for each individual claim.</p> |
| Liability Requirements | <p>Suppliers' limitation of Liability (Clause Error! Reference source not found.18.2 of the Contract Terms);</p> |
| Customer billing address for invoicing: | <p>All invoices should be sent to should be sent to <div></div> or Billingham (UKSBS, Queensway House, West Precinct, Billingham, TS23 2NF)</p> |

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| GDPR | Please see Contract Terms Schedule 7 (Processing, Personal Data and Data Subjects). |
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FORMATION OF CONTRACT

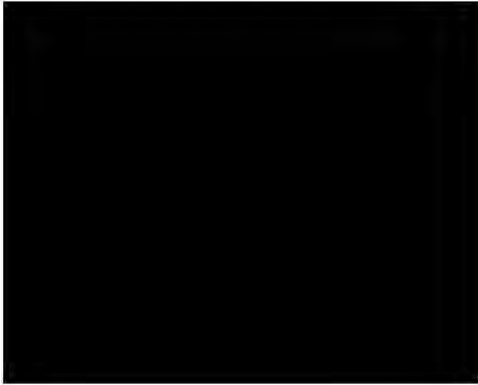
BY SIGNING AND RETURNING THIS LETTER OF APPOINTMENT (which may be done by electronic means) the Supplier agrees to enter a Contract with the Customer to provide the Services in accordance with the terms of this letter and the Contract Terms.

The Parties hereby acknowledge and agree that they have read this letter and the Contract Terms.

The Parties hereby acknowledge and agree that this Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of this letter from the Supplier within two (2) Working Days from such receipt

For and on behalf of the Supplier:

For and on behalf of the Customer:



ANNEX A

Customer Project Specification

Background

1. Introduction and summary of requirements

We are commissioning an external organisation to develop a framework for monitoring and evaluating the performance of the Digital Markets Unit (DMU) and the pro-competition regime it will oversee.

The successful bidder will use secondary research and its own expertise to produce a report, including the framework. This framework will be used to inform and support government's proposals for monitoring and evaluation of the DMU, which government will allude to in legislation, and set out in detail in the final stage Impact Assessment. We would expect the framework to be compliant with the government's Magenta Book guidance¹ and any statutory commitments to review (e.g. Post-implementation Review²).³

2. Background

Government is currently consulting on proposals for a new pro-competition regime for digital markets, to be overseen by the newly established Digital Markets Unit (DMU) within the Competition and Markets Authority (CMA).⁴

The objective of the new competition regime is to promote competition and competitive outcomes in digital markets to further the interests of consumers. To do so, the UK Government is proposing to target both the underlying sources of market power in digital markets (e.g. structural characteristics of these markets that reinforce firms' market power) and the effects of the exercise of that market power (i.e. economic harms to consumers).

Proposals for this regime include designating the most powerful firms in digital markets with 'strategic market status'⁵ and applying codes of conduct and pro-competitive intervention remedies on them, to govern their behaviour and inject competition into the markets they are involved in. This will be a new regulatory regime overseen by a new unit within the CMA. The proposal is for it to implement many novel pro-competition remedies in markets that are unique and complex. As such, there will need to be a detailed and robust approach to monitoring and evaluating its impacts, and effectiveness.

To fully understand the implementation, effect and value for money of the competition regime, government hopes to propose a combination of process, impact and value for money evaluations, within its Monitoring & Evaluation programme:

- The process evaluation will aim to assess how measures of the regime are being delivered by the DMU and whether improvements can be made to the DMU's work.
- The impact evaluation will aim to assess what difference the measures have made.

¹ HM Treasury, [The Magenta Book](#), 2011. (Last updated April 2020).

² [Magenta Book 2020 Supplementary Guide: Guidance for Conducting Regulatory Post Implementation Reviews](#) (March 2020).

³ [Government can provide the successful bidder with planned proposals for statutory review obligations once the project starts]

⁴ DCMS and BEIS, [Open consultation: A new pro-competition regime for digital markets](#), 20 July 2021.

⁵ Proposals for the SMS test are for it to broadly consider whether the firm has, in at least one digital activity, i) substantial market power, ii) entrenched market power, and iii) whether this market power provides it with a strategic position.

- The value for money evaluation will aim to compare the relative costs and benefits of the regulation.

Commissioning independent research to develop a monitoring and evaluation framework will not only provide fresh, expert perspective, but will strengthen the credibility of any monitoring and evaluation proposals by the government.

The work will inform government proposals for monitoring and evaluating the success of the DMU and of the pro-competition regime it will oversee. These proposals will be set out in the final stage Impact Assessment's 'Monitoring & evaluation plan'.

In general, a clear monitoring and evaluation plan at an early stage will ensure the relevant resource and processes are in place to monitor the regime straightaway, and that robust evidence is being collected during implementation to support future evaluation.

As is set out in the Magenta Book, some of the key benefits and uses of evaluation are:

- To improve current interventions by providing the evidence to make better decisions;
- To develop evidence to inform future interventions;
- To gain a general understanding of what works, for whom and when, and generate examples for future policy-making (including any potential reforms).
- To provide evidence of an intervention's effectiveness, impact, and wider outcomes that can be publicly scrutinised in order to hold government to account.

3. Aims and Objectives

Building on the objectives outlined in the government consultation and the regime's Theory of change (page 34 of Impact assessment)⁶, the project should consider and develop a framework for monitoring and evaluating the pro-competition regime for digital markets and the DMU that will oversee it.

A key objective of the project is to identify and develop SMART indicators of success for the pro-competition regime for digital markets, building on the objectives outlined in the government consultation and accompanying impact assessment.

Based on these indicators of success it will propose appropriate metrics against which to measure them, the required data/evidence to do so, and how this data/evidence should be gathered. It will then suggest how the evaluation against these metrics should be carried out. This should include, for example, the timescale for evaluation (i.e. after how long and how frequently), and against which counterfactual(s).

It would also include recommendations on the respective responsibilities of organisations (e.g. Government, DMU/CMA). For example, who should be responsible for data collection (and how this should be collected), or reporting on performance (and the format/regularity of this). As part of this, the successful bidder may wish to consider whether specific powers of the Government or DMU/CMA (e.g. CMA information gathering powers) may be useful.

The framework will help guide the format, methodology and timings for the standard Post-implementation Review (PIR), and may also propose additional monitoring and evaluation processes, such as an ongoing monitoring role for the regulator and/or government or more frequent evaluations.

The successful bidder should also consider how any new monitoring and evaluation proposals for the DMU would sit alongside existing CMA monitoring and evaluation obligations.⁷

⁶ BEIS and DCMS, [Impact Assessment - A new pro-competition regime for digital markets](#), July 2021.

⁷ See for example: [CMA Impact Assessment 2020-21](#)

Note: The government is likely to require the CMA to report on the DMU within its wider annual reporting, as required by the Enterprise and Regulatory Reform Act 2013 (ERRA 13).^{8 9} Given the exact nature of specific interventions by the DMU as part of the pro-competition regime are unknown at this stage (for example, the specific principles of a code of conduct, or specific pro-competitive interventions applied) the framework may need to be flexible, focussing on monitoring/evaluating intended final outcomes of the DMU's actions which are known (for example, one aim could be an improvement in competition leading to increased innovation and choice for consumers, so it will be useful for the framework to advise on appropriate indicators of competition, innovation and choice, and how to collect data on those indicators). The successful bidder might alternatively/additionally consider how to manage the absence of detail regarding specific interventions. For example, they might present theories of change for specific example interventions and consider how they would be monitored and evaluated (for specific examples of possible code principles and PCIs, see the Advice of the Digital Markets Taskforce¹⁰, and the Government consultation¹¹).

To summarise, the project will aim to:

- Identify and describe in detail, the purpose, scope and elements of the regime's evaluation (i.e. what will be evaluated and in what context?);
- Define the evaluation questions, based on the theory of change (i.e. what evaluators should consider when evaluating the process, outcomes and effectiveness of the regime?);
- Define indicators of success for the pro-competition regime for digital markets (i.e. what aspects of the regime will be assessed against which criteria?);
- Assess what evidence should be gathered and used for evaluation;
- Advise on responsibilities, including the level of resources & expertise required, for different stages of the monitoring and evaluation process;
- Identify potential challenges and risks to be considered, informed in part by lessons learned from evaluation of previous or existing regimes/bodies.

4 Methodology

We invite bids to outline the proposed approach to meeting the aims and objectives of the project as set out in the preceding section, and the rationale for the proposed approach.

While there is no prescribed methodology, we anticipate this may include a combination of the following activities:

- Undertaking a review of the existing evidence and literature on monitoring and evaluating new regulation and regulatory units;
- Exploring previously devised monitoring and evaluation frameworks for similar new regulation and regulatory units;
- Engaging with stakeholders (e.g. policy officials and analysts), existing regulatory bodies (e.g. CMA), and experts (e.g. academics) to understand the key challenges organisations face when monitoring and evaluating similar regulation [BEIS/DCMS can provide contacts if helpful];
- Considering how competition is typically evaluated more widely, and to what extent similar approaches would be appropriate in digital markets and in the context of the DMU.
- Devising metrics related to success indicators of the DMU and new pro-competition regime, and consider what evidence would be needed to measure against these metrics;

⁸ Section 14 (1), (2) and (3) of Schedule 4 of ERRA 2013

⁹ Also see for example: [CMA Annual report and accounts 2020 to 2021](#)

¹⁰ Digital Markets Taskforce, [Advice of the Digital Markets Taskforce](#), 8 December 2020.

¹¹ DCMS and BEIS, [Open consultation: A new pro-competition regime for digital markets](#), 20 July 2021.

- Identify relevant existing sources of evidence or baseline data where possible;
- Drafting a comprehensive and accessible summary of the findings and proposing a framework for monitoring and evaluation.

The evaluation framework proposed by the bidder should be in line with Government guidance (e.g. The Magenta Book). ¹²

The above bullet points are a guide rather than a prescribed methodology. We welcome additional, complementary or alternative methodologies to address aims and objectives of the project. Crucially, the main value-add would come from the successful bidder's specialist knowledge and expert advice.

5 **Outputs Required**

A final written report including a detailed monitoring and evaluation framework, a data collection plan, and recommendations to government.

In the interim, we would expect some ongoing engagement by the successful bidder with government, including a kick-off meeting at the start of the project, semi-regular (perhaps fortnightly) check-in meetings thereafter, and a draft report (including draft framework) for comments.

The successful bidder may wish to consider hosting a workshop to gather input from stakeholders (e.g. regulators, academics, government officials). BEIS/DCMS would be happy to attend, and to help facilitate, this.

The written report should include, but not be limited to:

- an executive summary
- an introduction explaining the aim of the project and providing context
- a brief presentation of key findings informing the recommendations
- a theory (/theories) of change
- proposed framework, including methodology for monitoring and evaluation
- conclusion and recommendations.

It is important that the final report is well-structured, succinct, and suitable for a non-specialist audience. Extracts from the report may be used in government publications (e.g. impact assessment).

The structure of the report shall be agreed with BEIS and DMCS before drafting, and a standard Microsoft Word template will be provided. Cited sources, including other publications, should be clearly referenced in the report.

Where appropriate, the text should be supported by figures, charts and tables. All images in this report should be 960px wide by 640px tall.

6 **Ownership and Publication**

As joint owners of the policy area, the project and outputs will be jointly sponsored, and so owned, by BEIS and DCMS as the commissioning departments.

BEIS will be the lead department and the first point of contact.

The report's content will be used to inform, and referenced in, the final stage Impact Assessment. The report itself will be published (hopefully alongside the Impact Assessment), and so its content must be suitable for a public audience.

¹² HM Treasury, [The Magenta Book](#), 2011. (Last updated April 2020).

7 **Timetable**

- Project Start (kick-off meeting) : 17 December 2021
- First draft: End January 2022
- Project End (Final report): 16 March 2022

8 **Challenges**

Drafting of the final impact assessment will be taking place in December 2021 - January 2022. Interim outputs from this research will be required for this drafting, as the impact assessment will include government's monitoring and evaluation proposals.

A key risk in this project is tight timelines. It is not immediately clear how long the successful bidder might need to produce a detailed monitoring and evaluation framework, and so the suggested timelines above are an approximation. If the successful bidder believes more time will be needed, this may put additional pressure on timelines and risk not receiving outputs in time to inform the Impact Assessment.

As a mitigation, drafting of the IA may be possible with interim findings (e.g. the draft report), such that a final publishable report can come at a later stage if necessary.

9 **Ethics**

All applicants will need to identify and propose arrangements for initial scrutiny and on-going monitoring of ethical issues. The appropriate handling of ethical issues is part of the tender assessment exercise and proposals will be evaluated on this as part of the 'addressing challenges and risks' criterion.

We expect contractors to adhere to the following GSR Principals:

1. Sound application and conduct of social research methods and appropriate dissemination and utilisation of findings
2. Participation based on valid consent
3. Enabling participation
4. Avoidance of personal harm
5. Non-disclosure of identity and personal information

10 **Working Arrangements**

The successful contractor will be expected to identify one named point of contact through whom all enquiries can be filtered. A BEIS project manager will be assigned to the project and will be the central point of contact.

11 **Skills and experience**

BEIS and DCMS would like you to demonstrate that you have the expertise and capabilities to undertake the project. Your tender response should include a summary of each proposed team member's experience and capabilities. Contractors should propose named members of the project team, and include the tasks and responsibilities of each team member. This should be clearly linked to the work programme, indicating the grade/ seniority of staff and number of days allocated to specific tasks.

Contractors should identify the individual(s) who will be responsible for managing the project.

12 **Consortium Bids**

In the case of a consortium tender, only one submission covering all of the partners is required but consortia are advised to make clear the proposed role that each partner will play in performing the contract as per the requirements of the technical specification. We expect the bidder to indicate who in the consortium will be the lead contact for this project, and the organisation and governance associated with the consortia.

Contractors must provide details as to how they will manage any sub-contractors and what percentage of the tendered activity (in terms of monetary value) will be sub-contracted.

If a consortium is not proposing to form a corporate entity, full details of alternative proposed arrangements should be provided in the Annex. However, please note BEIS reserves the right to require a successful consortium to form a single legal entity in accordance with Regulation 28 of the Public Contracts Regulations 2006.

BEIS recognises that arrangements in relation to consortia may (within limits) be subject to future change. Potential Providers should therefore respond in the light of the arrangements as currently envisaged. Potential Providers are reminded that any future proposed change in relation to consortia must be notified to BEIS so that it can make a further assessment by applying the selection criteria to the new information provided.

13 Budget

The budget for this project is £30,000.00 excluding VAT.

Contractors should provide a full and detailed breakdown of costs (including options where appropriate). This should include staff (and day rate) allocated to specific tasks.

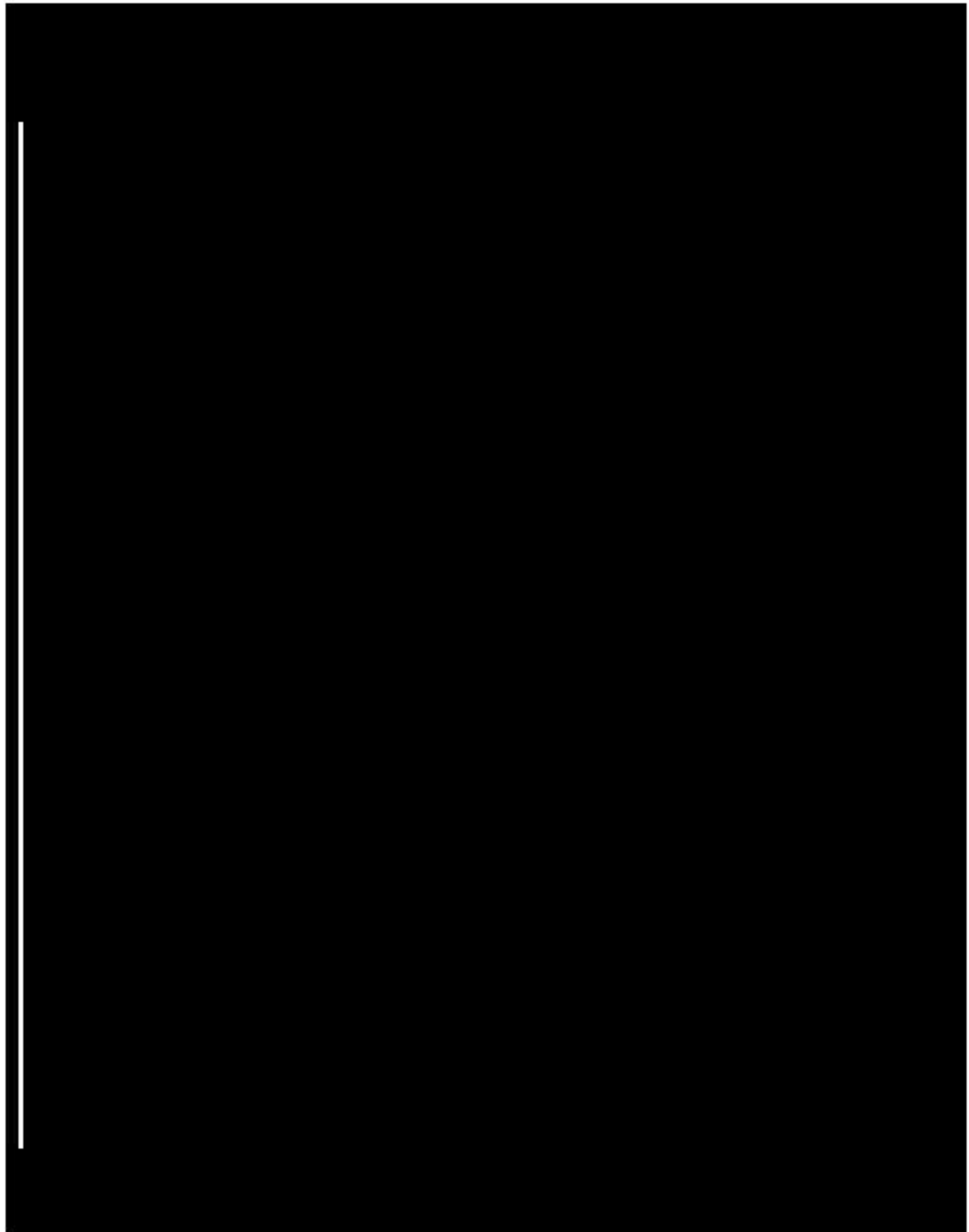
Cost will be a criterion against which bids which will be assessed.

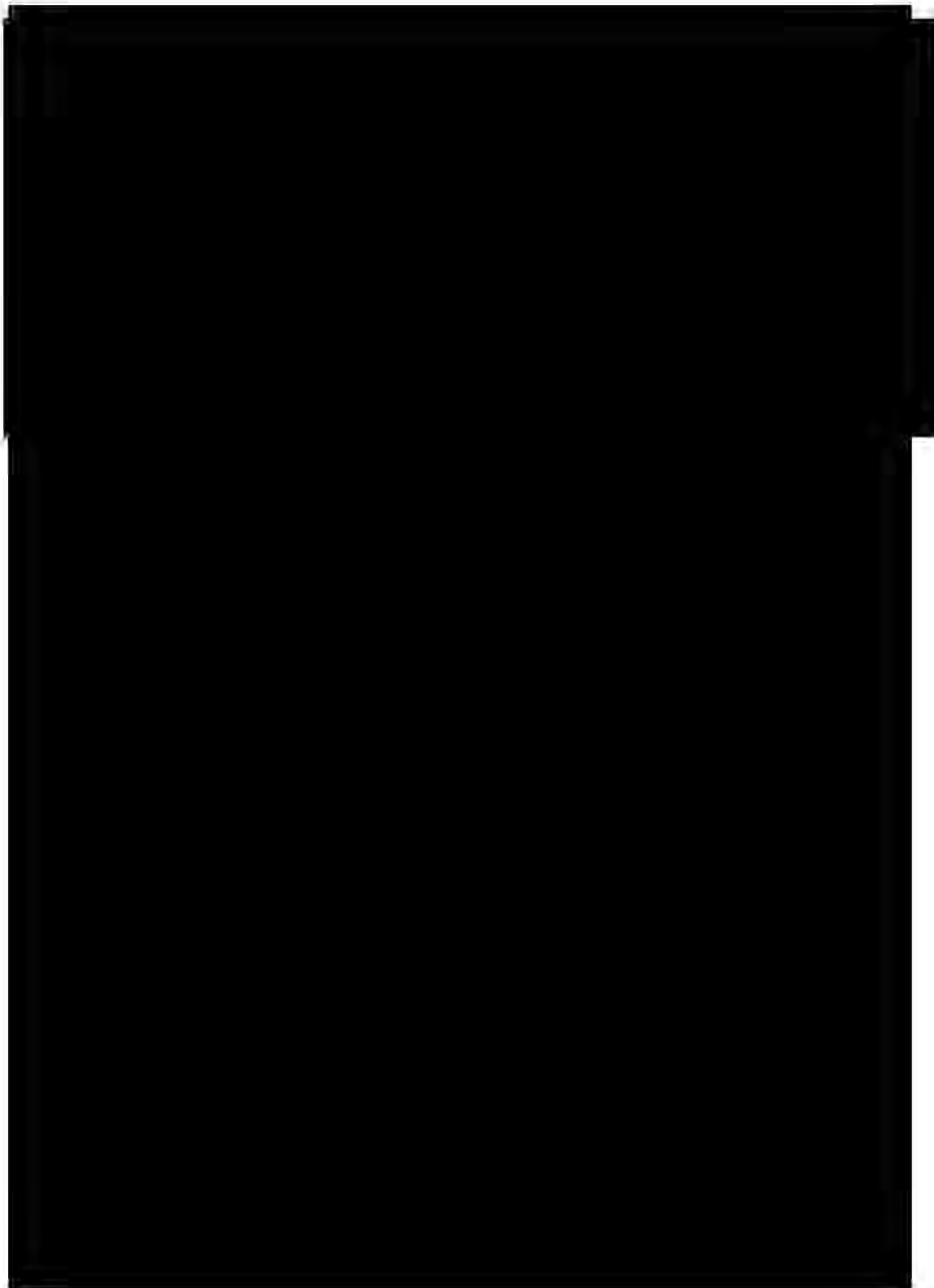
Full payment will be given upon completion of the project.

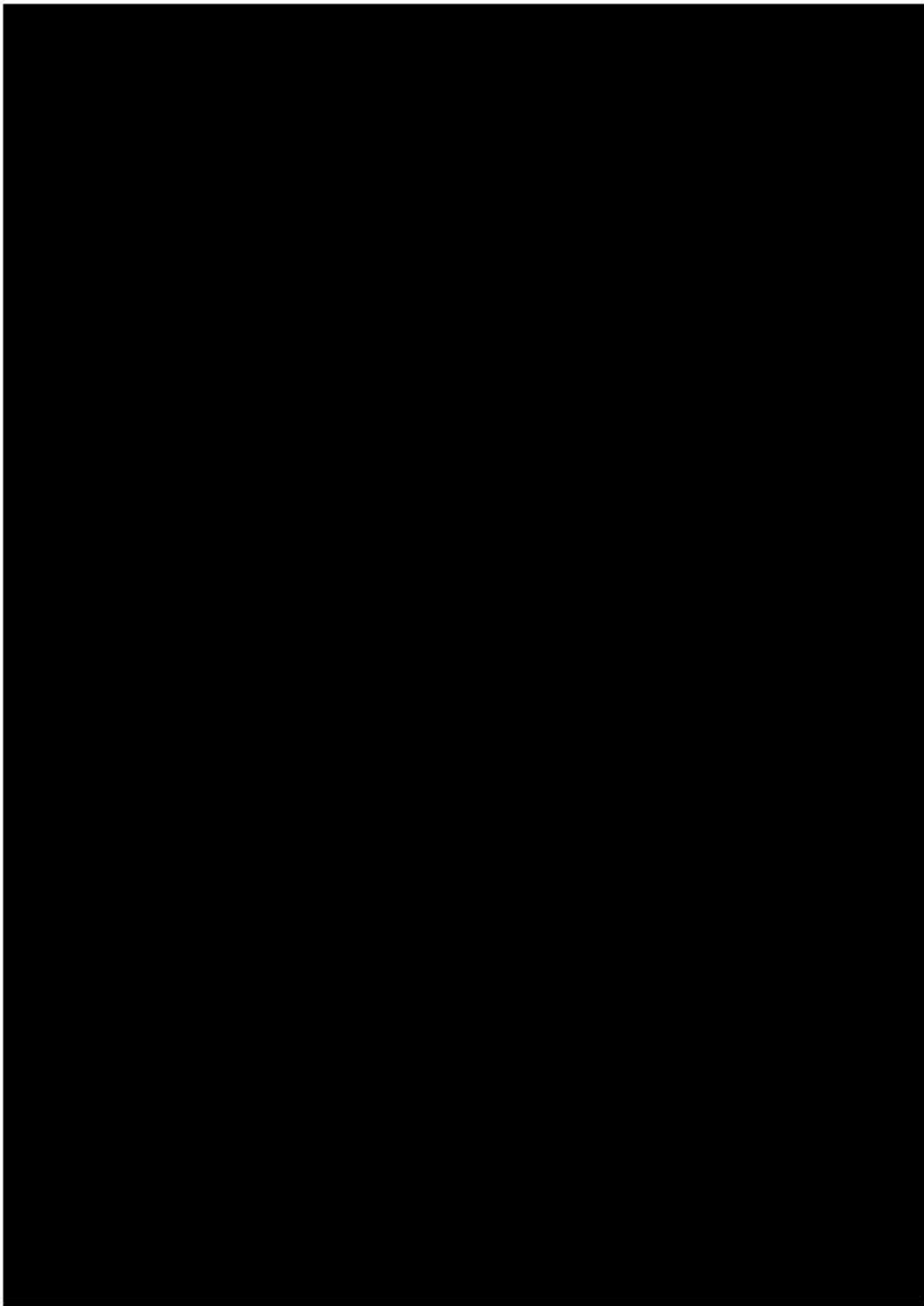
In submitting full tenders, contractors confirm in writing that the price offered will be held for a minimum of 90 calendar days from the date of submission. Any payment conditions applicable to the prime contractor must also be replicated with sub-contractors.

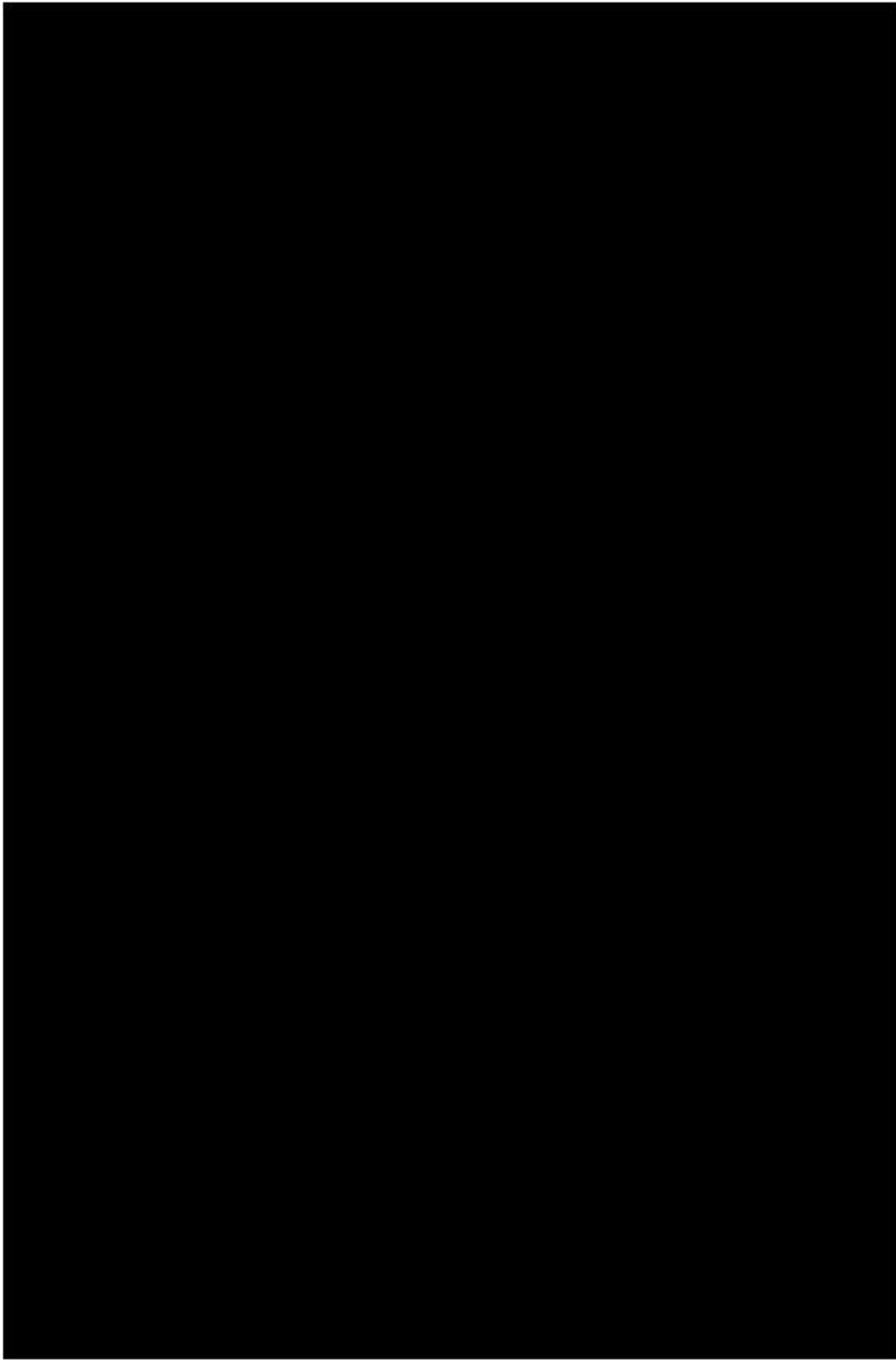
BEIS aims to pay all correctly submitted invoices as soon as possible with a target of 10 days from the date of receipt and within 30 days at the latest in line with standard terms and conditions of contract

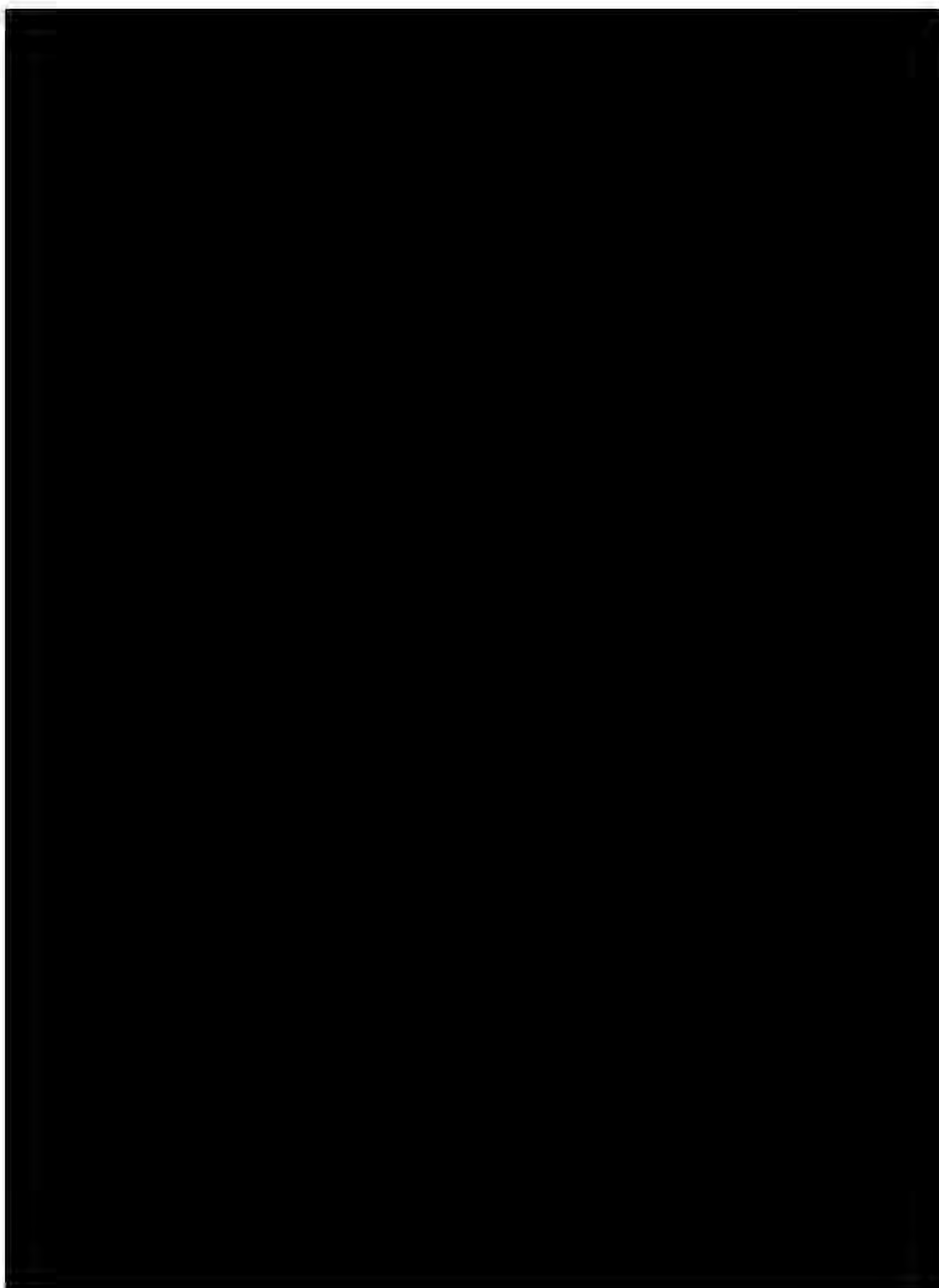
ANNEX B
Supplier Proposal

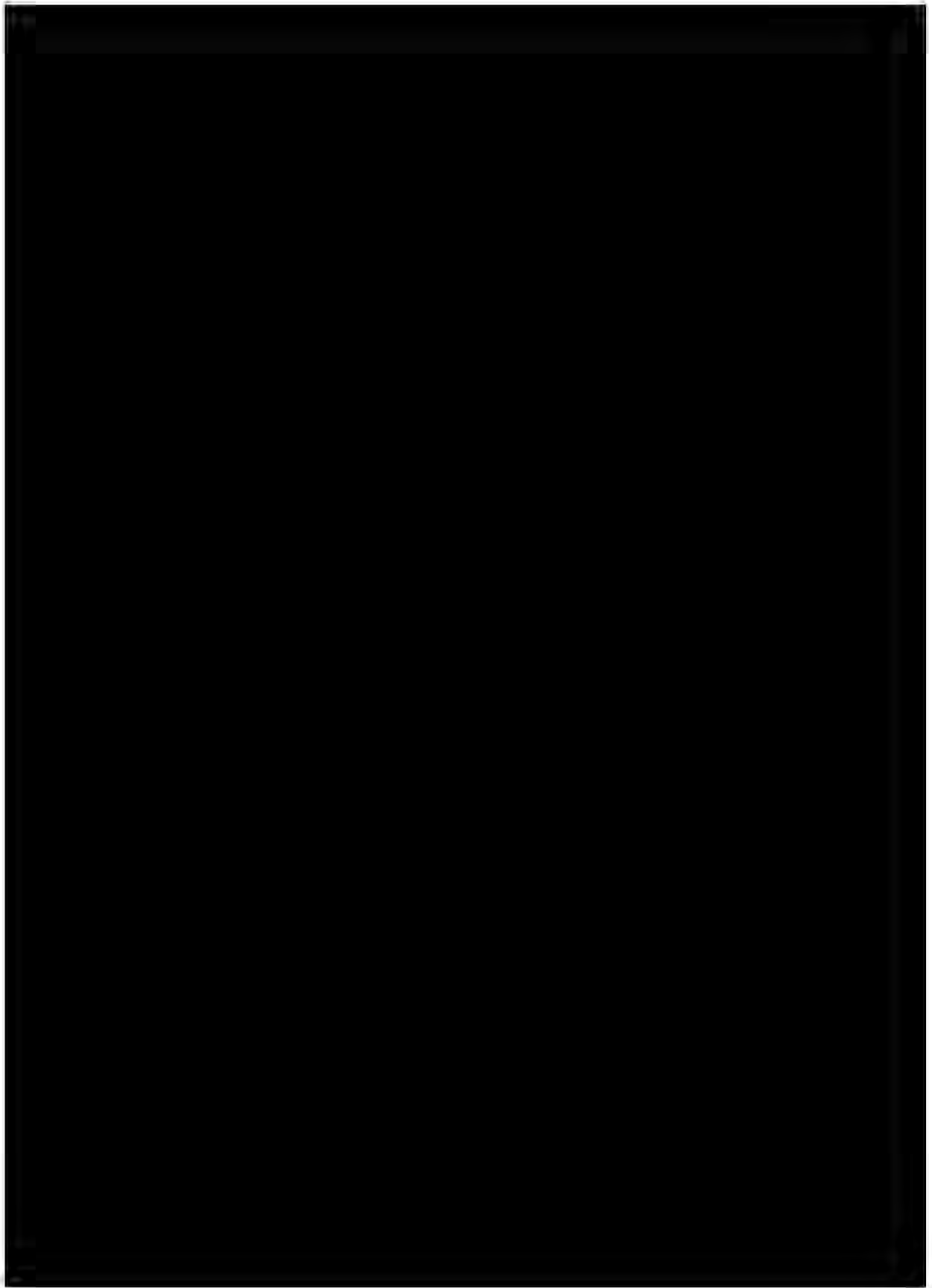


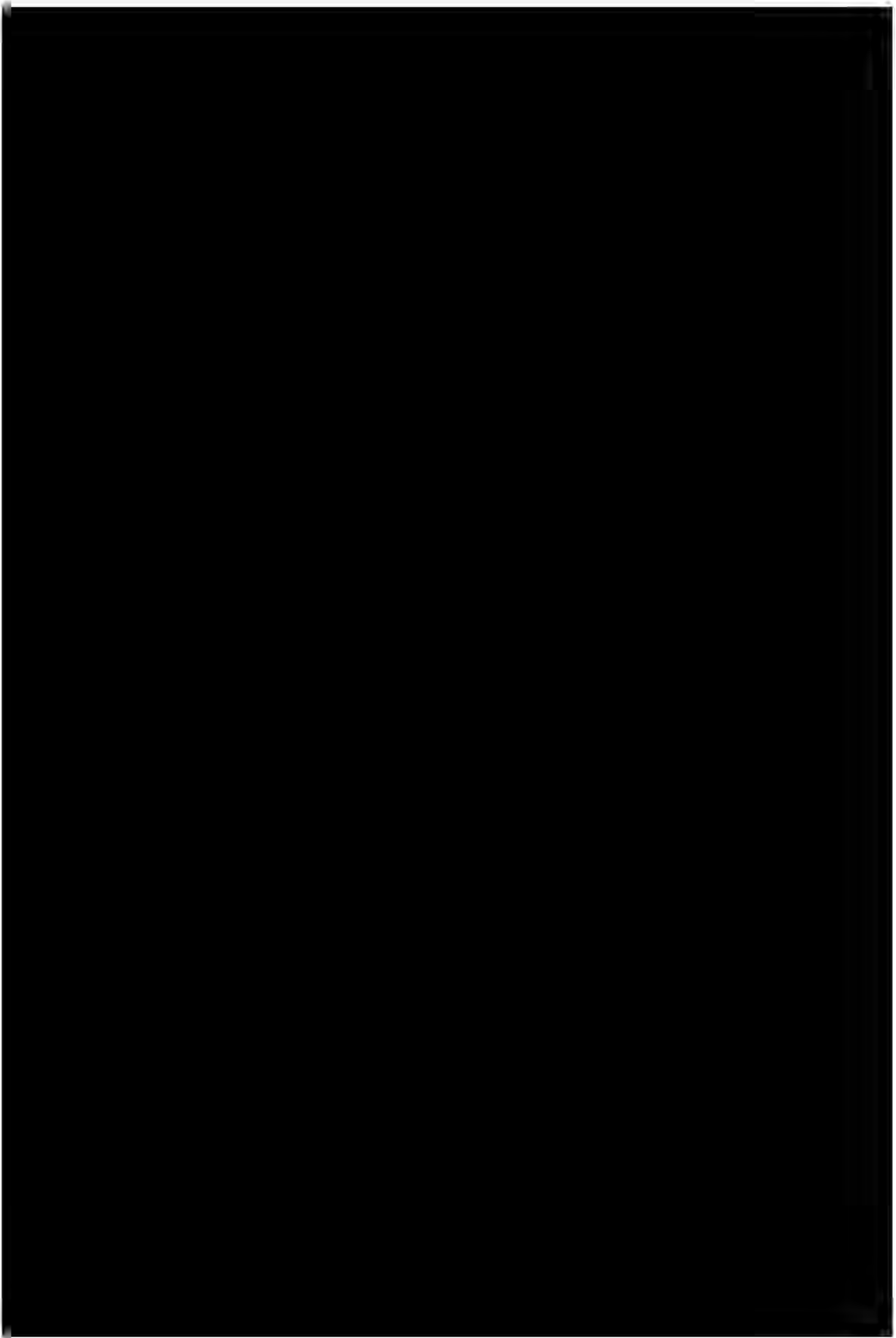


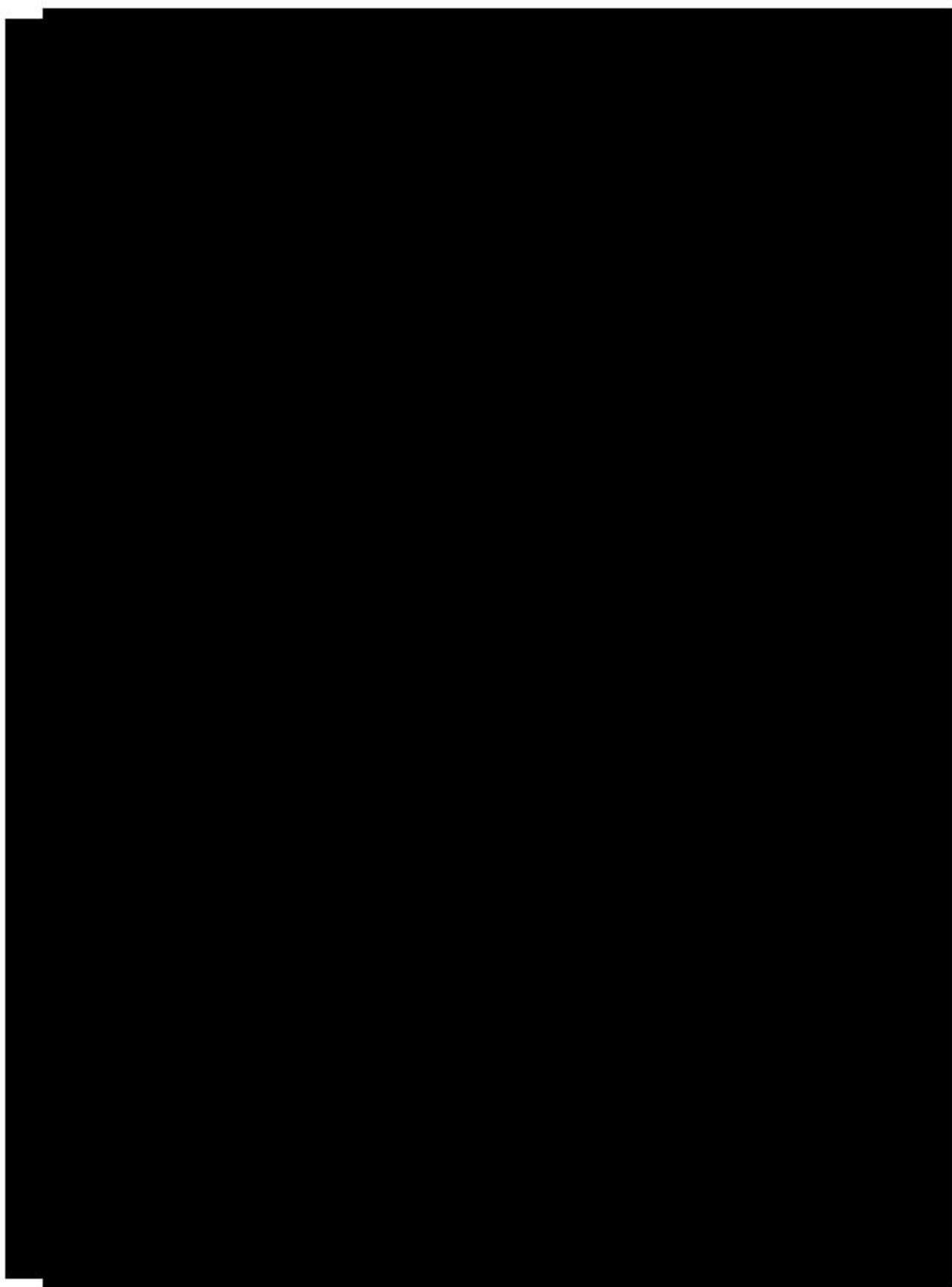












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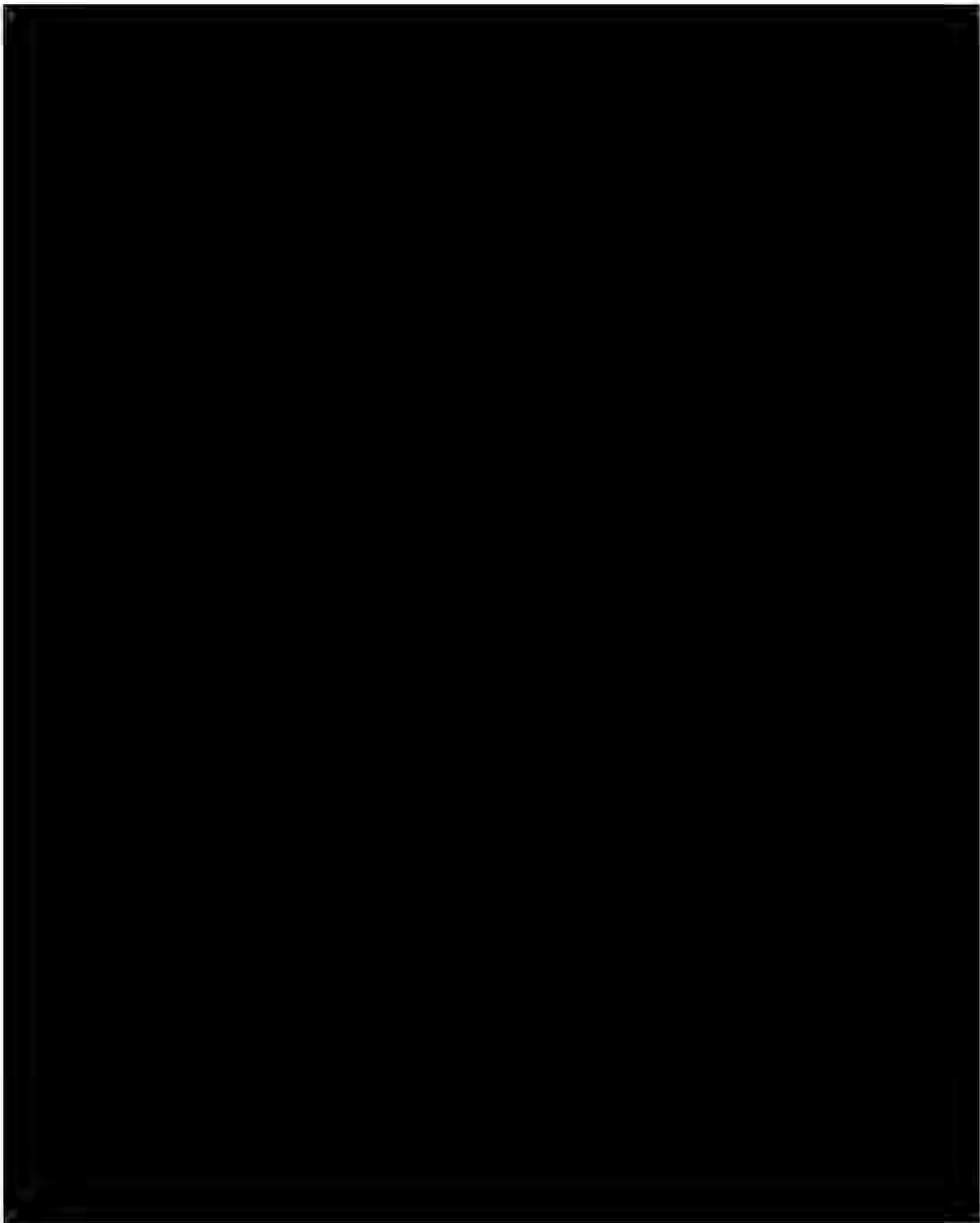
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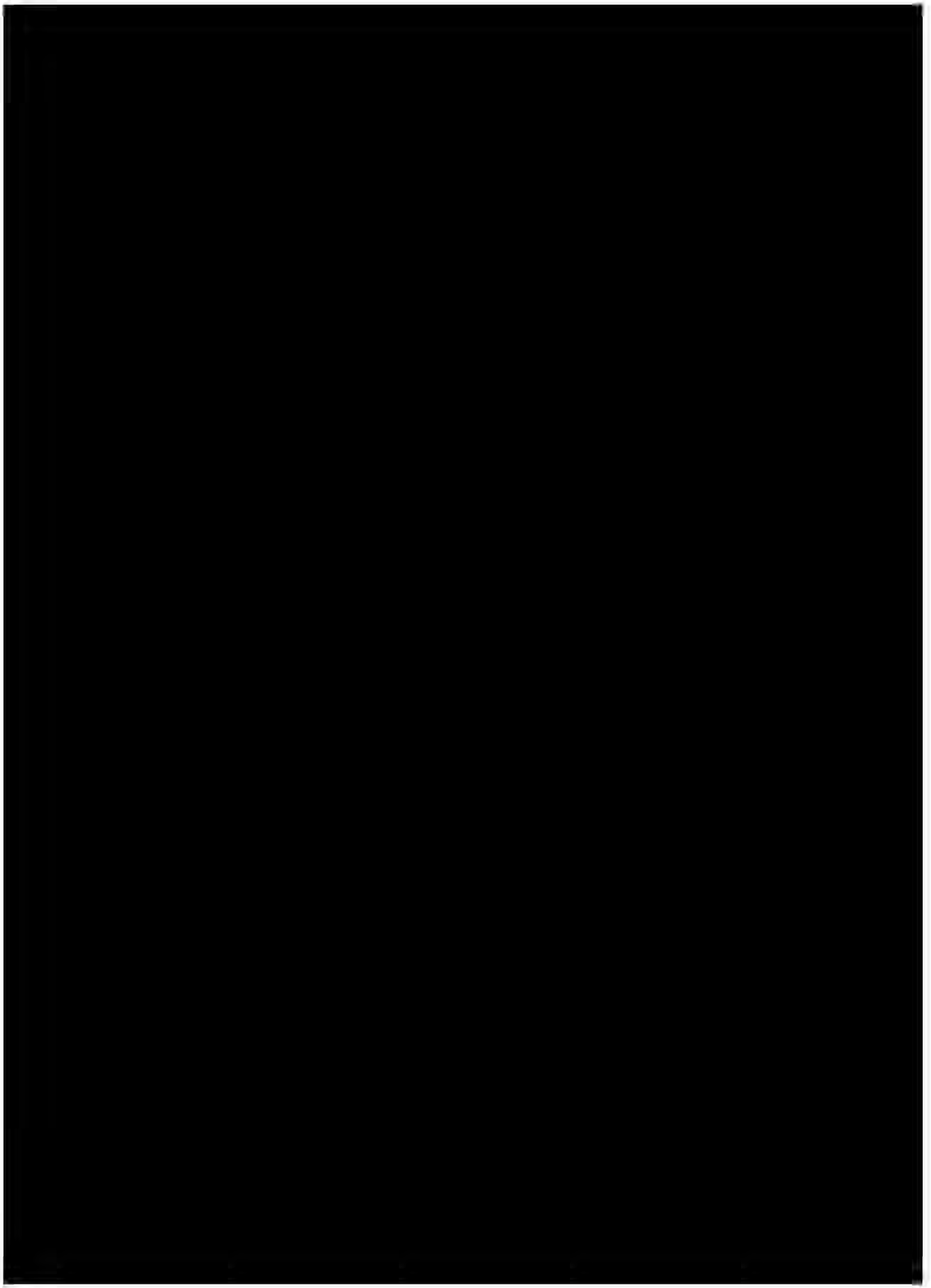
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Part 2: Contract Terms



Contract Terms v6.0