



Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ



22 October 2013

Ref: FOI 13-016

Dear 

Thank you for your request for information which the London Legacy Development Corporation received on 17 June, and which you then clarified on 14 August 2013 at paragraph 25 of your letter to Mr Dutton where you identified and sought to narrow the request to the following information:

"The balance of the documents to be reviewed and provided would include the following:

- (a) Letters of representation or other comments received from the LBH, the local MPs (including particularly David Lammy MP), the Mayor and/or the GLA, individual councillors and members of the public in relation to the impacts on North Tottenham by reason of the proposed relocation of THFC to the Olympic Park;*
- (b) Questions as to viability and the resources of THFC in relation to delivery of their proposals for the Olympic Park and the regeneration of Crystal Palace athletics site;*
- (c) Responses to such representations by THFC or their professional team;*
- (d) Board papers reporting, summarising and/or evaluating these issues and the responses by or on behalf of THFC;*
- (e) Emails within OPLC or between OPLC officers and/or their external advisers and such other parties in relation to these issues"*

On 19 August you provided further clarification with regards to the time scale and informed the London Legacy Development Corporation (Legacy Corporation) that *"the period of search might sensibly be limited to period commencing on the date of THFCs bid being submitted to OPLC and ending on the date 1 week after the date when the decision to award the Olympic stadium to West Ham United was communicated to THFC. I would also request that the pre-action protocol letter from THFC to OPLC relating to its claim for judicial review of that decision and OPLC's response to that letter is also disclosed."*

We have calculated the information you have requested on behalf of your client to commence from 23 December 2010 (which was when the preliminary final offer submitted) to 17 February 2011 (which is 1 week after the decision was communicated to Tottenham Hotspurs Foot ball Club (THFC) on 10 February 2011 by Olympic Park Legacy Company (OPLC)).

The Legacy Corporation sought a further point of clarification on 10 October and informed you that *"We are progressing on our response to this request but I would like to clarify our understanding slightly – can you confirm that, within the agreed dates, the requested correspondence relates to the regeneration of the White Hart Lane site in the event that the Tottenham bid was successful?"*.

To date we have not heard back from you. However, on the assumption that this is correct please find attached the information you have requested. Please note some of the information you have requested is being withheld as it falls under the following exemptions under the Freedom of Information Act 2000 (the Act);

- Section 40 Personal Information;
- Section 41 Information provided in confidence;
- Section 42 Legal Professional Privilege; and
- Section 43 Commercially Sensitive Information.

Section 40 Personal Information

Some of the requested information constitutes personal data which is defined by section 1 (1) of the Data Protection Act to mean data which relates to a living individual who can be identified from that data. It is considered that disclosure of this information would contravene the first data protection principle which states:

"Personal data shall be processed fairly and lawfully, and in particular, shall not be processed unless-

- (a) at least one of the conditions in Schedule 2 is met; and*
- (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met."*

It is considered that none of the conditions allow the processing of the information apply in this case as the subjects have not consented to the use of their data for an alternative purpose, namely disclosure under the Act.

Section 41 Information provided in confidence

Section 41 applies to information, including communications provided by third parties to the Legacy Corporation, with an expectation of confidence. Such information is clearly marked as confidential and its contents are sufficiently commercially sensitive to warrant protection. Providers of such information should be permitted to apply relevant protection to their communication and to expect the confidentiality to be maintained.

The section 41 exemption is an absolute exemption, however, we acknowledge that there is a need to consider the public interest when applying this exemption because the law of confidence recognises that a breach of confidence may not be actionable where there is an overriding public interest in its disclosure, for example if it would highlight any misconduct, wrongdoing or risks to the public. The Legacy Corporation is committed to openness and transparency and is mindful of public considerations. We have sought to balance any public interest in disclosing the requested information against the public interest in protecting the confidential information and maintaining the duty of confidence to THFC.

The release of this information could seriously prejudice the commercial activities of THFC, it could give competitors inside information on the organisation's processes, financial standing, structures and business plans. Furthermore disclosure by the Legacy Corporation would undermine confidence in our ability as a public authority to uphold confidentiality and

maintain trust and could discourage others from bidding for opportunities and working with us to deliver our legacy objectives.

We have consulted THFC and they have expressed strong opposition to the disclosure of any of the documents. This information is contained in Board papers; various emails and other correspondence which contains and/or makes reference to information that was supplied by THFC in confidence.

Their view is supported by an express obligation of confidentiality owed by the Legacy Corporation to THFC under a confidentiality agreement between the parties dated 30 September 2010.

THFC have confirmed that if the Legacy Corporation sought to disclose any of the documents it would give rise to a claim for breach of confidentiality against the Legacy Corporation by THFC.

Section 42 Legal Professional Privilege

Legal advice has been provided to the Legacy Corporation and this is contained in various documents, including Board papers, emails and other correspondence. We consider this information to be covered by this exemption. Although there is a public interest to be considered in the application of this exemption as there is a balancing exercise that is considering the public interest factors both in favour and against its disclosure. Although there is a public interest in promoting the transparency of the Legacy Corporation in relation to our decisions and accountability there is also a strong public interest in maintaining legal professional privilege. It is crucial in communications between the client and the lawyers is facilitated and protected in order to ensure the provision and consideration of full and frank legal advice, which is essential to the administration of justice. Here disclosure would be prejudicial as this could lead to additional public costs as the Legacy Corporation and or other affected public body would need to seek further legal advice at additional cost. There is a substantial public interest in maintaining the exemption at this time.

Section 43 Commercially Sensitive Information

Section 43 (2) of the Freedom of Information Act 2000 enables "Commercial Interests: Information to be exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it)". We can confirm that we have given careful consideration to the public interest in the information contained in your request and in this instance consider that the balance of the public interest in non-disclosure outweighs the public interest in disclosing it. There is of course a public interest in promoting transparency of the Legacy Corporation decisions and accountability in regards to the agreements that are entered into. However, the disclosure of this information may have the potential to prejudice commercial interests of the Legacy Corporation and the other parties involved because it will reveal detail of fees and rates charged which will prejudice our position, or the position of third parties, in receiving bona fide bids and proposals in future and impact on future negotiations of the Legacy Corporation or other third parties. The public interest is clearly best served by ensuring that the public authorities and other third parties are able to achieve maximum value for money in their commercial ventures. We have, therefore, concluded that the balance of the public interest favours non-disclosure of the information at this time. Accordingly, there is a substantial public interest in maintaining this exemption at this time.

If you are unhappy with our response to your request and wish to make a complaint or request a review of our decision, you should write to:

Executive Director of Finance and Corporate Services
London Legacy Development Corporation
Level 10
1 Stratford Place
Montfichet Road
London
E20 1EJ

Please note: complaints and requests for internal review received more than two months after the initial decision will not be handled.

If you are not content with the outcome of the internal review, you may appeal directly to the Information Commissioner at the address given below. You should do this within two months of our final decision. There is no charge for making an appeal.

Further information on the Freedom of Information Act 2000 is available from the Information Commissioner's Office:

Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone 08456 30 60 60 or 01625 54 57 45

Website www.ico.gov.uk

Yours sincerely


FOI Co-ordinator
London Legacy Development Corporation

Date: 11 February 2011

Paper no. 1

FOR DECISION

Olympic Stadium legacy – Recommendation for Preferred Bidder

Purpose:

- This paper sets out background information on the Olympic Park Legacy Company's ("the Company") recommendation of a preferred bidder to negotiate the terms of an Agreement for Lease and Lease for the disposal of the Olympic Stadium island site.

Responsible officer:

- Andrew Altman, Chief Executive

Prepared by:

- Malcolm Ross, Executive Director of Operations and Venues



1 MATTER FOR CONSIDERATION

- 1.1 This report sets out the background to the Company's recommendation to the Founder Members for a preferred bidder to lease the Olympic Stadium ("the Stadium") site. The Company has been in negotiations with two shortlisted parties since late November 2010; upon the selection of a preferred bidder, the Company will begin further detailed negotiations leading to the signing of an Agreement for Lease for the Stadium island site.

- 1.2 The Company received Final Offers from two consortia ("the Bidders"):
- Tottenham Hotspur FC [REDACTED]
 - Newham Council and West Ham United FC.
- 1.3 The Company has undertaken a full and wide ranging evaluation of the bids covering financial, commercial, technical, legal and community matters. The supporting reports and analysis have informed the content of this paper and the Company's recommendation. The Board is now asked to consider the recommendation and to take a decision on choosing a preferred Bidder.

2 RECOMMENDATION

- 2.1 The Board is invited to **NOTE** the content of this report and the supplementary reports that are available as supporting information.
- 2.2 On the basis of the information set out in this Board report and the supplementary reports, the Board is asked to **APPROVE** the Company's recommendation that the consortium comprising the London Borough of Newham and West Ham United Football Club be appointed as the Preferred Bidder to enter into negotiations with the Company for an Agreement for Lease and Lease for the Olympic Stadium site, subject to approval by Founder Members in accordance with paragraph 10.1 of the Members' Agreement (as varied).

3 TIMING

- 3.1 The Company requires selection of a preferred Bidder so that it remains on course to reach a settled position on the future of the Stadium. The successful Bidder will then have to commence its town planning, design and construction procurement processes to ensure that their proposed Stadium solution is operational as rapidly as possible following the 2012 Olympic and Paralympic Games ("the Games"). Stadium transformation activity will thus be able to commence on site immediately once LOCOG has removed its temporary Games overlay from the Stadium. The target date for LOCOG to complete this is the end of 2012.
- 3.2 The Bidders' solutions require planning consent and extensive design and construction planning between now and the Games. If the Company does not proceed with either of the current bids, it could still adopt the ODA's proposed transformation scheme for a 25,000 seat athletics stadium (the base case). For the ODA to begin planning transformation of the Stadium to the base case scheme, it requires the Company to provide confirmation of this decision by Spring 2011.
- 3.3 The Board is requested to reach a decision at this meeting. Founder Members will then consider the Board's recommendation before confirming their approval or any alternative requirements.
- 3.4 Once Founder Members approve the Board's decision, the Company will immediately begin detailed negotiations with the preferred Bidder to develop full legal and commercial documentation leading to the signature of an Agreement for Lease for the Stadium site. In parallel, the Company will also require the preferred Bidder to meet all pre-conditions which the Company may have set.

4 REPORT STRUCTURE

- 4.1 This report provides Board members with the necessary information to recommend a preferred Bidder to the Company's Founder Members. Where relevant, the report references the supplementary documents containing more detailed information on specific topics. The remainder of this report is set out as follows:

Section 5 – contains important background information about the Stadium project, in particular the sequence of events since 2005 and the ODA's 'base case' legacy

scheme. This section also sets out the project objectives and how the Company has been working to resolve the Stadium legacy;

Section 6 – outlines the current bid process and the Company's evaluation of each Final Offer against the project objectives;

Section 7 – contains a State Aid legal assessment;

Section 8 – summarises the findings from the Company's financial and commercial due diligence, including independent assessments of Bidders' proposed capital costs and the wider value for money implication of their proposals;

Section 9 – contains additional information for Board members. This includes an overview of the Company's public sector business case; the heads of terms for the Agreement for Lease and Lease; wider economic impacts; the World Athletics Championships; Premier League approvals; and input from the Metropolitan Police;

Section 10 – addresses how this project takes account of the Company's policy themes;

Section 11 – outlines the town planning requirements for the project;

Section 12 – introduces how the Company will manage risk in relation to the preferred bidder solution during the next phase of the project; and

Section 13 – contains important legal notices that set the context for the Board's decision.

5 BACKGROUND AND CONTEXT

- 5.1 The Stadium will stage the track and field athletics events during the Games as well as the opening and closing ceremonies. Its use in legacy has been the subject of intense public and political debate. However, no viable legacy end user has ever been identified even given the opportunities created

A number of possible legacy uses have been offered since London's Olympic bid in 2005 but none of these have carried any funding commitments to operate a legacy Stadium.

- 5.2 This section summarises the history of Stadium legacy work since the ODA's design process through to the current OPLC work to secure a credible long term solution. It describes:

- The legacy options considered by the ODA in designing the Stadium together with background to the Olympic Board's approval of the ODA 'base case' in 2007;
- Why no legacy tenant or operator has been identified for the Stadium up until the Company's formation;
- The market testing which the Company undertook to obtain robust evidence and insight into potential Stadium legacy options;
- The project objectives which the Founder Members have set for the Company; and
- The current formal bid process that the Company has managed through a pre-qualification stage and now through detailed negotiations with the two shortlisted Bidders.

The ODA base case

- 5.3 We understand that the ODA's legacy Stadium scheme (i.e. to reduce the Stadium from its Games-time mode to a 25,000-seat athletics facility) was endorsed by the

Olympic Board at its meeting on 7 February 2007. In the months leading up to the Olympic Board's decision, the ODA had considered four legacy Stadium options:

1. A small capacity athletics stadium;
2. Conversion to a football stadium with a new athletics stadium built alongside;
3. Conversion to a football stadium with athletics moved elsewhere; and
4. Conversion to a mixed-use football and athletics stadium.

5.4 Based on advice received from the ODA, the Olympic Board unanimously supported the ODA's design brief for a Games time Stadium of 80,000 seats that would then be converted to 25,000 seat 'living stadium' in legacy based on a core athletics use. This decision was seen as consistent with the London 2012 bid book commitments which had stated that for legacy, the Stadium would be converted to a '25,000 seat multi-purpose venue with athletics at its core'. However, concerns had been expressed during the Olympic Board's discussions over the rejection of Premiership football to provide long term sustainable commercial viability for the legacy. [REDACTED]

[REDACTED] Both UK Sport and Sport England were further concerned over the potential loss of grass-roots funding to athletics due to the amount of public subsidy that a 25,000 seat legacy Stadium would require; the ODA had estimated a £5m operational loss over the first five years of operations.

5.5 Following the Olympic Board's decision, [REDACTED] to convert the Stadium from 80,000 to 25,000 seats post-2012. The ODA's design remains the 'base case' against which both Bidders' schemes have been compared alongside the Company's assessment against the project objectives. The base case remains the consented scheme that the ODA could deliver should the Company consider that neither of the Bidders offers a viable alternative.

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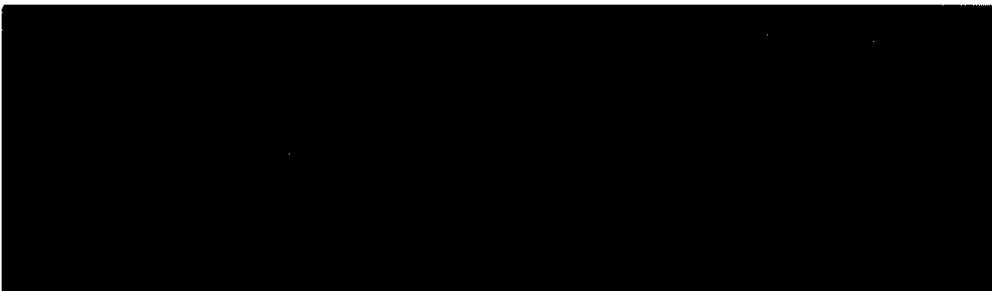
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OPLC soft market testing

- 5.8 The Company's motivation in launching the soft market testing has been to take a fresh look at Stadium legacy options to be confident that a credible long term solution is available. The solution will have a significant and early impact on the Park, including its ability to be an attractive destination for local communities, investors and visitors.
- 5.9 The Company's aim has been to improve on the 'base case' by addressing the operational and financial challenges of this unfunded legacy, including identifying a viable end user for the Stadium.
- 5.10 In March 2010, the Company began the market testing exercise to test potential Stadium solutions and to ascertain levels of demand from tenants, operators and investors. A total of 136 separate organisations/individuals accessed the Company's data room or were contacted directly about the opportunity.
- 5.11 The market testing received global media coverage and included engagement with a wide range of investors, operators, developers, and sports clubs. Responses showed some demand for the legacy use of the Stadium. The majority of respondents (who had specified a seating capacity) preferred a Stadium larger than the ODA base case scheme. The market testing also confirmed that there is a narrow range of viable uses for the legacy solution, given the limitations of the Stadium's Games-time design and in particular the ODA's decision not to provide a full roof for all spectators.
- 5.12 In short, no demand was forthcoming which featured athletics as the core proposition as this proposition is not commercially viable in a small stadium. This is further evidenced by the fact that small athletics stadia throughout the UK are generally supported by ongoing public subsidies. In addition, the market testing process supported the premise that there is some demand for the legacy use of the Stadium at larger capacities provided that the configuration is suitable for the inclusion of professional football.
- 5.13 UKA was unwilling to take responsibility for operating the Stadium legacy. The Company's market testing demonstrated that if the public sector requires a long term commercially sustainable stadium legacy without further recourse to public sector capital and operational funding, the most appropriate solution is likely to include professional football as part of the solution.

Project objectives

- 5.14 Following the conclusion of the Company's market testing in June 2010 the Company consulted with its Founder Members to agree five key objectives for the project. The Stadium is located in the southern part of the Olympic Park and will be a crucial anchor for delivering the Company's wider regeneration objectives, for integrating Park development and enabling the Park to become a major visitor destination.
- 5.15 

5.16 The five project objectives are:

1. To achieve a viable long term solution for the Olympic Stadium that is deliverable and provides value for money.
2. To secure a partner with the capability to deliver and operate a legacy solution for a venue of the Stadium's size and complexity.
3. To re-open the Stadium for operational use as rapidly as possible following the 2012 Games.
4. To ensure that the Stadium remains a distinctive physical symbol supporting the economic, physical and social regeneration of the surrounding area.
5. To allow flexible usage of the Stadium, accommodating a vibrant programme of events allowing year round access for schools, the local community, the wider public and elite sport.

Formal bid process - Pre-qualification

5.17 Having agreed the project objectives and an asset disposal route for the Stadium, the Company launched the formal stage of the process to select a partner on 18 August 2010. Interested parties were asked to complete a pre-qualification questionnaire (PQQ) which the Company could then evaluate against the five project objectives.

5.18 The Company received three PQQ submissions on 30 September 2010 from:

- [REDACTED]
- A consortium comprising Tottenham Hotspur Football Club (Lead Bidder), [REDACTED]
- A consortium comprising the London Borough of Newham and West Ham United Football Club (Joint Lead Bidders).

5.19 After evaluation and further clarification of the PQQ submissions, the consortium led by Tottenham Hotspur and the consortium of Newham and West Ham United were shortlisted to proceed to the next phase of the process and the preparation of Final Offers.

5.20 The proposal led by [REDACTED] was not taken to the short list as it did not meet the minimum score threshold set out in the PQQ. Their proposal was dependent on two professional football clubs becoming anchor tenants which the Company considered to be unrealistic in the timeframe and given that the most likely clubs were pursuing independent bids.

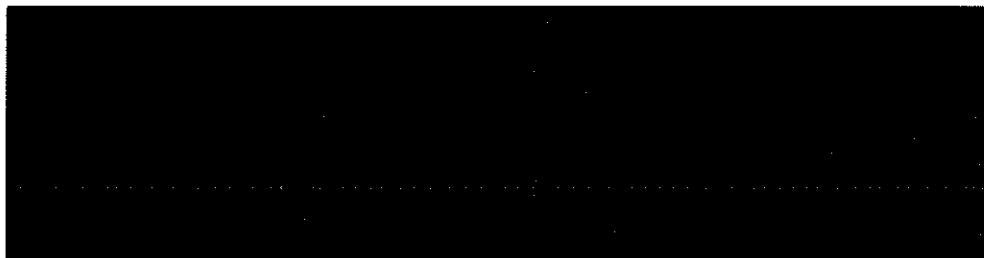
6 EVALUATION OF FINAL OFFERS

Formal bid process - negotiations

6.1 The Company has been engaged in detailed discussions with the two shortlisted Bidders since 26 November 2010. There has been a two-stage process:

1. Bidders submitted a Preliminary Final Offer on 23 December 2010, following which the Company provided feedback and offered clarification guidance.

2. Bidders submitted their Final Offer on 21 January 2011 following which the Company has sought additional clarifications.
- 6.2 Bidders were asked to include as a minimum in their Final Offers:
- A response to the Company's Heads of Terms for the Agreement for Lease;
 - A response to the Company's Heads of Terms for the Lease;
 - Details of their funding proposals;
 - Details of the structure, governance and ownership of the proposed tenant;
 - Business plan(s); and
 - Delivery programme covering design, town planning procurement and Stadium transformation works.
- 6.3 Both Bidders have provided additional information and analysis to support their Stadium solutions. This has included their wider plans for the Stadium and island site, with a particular focus on community benefits for local people and businesses that would complement the Stadium and ensure a vibrant and multi-use site.
- 6.4 In parallel with the bidder negotiation process, the Company has undertaken detailed, independent financial, legal and technical due diligence to assess the robustness of the Bidders' proposals. The reports available to Board members are:



Final Offers

- 6.5 Each Bidder provided extensive information in their Preliminary Final Offer and Final Offer submissions. They have supplemented these submissions with their responses to the Company's clarification questions, particularly in relation to their financial offer and the provision of guarantees. The Company had already appraised the ODA's base case scheme against a multi purpose stadium and a purpose built football stadium as part of its 'Green Book' appraisal (see Section 9).
- 6.6 At the Board meeting to discuss Stadium legacy on 28 January 2011, the Chief Executive explained the key aspects of both Bidders' proposals. This information is set out in Appendix 1 where the Final Offers are categorised into:
- Scheme overview;
 - Funding;
 - Commercial offer;
 - Business planning assumptions;
 - Financial due diligence;
 - Athletics legacy; and
 - Community legacy.

Evaluation against the project objectives

- 6.7 The Company has evaluated both Bidders' Final Offers against the project objectives set by the Founder Members. The evaluation was carried out by a team of senior executives from the Company supported by its external legal advisors

Eversheds and real estate advisor Jones Lang LaSalle. The Company's evaluation team comprised:

[REDACTED]

6.8 In addition, [REDACTED] has provided specialist input to the review of the Bidders' proposals on community access and engagement. [REDACTED] and [REDACTED] have supported the process with input on development values for the site, estate service charging mechanisms and potential Section 106 impacts.

6.9 The evaluation team considered each Final Offer in turn, assessing it against the five project objectives and referring, where appropriate, to the specialist reports and advice prepared by the Company's financial, real estate, technical and legal advisors. The results of the evaluation process are set out in the Evaluation Report which is set out below in full.

6.10 Board Members should note that in the Evaluation Report reproduced below, the Tottenham Hotspur with [REDACTED] is referred to as 'Bidder 5' whilst the Newham [REDACTED] is referred to as 'Bidder 6'.

[REDACTED]

[REDACTED]

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[REDACTED]

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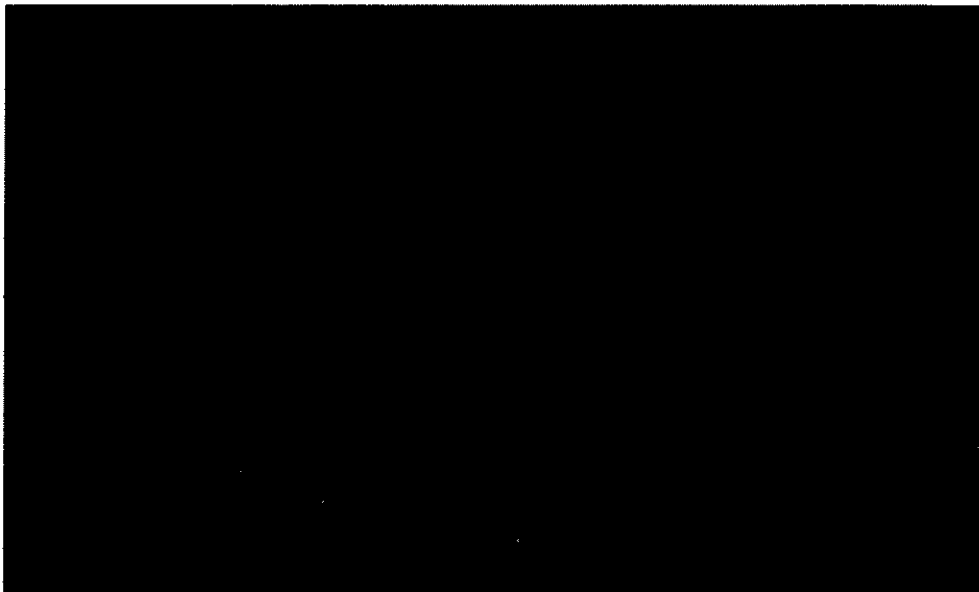
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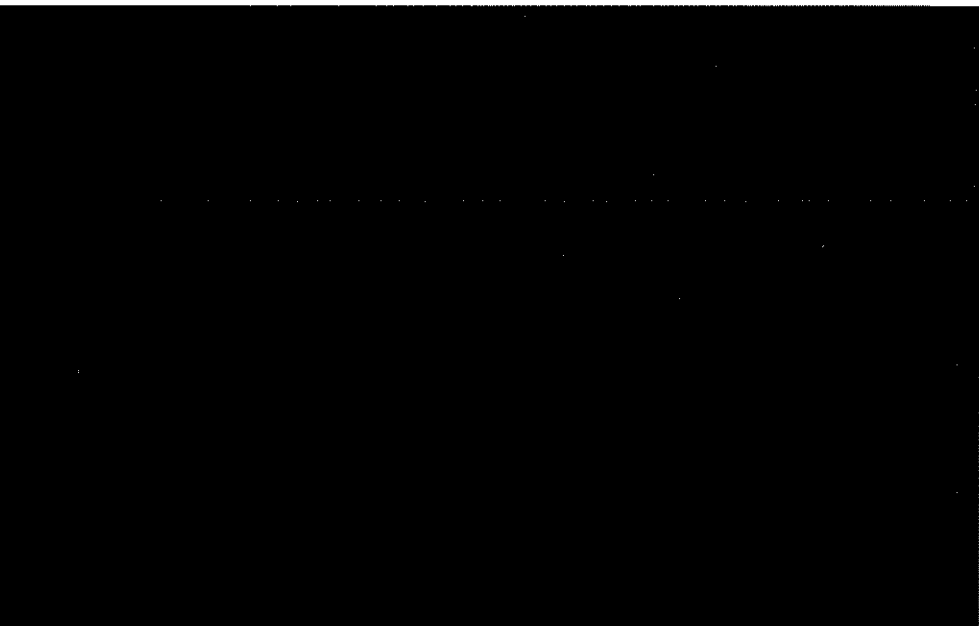
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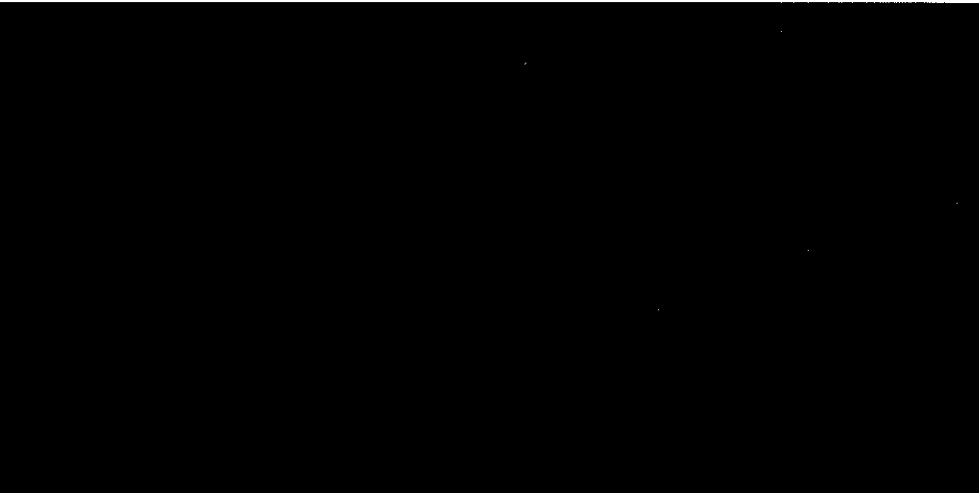
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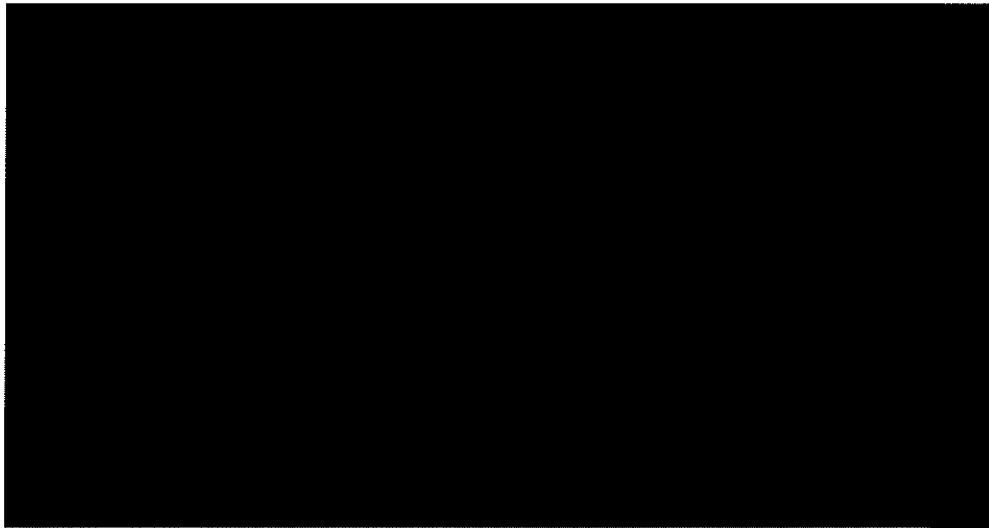
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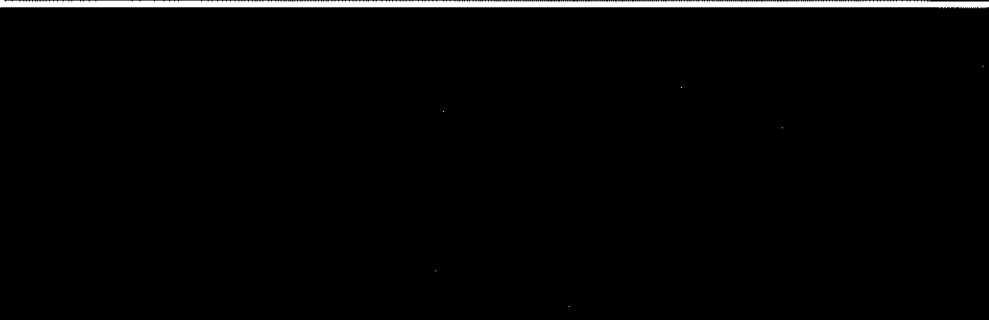
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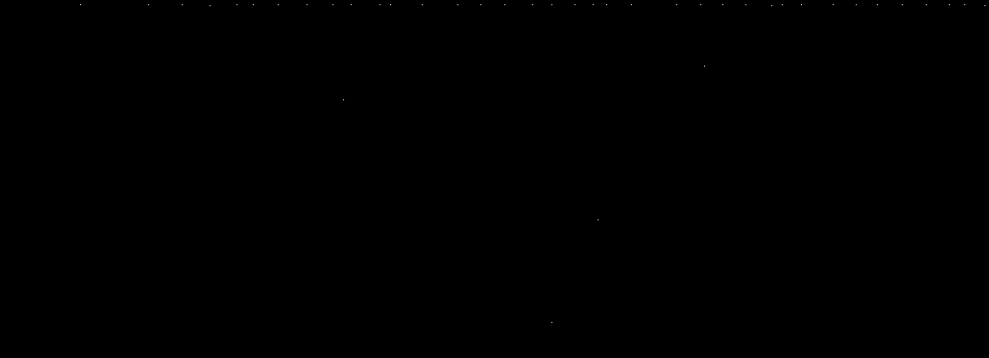
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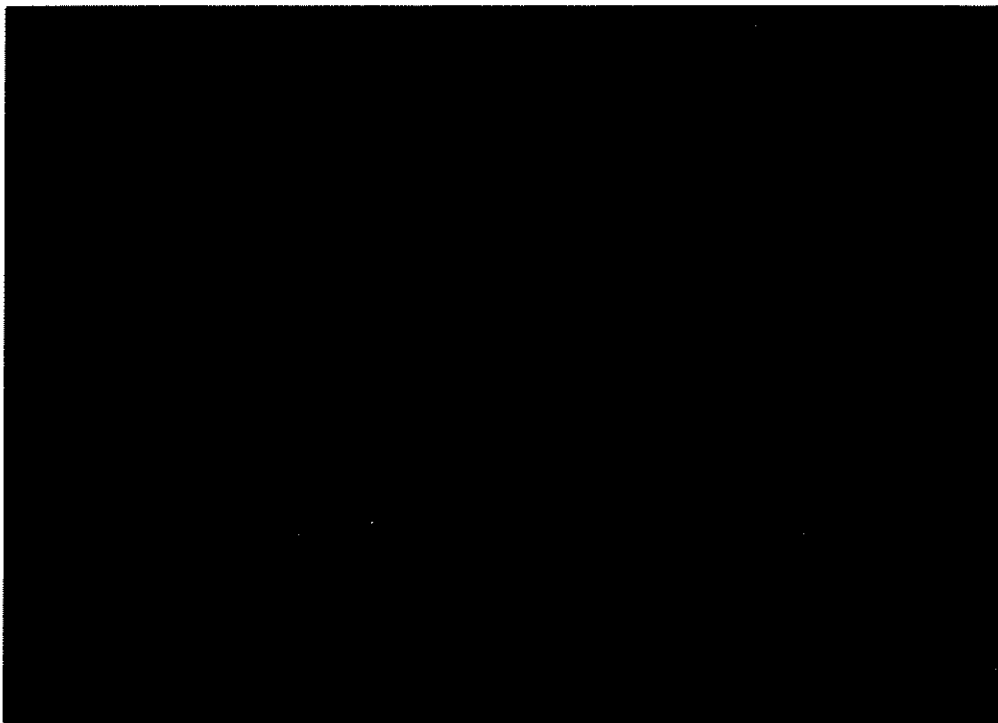


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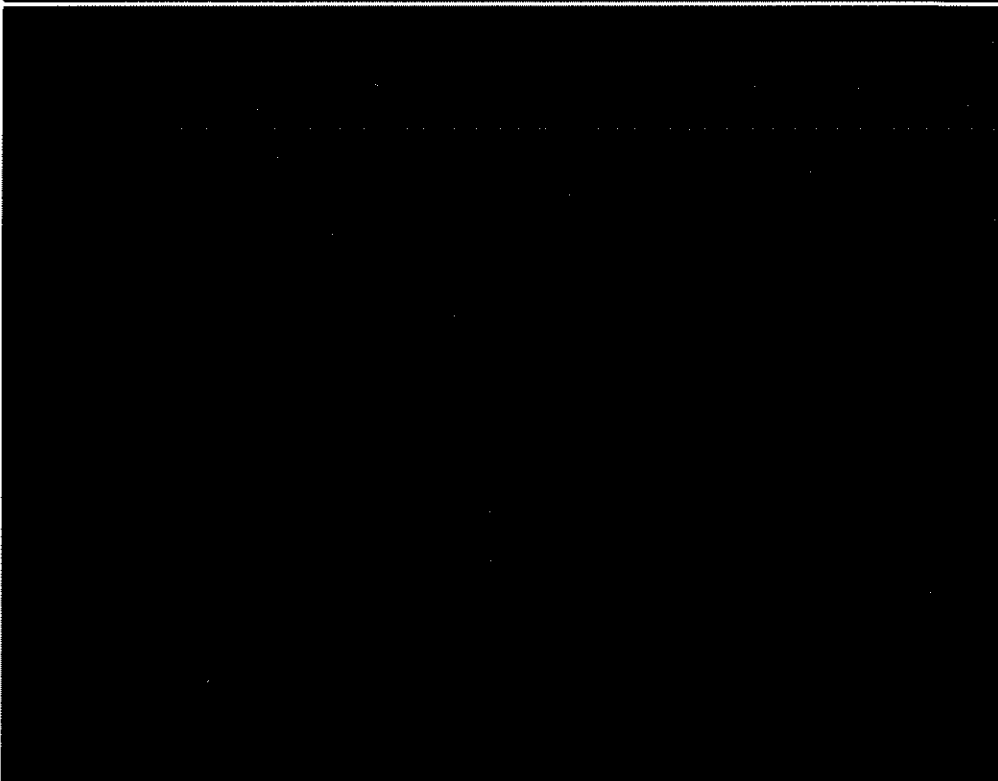
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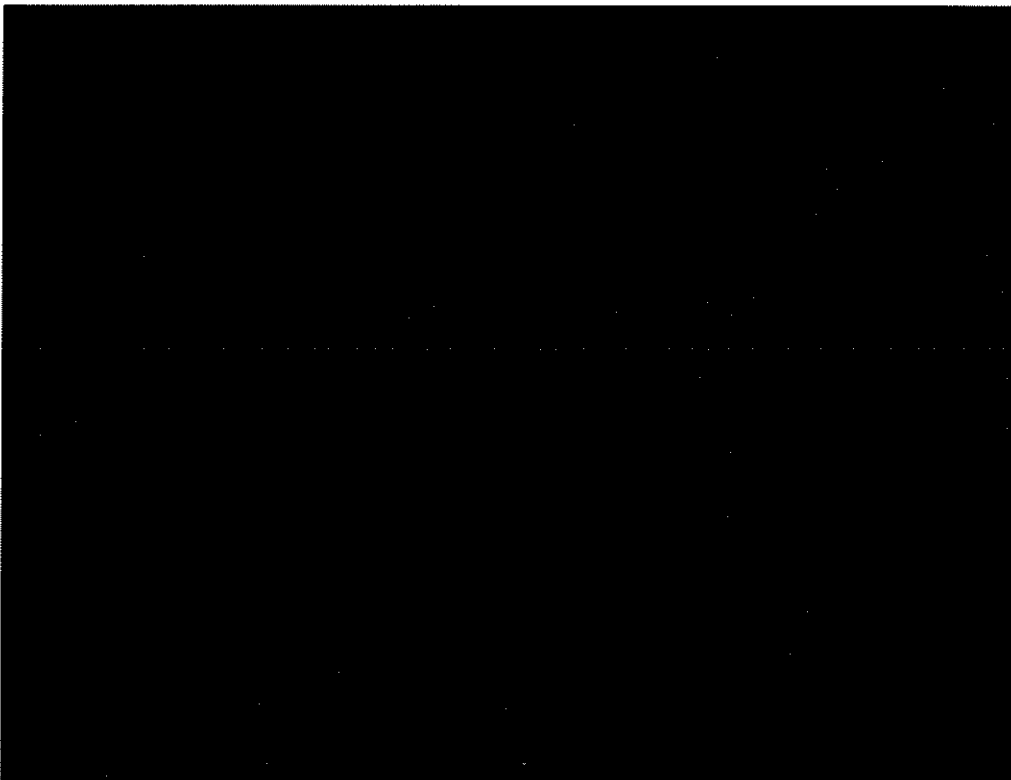
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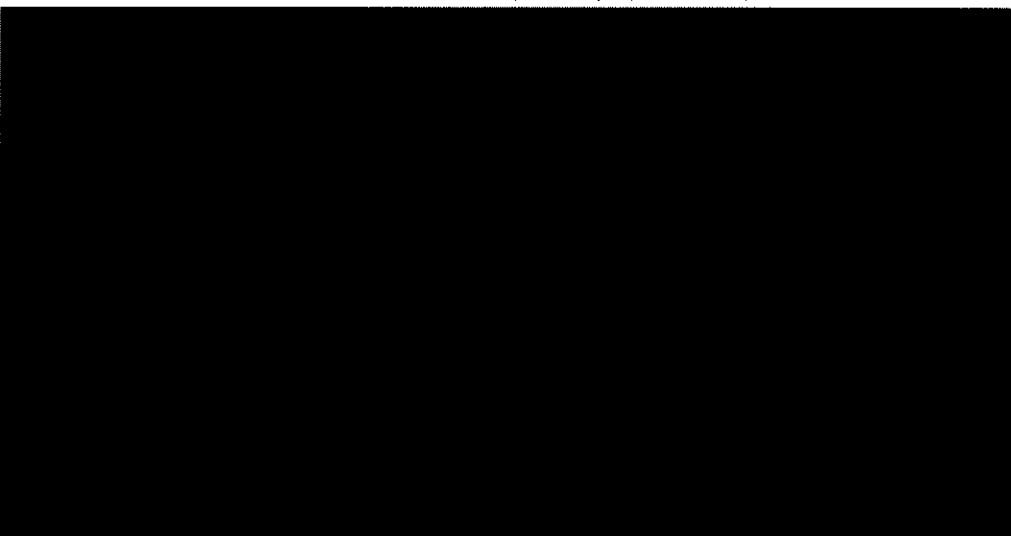
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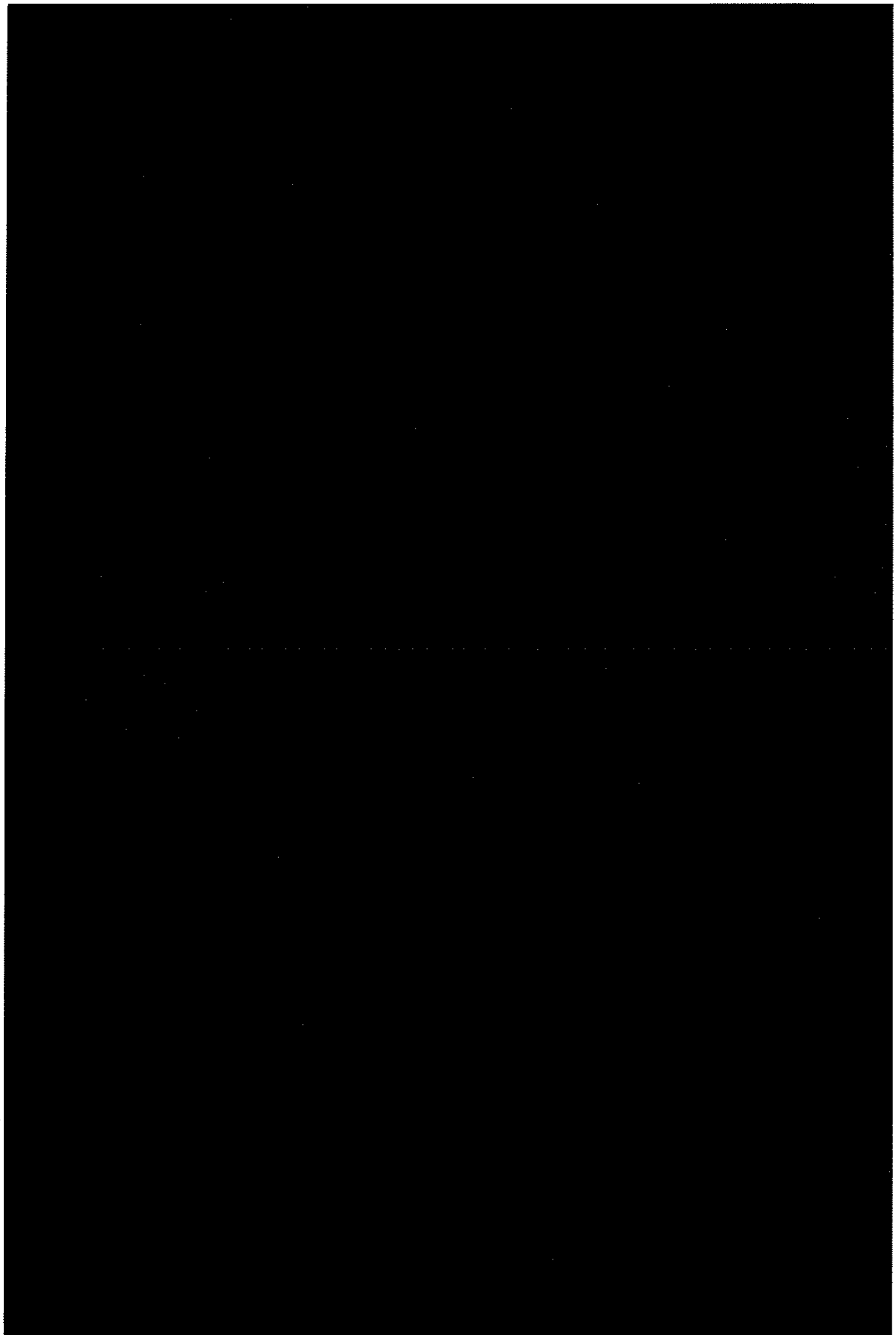
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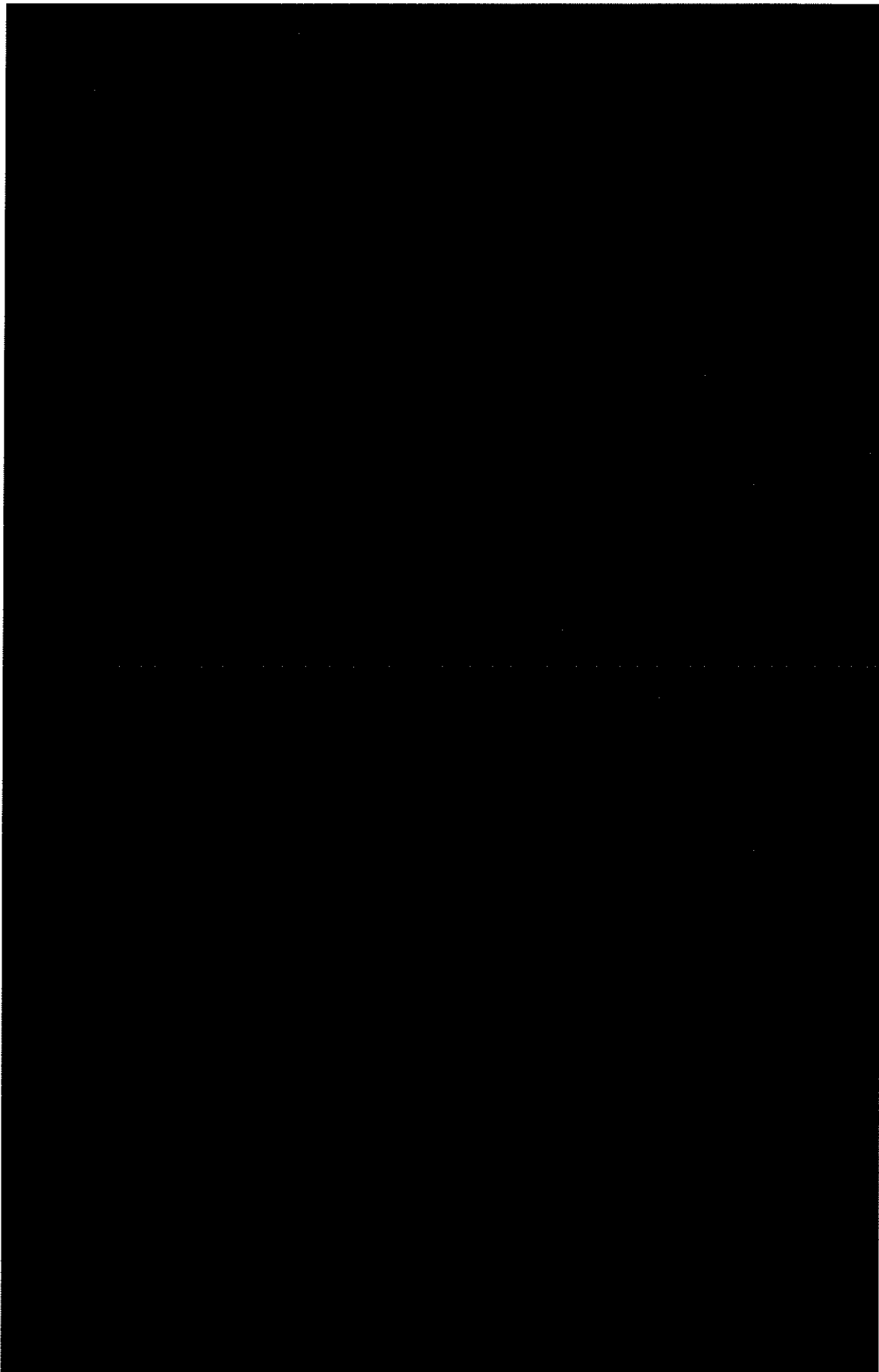
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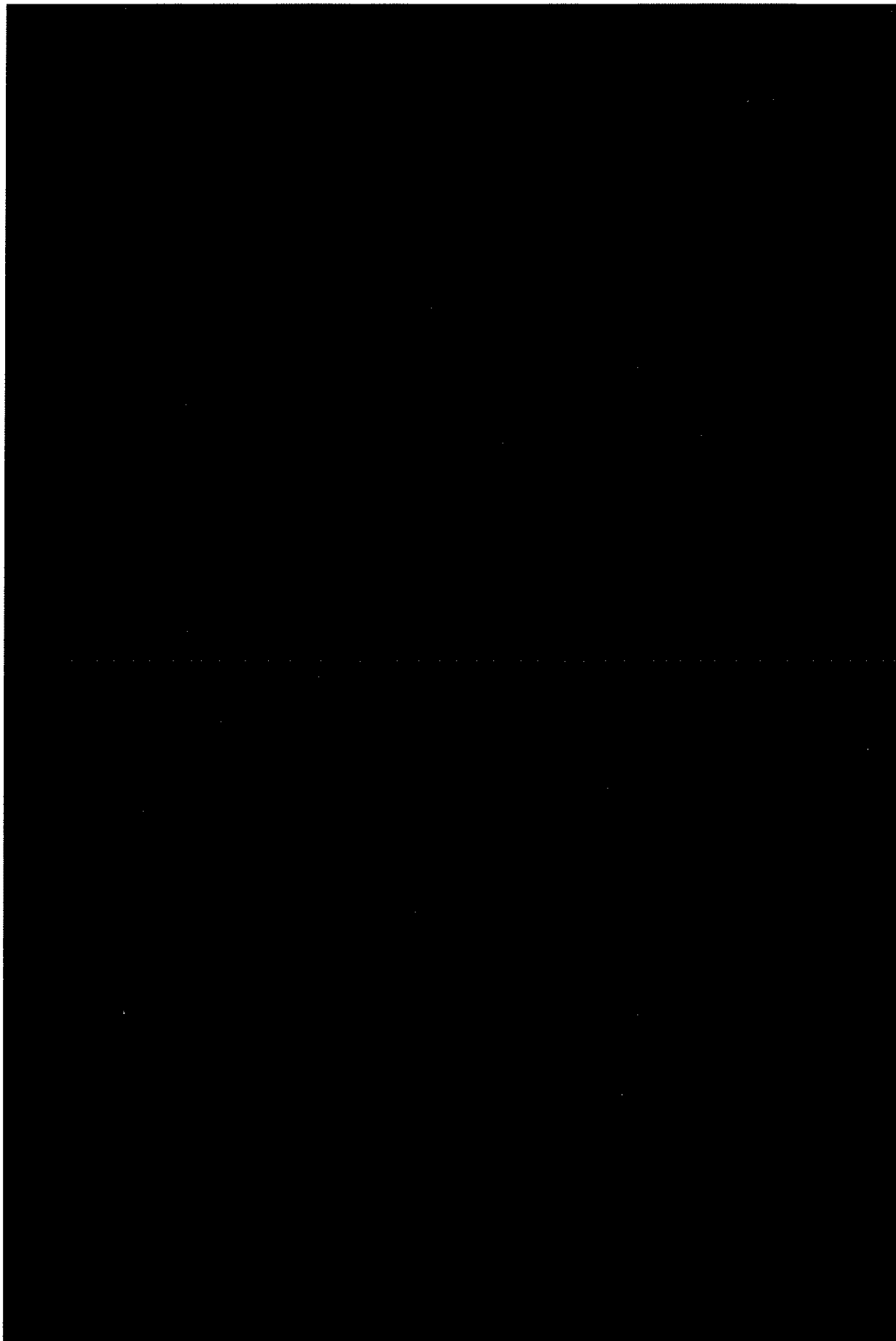
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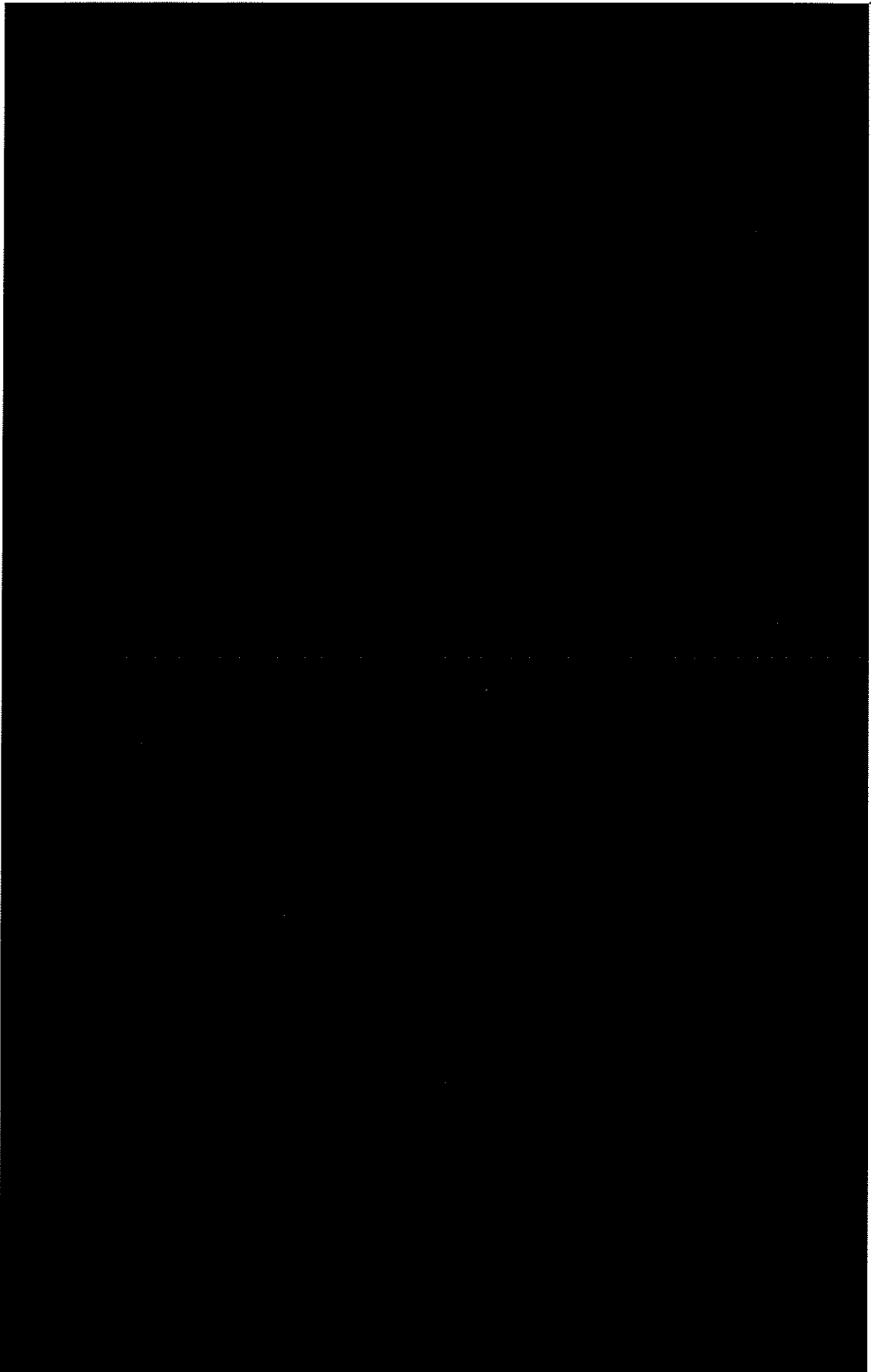
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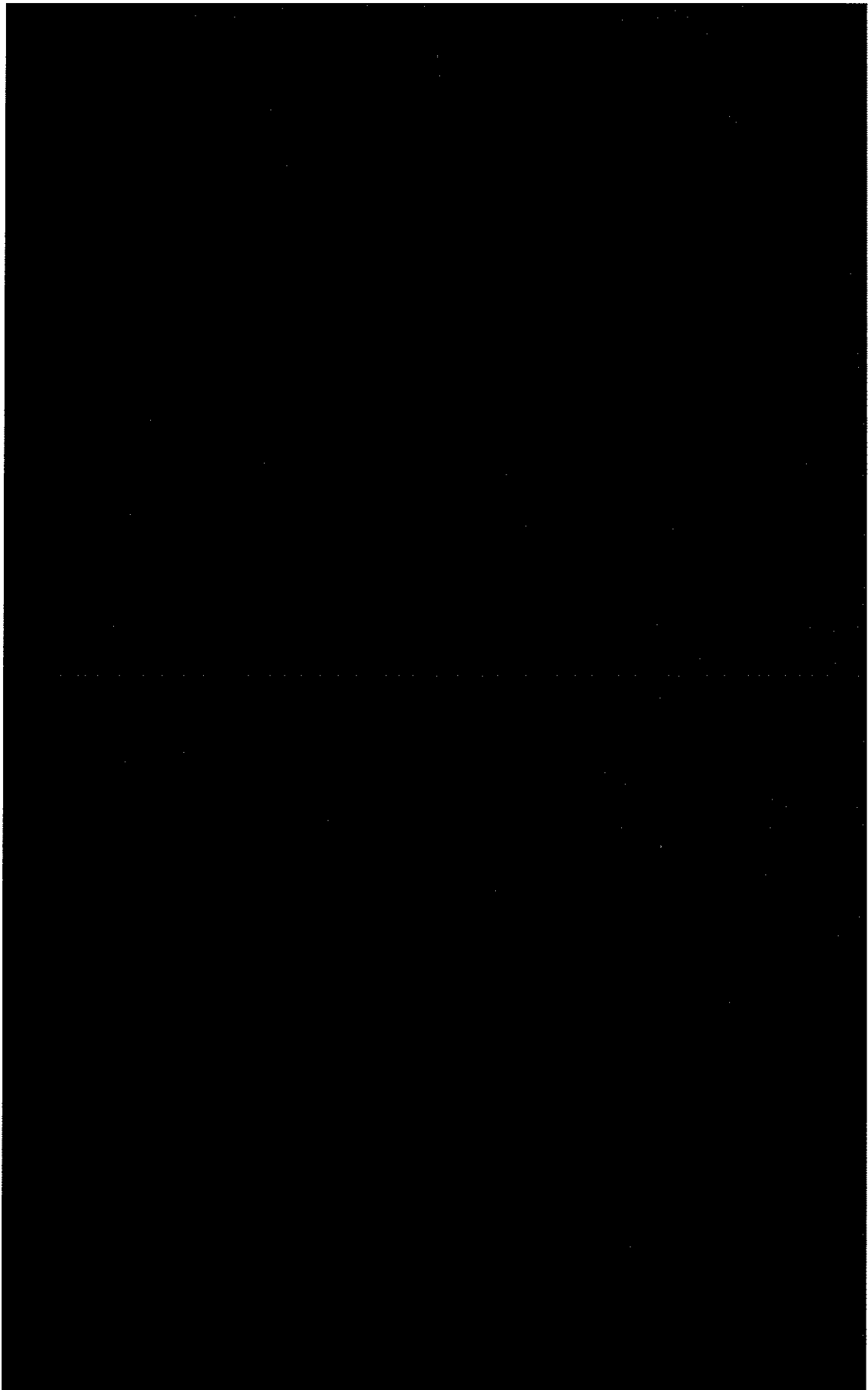
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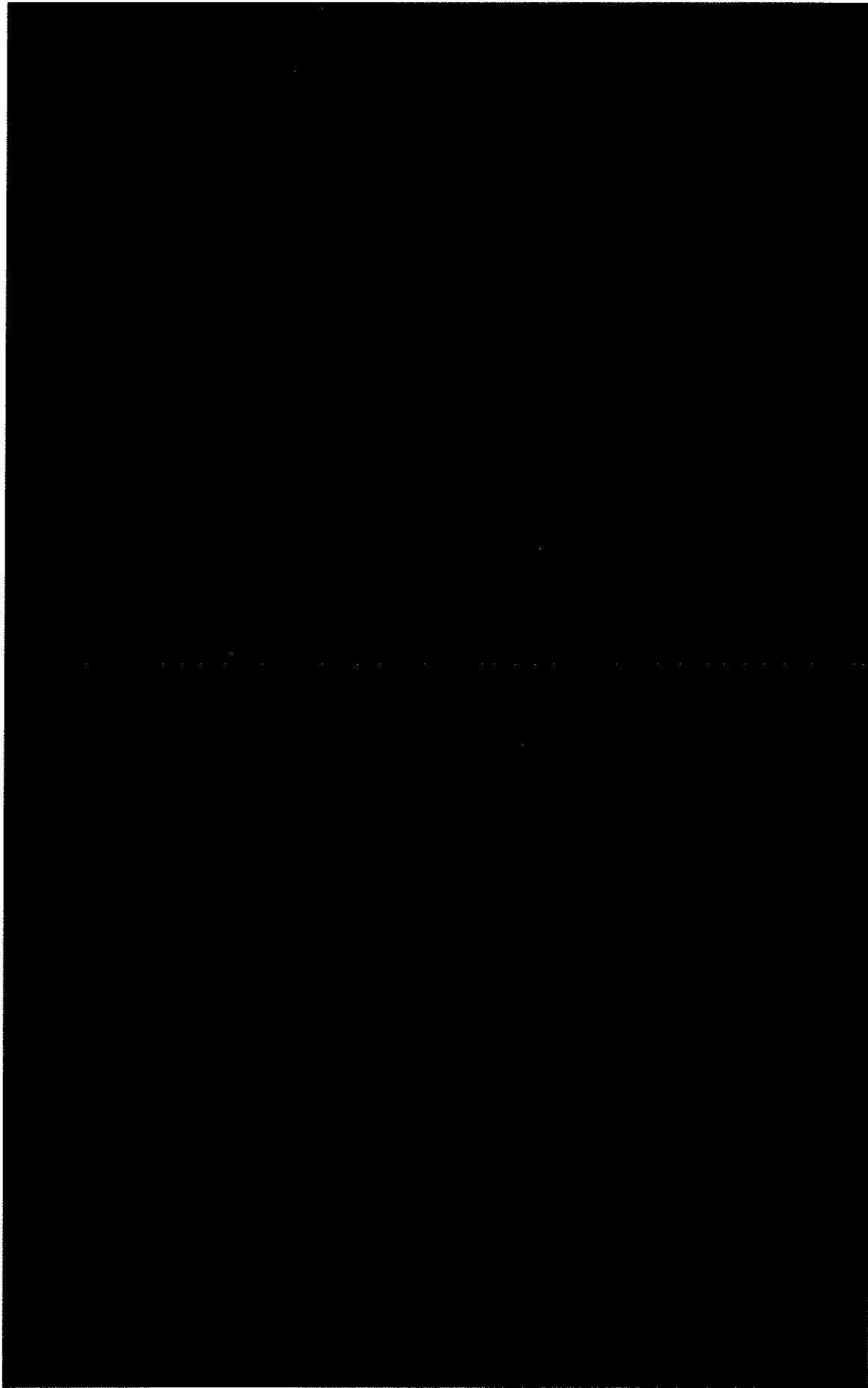


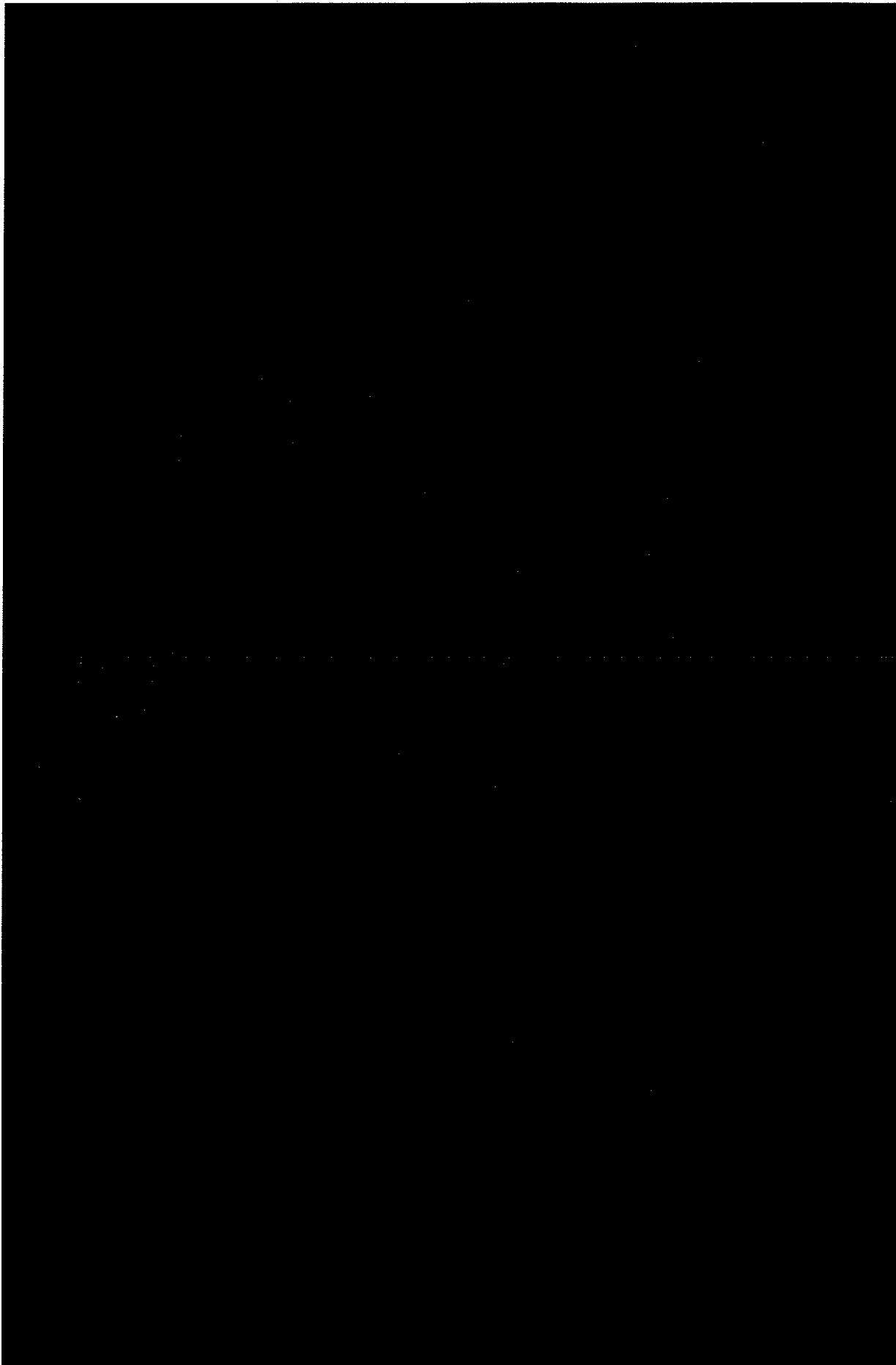


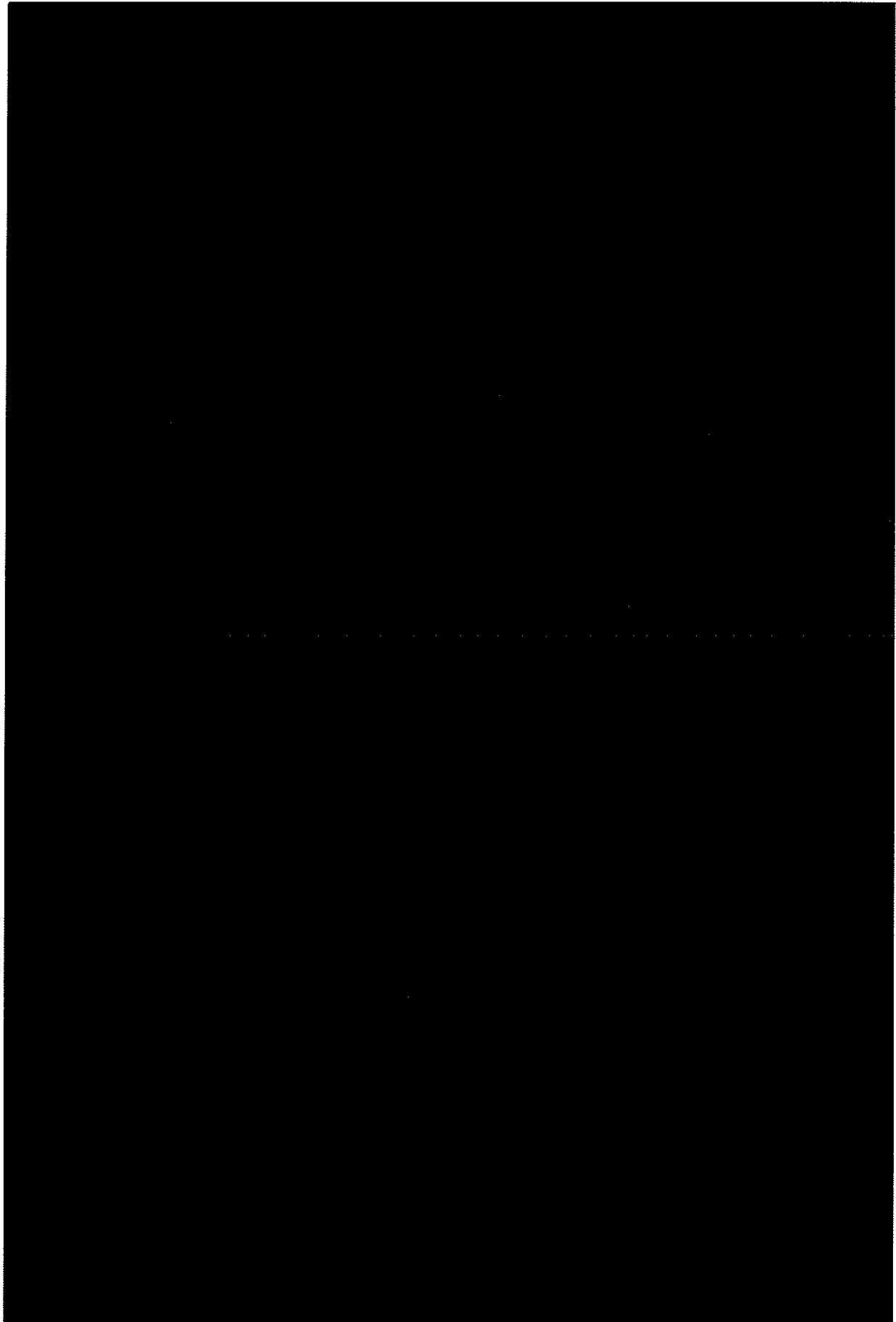


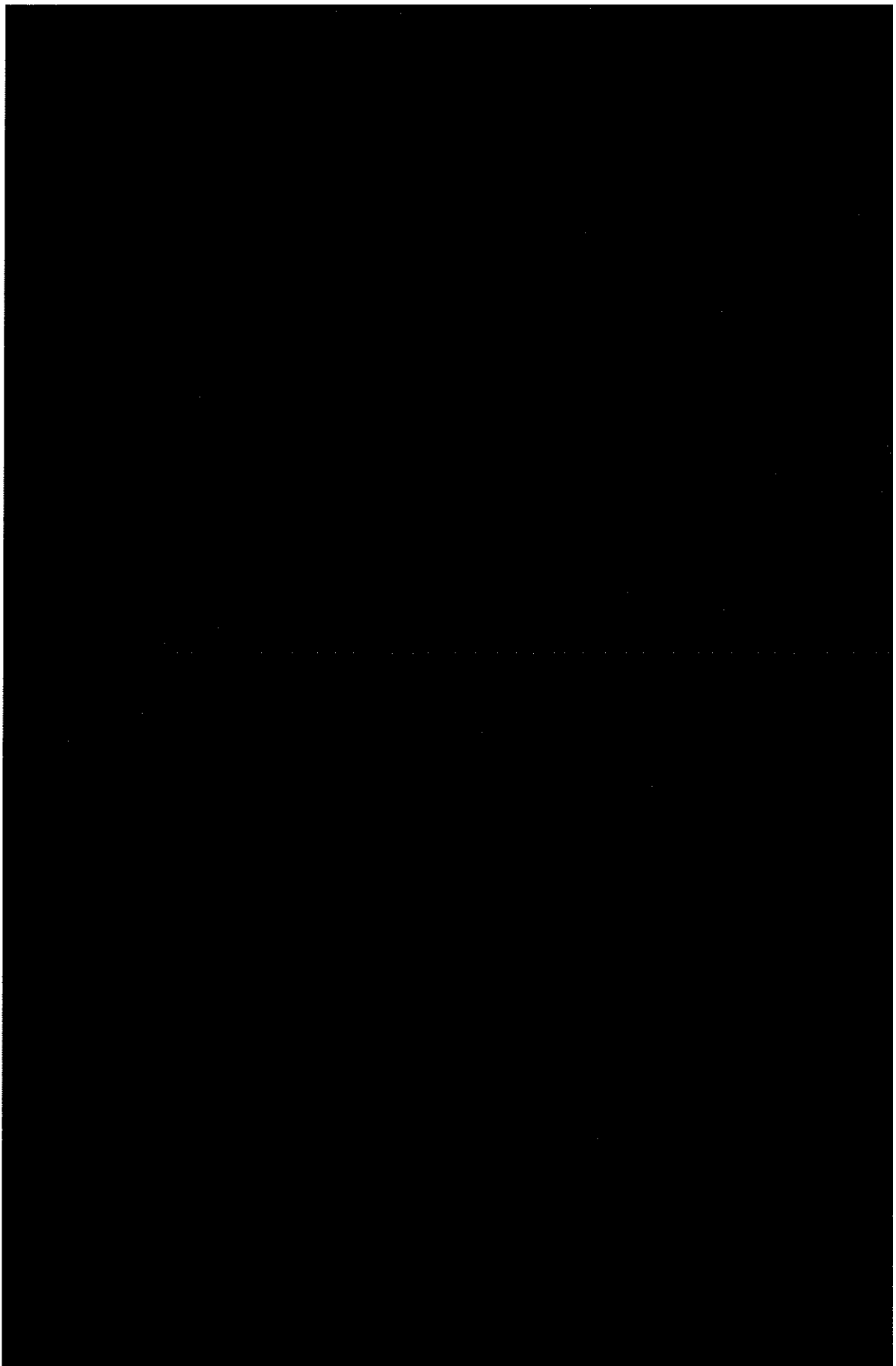


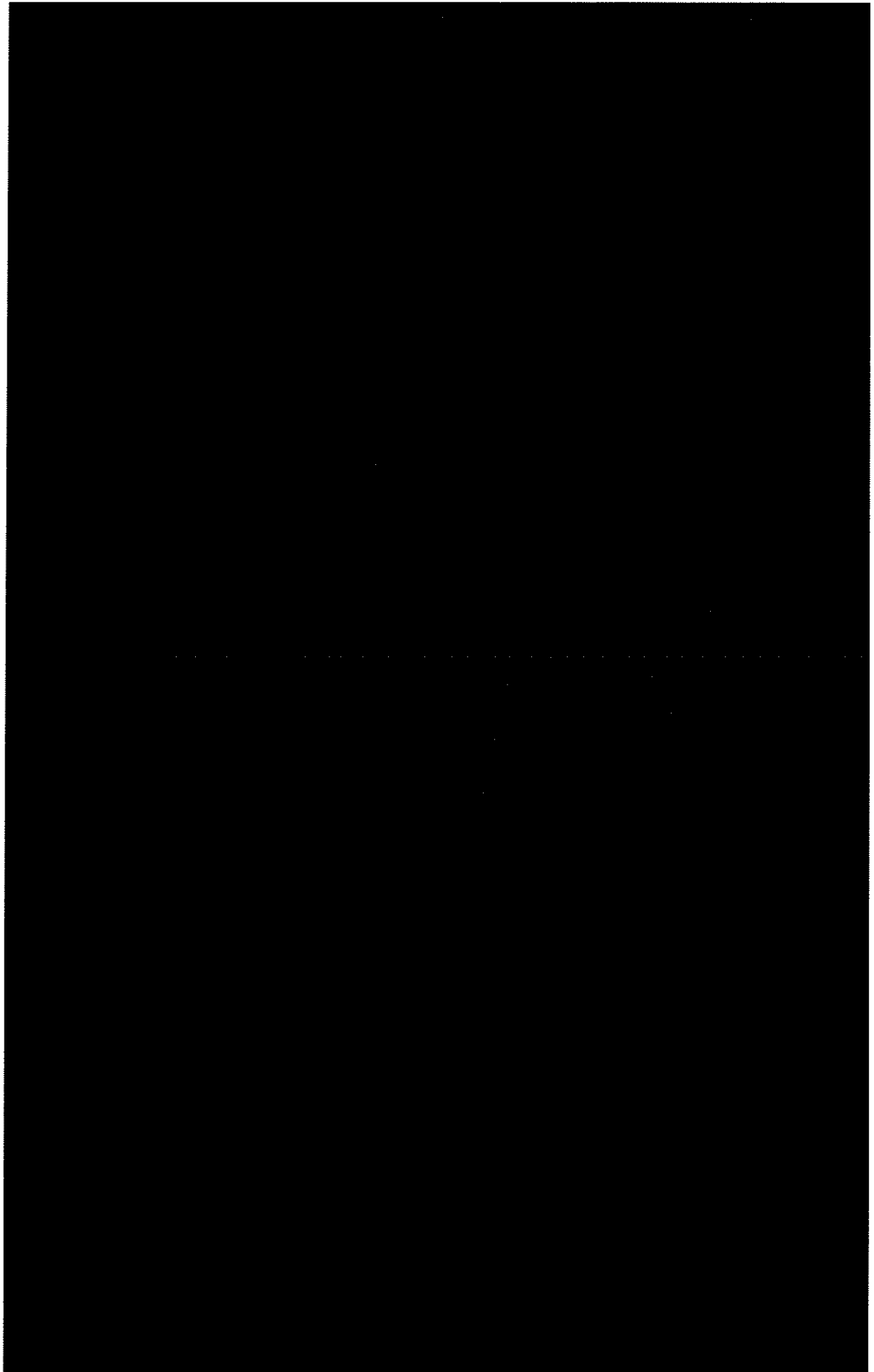


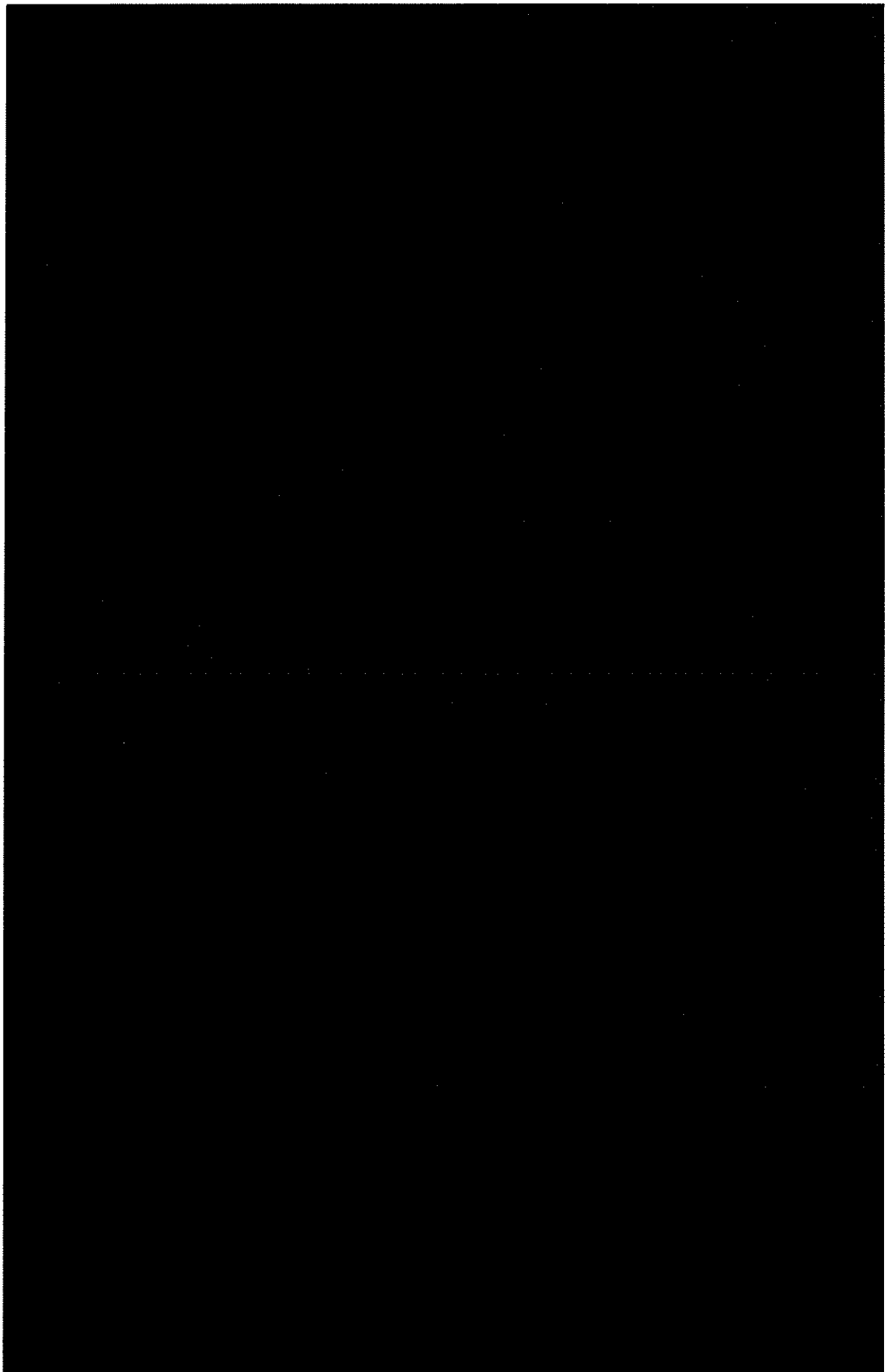








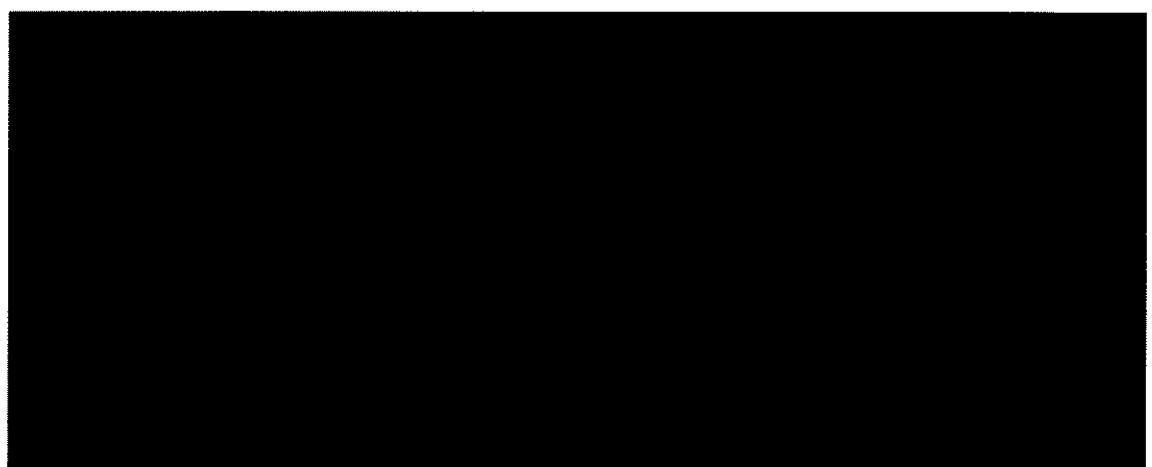






10 OPLC POLICY THEMES

- 10.1 The impact of the Stadium disposal on the Company's priority themes has been monitored during both the market testing and the competitive bid process. The themes of equality and inclusion, sustainability and design quality were all built into the PQQ as issues that bidders had to address in their responses. These themes have been important matters for Bidders in their Final Offer submissions.
- 10.2 The themes of community engagement and socio-economic issues are two key drivers for the project as a whole. Objectives 4 and 5 for the project specifically address these themes and both Bidders submitted thorough and wide-ranging Stadium legacy proposals as a driver for community engagement and the socio-economic improvement of the Olympic Park and surrounding areas.





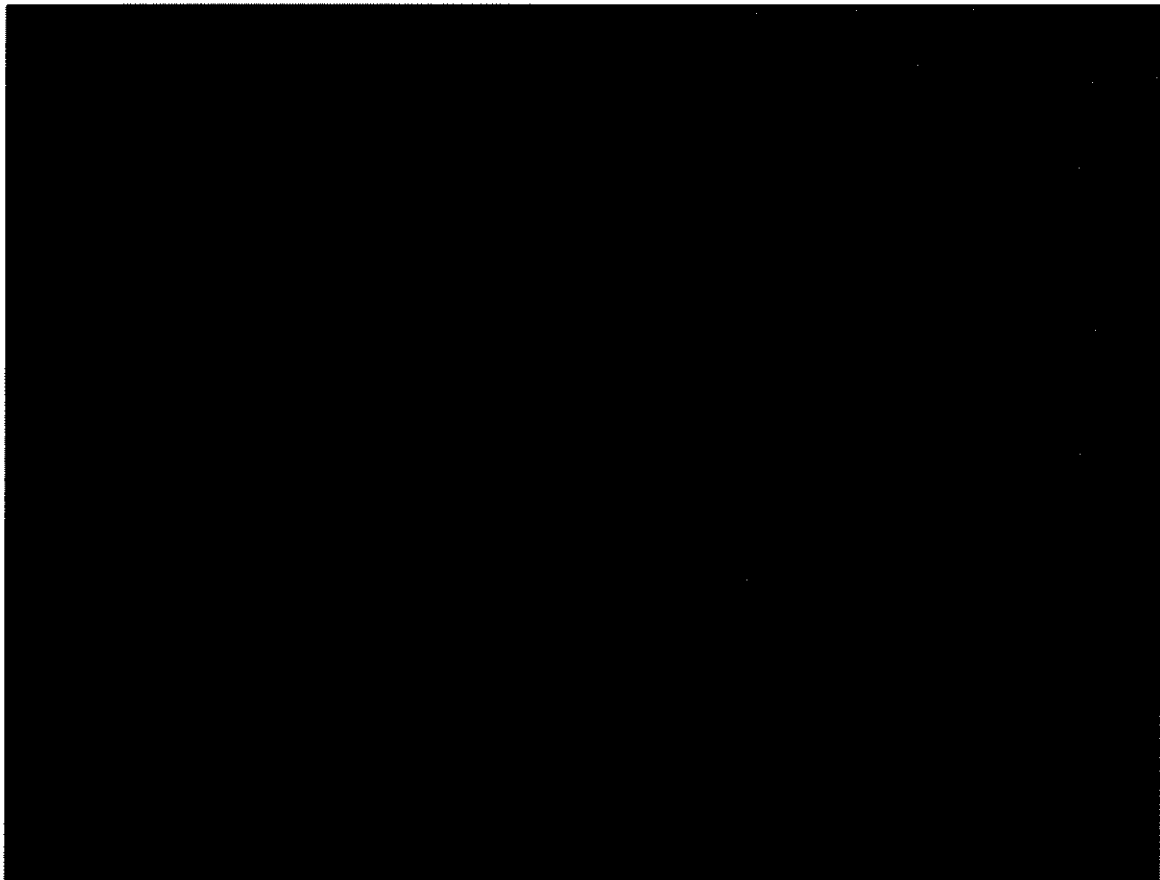
12 RISK ASSESSMENT

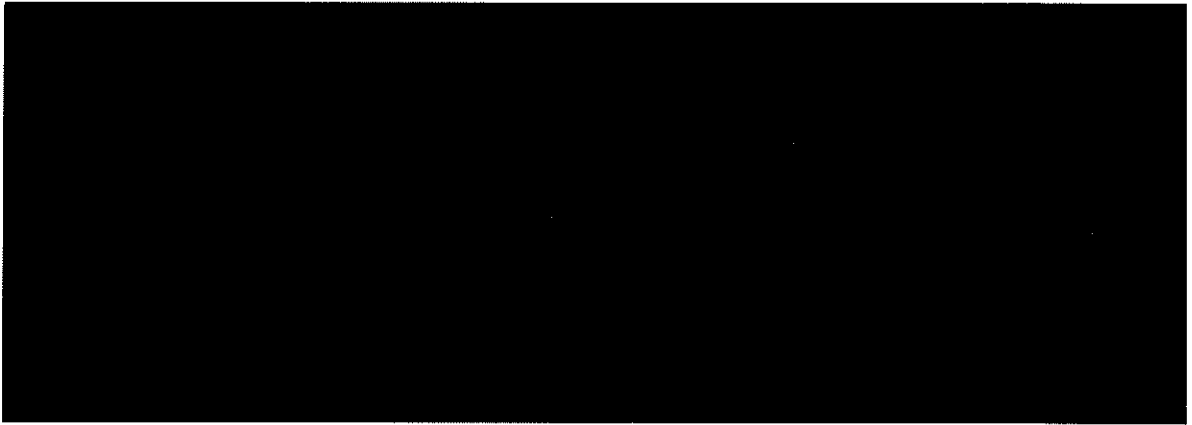
12.1 The Company has proactively managed risks throughout the Stadium legacy process. It has already commenced work to identify key risks and mitigation measures relating to the next phase of the process. This covers all risks relating to concluding an Agreement for Lease with the preferred bidder on terms acceptable to the Company and its Founder Members.

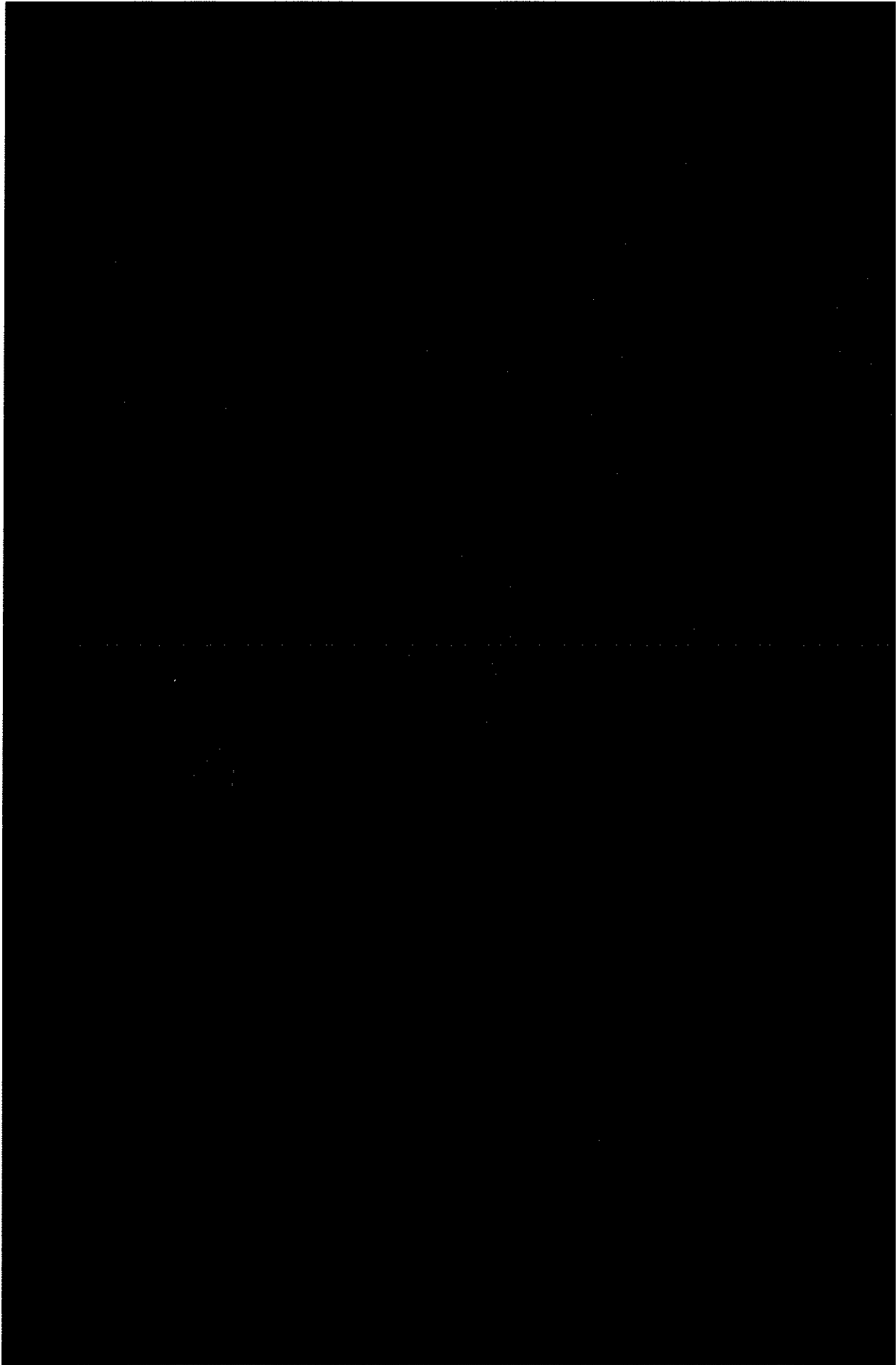


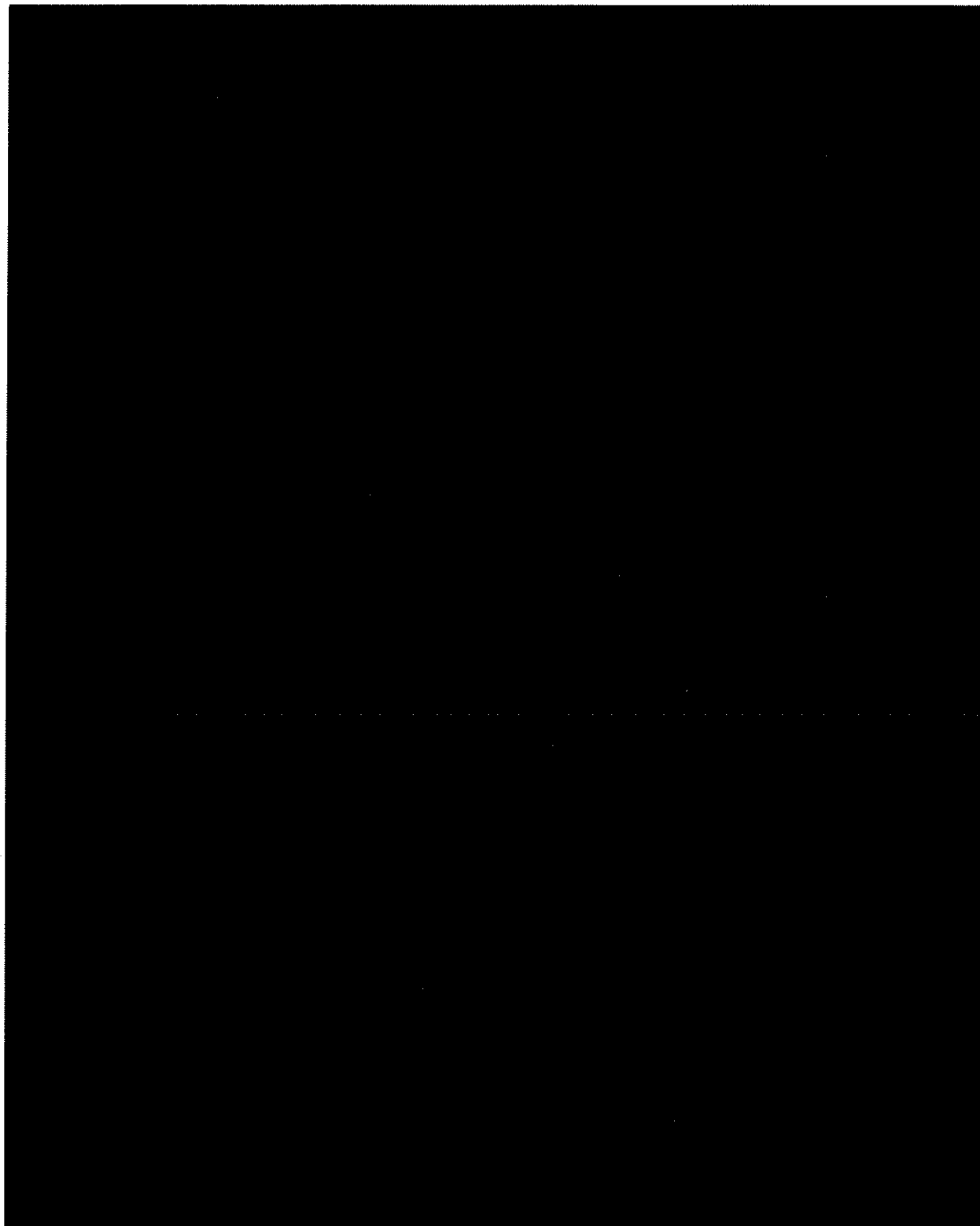
12.2 Through the negotiation process with Bidders, the Company has developed a clear understanding of risks relating to the implementation phase of the project covering design, planning and construction activity for the Stadium. In securing an acceptable form of Agreement for Lease, the Company will build on the draft heads of terms to ensure that these risks are appropriately mitigated. The Company will also take account of development opportunities and operational risks once the Stadium is re-opened following the Games.

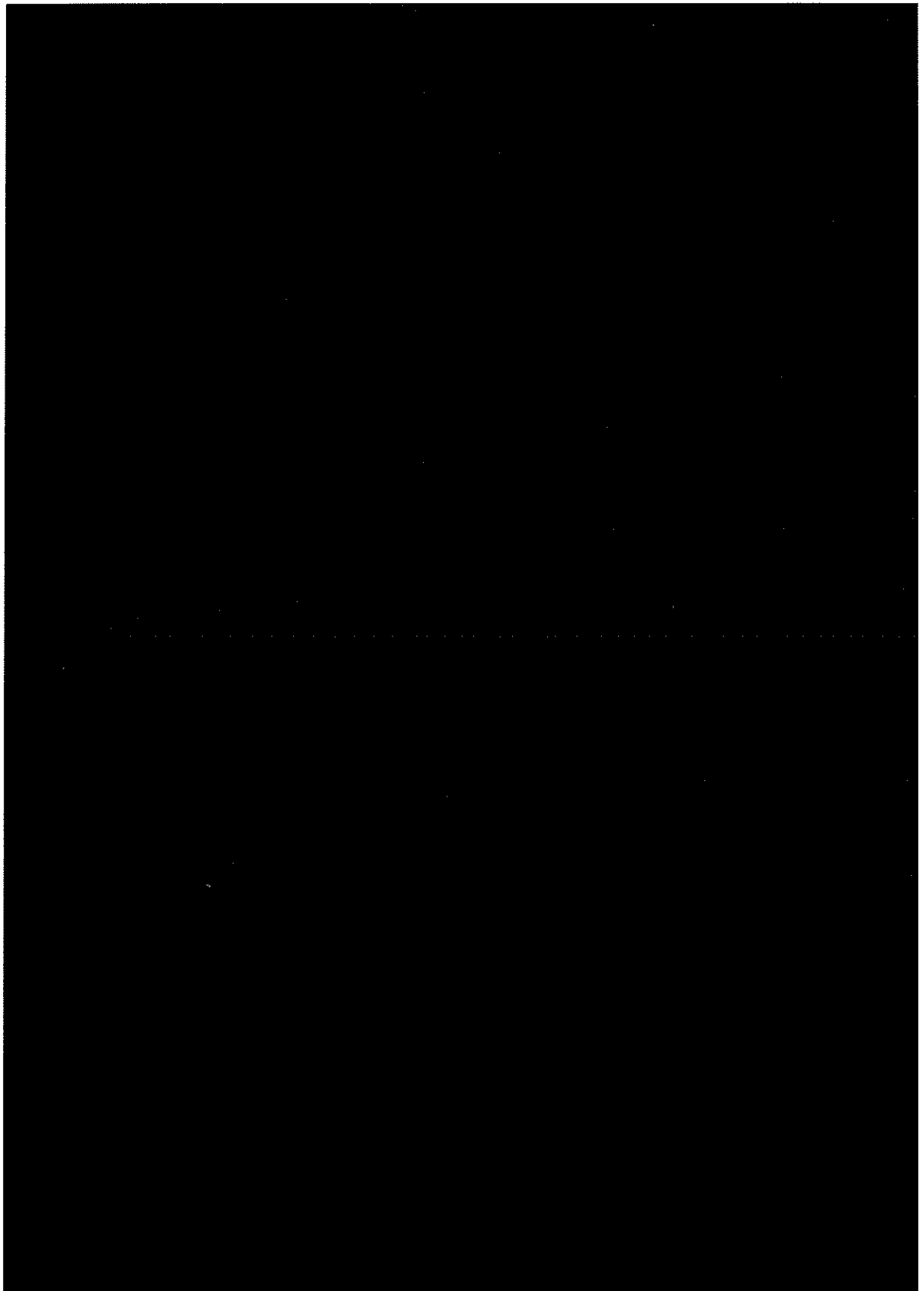
12.3 The Company will continue to update the Board and Founder Members on key risks relating to the project.

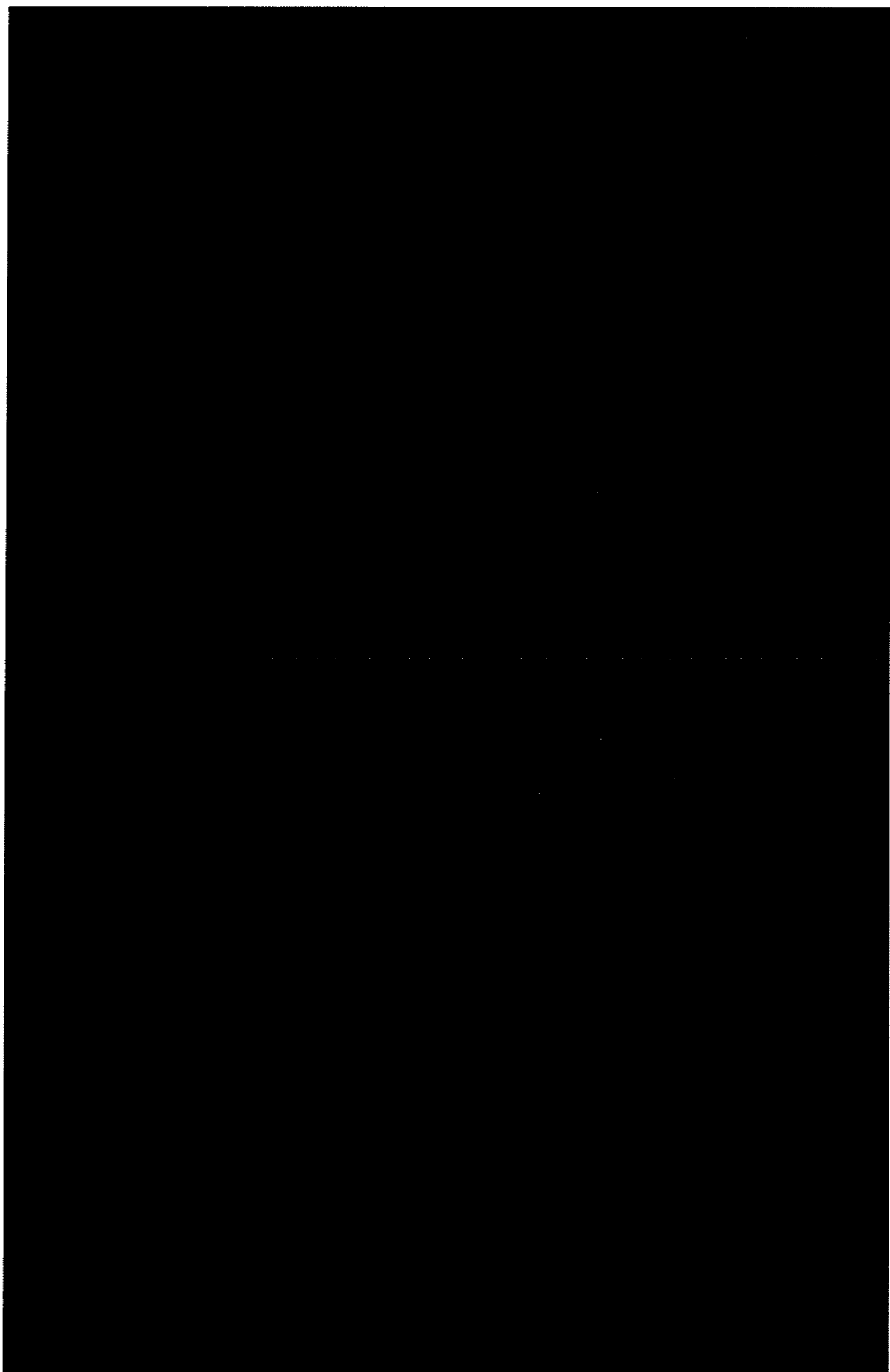




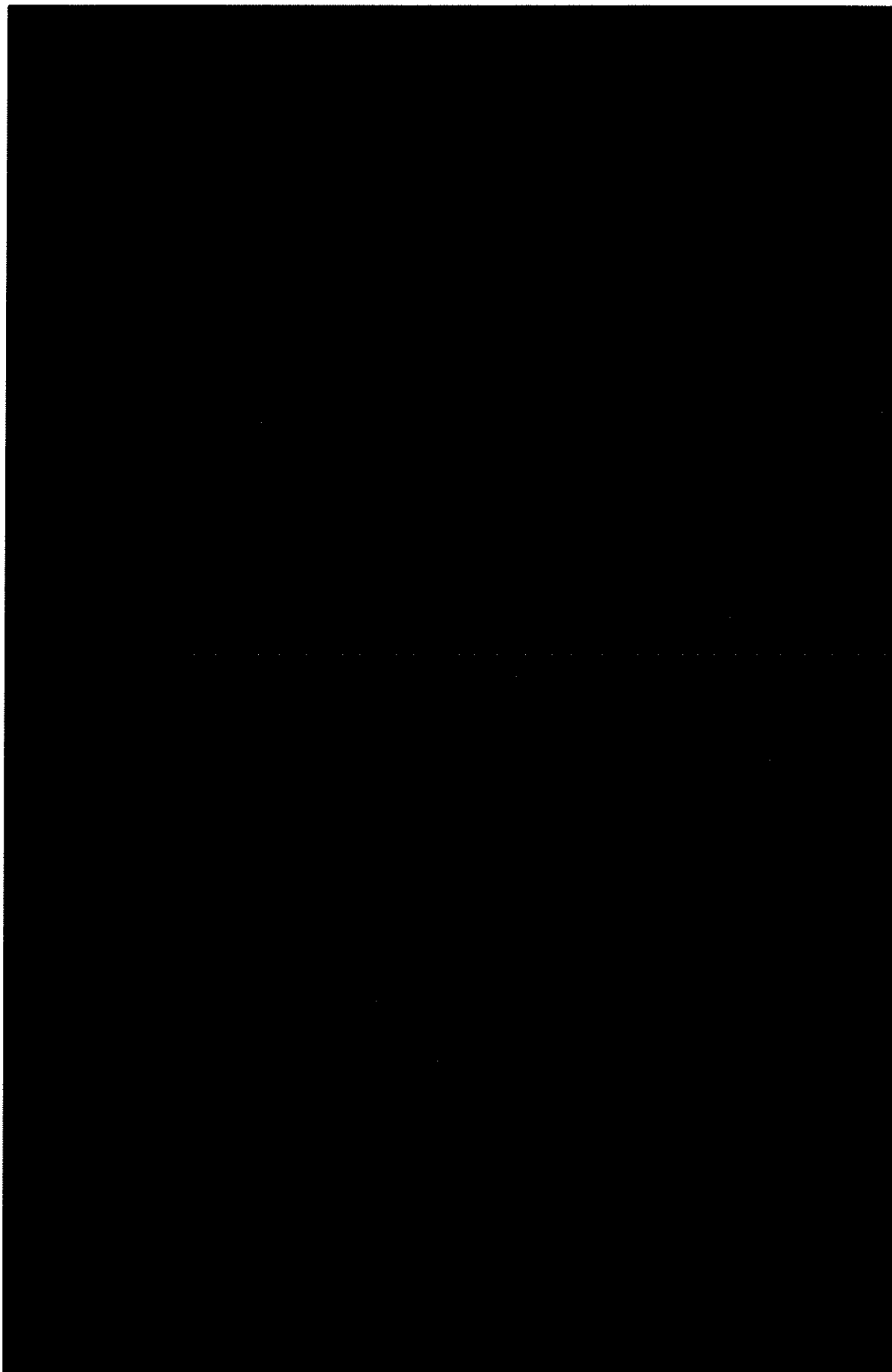


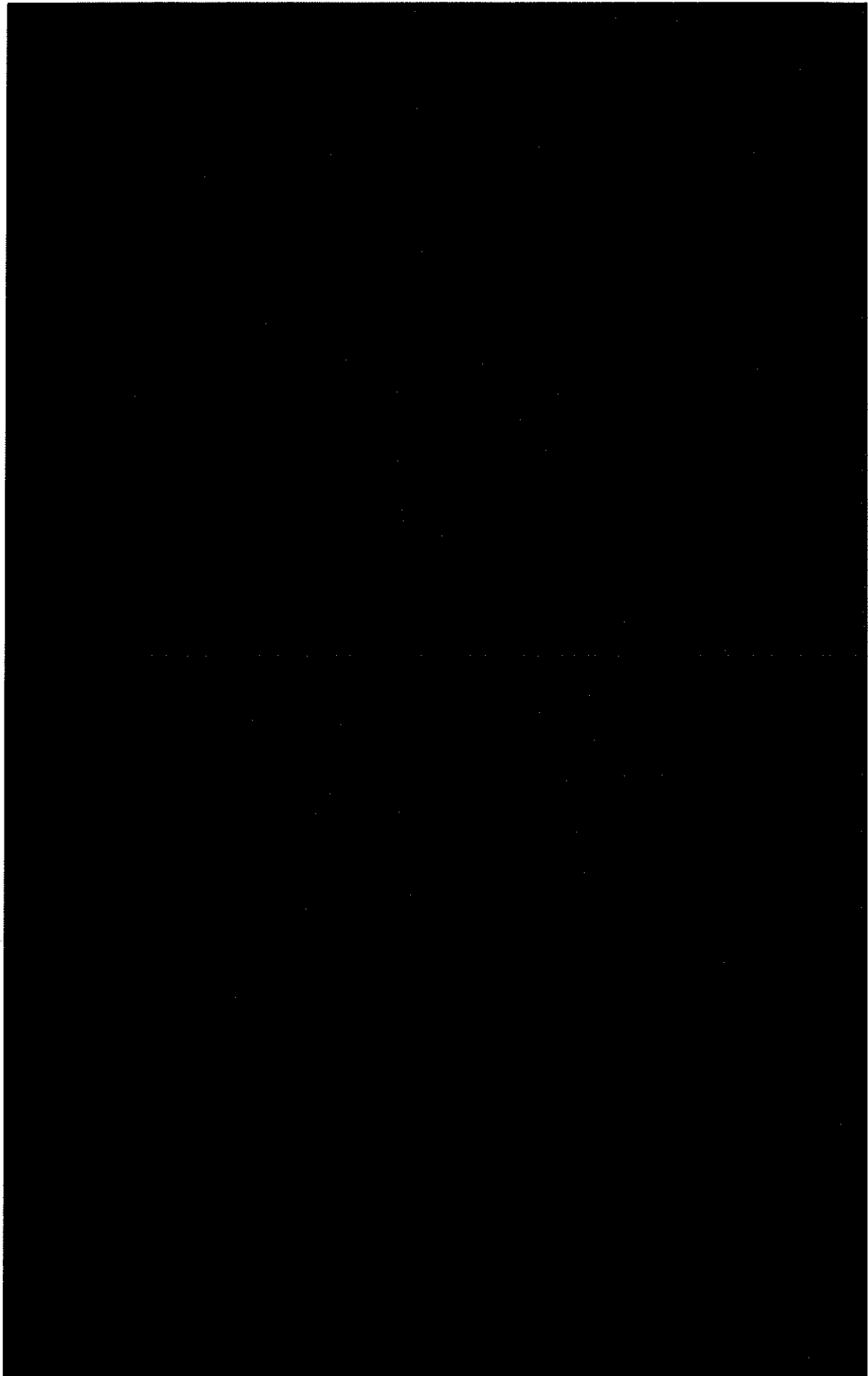


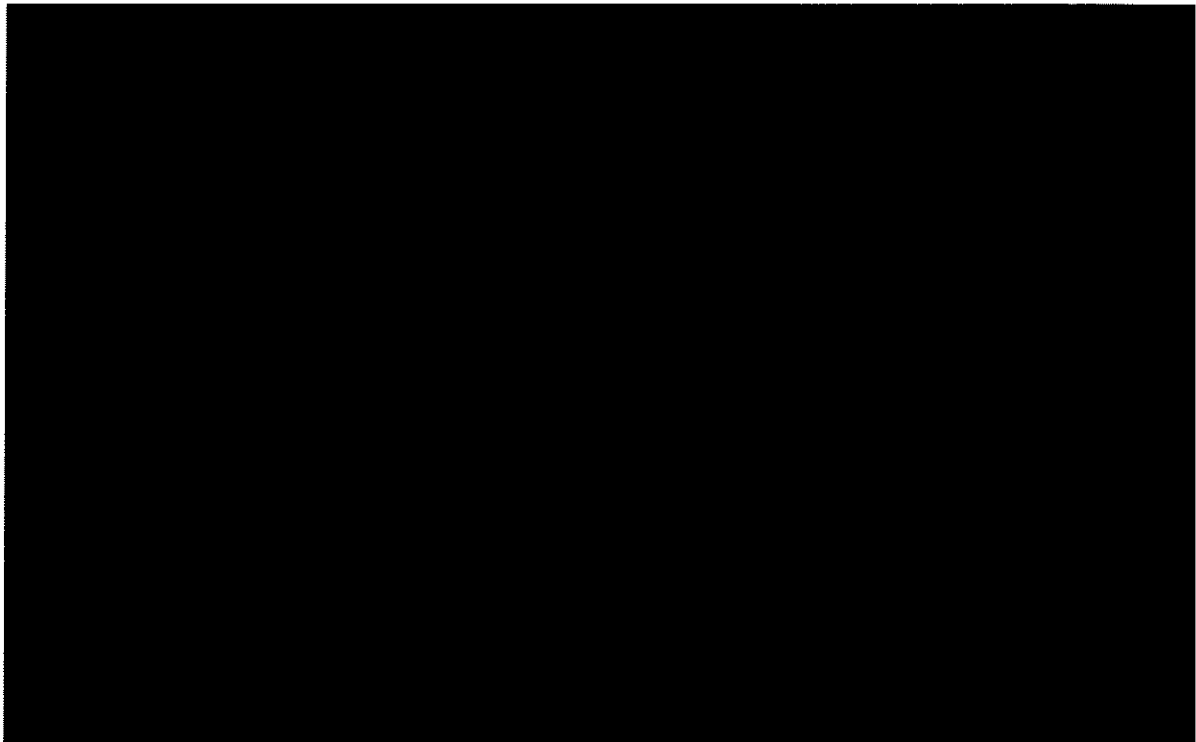


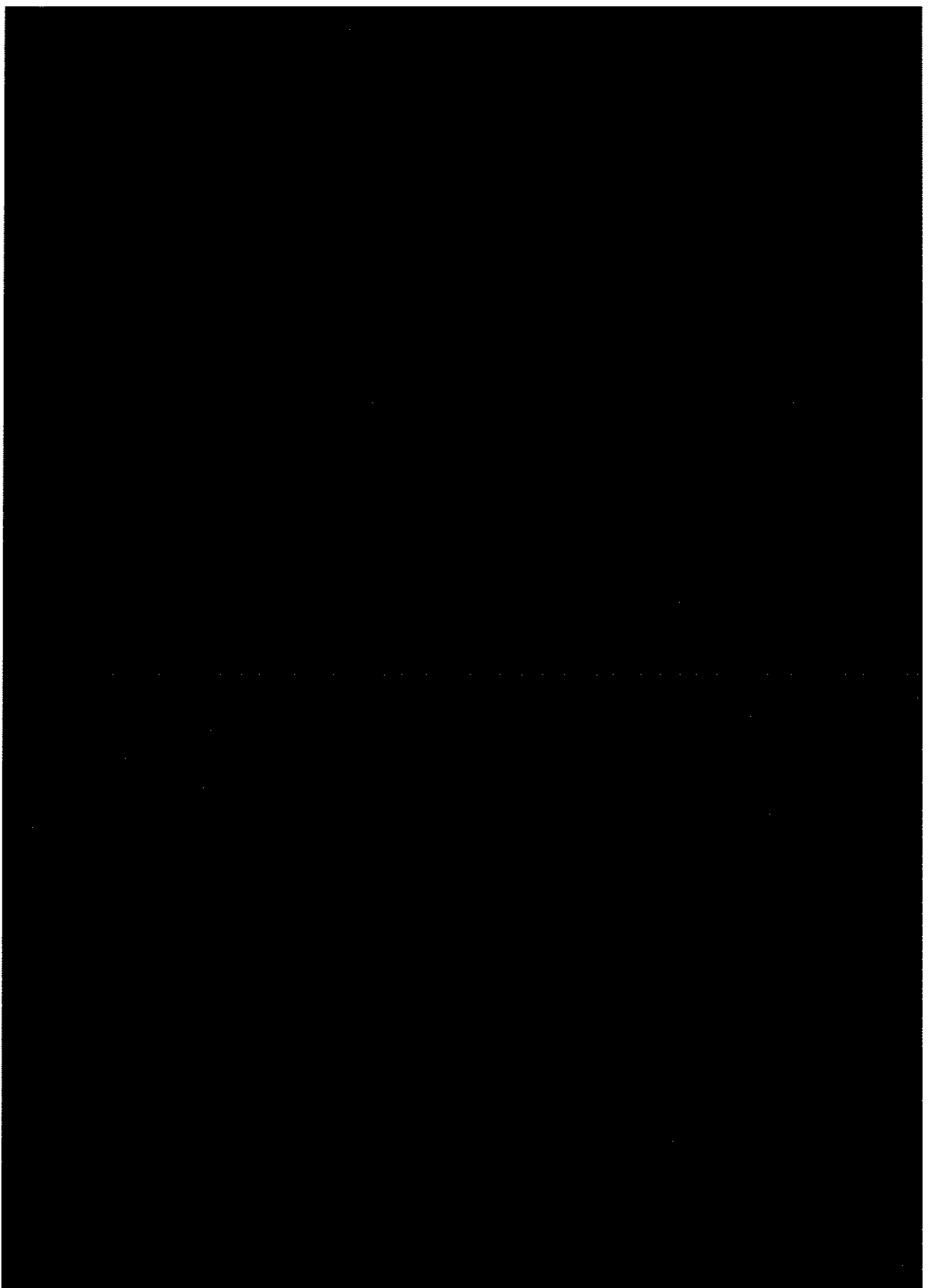


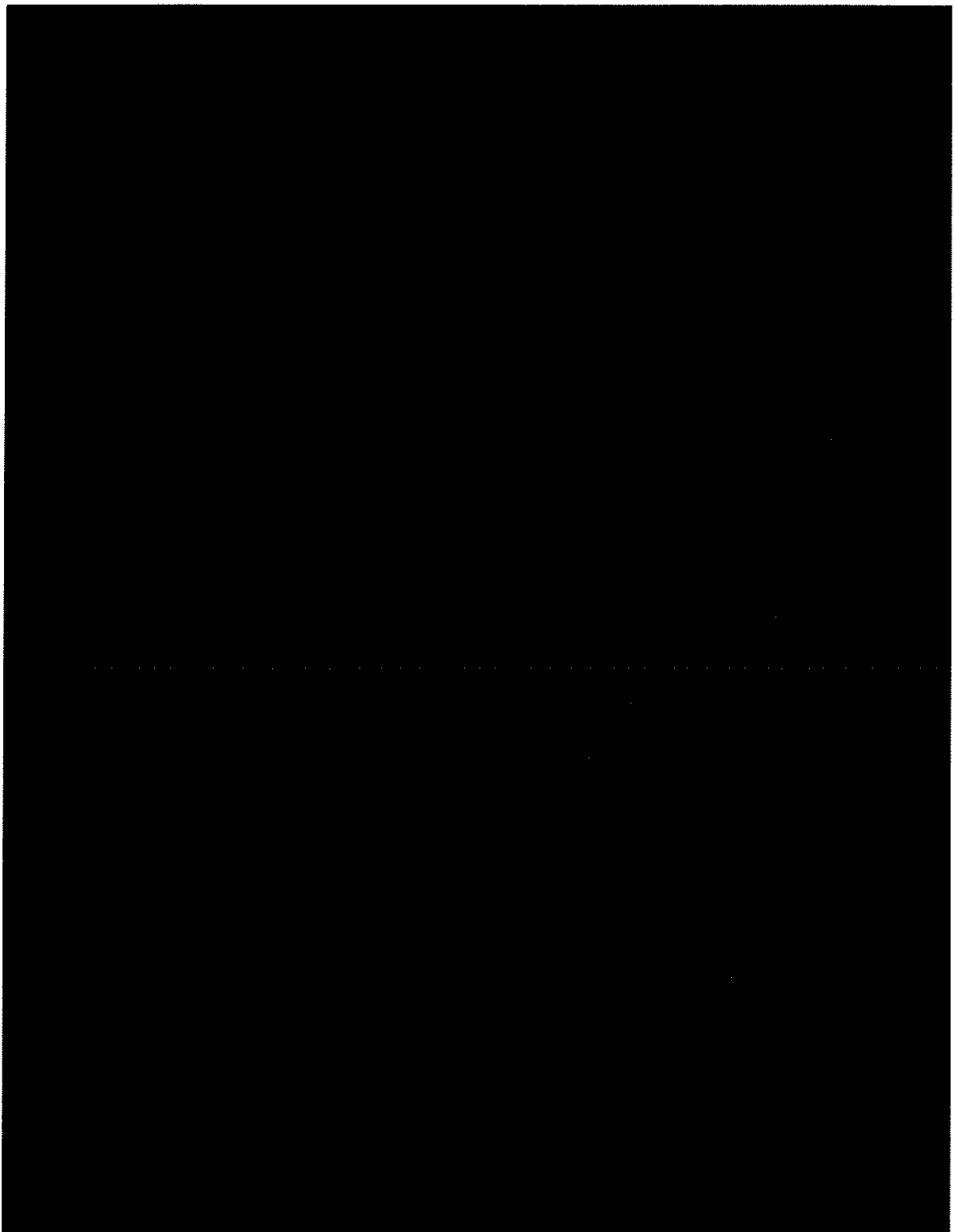


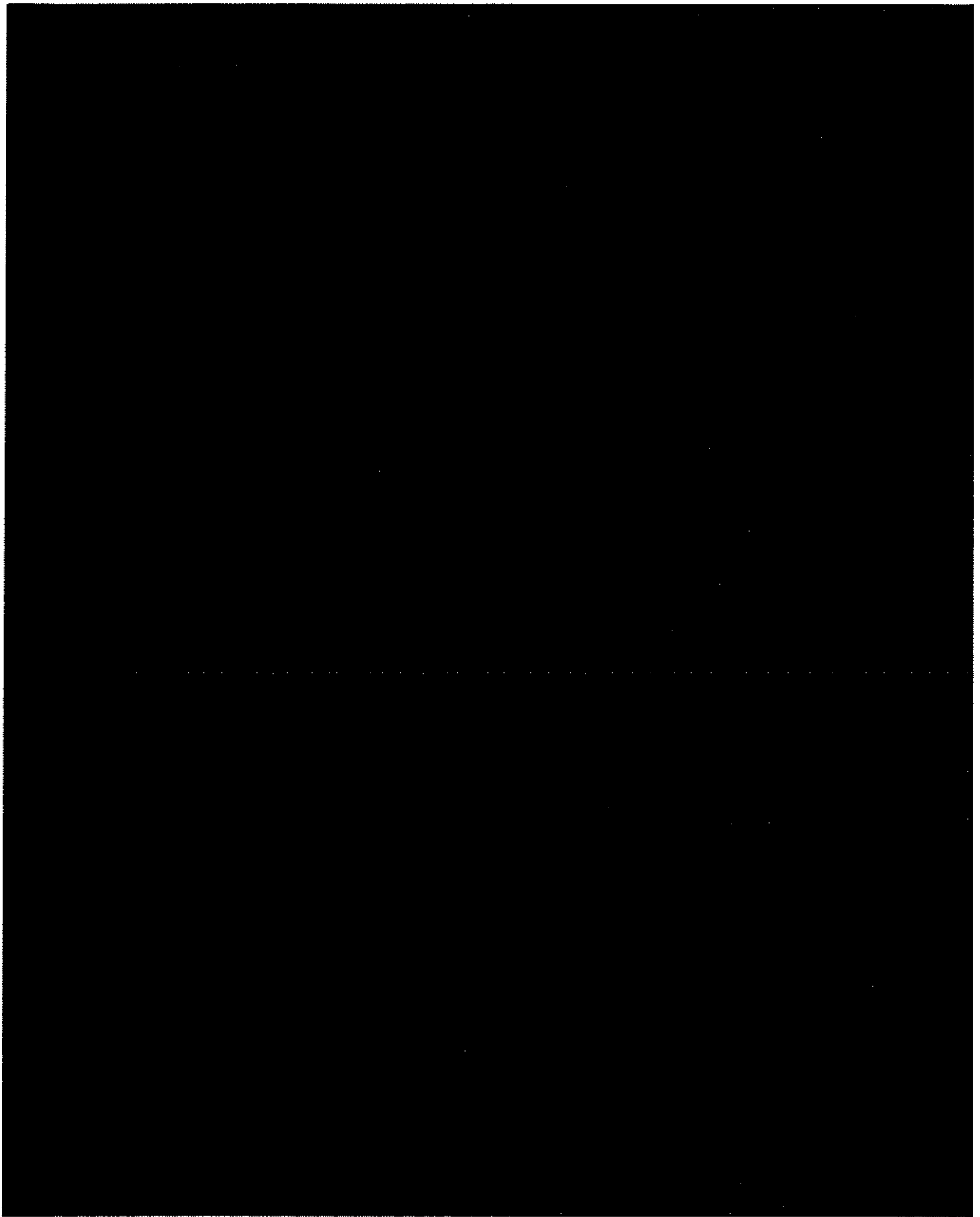












OLYMPIC PARK LEGACY COMPANY LIMITED ("Company")

Minutes of a meeting of the board of directors ("Board Members") of the Company held at The Queen Elizabeth II Conference Centre, Westminster on Friday 11 February 2011 commencing at 8:00 am.

PRESENT:

Margaret Ford (Chairman)	Nick Bitel	Ranjit Singh Baxi
Andrew Altman	David Gregson	Andrew Mawson
Keith Edelman	Jonathan Dutton	Aman Dalvi
Robert John	Philip Lewis	Jules Pipe
	Liz McMahon	David Edmonds

IN ATTENDANCE:

[REDACTED]	[REDACTED] Eversheds	[REDACTED] GLA
[REDACTED]	[REDACTED] Jones Lang LaSalle	[REDACTED] DCLG
[REDACTED]	[REDACTED] Price Waterhouse Coopers	[REDACTED] DCMS
	Helen Robinson Eversheds	

1. DIRECTOR'S INTERESTS / CONFLICTS OF INTEREST

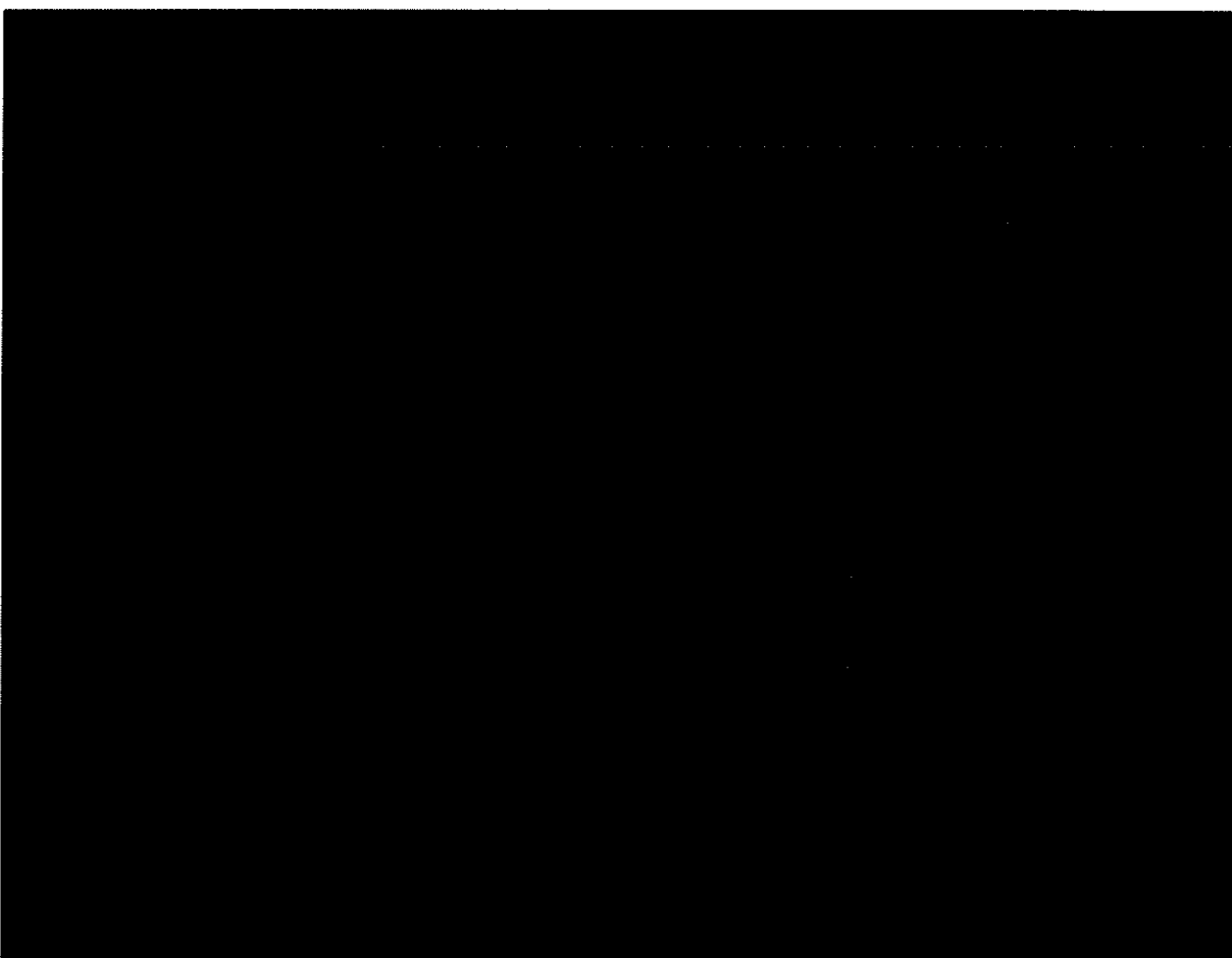
- 1.1 Two Board Members, Sir Robin Wales and Tessa Sanderson had a conflict of interest in relation to the matter to be discussed and were absent. Prior to the meeting, the Chair considered potential conflicts of interest with the remaining Board Members and decided that there were no further relevant interests to consider in relation to the matter to be discussed.

2. BACKGROUND TO AND PURPOSE OF MEETING

- 2.1 The Chairman reported that the purpose of the meeting was to consider the Company's recommendation as to which consortium should be appointed as the preferred Bidder to enter into negotiations with the Company for an Agreement

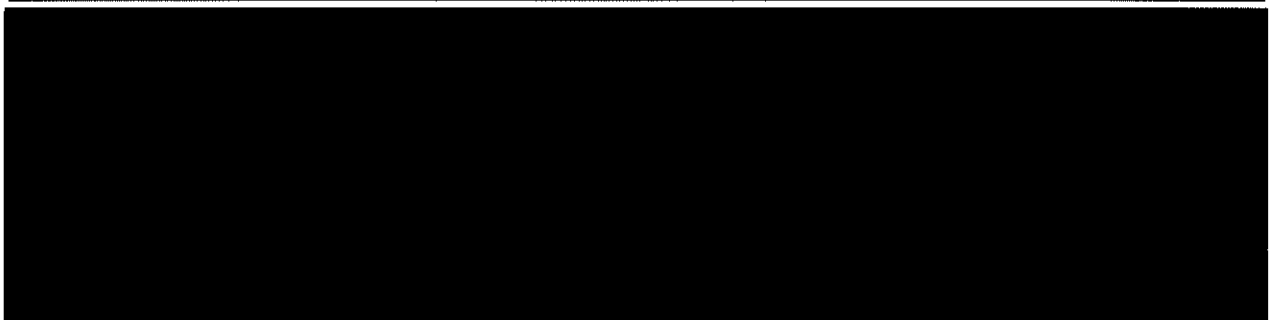
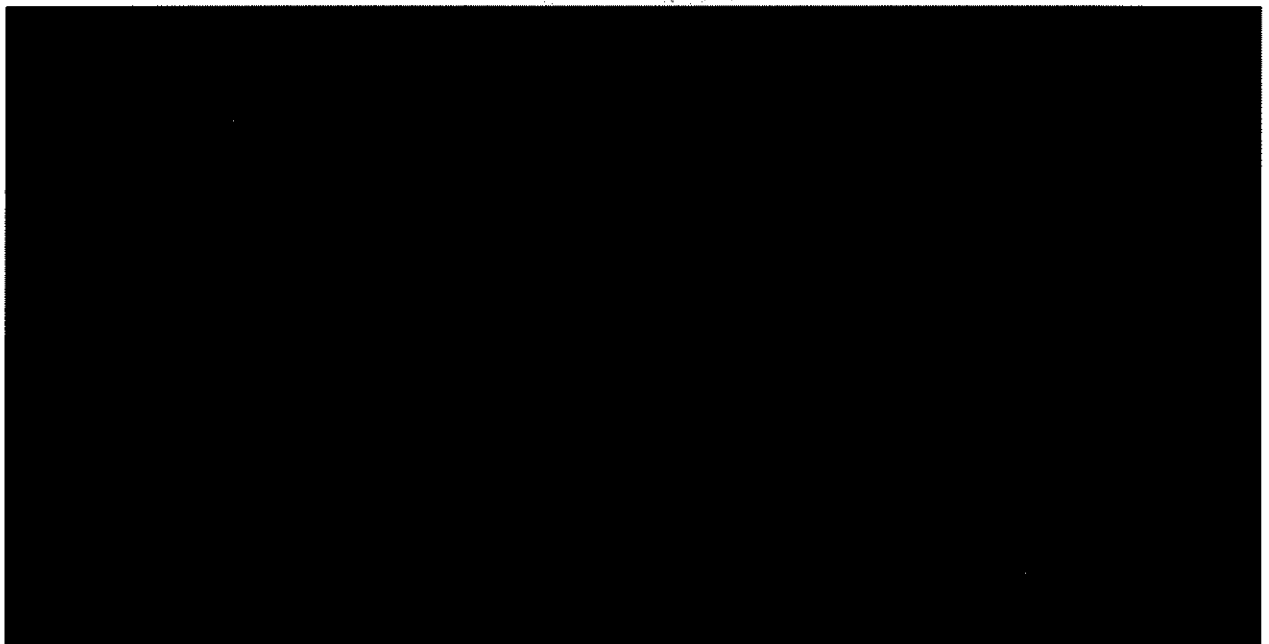
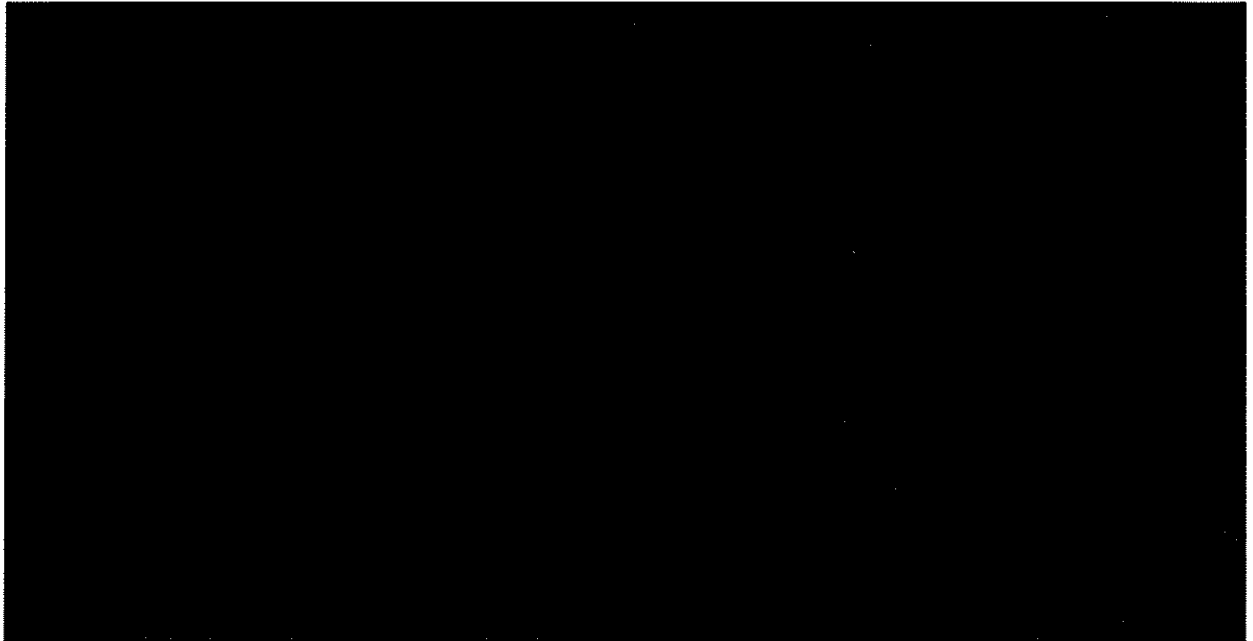
for Lease and Lease for the Olympic Stadium site, subject to approval by Founder Members.

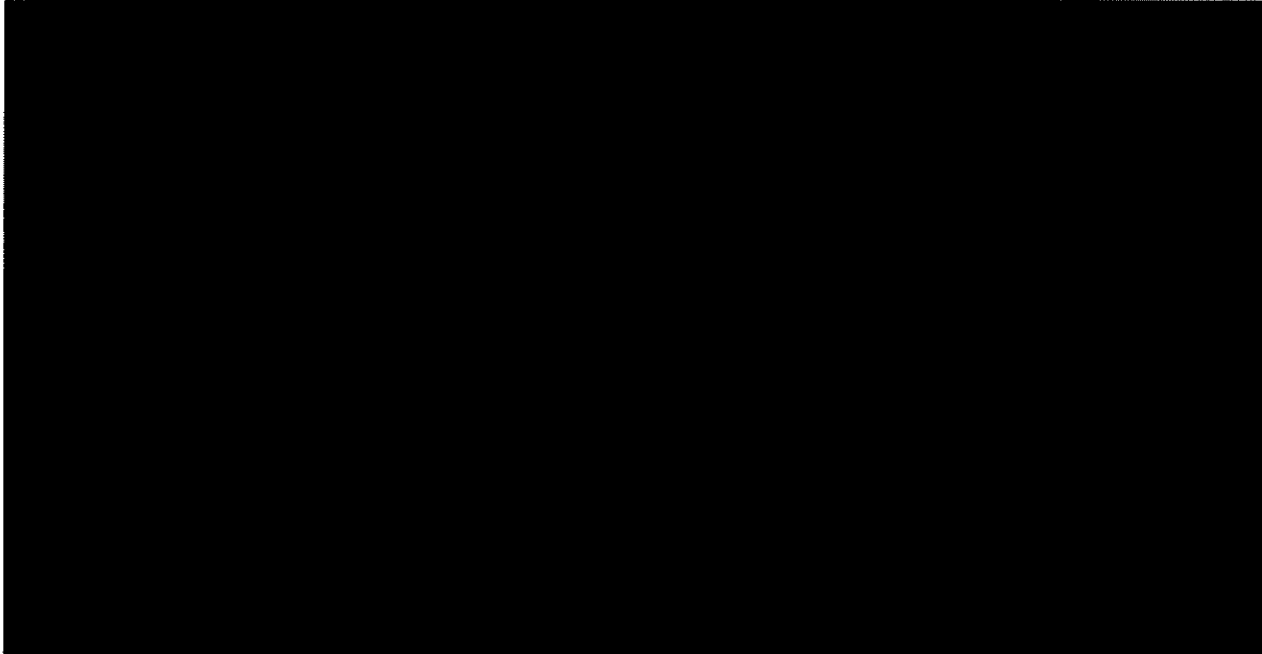
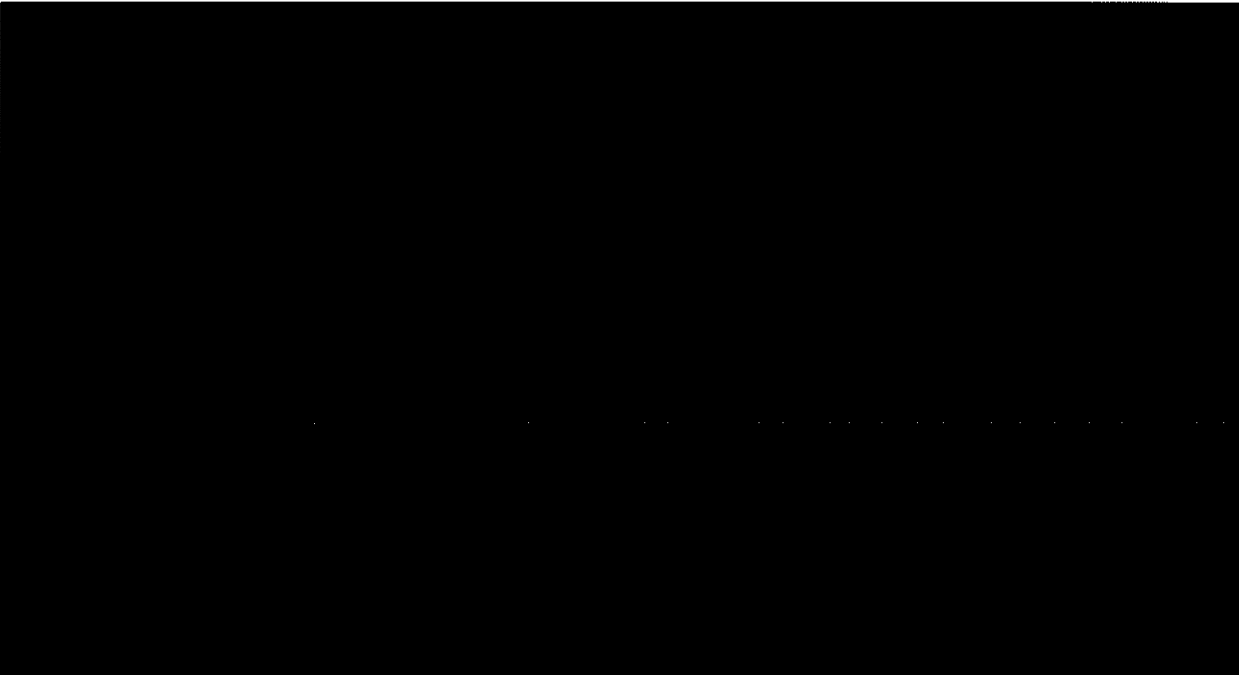
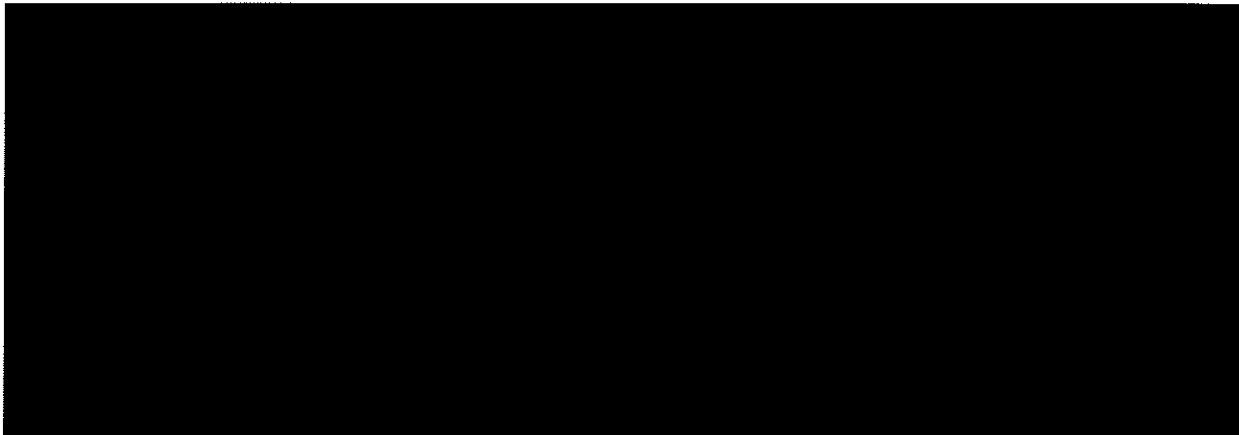
- 2.2 The Chairman reminded Board Members that it was important that the decision on the recommendation was made properly - taking into account all relevant considerations - such as the five objectives set for the Olympic Stadium legacy process, the Company's purpose set out in its Memorandum and Articles of Association - for example preserving the Olympic heritage of the site, the impact on the Olympic Park and the Company's policies and priority themes. Board Members should not take into account any irrelevant considerations - such as impacts on a geographic area beyond the Olympic Park Legacy Area, impacts at Upton Park or White Hart Lane, the impact of Bidders' proposals for wider athletic bids and/or the cost of policing/security.
- 2.3 The Chairman reminded the meeting that the representatives of the GLA, DCLG and DCMS were observers only at this meeting and would not be able to speak on the matters being discussed.

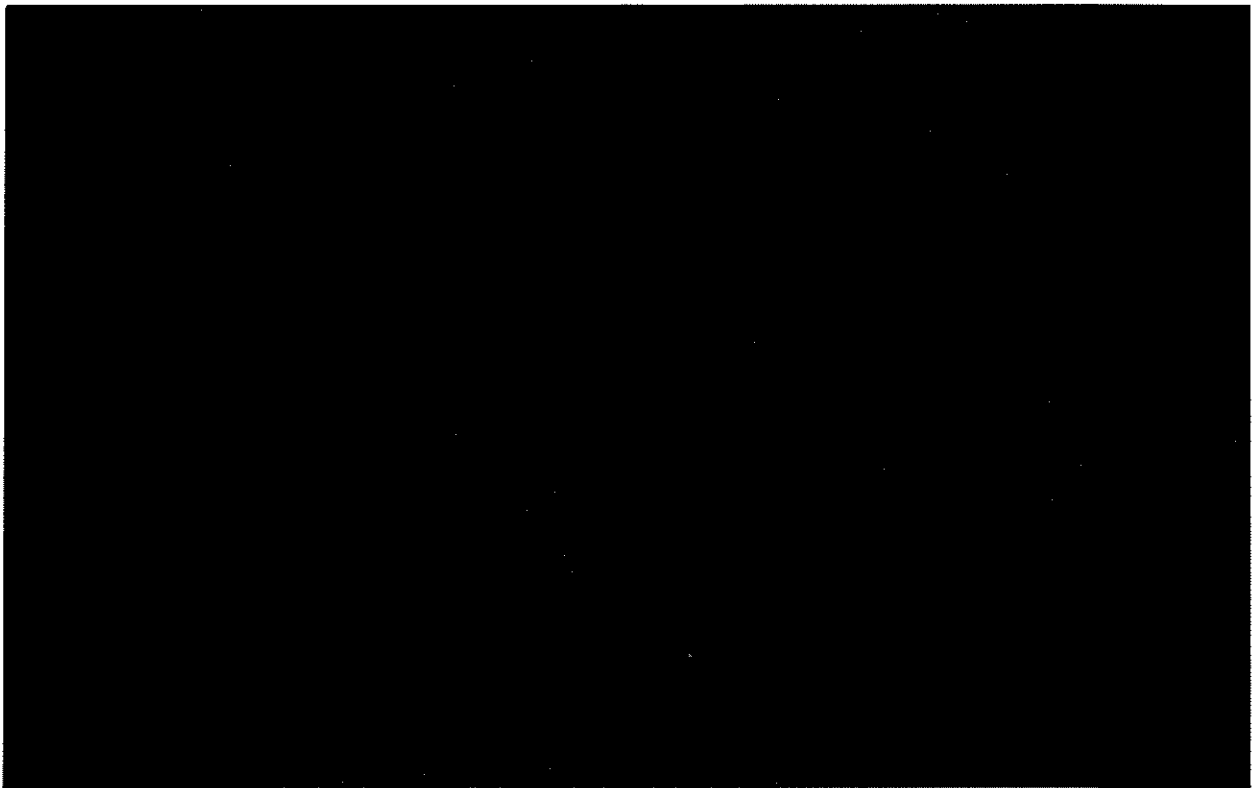


5. THE COMPANY'S RECOMMENDATION

- 5.1 It was noted that the evaluation team believed that Bidder 6's final offer was the stronger bid in the round - although ultimately this was for Board Members to determine.







13. CLOSE OF MEETING

There being no further business, the meeting closed at 12.05pm.

.....
CHAIRMAN

OLSWANG

OPLC
c/o Eversheds LLP
1 Wood Street
London EC2V 7WS
Attention: [REDACTED]

25 March 2011

Email [REDACTED]

Direct line [REDACTED]

Mayor of London
Greater London Authority
City Hall
The Queen's Walk
More London
London SE1 2AA

Minister for Sport and the Olympics
2-4 Cockspur Street
London
SW1Y 5DH

Secretary of State for Local Government
Eland House
Bressenden Place
London
SW1E 5DU

Our ref. DJT\MFSL\BDM\KZD\10610-18

Your ref.

Dear Sirs

Letter before claim in accordance with the pre-action protocol for judicial review claims

R (on the application of Tottenham Hotspur plc) v (1) Olympic Park Legacy Company, (2) Mayor of London, (3) Minister for Sport and the Olympics, (4) Secretary of State for Local Government

We write on behalf of our client Tottenham Hotspur plc ("Tottenham") in order to give the intended Defendants ("the Defendants") notice of a claim for judicial review which Tottenham

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intends to bring against the intended Defendants unless satisfactory answers are received to the questions raised in this letter.

Decision(s) challenged

1. On 11 February 2011, the Olympic Park Legacy Company ("the OPLC") communicated publicly a recommendation ("the OPLC Recommendation") that the Newham/West Ham bid be appointed as preferred bidder for the lease for the 2012 Olympic Stadium ("the Stadium").
2. On 2 March 2011, the Mayor of London ("the Mayor") issued a decision (made as one of the founders of the OPLC) to approve the OPLC Recommendation ("the Mayor's Decision").
3. On 3 March 2011, the Minister for Sport and the Olympics ("the Minister"), together with Bob Neill MP, Parliamentary Under-Secretary of State for Communities and Local Government, announced their decisions to approve the OPLC Recommendation ("the Government Decision").
4. Taken together, the OPLC Recommendation, the Mayor's Decision and the Government Decision amounted to a decision by the OPLC to appoint the Newham/West Ham bid as preferred bidder ("the Decision").

Material facts

5. The OPLC is a company limited by guarantee. It was founded by the Mayor, the Minister and the Secretary of State for Communities and Local Government ("the Founders"). It is said to be owned 50% by the Mayor and 50% by the Minister and Secretary of State who are all "Founder Members" of the OPLC under its Articles of Association.
6. The OPLC was incorporated in May 2009 with the objective of *inter alia* assisting "...the Government and the Mayor in discharging the legacy commitments made in the bid to host the London Olympics" (see Article 3(a) of the Memorandum of Association).
7. The OPLC obtained approval in July 2010 to run a tender exercise to advise on the disposal of the long-term leasehold interest in the Stadium. On 18 August 2010, the OPLC launched a formal lease competition, comprising a pre-qualification questionnaire ("PPQ") stage, short-listing and then detailed negotiations with short-listed bidders.
8. The first step in the process, which took place in August 2010, was the issuing of the PQQ and a Memorandum of Information ("MOI"). The MOI emphasised that the OPLC was looking for a proposed solution which "...offers a commercially viable and sustainable

future for the Stadium that has no requirement for an ongoing public subsidy" (para 23). One of the requirements of any bid was that it involved "...a credible and financially capable organisation" (para 23).

9. The MOI stated at section 6 that the OPLC would assess all bids against five Objectives which were stated in order of importance ("the Objectives"). Appendix 1 of the MOI stated that the PQQ questions were linked to the Objectives, and to the OPLC's aims underpinning each of the Objectives, and that the OPLC would assess bids according to the responses given to the PQQ questions. The responses would be scored between 0 to 5, with 0 representing clear evidence of non-compliance or inability to meet the Objectives, and 5 representing an excellent standard of response.
10. There were four bidders at the PQQ stage. On 12 November 2010, the OPLC shortlisted two bidders. The two shortlisted bids were as follows:

The Tottenham bid:



The bid proposed to form a new company to hold the leasehold interest in the Stadium site, which would deconstruct the Stadium immediately after the Olympic Games and construct a new purpose-built football stadium on the site with up to 60,000 seats, which would be used for concerts and community events.

[REDACTED FOR CONFIDENTIALITY REASONS]

The Newham/West Ham bid:

This was a joint bid by the London Borough of Newham ("Newham") and WH Holding Limited ("West Ham"). The bid proposed to incorporate an entity ("the SPV") which would be owned 50:50 by West Ham and Newham. The SPV would own the lease on the Stadium. The SPV would complete a £95 million refit of the Stadium, the funding of which was at that stage unclear. The Newham/West Ham bid proposed to retain the athletics track at the Stadium and reduce its seating capacity from 80,000 to 60,000.

11. After selection of the two shortlisted bids, the OPLC issued a document entitled "Olympic Stadium Legacy – Heads of Term Negotiation – Guidance for Bidders (November 2010)" ("the Negotiation Guide"). The Negotiation Guide began by setting out that each of the

shortlisted bidders would engage in negotiations with the OPLC, as a result of which there would be a "Preliminary Final Offer", followed by a further period of clarification requests and negotiations with the OPLC, followed by a "Final Offer". The OPLC stated its overall methodology as follows (para 1.4):

"The Bidder whose Final Offer in the opinion of the Company offers the best Legacy solution that meets the Company's objectives as set out in this document will be selected as preferred Bidder to enter into detailed negotiations with the Company."

12. The Negotiation Guide stated that the OPLC would consider each bidder's proposal during the negotiation stage in accordance with the Objectives, which were repeated towards the end of the document. It also listed points under each of the Objectives, and stated that the points were not sub-criteria but simply (non-exclusive) areas that OPLC might take into account when considering each bid (para 4.5).
13. Neither the Objectives nor the sub-points in the Negotiation Guide stated that retaining an athletics track at the Stadium was an objective or an aim for the OPLC. The Negotiation Guide stated that, in assessing the extent to which each proposal met the fifth Objective (to allow flexible use of the Stadium), the OPLC:

"...will consider the following along with other matters that Bidders may propose:

Supports the intent of the London 2012 bid commitments for athletics, or proposes credible alternative solutions. ..." [emphasis added]

Moreover, representatives of Tottenham were told on a number of occasions during the bidding process that its proposals to redevelop Crystal Palace would constitute an "acceptable alternative" to retaining an athletics track at the Stadium.

14. After the publication of the Negotiation Guide, the two bids engaged in a process of negotiation with the OPLC.

REDACTED FOR
CONFIDENTIALITY
REASONS

15. On 11 February 2011, the OPLC made public the OPLC Recommendation immediately following a meeting of the board ("the Board") of the OPLC at which the OPLC Recommendation was decided. No reasons were stated publicly by the OPLC and none have been given to Tottenham since. Indeed, Tottenham has sought to obtain a statement of such reasons, but OPLC has refused to provide them.

[REDACTED FOR
CONFIDENTIALITY REASONS]

16. At the press conference at which the OPLC Recommendation was made public, Baroness Ford, the Chair of the Board of the OPLC, stated:

"The five criteria, there was no weighting attached to any of them, so in that sense they were all entirely equal"

17. Also on 11 February, the University of East London ("UEL") issued a press release ("the UEL Press Release") which stated it was:

"delighted by today's announcement by the OPLC to recommend West Ham United and Newham Council as preferred bidders". However, the OPLC was still deliberating at the time the press release was issued.

Our client was forwarded a copy of the UEL Press Release, which was issued at noon precisely on 11 February. Moreover, the UEL Press Release was stated to be "Embargoed until: OPLC announces Olympic Stadium decision". Accordingly, it is apparent that the UEL Press Release was prepared and disseminated not only prior to the making public of the OPLC Recommendation but before the deliberations of the Board on 11 February with respect to the OPLC Recommendation had even come to a close, seemingly confident that the outcome was known.

18. Press reports indicate that the decision of the OPLC had been taken by a 14-person Board, and that the vote had been unanimous. The reason only 14 votes were cast, when the Board contains 16 members, was that Sir Robin Wales, the Mayor of Newham, and Ms Tessa Sanderson, the former athlete whose consultancy is funded by Newham, are both members of the Board. The latter only stood down from involvement in the tender exercise once the press revealed her links to Newham¹.

¹ <http://www.guardian.co.uk/sport/2011/jan/20/tessa-sanderson-olympic-stadium>

19. On 2 March 2011, the Mayor issued the Mayor's Decision (see above). Part of the Mayor's reasoning for approving the OPLC Recommendation has been published. It discloses that the decision was made on the basis that:
- (a) the Newham/West Ham bid provided the *"best overall legacy solution"*, and
 - (b) the Newham/West Ham bid was *"the better solution in terms of meeting the project objectives"*.
20. As to the Objectives, the Mayor's reasoning was that the Newham/West Ham bid met all of the Objectives, whereas the Tottenham bid *"did not meet"* objective (c): *"To re-open the Stadium for operational use as quickly as possible following the 2012 Games"* and objective (e): *"To allow flexible usage of the Stadium, accommodating a vibrant programme of events allowing year round access for schools, the local community, the wider public and elite sport"*.
21. On 3 March 2011 the Minister, together with Bob Neill MP, Parliamentary Under-Secretary of State for Communities and Local Government, announced the Government Decision (see above). There is no publicly available report which summarises or sets out the reasoning of the Minister and/or the Secretary of State.

Grounds of challenge

22. Tottenham presently considers that the OPLC Recommendation, and the Decision, are unlawful on at least the following five grounds:
- (a) **State aid:** The OPLC Recommendation and the Decision appoint as preferred bidder the Newham/West Ham bid, which is based in large part on an unlawful state aid which has not been notified to the European Commission.
 - (b) **Ultra vires:** The OPLC Recommendation and the Decision appoint as preferred bidder the Newham/West Ham bid, which is based in large part on assistance from Newham which it has no power to give.
 - (c) **Irrationality and failure to take account of relevant considerations:** The OPLC Recommendation and the Decision appoint as preferred bidder the Newham/West Ham bid, which is based in large part on assistance from Newham which is the result of an irrational decision.
 - (d) **Breach of the procurement principles of transparency and equal treatment:** The tender exercise conducted by the OPLC failed to comply with the general

principles of EU law, and in particular the requirements of transparency and equal treatment.

- (e) **Prematurity:** The OPLC Recommendation was irrational and/or failed to take into account a relevant consideration, namely that until the Premier League has resolved the dispute between West Ham and Leyton Orient, no-one can know whether the Newham/West Ham bid is in any way viable.

First ground of challenge – state aid

23. The MOI made clear that the OPLC would not enter into any arrangement which could put the OPLC in breach of "...UK and/or EU statutes, rules and regulations or any pre-existing obligations" (para 65). Furthermore, the Negotiation Guide included the following as one of the objectives against which the Final Offers would be assessed:

"State aid and procurement

Every Final Offer must meet European requirements regarding State aid and procurement."

24. This was apparently treated as a "PASS/FAIL" test. The OPLC must therefore have formed the view that the Newham/West Ham bid did not involve a state aid.
25. We enclose a letter before claim addressed to Newham which sets out the grounds upon which Tottenham submits that the Newham/West Ham bid is based on an unlawful state aid. For the reasons set out therein, we consider that the OPLC's conclusion that the Newham/West Ham bid did not involve state aid was erroneous.

Second ground of challenge – ultra vires

26. The MOI emphasised that one of the requirements of any bid was that it involved "...a credible and financially capable organisation" (para 23). The involvement of Newham in the Newham/West Ham bid was clearly important in its success. However, for the reasons set out in the letter to Newham which we have enclosed, such involvement does not lie within the powers of Newham and is therefore unlawful.

Third ground of challenge - irrationality and failure to take account of relevant considerations

27. For the reasons set out in the letter to Newham which we have enclosed, the decision by Newham which gave rise to the Newham/West Ham bid is unlawful as it is irrational and/or based on a failure to take account of relevant considerations.

Fourth ground of challenge – breach of the procurement principles of transparency and equal treatment

28. Tottenham accepts that the competition for the lease of the Stadium was not one to which the Public Contracts Regulations 2006 ("the 2006 Regulations") applied.
29. However, it is well-established that where a public contract is of "*certain cross-border interest*", even if it is outwith the 2006 Regulations, it must still be awarded in accordance with the general principles of EU law and in particular those of transparency and equal treatment: see the decision of the Grand Chamber in Case C-507/03 *Commission v Ireland* [2008] 1 C.M.L.R. 34 at [26]-[32]. See further *R (Chandler) v Secretary of State for Children* [2010] PTSR 749, paras 64-68 per Arden LJ.
30. Moreover, the general principles apply even when a contract is of a type which is outwith Directive 2004/18 altogether. In Joined Cases C-145/08 and C-149/08 *Club Hotel Loutraki* the Court of Justice held, at paragraph 63, that the disposal by the State of a 49% shareholding in a public undertaking which ran a casino, a disposal which was outwith the Directive, was nevertheless subject to "*...the basic rules and general principles of the Treaty*".
31. The disposal of a long lease over a £500 million stadium in the heart of the largest city in Europe is clearly a matter of "*cross-border interest*". However, the tender process which was conducted by the OPLC failed to comply with the EU law obligations of transparency and equal treatment. In particular:
- (a) The OPLC and the Mayor appear to have applied criteria that:
 - (i) bidders were required to retain an athletics track at the Stadium, when such requirement had not been communicated to Tottenham at any stage. Indeed, as stated above, it was told the opposite; and
 - (ii) an early re-opening date for the Stadium was important when, once again, as stated above, it was told the opposite.(b) The weighting of the Objectives which was applied by the OPLC in the context of the final marking exercise, whatever that weighting may have been, was not disclosed.
 - (c) The Mayor appears wrongly to have given the Objectives an "*order of importance*" when in fact such order of importance applied only at the PQQ stage and not at the negotiation stage. Indeed, as stated above, Baroness Ford confirmed that there was "*there was no weighting attached*" to the Objectives.

- (d) The OPLC and the Mayor wrongly treated the Objectives as a "pass/fail" test when there was no stated basis for doing so and when Tottenham had been given no opportunity to address the perception that it had "failed" two of the Objectives.
 - (e) The OPLC has so far refused, to give Tottenham any account of the reasons for rejecting its tender.
32. We would note here that there is no margin of discretion for the contracting authority with regard to compliance with the obligations of equal treatment and transparency: *Varney v Hertfordshire* [2010] EULR 669 at paras 107-108.

Fifth ground of challenge – prematurity

33. Tottenham understands that Leyton Orient Football Club has issued a pre-action protocol letter to the Premier League threatening to launch either a Premier League arbitration or High Court proceedings challenging the permission granted to West Ham to relocate to the Stadium. If such proceedings are commenced, then a possible outcome is that West Ham will be denied permission to move to the Stadium. In such circumstances it would be irrational and a waste of public resources to continue to negotiate a lease with the Newham/West Ham bid.

Other matters of concern

34. We note with concern that despite Newham's role in the Newham/West Ham bid, the Mayor of Newham and Ms Sanderson continued to sit on the board of the OPLC throughout the tender process. We understand that both may have attended meetings at which the agenda included consideration of the two bids, and may have received board papers and other documents relevant to the two bids. We ask below for information relevant to this issue, which obviously goes to the perceived impartiality of the OPLC Recommendation.
35. In addition, it is a matter of concern that the UEL was apparently able to prepare and disseminate the UEL Press Release, which correctly presaged the OPLC Recommendation, not only prior to the making public of the OPLC Recommendation but before the deliberations of the Board on 11 February, with respect to the OPLC Recommendation, had come to a close.

Information and documents requested

36. Tottenham requests relevant information and the disclosure of relevant documents pursuant to the Pre-Action Protocol for Judicial Review. The Protocol makes clear that

"...where the Court considers that a public body should have provided relevant documents and/or information, particularly where this failure is a breach of a statutory or common law requirement, it may impose sanctions" (paragraph 6). The Defendants are under a common law duty of candour which is explained in the Treasury Solicitors' "Guidance on Discharging the Duty of Candour". Moreover, since Tottenham's proposed challenge raises an issue of EU law, the Council is bound by a duty of transparency under the general principles of EU law.

37. With regard to the reasons for the OPLC Recommendation, Tottenham is entitled to a proper and transparent account of the reasons why it lost and the Newham/West Ham bid was successful. It has long been recognised that the obligation of transparency exists so as to:

- (a) enable the impartiality of procurement procedures to be reviewed, and
- (b) preclude any risk of favouritism or arbitrariness: see *R (Law Society) v Legal Services Commission* [2008] QB 737 per Lord Phillips CJ at [43]. Indeed, as the Court of Justice stressed in Case C-406/08 *Uniplex* [2010] 2 CMLR 47, the principle of effective remedy will be infringed where a concerned candidate or tenderer has not been informed of the reasons for its elimination from a tender process (see the Judgment at [31]).

38. Pursuant to those duties to provide Tottenham with relevant information and documents, we make the following requests.

- 38.1 With regard to the state aid issue:

- (a) Please state whether the OPLC, the Mayor, the Minister and/or the Secretary of State considered the question whether the Newham/West Ham bid involved an unlawful state aid.
- (b) If so, please provide a full statement of the reasoning of the authority in question, and supply any documents indicating that reasoning.
- (c) If not, please explain why not.

- 38.2 With regard to the *ultra vires* issue:

- (a) Please state whether the OPLC, the Mayor, the Minister and/or the Secretary of State considered whether the Newham/West Ham bid lay within the statutory powers of Newham.

- (b) If so, please provide a full statement of the reasoning of the authority in question, and supply any documents indicating that reasoning.
- (c) If not, please explain why not.

38.3 With regard to the procurement and transparency issues:

- (a) Please provide copies of all the information requested of OPLC in our letter to Eversheds LLP dated 21 February 2011, namely:
 - (i) The original bid document provided to OPLC in support of the West Ham bid on or around 23 December 2010;
 - (ii) The revised bid document provided to OPLC in support of the West Ham bid on or around 21 January 2011;
 - (iii) Any further documentation provided to OPLC in support of the West Ham bid;
 - (iv) Details of all other communications between any person associated with the West Ham bid and any person associated with OPLC during the bid process;
 - (v) The documents provided to the Board of the OPLC in respect of the Recommendation including in particular the documents to the members in respect of its meeting on 11 February 2011, including any presentations made to them;
 - (vi) Any documents provided by the OPLC to the Mayor of London, the Minister for Sport and the Olympics, the Secretary of State for Culture, Media and Sport and/or the Secretary of State for Communities and Local Government concerning the Recommendation.
- (b) Please provide a full statement of the methodology used to select the preferred bidder, and in particular:
 - (i) an exhaustive list of the criteria used;
 - (ii) an explanation of their weighting;
 - (iii) the marking system;
 - (iv) the marks which were awarded to each of the two bids;

- (v) the reasons for awarding such marks.
- (c) Please provide all documents evidencing the selection process for the preferred bidder.
- (d) Is it alleged that Tottenham was told that the five Objectives were to be marked on a "pass/fail" basis? If so when, by whom and by what means were Tottenham ever told that the five objectives were to be marked on a "pass/fail" basis?
- (e) Is it alleged that Tottenham:
 - (i) was told that its bid was likely to/would fail two of the five Objectives; or
 - (ii) was given any opportunity to address concerns regarding its satisfaction of two of the five Objectives? If so, when, by whom, and by what means?
- (f) Is it alleged that Tottenham was told that it was essential to retain the athletics track at the Stadium? If so, when, by whom, and by what means?

38.4 With regard to other concerns:

- (a) Please state whether the Mayor of Newham attended any meetings of the OPLC at which the competing bids were discussed or considered. If so, please identify each meeting attended by him, and provide the minutes and any notes of the meeting.
- (b) Please state whether the Mayor of Newham received any documentation from the OPLC in relation to the tender process or Tottenham's bid. If so, please provide copies of all information received by him, and state the date on which it was received.
- (c) Please state whether the Mayor of Newham discussed the competing bids with other Board members. If so, please give the date, gist and participants in any such conversation.
- (d) Please provide any explanation as to how the UEL was able to presage the OPLC Recommendation in the UEL Press Release including all communications between the OPLC and the UEL in the period immediately before the making public of the OPLC Recommendation.

Interested parties, legal advisers and address for reply

39. We are copying this letter to London Borough of Newham and WH Holdings Limited as Interested Parties. We are the legal advisers to Tottenham and you should correspond with us at the address on this letterhead.
40. We expect a reply to this letter, in accordance with the Pre-Action Protocol, within 14 days of the date of this letter.

Further claim against Newham

As set out above, we have also written to Newham regarding legal flaws in its decision to participate in the joint bid. We enclose a copy of our letter before claim.

Yours faithfully



OLSWANG LLP

cc: London Borough of Newham, WH Holdings Limited
enc.



EVERSHEDS

LEGAL INNOVATIVE
LAWYERS 2009
AWARD WINNER



Olswang
OX 37972
KINGSWAY

Date 41 April 2011
Your ref
Our ref OLDPIEA/173887-000051
Direct dial 0845 498 4660
Direct fax 0845 498 4994

And by email:

Dear Sir

Your Client: Tottenham Hotspur Plc
Our Client: Olympic Park Legacy Committee

Introduction

1. We respond below to your pre-action protocol letter ('PAL') of 25 March 2011 using the same paragraph headings as appear in your letter.
2. Before doing so, however, it is material to set out OPLC's position in respect both of these threatened proceedings and also in respect of the proceedings that your client has now commenced against the London Borough of Newham ('Newham').
3. OPLC is a company limited by guarantee. Its members comprise: the Mayor of London ('The Mayor') (who holds a 50% share); the Department of Culture, Media and Sport ('DCMS') and the Secretary of State for Communities and Local Government ('DCLG') (who together hold the remaining 50% share equally). Together they are known as the Founder Members. The functions of OPLC (including any relevant obligations) are purely contractual and are governed by the terms of its Articles and Memorandum of Association and by the Varied and Restated Members' Agreement entered into between OPLC, DCLG, the Minister for the Olympics, and the Mayor.
4. In particular, the ambit of OPLC's objects are defined by reference to the Legacy Area, as specified in clause 3(b) of its Memorandum of Association (a copy of which may be found at Schedule 1 to the Varied and Restated Members' Agreement).
5. The role of OPLC is, insofar as its objects permit, to assist the Founder Members to discharge their relevant public law functions. Accordingly, paragraph 3(a) of OPLC's Memorandum of Association states its first object as being "to assist the Government and the Mayor in discharging the legacy commitments made in the bid to host the London Olympics". However, OPLC is not a decision-maker and reserves its position as to whether (a) it discharges any public law functions; (b) it is amenable to judicial review; (c) it is an emanation of the State; and (d) the factors that enter into its judgements and evaluations necessarily coincide with the factors relevant to the powers and duties of the Founder Members.

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IN PEOPLE

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6. In the present case, OPLC conducted a process which was designed to lead to a recommendation by its Board to the Founder Members as to the selection of a preferred bidder. Such recommendation was not binding on the Founder Members and it is, and was, common ground between OPLC and the Founder Members that it required their approval.
7. OPLC accepts that its evidence as to the process that it undertook in relation to the recommendation of a preferred bidder is likely to be relevant for a full appreciation of the decision-making process undertaken by the Founder Members; and that Founder Members were entitled to have regard to, and indeed place considerable weight on, OPLC's evaluation and recommendation. For this reason, a full response to the matters set out in the PAL is given. If you consider our response to be incomplete in any way we are content to revisit matters in order to avoid protracted and costly litigation. You will, of course, bear in mind that we have already sought to comply with your request for early disclosure.
8. In this respect we note, with some concern, that in the proceedings that have been instituted against Newham, your client alleges that OPLC has refused to provide reasons for its recommendation if litigation is commenced (see paragraph 15 of the Grounds). This allegation is, with respect, not correct. For the avoidance of doubt, OPLC in its response to the PAL and in its disclosed materials is entirely willing to give reasons for the recommendation that it made to the Founder Members. Had litigation not been commenced it would have given its reasons at an earlier stage. However, the context in which this litigation is threatened makes it important to understand the nature of the complaints that are being advanced in order to be able to explain OPLC's reasoning against the background of those complaints.

Decision(s) challenged/ OPLC's standing

9. Your PAL assumes that the recommendation made by OPLC on 11 February 2011 and the decisions published on 2 and 3 March 2011 by its Founder Members should be taken together and collectively constitute a decision which is susceptible to challenge.
10. For the reasons outlined earlier in this letter, that proposition is not accepted. The correct analysis is that whilst OPLC recommended the selection of the preferred bidder (which itself of course involved detailed consideration and evaluation of the bid submissions), the decision was taken by its Founder Members. It was they who, having considered our client's recommendation, made the decision to approve the selection of the preferred bidder.

Material facts

11. We turn now to what you describe as the material facts in relation to the challenges you threaten.
12. Whilst we do not disagree with most of the factual statements which you have made at paragraphs 5 to 21 of your letter of 25 March 2011, we do not accept all of them, and they are in any event a partial recital of a complex and detailed process. To that extent we do not accept that they constitute all the facts of relevance to the issues you have raised in the remainder of your letter of 25 March 2011.

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13. We note in particular the following points:

13.1 The Memorandum of Information ("MoI") and Pre-Qualification Questionnaire ("PQQ") are not accurately summarised in paragraph 9 of your letter. Section 6 of the MoI (which you seek to paraphrase), after setting out the five objectives in order of importance, stated in paragraph 40:

"The Company (being OPLC) will assess potential Bidders through their responses to the PQQ; the questions asked in the PQQ are linked to the objectives laid out in paragraph 39 above and the Company's aims underpinning each objective. The Company will subsequently enter into formal negotiations over the terms for an agreement for lease and lease with shortlisted Bidders."

13.2 Paragraph 66 of the MoI stated:

"The Company reserves the right to use alternative criteria and/or weightings at subsequent stages of evaluation during the process."

13.3 The MoI also highlighted that Bidders' proposals for the use of the Stadium must deliver a solution which (among other things) "enables a rapid re-opening of the Stadium post-Games" (paragraph 23). Further, the MoI made clear that one consideration would be the extent to which any Bidder's proposed solution reflected the intent of the legacy commitments that London made to the International Olympic Committee in 2005, as part of its bid for the 2012 Games, namely that legacy plans for the Stadium would include conversion to a 25,000 multi-purpose venue "with athletics at its core" (paragraphs 5 and 25).

13.4 Appendix 1 to the PQQ stated that:

"The Legacy Company will consider Bidders' responses against the five key objectives set out in the MOI at paragraph 39. The Company has broken down each objective into a number of aims and will evaluate Bidders' responses to questions directly linked to each aim using the scoring system detailed in this Appendix."

13.5 Appendix 1 added that the evaluation questions were weighted in order of their importance to meeting the overall project objectives as outlined in Table 1; that OPLC intended to select a limited number of Bidders to take through to the negotiation stage of the process; and that in order to be selected, Bidders must achieve a minimum weighted score of 50 (out of 100). As part of the scoring system, Table 1 allocated 15% of the total marks to category B7, which included "A Stadium solution that should ... (b) be fully operational as soon as possible after the core post-Games transformation work is completed ..."; and 15% to category B13, which included "A Stadium solution that ... (c) supports the intent of the London 2012 bid commitments for athletics, or proposes credible alternative solutions". In the latter category, bidders were asked to indicate how their proposed solution could "[s]upport the London 2012 bid commitments for athletics and accommodate a range of sports, from community through to elite sport".

13.6 We do not consider the summaries of the Tottenham and Newham/West Ham bids, set out in your paragraph 10, to be accurate or fairly representative of their

respective contents. The details of those bids are set out in the Board Report and supplementary reports of which we have provided disclosure. We do not, for example, accept your apparent suggestion that the proposed funding for the Stadium refit in the Newham/West Ham bid was inadequately formulated. The funding proposals in relation to both bids were carefully scrutinised and were detailed in the papers presented to the Board which you have now seen; and the Board took a considered view in concluding that both bids met the relevant objectives.

- 13.7 The subsequent "Heads of Terms Negotiation - Guidance for Bidders" dated November 2010 (referred to in your letter as the "Negotiation Guide") stated in paragraph 4.5:

"The Company will consider each Bidder's Proposal in accordance with the Company's objectives as set out in this Guidance. The points listed underneath each objective are not sub-criteria and will not be considered individually. Instead, they are an indication of the (non-exclusive) areas that the Company may take into consideration in considering each Bidder's Proposal in the round."

- 13.8 Under the heading "Approach to consideration of Proposals", the Guidance stated that "[p]roposals will be considered against the Company's objectives for legacy delivery as detailed below". The Guidance did not allocate any order of importance to the objectives.

- 13.9 We do not accept the last portion of paragraph 13 of your letter. The question of our client's approach to your client's proposals for athletics provision at Crystal Palace was raised with our client's team at various meetings between the selection of short-listed bidders and submission of final offers. On each occasion upon which this issue was raised, your client was told in unequivocal terms that OPLC would have regard to the five objectives, and that it was not possible to pre-approve any specific element of your client's bid, namely your client's athletic proposal.

- 13.10 We do not accept paragraph 14 of your letter (aside from the first sentence). We deal with this matter below under the heading "The approach to the date for re-opening the stadium".

- 13.11 OPLC has not "refused" to provide feedback or reasons (your paragraph 15): see earlier in this letter.

- 13.12 We deal later with the comments made in your paragraph 17 about the University of East London's Press release.

First to Third Grounds of challenge- State Aid and ultra vires

14. Your first three formulated Grounds of Challenge appear to overlap and, accordingly, we address them together.

15. As far as OPLC is concerned, on the issue of state aid we make the following short points:

- 15.1.1 OPLC is not, for the reasons set out earlier, an emanation of the State for the purposes of EU law;

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- 15.1.2 OPLC has made no grant of state aid so there has been no grant of any state resources;
- 15.1.3 In any event, there is at the proposed date of your client's challenge no question of any grant of state resources and so no notifiable state aid; and
- 15.1.4 As developed below, consistent with the terms of Newham's bid OPLC satisfied itself that at the date of Newham's final offer that final offer ~~was not incompatible with EU state aid requirements.~~ Properly understood, the Negotiation Guide was a requirement on potential bidders that their offer must not be incompatible with (amongst other things) state aid rules. OPLC satisfied itself that at the time of the final offer, the bid as structured was not incompatible with state aid rules.

You have also now seen paragraph 7.4 of the Board Report:

"Eversheds made its preliminary assessment on the information provided to date by both Bidders. The Company will seek to develop the proposals of the preferred bidder during the next phase of negotiation in a State aid compliant manner. The Company has always been clear with the Bidders that the Company will not enter into any agreement that is not State aid compliant, and a full and detailed State aid review of any contractual arrangement will be undertaken prior to the Company entering into any such contract."

- 15.2 For these essential reasons, and without prejudice to fuller arguments which may be developed in the context of any judicial review application, OPLC denies that its actions constitute the grant of an unlawful state aid.
- 15.3 The key elements of the proposed loan to the special purpose vehicle (SPV) which would acquire the Stadium, as set out in the bid documentation and clarification provided by Newham/West Ham, were as follows:
- 15.3.1 Minutes of a Newham council meeting on 20 January 2011 gave officers delegated authority to negotiate and conclude (only) a state aid compliant loan both in respect of the terms and the interest rate which would be applied;
- 15.3.2 The loan of £40 million would be repaid over a period of up to 25 years;
- 15.3.3 The loan would be on commercial terms and on appropriate repayment terms;
- 15.3.4 The interest rate on the loan was to be set, immediately before it was granted, such that the rate applied would be a commercial one at the time of grant (as opposed to at the date of the Council resolution), and would be calculated in accordance with the Commission Communication on the revised method of calculating the reference and discount rates;
- 15.3.5 The loan would be recorded in a Loan Agreement in an agreed form;

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- 15.3.6 Newham would take a first legal charge over the SPV's interest in the Stadium as security for the loan;
- 15.3.7 Provided the loan was made, as proposed, on commercial terms with a commercial interest rate, it would operate so as not to grant the necessary selective benefit to the recipient entity (such selective benefit being a necessary requirement for the presence of state aid);
- 15.3.8 The SPV would be held in equal shares between West Ham and Newham and operate on a strict *pari passu* basis;
- 15.3.9 Newham and West Ham would each enjoy the same economic rights and benefits from their respective ownership. Newham would also have additional rights relating to the use of the Stadium for athletics and legacy benefits;
- 15.3.10 Confirmation was provided that the SPV's accounts would be prepared in a transparent manner so as to separate income and expenditure as between the commercial and general interest uses of the Stadium, so as to ensure no risk of cross subsidisation of any economic element of use (e.g. professional football);
- 15.3.11 Confirmation was given by Newham's solicitors that Newham had the appropriate powers to enter into an SPV and make the loan. Newham has now addressed in its own letter of 15 April 2011 your ultra vires and irrationality allegations.

17 In the light of these matters, OPLC was entitled to conclude that the Newham/West Ham bid satisfied the criteria which it had set. We reject your contention that there was any flaw in OPLC's approach to these matters.

Fourth Ground of Challenge - Breach of the Procurement Principles of Transparency and Equal Treatment

18. We note that your client accepts that the competition for the lease of the Stadium was not one to which the Public Contract Regulations 2006 applied. We agree.
19. It has, nonetheless, been a fundamental principle of the preferred bidder selection process that all bidders who progressed to final offer stage would be treated equally and fairly. By way of illustration we remind you of the following points:
- 19.1 Both the criteria against which each bid would be evaluated and the approach which our client would take to the evaluation of bids was published in the Guidance for Bidders in advance of the evaluation;
- 19.2 Both bidders were given equal access to OPLC and its advisers during the bid process; and
- 19.3 A data room was established to ensure equality of arms in relation to core documents.

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20. Turning to the specific points you raise about the alleged lack of transparency and equal treatment, we comment as follows.

The approach to retention of the athletics track.

21. Contrary to your assertion, OPLC did not apply any criteria that bidders were required to retain an athletic track in the Stadium in evaluating final offers and making its recommendation as to the preferred bidder.

22. We provided with our letter of 20 April 2011 a copy of the Board Report sent to Board members prior to their meeting on 11 February 2011, containing the information upon which the Board members' recommendation of the preferred bidder was based and incorporating the evaluation process undertaken on behalf of OPLC in relation to both bids at this stage. It will be evident to you from these materials that:

- 22.1 The five objectives against which OPLC stated it would evaluate bids were not weighted. Each bid was evaluated against the 5 objectives and an assessment made as to whether it met (or did not meet) those objectives. A conclusion was then reached as to which of the two bids presented the stronger bid overall having regard to the five objectives, consistently with the Guidance for Bidders;

- 22.2 OPLC carefully and thoroughly evaluated your client's proposal to use Crystal Palace as a base for athletics as a credible alternative solution to the use of the Stadium in order to meet the London 2012 bid commitment for athletics (see, in the Board Report, paragraphs 6.56, 6.57 and 6.58). This included analysing your client's proposal against the ODA base case that was intended to form the minimal level legacy solution for the Olympic stadium; and

- 22.3 The same approach was taken to the assessment of the bid proposed by West Ham/Newham in relation to the fifth objective (see, in the Board Report, paragraphs 6.113 and 6.114).

23. Now you have had sight of these Board papers you will appreciate that any belief on your client's part that OPLC adopted a criterion which required retention of an athletics track within the Stadium is a misapprehension as to the process which was undertaken.

The approach to the date for re-opening the stadium

24. The Board Report confirms that the approach taken in the evaluation of the third criterion was precisely that which had been published throughout the bid selection process: "to re-open the Stadium for operational use as rapidly as possible following the 2012 Games". Each bid was evaluated against that criterion (see paragraphs 6.40 to 6.46 of the Board Report in relation to your client's bid and paragraphs 6.98 to 6.103 in relation to West Ham/Newham's bid).

- 25.

- 25.1

REDACTED FOR CONFIDENTIALITY
REASONS

25.2

REDACTED FOR
CONFIDENTIALITY REASONS

25.3

25.4

The approach to weighting

26. The Board Report makes clear that OPLC's approach to the five objectives was precisely that which it indicated in the bid guidance and in conversations with your client during the process of dialogue which took place prior to final offers. OPLC evaluated each bid against each of the five objectives to form a view in the case of each bid as to whether each of the five criteria had been met, and a judgement was then made as to which bid best met the five objectives taken in the round.
27. As to the approach that was taken by the Mayor, this is not a matter for OPLC but we understand that the GLA will be dealing with this in their separate response.

Fifth Ground of Challenge – Prematurity

28. We have seen a copy of correspondence written on behalf of Leyton Orient to Founder Members and Newham indicating that it too is contemplating judicial review challenge for various aspects of the decision to select a preferred bidder (and we understand that Leyton Orient have in fact now commenced judicial review proceedings against Newham). We have also received subsequent correspondence addressed to our client threatening a challenge on the same basis. We note that Leyton Orient has now brought a challenge by way of arbitration proceedings to the decision of the Football Association Premier League ('FAPL') to consent to the relocation of West Ham to the Stadium. It is understood that such arbitration proceedings were commenced on 13 April 2011.
29. With respect, however, the point that you raise at paragraph 13 may confuse two discrete issues. The decision which your client wishes to challenge (the first issue) is the selection of West Ham and Newham as preferred bidder for the operation of the Stadium. Any challenge now mounted by Leyton Orient cannot render premature a decision which has already been made and which, materially, was made at a time when there was no communication of any

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arbitration challenge to the ruling of the FAPL. The FAPL decision is presumed to be lawful unless and until set aside. Whether or not a challenge to the FAPL ruling (the second issue) succeeds has nothing to do with the present judicial review proceedings that you contemplate. The effect of a successful challenge to the FAPL ruling is a quite separate matter and (subject to what we say immediately below) its practical consequences would have to be evaluated at the time.

Other matters of concern

30. We outline first how the bid process has been dealt with within OPLC.
31. The Chairman's Stadium Group (CSG) was established to provide oversight and guidance for the negotiating phase of the process and all other matters relating to the legacy solution of the Stadium, including steering OPLC's negotiating strategy, and advising on detailed Heads of Terms and points of contention with bidders.
32. The Chairman's Stadium Group comprised (and comprises) Baroness Ford (Chair), David Edmonds (Chair of the Investment Group), Keith Edelman, Philip Lewis, Andy Altman (CEO of OPLC, in attendance) and Malcolm Ross (Executive Director of Operations and Venues, in attendance).
33. Only the members of the CSG were privy to any information surrounding the bid documentation prior to a Board meeting on 28 January when an oral presentation of the bids was provided to the board.
34. No documentation was provided to board members outside the CSG until the Board Report (which preceded the Board Meeting of 11 February 2011) was circulated on 9 February.
35. Both Sir Robin and Ms Sanderson were informed that the Board Meetings of 28 January and 11 February 2011 were taking place. They were notified that their presence at the meeting on 11 February 2011 was not required because the only item of business to be discussed at the meeting was a matter in relation to which they had a conflict of interest.
36. The position in relation to Sir Robin Wales is as follows:
 - 36.1 Sir Robin was not a member of the CSG;
 - 36.2 It was noted in OPLC's Board Minutes of 26 January 2010 (paragraph 8.3) "... that Sir Robin's public support for West Ham's potential bid for the Stadium meant that he would take no part in future discussions on this";
 - 36.3 On 23 March 2010 Sir Robin contacted OPLC's Chairman, Baroness Ford, to confirm Newham's intention to announce that day that it would be responding to OPLC's invitation to make an expression of interest in the future use of the Stadium. Sir Robin's email confirmed his intention to declare that interest formally but to continue to play a full role on the Board in all other respects; and
 - 36.4 Sir Robin did not attend any Board discussions concerning the Stadium at any stage during the bid selection process, absenting himself from those parts of the meeting to which those discussions related. Equally, Sir Robin absented himself

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altogether from the Board Meeting on 11 February 2011 and did not receive a copy of the Board Report.

37. The position in relation to Ms Sanderson is as follows:
- 37.1 Ms Sanderson accepted an appointment as a non-executive Board Director of OPLC on 24 January 2010, following a letter of appointment dated 16 December 2009;
- 37.2 The letter of appointment recorded that Ms Sanderson had declared an outside interest in three organisations, including the Newham Sports Academy from which she receives remuneration as a consultant. That academy is part-financed by Newham. The letter provided that if Ms Sanderson became aware of any potential conflicts of interest, they should be disclosed to the Board and the Founder Members;
- 37.3 Memoranda of Authorisation were signed in relation to the two other outside interests but not in relation to Newham Sports Academy;
- 37.4 When it became clear that there was a potential conflict of interests with Newham Sports Academy, in January 2011, the Board excluded Ms Sanderson from any involvement in the bidding process; and
- 37.5 Ms Sanderson was not a member of the CSC and was never in possession of any confidential information relating to either bid. Ms Sanderson took no part on the Board Meeting of 11 February 2011.

UEL press release

38. We are not in a position to comment on the basis on which the University of East London issued a Press release prior to the conclusion of the Board's deliberations on 11 February 2011. However, there is no basis for any suggestion (and we note that none is made in your letter) that this had any impact on, or reflected any impropriety in, either the preparation of the Board Report or the Board's own recommendation.

Disclosure

39. We have reviewed your extremely wide request for disclosure found at paragraphs 38.3 and 38.4 of your PAL.
40. You have now been provided with some documentation from OPLC under cover of our letter of 20 April 2011. These are the documents which demonstrate the analysis undertaken in making the recommendation to the Board and the deliberations of Board members at the Board meeting of 11 February 2011. You have also been provided with two other documents from the supplemental documents provided to the Board by its advisors, namely the Gardiner & Theobald commercial review in relation to your client's bid.
41. We have redacted those pieces of information that are commercially sensitive to either of the bidders and/or which are privileged. Plainly disclosure of commercially sensitive information could prejudice the conclusion of the negotiation process, which remains a confidential process. The redactions do not,

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we would suggest, detract from the ability of your client to see the analysis undertaken by the Board.

42. Service of these documents discharges our client's obligations of disclosure.
43. We have responded to the specific requests in relation to documentation and information in the appendix attached to this letter. For your ease of reference we have adopted the same paragraph numbering.

Conclusion

44. Having regard to the matters set out in this letter and to the disclosure that has been made we do not consider that your client has established the basis for a claim in judicial review against OPLC. Any application for permission to apply for judicial review against OPLC will, therefore, be strongly resisted.

Yours faithfully

Eversheds LLP

Eversheds LLP

cc: The Mayor of London
The Minister of Sport
The Secretary of State for Communities and Local Government
WH Holdings
London Borough of Newham

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Appendix

Response to disclosure requests 38.1-38.4.

38.1

a) The evaluation undertaken is evident from the contents of our letter above together with the documents disclosed on 20 April.

b) as above

c) as above

38.2

a) We would refer you to paragraph 15.3 generally and specifically to 15.3.11 above in respect of the approach taken by OPLC. The approach taken by the Mayor, DCMS or DCLG is not a matter for OPLC.

b) see paragraph a) above

c) see paragraph a) above

38.3

a) i) We cannot see how the bid documentation of West Ham has any relevance to your complaints nor do we believe that a duty of candour requires the same to be disclosed. In this context, and given that the documentation requested is confidential, OPLC shall not be providing disclosure of these documents.

ii) As above

iii) As above

iv) You have had disclosure of the Board recommendation and Board minutes which show the process undertaken by the Board and the issues that they examined. You are also aware from the contents of this letter, and as set out specifically at paragraphs 19.1-19.6 of the letter, the importance prescribed by OPLC to equal treatment and fairness.

v) Disclosed insofar as is relevant

vi) This letter and the disclosure provided to you demonstrates a full account of the information relied upon by OPLC when making its recommendation. The

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process undertaken by Founder Members thereafter is a matter on which we will leave them to comment.

- b) The methodology of OPLC is set out in the Board recommendation paper and Board minutes which have been disclosed to you. More specifically we would respond as follows:

i) We would refer you to the recommendation to the Board, the Board Minutes and presentation and also paragraphs 13.7-13.9 of this letter

ii) We would refer you to the disclosure already provided and also to paragraph 26 of this letter

iii) as above

iv) as above

v) as above

- c) We refer to the disclosure previously provided to you

- d) Please see paragraph 22.1 of this letter

- e) i) We have explained the process undertaken at paragraphs 19.1 - 19.6 of this letter

ii) as above

- f) Please see paragraphs 21 - 23 of this letter

23.4

- 1) Please see above at paragraphs 36 - 42.5 of this letter

- 2) As above

- 3) As above

- d) Please see paragraphs 43 - 44 of this letter

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Government and Mayor approve our Stadium recommendation

3 Mar 2011

The Government and the Mayor of London have today approved the Olympic Park Legacy Company's recommendation for West Ham United and the London Borough of Newham as the preferred bidder for the long-term lease of the Stadium after the Games.

This completes the first stage of this process and means that we are now able to enter into negotiations to agree a lease for the Stadium.

We are pleased that the Mayor and Ministers have approved our recommendation. We look forward to working with the preferred bidder in order to bring the future of the Stadium to a financial close.

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West Ham and Newham selected as preferred bidder for Stadium

11 Feb 2011

The Olympic Park Legacy Company's Board has today recommended the West Ham United and the London Borough of Newham consortium as the preferred bidder for the Olympic Stadium.

The decision, following a thorough and rigorous process supported by expert advisors, secures the best overall legacy for the future Queen Elizabeth Olympic Park.



Margaret Ford and Andrew Altman announcing Stadium preferred bidder

Baroness Margaret Ford, Chair of the Legacy Company, said:

“Following a very robust process involving a huge amount of work, the Board has made a clear and unanimous recommendation to select West Ham United and the London Borough of Newham as the preferred long-term tenant for our Olympic Stadium.

“We are confident that this represents the very best legacy for the Stadium – it’s good for the community of East London, it’s great for Londoners, it’s excellent news for the UK taxpayer and it’s a good outcome for sport.

“The whole purpose of starting this process was to find a legacy that would improve upon the original plans for a 25,000 seat Stadium. We have now achieved that objective with this solution – one that is credible and offers an all-round better legacy in serving the needs of sport, culture, entertainment and the local community.

“The two proposals are very different. We recognise the passion and commitment behind the bids but ultimately this is a decision about creating a sustainable economic legacy that works best for the wider regeneration of East London, and is integrated with our broader vision to make the Olympic Park a leading destination.

“West Ham and Newham with their partners, including Westfield and Live Nation, will bring energy and dynamism into the Park and into the East End, and will provide a very strong anchor tenant for the Stadium. These are organisations that have already invested heavily in the area and are wedded to bringing benefits for the local community.”

Five objectives have anchored the process for evaluating bids. Our decision is based on the overall strength of this consortium’s bid in meeting these objectives.

They are:

- to achieve a viable long-term solution for the Stadium that is deliverable and provides value for money
- to secure a partner with the capability to deliver and operate a legacy solution for a venue of the Stadium's size and complexity
- to re-open the Stadium for operational use as rapidly as possible following the 2012 Games
- to ensure that the Stadium remains a distinctive physical symbol, supporting the economic, physical and social regeneration of the surrounding area
- to allow flexible usage of the Stadium, accommodating a vibrant programme of events, allowing year round access for schools, the local community, the wider public and elite sport

Baroness Ford, said:

"There has been an immense amount of time, work and effort expended by both bidders and their teams, and I want to thank them both sincerely. I also want to commend the diligence and focus of our Stadium team whose level of dedication and excellence has been outstanding."

The process began in March last year when interested parties were invited to make expressions of interest. Substantial interest in the Stadium was received.

This was followed up with a formal bidding process for the long-term Stadium lease in August, before the two shortlisted consortia were announced in October: West Ham United and the London Borough of Newham; and Tottenham Hotspur with AEG.

Since then, the Legacy Company has been in negotiations with both parties to better understand the merits of their bids and the positive impact on the future Queen Elizabeth Olympic Park.

The Board's recommendation will now go to the Legacy Company's founder members – the Mayor's Office and the Government – for approval. If approval is given, contractual negotiations will then begin in earnest with the preferred bidder.

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Statement on the Stadium

9 Feb 2011

There has been a lot of anticipation and speculation about the future of the Olympic Stadium. We have always been clear about the robust process involved in taking such an important decision.

This evening, the Olympic Park Legacy Company confirmed that its board will be presented with both shortlisted bids on Friday 11th February 2011. Board members will take time to consider them both before voting to recommend a preferred bidder for the Stadium. This decision will then be subject to approval by the Government and the Mayor's Office.

In October, it was announced that the two consortia to have made the final shortlist were Tottenham Hotspur and AEG, and West Ham United and London Borough of Newham. The Legacy Company also has the option of the original plan to convert the Stadium to 25,000 seats. In going to the market, the Legacy Company's aim was to consider options which would enhance and build on that plan.

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Legacy Company statement relating to Stadium process

24 Jan 2011

On Friday 21st January 2011, the two bidding consortia – Tottenham Hotspur and AEG; and, West Ham United and the London Borough of Newham – made final offers as part of the decision process concerning the future of the Stadium.

Given the detailed nature of both bids received, we need more time to seek further clarification with both bidders in order to identify a preferred bidder.

The Stadium is a significant public asset and we have a duty to run a robust process.

Securing the most appropriate solution for the Stadium is vital to our long-term aspirations for the future Queen Elizabeth Olympic Park and the wider regeneration of the area.

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In addition to the two shortlisted bids, the Legacy Company also has the option of the original plan to convert the Stadium to a 25,000 seats, mixed-use venue. In going to market, the Legacy Company's aim was to consider options which would enhance and build on that plan.

The bids are being evaluated against criteria agreed by our founder members at the outset of the process:

- To achieve a viable long-term solution for the Stadium that is deliverable and provides value for money
- To secure a partner with the capability to deliver and operate a legacy solution for a venue of the Stadium's size and complexity
- To re-open the Stadium for operational use as rapidly as possible following the London 2012 Games
- To ensure that the Stadium remains a distinctive physical symbol supporting the economic, physical and social regeneration of the surrounding area
- To allow flexible usage of the Stadium, accommodating a vibrant programme of events, allowing year round access for schools, the local community, the wider public and elite sport.

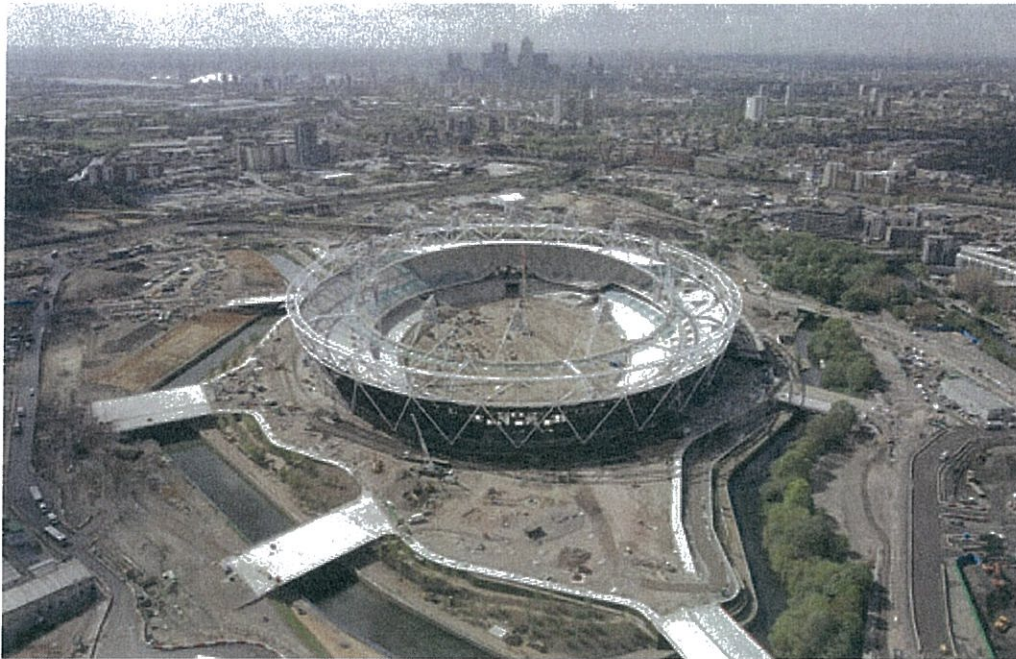
Once the Legacy Company's Board recommends a preferred bidder, this will be subject to approval by the Government and the Mayor's Office.

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The Stadium during its build phase in August 2010

Today we have announced as a company that we will enter into final negotiations with two major bidders – a consortium led by Tottenham Hotspur Football Club with AEG and a consortium of West Ham United Football Club and the London Borough of Newham.

After a bidding process launched in August, the Legacy Company is now entering the final stage in its aim to secure the best future for the Stadium.

Margaret Ford, Chair of the Olympic Park Legacy Company said:

“We are very pleased with the extensive and serious interest shown in the Stadium. We started this process to ensure the very best legacy for the Stadium, and we are now at a point where we have selected the two strongest bids. We will go forward to start negotiations with the two consortia of Tottenham Hotspur and AEG, and West Ham United and Newham Council.

“The Stadium is a vital and vibrant component of the Olympic Park – securing the most appropriate and viable solution is crucial for our long-term aspirations for the future Queen Elizabeth Olympic Park area.”

In going to market, the Legacy Company’s aim was to consider options which would enhance and build on the existing and Government-approved plans for a 25,000 seat, mixed-use Stadium.

Through this process, the Legacy Company is seeking an anchor tenant that can provide an excellent legacy for the public investment made in the Olympic Park. Throughout the market testing and the bidding phase the Legacy Company has asked interested parties to fulfil obligations regarding the 2012 Games’ bid commitments for a legacy for athletics.

The Legacy Company aims to have a preferred tenant in place by the end of the financial year in 2011.

Press release on the launch of the bidding process in August this year

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Legacy Company offers lease for 'multi-use' Olympic Stadium

18 Aug 2010

Organisations have six weeks to make their bid to lease the iconic Olympic Stadium.

The Olympic Park Legacy Company has today opened formal bidding for a long-term lease following initial expressions of interest (EOI), held between March and June this year, which attracted well over 100 participants.

A group of interested parties have emerged from the soft market testing which has proved invaluable in shaping the Stadium offer for the bid stage. Bidding is not exclusive to those who took part in the EOI process.

Since its formation, the Olympic Park Legacy Company has been keen to review all the legacy options for the Stadium with the aim of understanding market demand for its capacity and the

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viability of future uses. It is seeking an anchor tenant that can provide value for money in serving both the needs of elite sport and the local community.

The EOI process had three main findings:

- Firstly, all interested parties backed a multi-use Stadium containing athletics and possible commercial, health or educational uses in the Stadium's undercroft;
- Secondly, the market favoured the Stadium being reduced from its Games-time capacity of 80,000 seats to options ranging between 25,000 seats and 60,000 seats depending on their ideas; and
- Thirdly, demand was for a long lease.

Margaret Ford, Chairman of the Olympic Park Legacy Company, said:

"The Stadium is at the heart of the Olympic Park and securing the most appropriate solution is crucial to our long-term aspirations for the area.

"We have generated a great deal of interest by working with the market to understand how they would use this iconic venue. I am delighted that organisations with a serious interest all want a mixed usage – this is in-line with our promise to meet the bid commitments, and our vision for the Stadium to be a focal point for sport and community use.

"We aim to have selected an anchor tenant by the end of the financial year."

Interested parties have until **12 noon on Thursday 30th September 2010** to make a formal bid by completing a pre-qualification questionnaire (PQQ).

A Memorandum of Information (MOI) is available with the PQQ to help formulate bids. This provides background on the Olympic Stadium and outlines the Legacy Company's ambition for the Olympic Park and the Stadium.

The PQQ asks questions based on five objectives agreed by the Legacy Company and its Founder Members, the Government and the Mayor's Office.

They focus on offering a viable long-term solution that provides value for money, securing a suitable operator and re-opening the Stadium as soon as possible after the Games. The Stadium should remain a distinctive physical symbol supporting the area's regeneration, and offer a vibrant mixture of community and sporting uses.

The Legacy Company will select preferred bidders from the PQQ in the autumn, and begin formal negotiations with the aim of signing a lease agreement by 31st March 2011.

Interested parties can access both the MOI and the PQQ by [visiting our dedicated web page for the Stadium process on this website](#).

Plans for the Olympic Stadium form part of the Legacy Company's wider plans for the Olympic Park which will include new housing, schools, health centres and offices, along with the running of venues such as the Aquatics Centre, Orbit, Multi-Use Arena and Press and Broadcast Centres.

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David Lammy MP
House of Commons
London
SW1A 0AA

11 January 2011

Dear Mr Lammy

Enquiry into the decision making process for selecting the lease holder

Thank you for your recent email enquiry in relation to the commercial process we are undertaking to secure a long term tenant for the Olympic Stadium. The responses to your queries are provided below.

Request 1: Can you please confirm the dates of the announcement of the preferred bidder and when you expect an agreement for the lease to be signed?

As outlined in the Memorandum of Information for the process we aim to have reached a settled position with the preferred bidder by the end of March 2011.

Request 2: Could you also detail the framework that will be used to make the decision?

Proposals submitted by bidders will be considered against the Company's objectives for legacy delivery as detailed below, which were agreed with the Company's Founder Members at the launch of the process:

1. To achieve a viable long-term solution for the Olympic Stadium that is deliverable and provides value for money.
2. To secure a partner with the capability to deliver and operate a legacy solution for a venue of the Stadium's size and complexity.
3. To re-open the Stadium for operational use as rapidly as possible following the 2012 Games.
4. To ensure that the Stadium remains a distinctive physical symbol supporting the economic, physical and social regeneration of the surrounding area.
5. To allow flexible usage of the Stadium, accommodating a vibrant programme of events allowing year round access for schools, the local community, the wider public and elite sport

Request 3: If no decision can be reached, to whom will the responsibility pass – the Department for Culture, Olympics, Media and Sport or the Mayor or London?

There is an existing, formally agreed and Government-approved position embodied in the consented ODA transformation plan for a 25,000 seat, mixed-use Stadium

Through the bidding process, the Legacy Company's aim is to consider options that enhance and improve the existing and Government-approved plans and to bring more vitality into the Park. Should this not be possible the consented transformation plan would be implemented.

Request 4: Under what circumstances will these responsibilities be transferred?

There is no plan to transfer these responsibilities and the Legacy Company will make the decision on the Stadium with the approval of its Founder Members.

Request 5: Will the minutes of each meeting considering the bids be published?

Throughout the process all parties have been and continue to be bound by confidentiality agreements and the Legacy Company therefore will not be publishing the minutes of any meeting.

Request 6: Will the OPLC commit to any form of public consultation during the decision making process?

Extensive consultation has been conducted as part of the legacy masterplanning process. Results for the Stadium demonstrated a desire for a multi-use venue to bring more energy and vitality to the Park.

When the lease agreement has been signed with the preferred bidder they will then begin the process of securing planning permission for their proposed scheme. These processes will involve an element of consultation both as a legal requirement and as part of general good practice; it will be up to individual bidders to engage as and when they see fit.

Request 7: Is there a framework to appeal the decision made by the OPLC?

There is not a framework for appeal. As a public body, however the Legacy Company is subject to the normal public scrutiny.

Request 8: Will the OPLC commit to publishing all correspondence made by the bidders to board members in the process of decision making?

The Stadium process is governed by confidentiality agreements with each bidder and as such the Legacy Company will not be publishing any correspondence relating to the process. Correspondence between the Legacy Company and bidders has been managed through a restricted email account and among individuals who have signed confidentiality protocols.

Request 9: Are there restrictions on board members receiving corporate entertainment before and during the decision making period?

All Legacy Company board members adhere to the strict Gifts and Hospitality protocols adopted by the Legacy Company on the Board's inception. All relevant gifts and hospitality received are registered and no Board member is permitted to receive any form of gift or hospitality from any third party participating in an active tender for the Company's business.

Request 10: If not, will the OPLC commit to publishing all corporate entertainment received by Board members before and during the decision making period?

See the answer to Request 9 above.

Yours sincerely



Andrew Altman
Chief Executive

HOC. Hansard?
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Tuesday 11 January

Regeneration (Tottenham)

1.26 pm

Mr David Lammy (Tottenham) (Lab): Thank you, Mrs Riordan, for allowing me to have this debate, which comes at such a crucial time for my constituency, wider north London and the upper Lea valley. This is one of the first times that I have had the opportunity in the House to give a speech that surveys my entire constituency. I do not think that I have spoken in this way since my maiden speech 10 years ago. I said then that we have to invest in the souls of Tottenham people as well as their skills.

The decision before us would rip the soul out of my constituency and wider north London, and affect the entire upper Lea valley. I will explain why that is so in relation to regeneration. Three things make being the MP for Tottenham particularly special: one is our history, which is wrapped up in our football team, but also in our special part of north London. Tottenham is on the A10 corridor and the old Roman road that ran from Bishopsgate to Lincoln, York and the north. It is historically part of Middlesex and the home of the Somerset family. Tottenham, and the London Borough of Enfield, is a part of London that people have come to from all corners of the world to make their home, because of the nature of its housing stock and its position near places where people could find jobs.

That point brings me to the second special thing about the constituency, which, of course, is its people. In the past 50 or 60 years of Tottenham's history, they have been people working in the rag trade, Jewish refugees from violence and prejudice in Europe, and immigrants from the Commonwealth who came to make a new life. Those immigrants included my father, who arrived in this country in 1956. Tottenham is where I grew up. I went to primary school there and I know the streets, so this debate is personal. It is an important opportunity to raise these issues.

The third special thing about my constituency is that it is always wonderful to represent a seat with a top premiership club. It is important to think about the history of the club. Spurs was started 120 years ago by local schoolboys from the Hotspur cricket club, and played in Northumberland park. The team was first brought together by a bible teacher from All Hallows church in Tottenham, and was represented by heroes from the community, many of whom were born and brought up in Tottenham. Successive generations have supported the team for 120 years, paying for tickets and supporting the team throughout its highs and lows.

During the dark days of the 1980s, we saw some of the worst violence that we have ever seen on the streets of this country, but not long afterwards, Tottenham won the FA cup and there was cheering that lifted my spirits at a bleak time. Regeneration of communities such as Tottenham, Moss Side in Manchester, Toxteth in Liverpool and the Gorbals in Glasgow also regenerates our country. Our country's success is guided by the poorest and the weakest in our communities, so this debate and the decision that may lead to the football club leaving one of London's poorest communities is

grave. Who allowed that to happen? Whose bright idea was it to encourage Tottenham Hotspur to bid for the Olympic stadium on the other side of London, which would leave one of the biggest regeneration holes in

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London that we have seen for a generation? There are rumours that the Mayor encouraged Spurs to bid, which seems an absurd and ridiculous decision in the context of the regeneration of one of the poorest communities in the country.

At the turn of the 21st century, Tottenham was a town that the Government had forgotten in a part of London that too often failed its residents and especially its young people. When I became the MP for Tottenham, more young people there were going to prison than to university. Tottenham was still scarred by unemployment, with levels of more than 20% in the 1980s and 1990s, and in some communities it was higher than 40%. Some housing estates and communities experienced unemployment of more than 50%.

Imagine what that meant for hundreds of young people growing up without work, and for their families. Imagine the legacy that we still live with because of that unemployment. I need not name the headlines about Tottenham, because they were national headlines that usually involved vulnerable children who were knifed or who died in other ways-I am thinking of Victoria Climbié and Baby P. Much of that poverty relates to that legacy, and the decision on regeneration is one of the most pressing that faces the Department for Communities and Local Government. It is my job to remind the Department of that, and to ensure that plans exist for Tottenham if the team leaves.

The community has faced enormous tension and unrest and has been stigmatised, as have others in the past, but over the last decade it has begun to mend. More young people now go to university than ever before in our history. Schools have been rebuilt, and some are now national beacons of success. I am thinking of Gladesmore community school where the head teacher has been recognised by the Queen for all that he has achieved. I am thinking of the accident and emergency department at the Whittington hospital, where I was born, and the North Middlesex hospital, which have been largely renewed and rebuilt. I am thinking of the £50 million that we received in the new deal for communities, to which I am sure the Minister will refer. All of that lifted hopes and aspirations-unemployment was falling back a bit, but is now on the rise again-and happened over the recent period in order to renew the community. Housing estates have seen their housing stock renewed and rebuilt. Prior to the economic downturn, there was a period of hope for the community, but clearly, a decade to achieve all that we wanted to achieve against a backdrop of such disadvantage was always not going to be long enough. That is why we stand at a crossroads-do we march forwards or backwards? That is the decision that lies ahead. The story is not yet finished.

Tottenham still has the highest rate of unemployment in London, with more than 6,000 people currently out of work or on benefits. Tottenham still has one of the largest numbers of households living in temporary or emergency accommodation, with more than 5,000 families in Haringey having no fixed place to live. Four in five children born in Tottenham are still born into poverty, one of the highest rates in the country. It is clear, Mrs Riordan, that although things have got better, we have a long

way to go if we are to ensure that every child in Tottenham grows up in a decent home, free of poverty, and in a community in which work is the norm, not the exception.

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That brings me to the third factor that makes Tottenham special-Spurs. Since I have been the Member of Parliament for Tottenham, I have worked closely with three successive chairmen and owners of the club. The first was Alan Sugar-he has since been knighted-of "The Apprentice" fame. The second was David Buckler who came in for a brief period after Alan left to stabilise the club and led the way to the current owner, Daniel Levy. Before I became an MP, Spurs was not doing much in the community relative to other clubs. I am thinking particularly of clubs such as Sunderland in the north-east-I will not mention our near rivals, although I see that my hon. Friend the Member for Islington North (Jeremy Corbyn) has taken his seat and he may mention the name of that other north London club. Spurs was not doing much in the community, but there has been a transformation.

I worked with Daniel Levy to establish the Tottenham Hotspur foundation as a model, and it is now a beacon in the premiership. It was established with £4.5 million of funding, and enables thousands of young people throughout north London to take part in projects. It is transforming their lives and attracting match funding, and not just in sport. There are wonderful things happening with disability groups and pensioners, not just in Haringey, but in Enfield, Barnet and Waltham Forest where the foundation is making a huge difference.

The club has attracted a succession of top-class international players, such as Freddie Kanoute, Mido, Berbatov, who was with us for a while, and Wilson Palacios. My office assisted them and many others with work permits, and immigration requirements to enable them to come to the community. Despite opposition from some local councillors, I strongly supported the application by Spurs for a new training ground in Enfield, and permission was duly granted despite that opposition.

The club is an immense source of pride for my community, and the young people in it. In what can feel a parochial, mundane and sometimes hostile and discriminatory atmosphere, it is a permanent badge of excellence. It shows people that they can achieve sporting excellence on the doorstep, and that reads across not just to sport, but to every area of life.

That is why I am so angry about what is taking place without proper public consultation with either the fans or my community. Those young people, whose hopes were lifted when we won the Olympic dream, are now to be dumped on from a great height because of this irresponsible decision to rip excellence from the constituency. It is unacceptable. Someone is responsible, and it is not just the club, which is being encouraged to ignore its history and its community, but local, regional and, potentially, national politicians. I want answers about how this has come about, and why this is to happen to one of the poorest communities in London.

Jeremy Corbyn (Islington North) (Lab): My right hon. Friend knows that I represent Islington North and am a very proud supporter of Arsenal, the other club in north London. The relocation of stadiums is a difficult issue. Arsenal and Islington worked very closely to ensure that the new stadium was built in Islington without any public subsidy. The presence of Arsenal has meant that there is a very large number of jobs at

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the stadium, with all its related facilities, and a huge local community programme with more than 1 million hours spent on community training in football.

It is a badge of honour for the kids in Islington and from nearby to be supporters of Arsenal, and to be part of that community, and the same applies in Haringey, where I used to be a councillor. If we do not retain Tottenham Hotspur there, not only do the jobs and facilities go but the whole heart of the community goes with them. I strongly support and endorse what my friend is doing to try to ensure that Spurs remains at White Hart Lane, and to ensure that we can carry on being north London rivals, a rivalry of which I, of course, represent the better half.

Mr Lammy: I am very grateful for what my hon. Friend has said, but he knows that he actually represents a south London club, and that is why this is even more important. All those years ago, the club moved from Woolwich, but at that time it was not of the size that we see now, making the kind of contribution that both Arsenal and Tottenham make to this very, very poor part of London. I challenge anyone to visit parts of my hon. Friend's constituency, in Holloway, parts of mine, or the constituency of our colleague my hon. Friend the Member for Edmonton (Mr Love) and say that these clubs are not making a huge contribution. Things would be considerably worse were the clubs not there.

That is why we welcome Spurs' plan for a new 56-seater stadium in Tottenham, why I supported the club in overcoming problems with English Heritage, and why I brokered meetings with both the Commission for Architecture and the Built Environment and Haringey council. Historically, relations with Haringey council have not always been at their best, but we got planning permission in record time, and in a shorter time than Arsenal. As my hon. Friend has said, it is nonsense to suggest that Arsenal received state aid, and Spurs would never have done so. However, the club is right to say-and so am I-that we need more investment in this constituency.

I have not witnessed in my constituency the kind of transformation that we have seen in cities such as Manchester and Liverpool, and that we are witnessing now in the east of London. So, is Tottenham the next big regeneration challenge for this Government? It ought to be. The people deserve it to be, and the club rightly wants to see that. The plan was that off the back of the redeveloped stadium at White Hart Lane, which has received the approval of Haringey council and the Mayor, we would get further investment from Europe and from the Government, so that yes, we would see a new supermarket, yes we would see new housing, but we would also see the new stadium. As Daniel Levy has said, the stadium has

"the potential to act as a real catalyst for the much-needed, wider regeneration of the area."

I am disappointed, of course, that other members of the Tottenham board, such as the director Keith Mills, have said that moving to the Olympic stadium is better because

"it's closer to Canary Wharf and to the City; and it'll attract more sponsorship".

I have also been very concerned about internet rumours of Spurs' owners selling up to Qatari investors and seeking planning permission at White Hart Lane and the Olympic stadium so as to sell the club on and make more money. When Mr Levy says to me, "I'm acting in

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the interests of shareholders," it is my job to remind him that he owns 70% of the shares. So, who will profit ultimately from the decision? This is important.

It is also important to recognise the entire ecology of London, and in so doing it is also important that we say, "Can it possibly be fair that Tottenham's legacy from the Olympics is for the largest private employer to be allowed to leave the constituency?" Let me reiterate, if Spurs is allowed to leave, this Government's legacy for the constituency with the highest unemployment in London will be to have removed the largest private employer. That cannot be right.

Is it also the case that the Olympic Park Legacy Company should take note of the entirety of London and not just regeneration in the east of the city? In my constituency, unemployment is running at 11.2% and incapacity benefit claims are at 11%. Those are some of the highest levels in London. Life expectancy is lower than in the Olympic borough. Mortality rates for women in my constituency are lower, and unemployment is higher, than in the combined Olympic boroughs. Right across the sweep, the statistics suggest that Tottenham is finding it harder than the combined Olympic boroughs, and I am sure that the Minister is aware of that.

Does the Minister believe that it is acceptable to secure a legacy in east London by condemning an area of north London to become effectively a dust bowl? Does he believe that it is fair that the largest economic project in my constituency for a generation may be sacrificed—a brand-new stadium demolished just to build a new one with a supermarket attached? The Olympics were meant to bring a unique experience to the doorsteps of ordinary Londoners. Should Spurs leave, the experience will leave a particularly bitter aftertaste in N17. Who encouraged Spurs to make the decision? What leverage are the Minister and his Department placing on the Mayor as that decision is reached? I am told that the Olympic board will reach the decision on 28 January; what consultation is going on with Haringey council and with us on a decision that is now imminent and pressing? Does the Minister not believe that consultation with my constituents by the Olympic legacy body is absolutely mandatory? Is he concerned that there has been only one phone conversation with the company and with Haringey council? Spurs owns 20 acres of site on the north side of Tottenham high road that has now been blighted. How can due diligence be done on the Spurs bid if only one conversation on the planning application has been had with the local authority?

I hope that the Minister understands that this matter is urgent; that is why I have taken the time to put it on the record for the House, and for others who are listening and

watching. This is the most important thing that could have happened in relation to economic regeneration in my constituency in the past decade.

1.48 pm

The Parliamentary Under-Secretary of State for Communities and Local Government (Andrew Stunell): It is good to serve under your chairmanship, Mrs Riordan, and to respond to the right hon. Member for Tottenham (Mr Lammy).

I first want to acknowledge the passion and knowledge that the right hon. Gentleman brings to this issue, and to acknowledge how he has forthrightly stood up for his

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constituents. He has outlined the problems, the progress and the opportunities for his constituency and for the borough, and has, with very considerable force, made clear his views about his premiership football club; about its record of success and its community involvement, which, as he has said, has been developed for the better over the past few years and, most important, his views about its future. I think I heard him talk about a plan for a 56-seater stadium, but I am sure that he meant 56,000.

I know that the right hon. Gentleman has arranged a meeting with my colleagues in the Department for Culture, Media and Sport so as to raise these issues with them. A number of the points that he mentioned, whatever their merits one way or the other, are matters for discussion with that Department, rather than the responsibility of the Department for Communities and Local Government.

I hope that the right hon. Gentleman will not mind too much if I say something about the broader approach to regeneration taken by the Government, and perhaps I can give him some assurances. On his specific questions about how we got to our current position and where we are going, let me remind him that for the most part, those decisions are not the responsibility of the Department for Communities and Local Government.

Mr Lammy: Will the Minister confirm that the Secretary of State for Communities and Local Government is a member of the Olympic board and that ultimately, the decision of the company will come to the Olympic board? Is there a seat for the Mayor, for DCMS and for DCLG to stand up for regeneration in London?

Andrew Stunell: The Secretary of State certainly has a role in the matter, and I do not seek to avoid that. However, I am sure that the right hon. Gentleman understands fully that the lead Department will be the Department for Culture, Media and Sport. Perhaps I can put a broader perspective on the way the Government work. We think it is important to ensure that local businesses, of all scales and whatever the business, have the opportunity to thrive. We want to support economic growth and regeneration, and we have made it clear that areas such as the right hon. Gentleman's constituency, which are behind in the economic race, need to be given support. We want to see that done by giving power and the capacity to take decisions back to local councils and to London collectively, and not by having micro-management from Whitehall on every aspect of business delivery.

We have a strategic and supportive role to play, and it is important to get the macro-economic situation right. We must provide incentives, remove barriers and provide access to targeted investment. Despite all the financial pressure faced by the Government and the country, we have given the green light to some important and significant infrastructure projects.

Jeremy Corbyn: Let me take the Minister back to the question asked by my right hon. Friend the Member for Tottenham (Mr Lammy). I understand the philosophy behind the future planning arrangements, but in the immediate term we have two bids going in for the Olympic stadium—from West Ham and Spurs. West Ham is a local club that would essentially seek to develop the Olympic stadium for the continuation of local activities as an east London club. Spurs is in

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Tottenham and is an important part of the local economy. Surely the Government have a duty to take into account the effect on the local society and economy of Haringey should the transfer of Spurs to the Olympic stadium be approved, rather than if the club continues where it has been for a long time and where it is, as my right hon. Friend pointed out, a major part of the local economy.

Andrew Stunell: I understand the concern that was raised by the right hon. Member for Tottenham and brought to my attention again by the hon. Member for Islington North (Jeremy Corbyn). Of course it is an issue of controversy that the shortlist contains those two clubs; I understand that. The Olympic Park Legacy Company is negotiating with each club, and expects to have reached a settled position on the legacy by the end of the financial year. I was not aware of the specific date that the right hon. Gentleman mentioned a moment ago. It would not be right for me to comment on the progress of that bidding process or on the state of those negotiations, and neither would it be right for the Government to seek to interfere with that. As the right hon. Gentleman says, at some further point the decision will come back for endorsement by the Olympic Delivery Authority, and no doubt points of view will be taken into account when that decision is—or is not—signed off.

Perhaps I can return to the broader picture. It is important to ensure that the Olympic investment and legacy benefits the whole of London; it is not intended to be a one-shop stop. An intrinsic part of the bid put forward by the previous Government and supported by all parties in the House, was that the value of the Olympic bid would be in the legacy that it would bring not only to a geographical area but to young people, by providing opportunities to promote excellence far into the future. All parts of that legacy programme are still in play as far as the present Government are concerned.

We must also recognise that we are devolving powers. We are taking powers out of Whitehall and passing them down to the Mayor of London, the London boroughs and the London assembly. Proposals have been published in the Localism Bill, and they will be considered by the House.

Mr Lammy: Does the Minister expect the Mayor of London, Boris Johnson, to meet with me to discuss this matter prior to any decision?

Andrew Stunell: The progress of the legislation means that if the timetable I have referred to is maintained, and the decision is taken by the end of the financial

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year, that will precede the Localism Bill coming into force. The decision will be made in the context of the current legislative framework, and the roles and responsibilities are those already set out.

Mr Lammy: A decision is being made that has a once-in-a-generation effect on my constituency. I am the elected representative of my constituents, but they have not been consulted. The Mayor has fixed a date for a meeting with me on 24 February, but that is unacceptable given that the Olympic board will consider the issue on 28 January. As the Minister responsible for regeneration in this country, will he urge the Mayor to meet with the elected representative of Tottenham and its constituents? Will he urge his colleagues to think carefully about their responsibilities to my locality through their elected representative?

Andrew Stunell: I undertake to ensure that this debate and the views of the right hon. Gentleman are clearly drawn to the attention of the Mayor. The Government certainly hope that there will be proper discussions with the democratically elected representatives of communities, but it is for the Mayor to decide what processes he will follow to achieve that.

Ensuring that the Olympic legacy delivers on what was offered in the bid is an interesting and challenging project. The Olympics will come after a period of economic retrenchment. Ensuring that the legacy is delivered, that the benefits are not frittered away, and that we can look back in 10 years' time and see that the games were not only a success in themselves but that the legacy has endured, is an important and significant challenge for the Government, the Mayor and the London boroughs. The right hon. Gentleman has made a strong plea that the borough of Haringey should not be left out of that. I assure him that as our proposals for localising economic growth come to fruition, we will ensure that the borough of Haringey and Tottenham are not left out.

If we are to achieve success, we must ensure that the economic and financial framework facing the country is put right. That must be our top priority and that is why we have been working so hard at a national level to deliver on the financial programme. It is also why it is important to take the responsibility and powers for decision making on regeneration issues out of Whitehall, and give them back to the regions and communities where they need to be.

Andrew Altman Esq
Chief Executive
Olympic Park Legacy Company Ltd
29-35 West Ham Lane
Stratford
London E15 4PH

29 January 2011

Dear Mr. Altman,

Future Use of the Olympic Stadium, Stratford

I write on behalf of the Football Supporters' Federation, representing over 180,000 supporters of clubs and national teams at all levels throughout England & Wales, including fans of Tottenham Hotspur, West Ham United and Leyton Orient.

Our national Council has discussed the pending decision on the future use of the Olympic Stadium (OS) after the London 2012 Games. We have also been contacted by supporters campaigning against either West Ham United or Tottenham Hotspur being permitted to take up occupancy of the Olympic Stadium site, and have taken a poll of our members who support those clubs and also those who support Leyton Orient FC, which in each case revealed majority opposition to a move to the Stadium by either West Ham or Tottenham Hotspur.

We hope that the OPLC will want to carefully consider the ramifications for the promises and pledges made to the International Olympic Committee and UK Athletics before take a decision to recommend transfer of the OS site to either of the Premier League clubs bidding for it. To allow such use would appear to breach both the letter and the spirit of the pledges made in London 2012's successful bid.

In our view the moves would also be a clear breach of Premier League rules particularly 1.6.2, 1.6.3 and 1.6.5. (copy attached) We appreciate that any such breach is not a matter directly for the OPLC but nevertheless we hope that it is a



INFORMING SUPPORTING CAMPAIGNING

FSP Chair:

Dr. Malcolm Clarke FRSA
(FA Council Supporters' Representative)

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factor that the OLPC will weigh in the balance when considering the bids before it.

A decision for either of those clubs to move there would also be deeply controversial with thousands of match-going football supporters of the three clubs affected. It would tear Spurs out of the North London community in which it was born and has been nurtured and grown since the club's foundation in nearly 129 years ago in 1882. It would "sentence" West Ham fans to watching the game in a stadium unsuited to football with the running track and other athletics facilities in place and would have a deep and lasting effect on another historic football club and its loyal supporters, Leyton Orient.

We are today writing to the Premier League and the Football Association to express our opposition and that of supporters of all three clubs. We believe that any decision to award use of the Olympic Stadium to either Tottenham Hotspur or West Ham United would betray the supporters of those clubs and those of Leyton Orient, as well as the promised sporting legacy post the London 2012 Olympic Games.

I am sending copies of this letter to the Sports Minister, the Secretary of State for Communities & Local Government, the Mayor of London, the Member of the London Assembly for the City & East London and the Mayor of Newham, as well as to the Premier League, the Football Association and the Football League.

We would, of course, be happy to discuss this matter further.

Yours sincerely



Malcolm Clarke
Chair

- c.c. The Rt Hon Eric Pickles MP (Secretary of State for Communities & Local Government)
Hugh Robertson MP (Minister of Sport, DCMS)
Boris Johnson Esq (Mayor of London)
Sir Robin Wales (Mayor of Newham)
Richard Scudamore Esq (Chief Executive, Premier League)
John Biggs Esq (Member of the London Assembly)
Andy Williamson Esq (Chief Operating Officer, Football League)

FOOTBALL SUPPORTERS' FEDERATION

Extracts from Premier League and Football League Rules

Premier League Rules 1.5 & 1.6

Ground Registration/Moves

5. Each Club shall register its ground with the Secretary and no Club shall remove to another ground without first obtaining the written consent of the Board, such consent not to be unreasonably withheld.

6. In considering whether to give any such consent, the Board shall have regard to all the circumstances of the case and shall not consent unless reasonably satisfied that such consent:

6.1 would be consistent with the objects of the Company as set out in the Memorandum;

6.2 would be appropriate having in mind the relationship (if any) between the locality with which by its name or otherwise the applicant Club is traditionally associated and that in which such Club proposes to establish its ground;

6.3 would not adversely affect such Club's Officials, Players, supporters, shareholders, sponsors and others having an interest in its activities;

6.4 would not have an adverse effect on Visiting Clubs;

6.5 would not adversely affect Clubs (or Football League clubs) having their registered grounds in the immediate vicinity of the proposed location; and

6.6 would enhance the reputation of the League and promote the game of association football generally.

Football League Rule 12

13.6 Each Club shall register its ground with the Executive and no Club shall remove to another ground without first obtaining the written consent of the Board, such consent not to be unreasonably withheld.

13.7 In considering whether to give any such consent, the Board shall have regard to all the circumstances of the case and shall not grant consent unless it is reasonably satisfied that such consent:

13.7.1 would be consistent with the objects of The League as set out in the Memorandum of Association;

13.7.2 would be appropriate having in mind the relationship (if any) between the locality with which by its name or otherwise the applicant Club is traditionally associated and that in which such Club proposes to establish its ground;

13.7.3 would not adversely affect such Club's Officials, players, supporters, shareholders, sponsors and others having an interest in its activities;

13.7.4 would not have an adverse effect on visiting Clubs;

13.7.5 would not adversely affect Clubs having their registered grounds in the immediate vicinity of the proposed location;
and

13.7.6 would enhance the reputation of The League and promote the game of association football generally.

13.8 The Club must disclose, as soon as practicable, plans and details of any proposed future move to a new stadium. The location of the proposed new stadium must meet with the approval of the Board.

13.9 Subject to any dispensations granted by the Board, a Club shall either own its ground or have a legally enforceable agreement with its ground's owner for its use by the Club, expiring not earlier than the end of the current Season.

13.10 Each Club shall, provide the Executive with full copies of such documentation as the Executive may reasonably require to demonstrate the Club's ability to play fixtures at its ground. By way of example, and without limitation, this may include copies of HM Land Registry entries, copy leases, any licence to occupy and any sub-leases or licence relating thereto. The Executive shall maintain a register of Clubs and the basis upon which that Club occupies its ground.

13.11 Without prejudice to the provisions of Regulation 13.6, a Club shall forthwith notify the Executive of any proposed change in its circumstances relating to the occupation of its ground. By way of example, and without limitation, a proposed change may include a sale of any freehold interest (with or without subsequent leaseback) or any surrender or variation of a lease or licence.



Baroness Ford
Olympic Park Legacy Company Limited
29-35 West Ham Lane
London E15 4PH

2nd February 2011

Dear Baroness Ford,

As council mayors and leaders across London, we are today calling on the Olympic Park Legacy Committee to deliver a lasting legacy for the whole of London.

London's Olympic bid book said that the most enduring legacy of the Games must be the regeneration of an entire community for the direct benefit of everyone who lives there.

The Legacy Company is soon to make its recommendation to the Mayor and Government on whether West Ham or Tottenham Hotspur Football Club should be awarded [the use of] the Olympic Park Stadium.

The Games offer a once-in-a-lifetime opportunity to transform the lives of residents and this is a vital decision – one which must deliver lasting benefits for all Londoners, not just serve the interests of one football club.

Any decision which paved the way for a project which would see the stadium knocked down and then rebuilt would, in our view, be a gross misuse of public resources.

More than £500 million of public money has already been invested in the stadium. For it to be used for just six weeks before being demolished would be, quite literally, an astonishing decision given the current financial climate and public sector cuts the nation faces.

This would be an affront to local rate payers who have and will continue to pay for the 2012 Olympic Games through the GLA precept.

The stadium proposal put forward by Newham Council and West Ham offers a major boost to the continuing regeneration of London – building on the work already done around the Olympic site, whilst also opening the door to a major redevelopment of the area around West Ham's existing ground and leaving the way clear for the much-needed development of Tottenham.

It will have a major impact across the capital. We are not just talking about a magnificent and iconic athletics stadium. We are talking about a world-class concert venue; the fourth largest cricket ground in the world; a multi-purpose sports venue; a magnet for all Londoners, and for all visitors to the capital.

A development that will capture the spirit of the Olympic Games for decades to come, protect jobs and livelihoods, protect London's investment, and bolster London's rightful reputation as a global supercity.

We urge the Legacy Company to put London first when it makes its recommendation on the future of the Olympic Stadium.

Yours sincerely,



Cllr Claire Kober
Leader of Haringey Council

On behalf of:

Cllr Liam Smith
Cllr Ann John
Cllr Nasim Ali
Cllr Julian Bell
Cllr Jagdish Sharma
Cllr Catherine West
Cllr Steve Reed
Mayor Sir Steve Bullock
Cllr Stephen Alambritis
Mayor Sir Robin Wales
Cllr Peter John

Barking and Dagenham
Brent
Camden
Ealing
Hounslow
Islington
Lambeth
Lewisham
Merton
Newham
Southwark

Briefing note to OPLC Board on evaluation of final offers for Olympic Stadium

On Friday 21 January 2011, the Company received final offers from the two consortia bidding to take over the Olympic Stadium in legacy. Bidders were also asked to submit information including:

1. Heads of Terms for the Agreement for Lease and Lease;
2. Credible written evidence of funding secured for the Bidder's proposal;
3. Details of the special purpose vehicle set up to contract with the Company, and any proposed guarantor;
4. Business plan including budget for the works, and first five years of operation of the Stadium; and
5. Draft delivery programme for the works to the Stadium.

The Company will consider each Bidder's final offer in accordance with the objectives (criteria) set out below. These objectives were approved by the Company's Founder Members at the outset of the process. Bids will be looked at in the round and the points listed underneath each objective are not sub-criteria and will not be considered individually.

Bidder's proposals are not being numerically scored, but will be assessed by the Company and its advisers to decide whether the final offer meets, exceeds or falls below each of the five objectives. Each objective has been allocated equal weighting.

The Bidder whose final offer in the opinion of the Company offers the best legacy solution that meets the objectives will be recommended to the Board as preferred Bidder. The Board in turn can only evaluate final offers on the basis of the information submitted, and against the objectives set out below. Any other considerations must **not** be taken into account. For example, the Board cannot consider matters such as the impact of Tottenham Hotspur moving from White Hart Lane, or of West Ham moving from Upton Park, or the views of the International Olympic Committee or UK Athletics.

The Company must be transparent, give equal treatment to bidders and act in a non-discriminatory manner.

The objectives and the areas for consideration (along with relevant definitions from the Guidance for Bidders document) are set out on the following pages.

OBJECTIVES
To achieve a viable long term solution for the Olympic Stadium that is deliverable and provides value for money.

OBJECTIVES

- Whether the Bidder's Proposal is commercially viable on a sustainable basis;
- The Bidder's financial offer including funding secured and the level of any public funding;
- Whether the Proposal maximises the legacy benefits from the public investment already made in the Stadium;
- Certainty of delivery of the Proposal including conditions precedent and remedies for breach available to the Company;
- Timing, extent and methodology of risk transfer from the public sector to the Bidder.

To have a legacy partner with the capability to deliver and operate a legacy solution for a venue of the Stadium's size and complexity.

- The Bidder's approach to collaborative working with the public sector;
- The Bidder's capability to inform and deliver or facilitate the delivery of the Transformation Works;
- The Bidder's proposals for ongoing operation of the Stadium including the outline business plan for the first five years of operations and any underlying assumptions;
- The structure, funding, governance and ownership of the Tenant and any proposed guarantor.

To re-open the Stadium for operational use as rapidly as possible following the 2012 Games.

- The Bidder's proposed programme for the planning and delivery of the Transformation Works and initial operation of the Stadium including timescale for project milestones and whether these are realistic, credible and deliverable;
- The extent and nature of the contractual provisions for variations, programme delays, extensions of time and delivery of milestones.

To ensure that the Stadium remains a distinctive physical symbol that supports the economic, physical and social regeneration of the surrounding area.

- Contributes to the commercial and economic viability of the Olympic Park as an appealing destination designed to attract local, national and potentially international visitors;
- Can be operated to environmental and sustainability standards in line with the wider Olympic Park;
- Contributes to the creation of local employment opportunities;
- Offers commercial opportunities for local businesses;
- Is consistent with the long term development strategy for the Olympic Park;
- Effectively integrates its operational arrangements with wider Olympic Park activities.

To allow flexible usage of the stadium, for example, accommodating a vibrant programme of events such as allowing year round access for schools, the community, the wider public and elite sport.

- Supports the intent of the London 2012 bid commitments for athletics or proposes credible alternative solutions;
- Incorporates significant public and community access to the facilities;
- Has the physical infrastructure to accommodate a range of sports, from community through to elite sport;
- Is capable of hosting a programme of events and sports which span the majority of the calendar year;
- Incorporates a varied programme of cultural events;

OBJECTIVES

- Maximises the use of the undercroft space in the Stadium to support a range of uses.

State aid and procurement: Every Final Offer must meet European requirements regarding State aid and procurement.

The definitions referred to in the above Objectives are:

Bidder	the organisation or consortium of organisations participating in negotiations with the Company as envisaged in this Guidance
Final Offer	the Bidder's best and final offer to the Company containing the documents set out in paragraph 4.9 of this Guidance
Lease	the lease to be granted to the Tenant on the terms envisaged in the Heads of Terms
Proposal	the Bidder's proposal for the transformation, operation and use of the Stadium as contained within its PQQ response document and developed in more detail in the documents comprised in the Preliminary Final Offer and the Final Offer
Stadium	the Olympic stadium following completion of the Transformation Works
Tenant	the proposed tenant of the Lease
Transformation Works	the works required to transform the stadium from its configuration for the London 2012 Games to the Stadium as envisaged in the Proposal

OPLC Board Meeting on 11 February 2011
Relevant Considerations for OPLC Board

<u>Relevant Considerations</u>	<u>Considerations already debated but not relevant (not exhaustive)</u>
<ul style="list-style-type: none"> The 5 Bid Objectives (overleaf). 	<ul style="list-style-type: none"> Economic (or other) impact on a geographic area beyond the Olympic Park and the surrounding area
<ul style="list-style-type: none"> The purposes of OPLC as set out in the Memorandum and AA 	<ul style="list-style-type: none"> Impact on other football clubs
<ul style="list-style-type: none"> Discharging the legacy commitments made in the Olympic Bid. 	<ul style="list-style-type: none"> Impact on the 2 bidders' current football grounds or surrounding areas (except if there is any reliance on club assets to fund bids)
<ul style="list-style-type: none"> Preserving the "Olympic Heritage" 	<ul style="list-style-type: none"> Specifically the impact on winning any bid for WAC in comparison to all uses for athletics (e. g Commonwealth Games)
<ul style="list-style-type: none"> The impact on the Olympic Park Site Legacy Area 	<ul style="list-style-type: none"> The relative cost of policing the 2 bid solutions and security.
<ul style="list-style-type: none"> OPLC's Priority Themes: <ul style="list-style-type: none"> Promoting convergence and community participation championing equalities and inclusion ensuring high quality design and sustainability 	
<ul style="list-style-type: none"> The long term sustainability and deliverability of the stadium. 	

Key concepts

Olympic Park Site Legacy Area

The Olympic Park Site and land in the surrounding area- meaning land contiguous to its boundaries.

Olympic Heritage (in the context of the stadium)

a solution which supports the intent of the London 2012 bid commitment for "a multi purpose use for the stadium with athletics at its core" or a credible alternative

Meets the objective

a subjective assessment of whether, bearing in mind the sub points for each objective noted in the Bidder Guidance and taken in the round, the bidder could be said to fulfil one of the 5 bid objectives.

Value for money

Defined in Members Agreement as "*the optimal relationship between the total cost of [meeting particular requirements of OPLC] and their quality or fitness for the purposes of meeting the particular requirements.*"

Defined in Managing Public Money as "*finding solutions which achieve the best mix of quality and effectiveness for the least outlay. This may not always mean choosing the immediately cheapest option since, for instance, it may be more cost effective to buy a more reliable service or a better quality asset with lower maintenance cost and a longer operating life.*"

5 Bid Objectives

<p>To achieve a viable long term solution for the Olympic Stadium that is deliverable and provides value for money.</p> <ul style="list-style-type: none"> • Whether the Bidder's Proposal is commercially viable on a sustainable basis; • The Bidder's financial offer including funding secured and the level of any public funding; • Whether the Proposal maximises the legacy benefits from the public investment already made in the Stadium; • Certainty of delivery of the Proposal including conditions precedent and remedies for breach available to the Company; • Timing, extent and methodology of risk transfer from the public sector to the Bidder.
<p>To have a legacy partner with the capability to deliver and operate a legacy solution for a venue of the Stadium's size and complexity.</p> <ul style="list-style-type: none"> • The Bidder's approach to collaborative working with the public sector; • The Bidder's capability to inform and deliver or facilitate the delivery of the Transformation Works; • The Bidder's proposals for ongoing operation of the Stadium including the outline business plan for the first five years of operations and any underlying assumptions; • The structure, funding, governance and ownership of the Tenant and any proposed guarantor
<p>To re-open the Stadium for operational use as rapidly as possible following the 2012 Games.</p> <ul style="list-style-type: none"> • The Bidder's proposed programme for the planning and delivery of the Transformation Works and initial operation of the Stadium including timescale for project milestones and whether these are realistic, credible and deliverable; • The extent and nature of the contractual provisions for variations, programme delays, extensions of time and delivery of milestones.
<p>To ensure that the Stadium remains a distinctive physical symbol that supports the economic, physical and social regeneration of the surrounding area.</p> <ul style="list-style-type: none"> • Contributes to the commercial and economic viability of the Olympic Park as an appealing destination designed to attract local, national and potentially international visitors; • Can be operated to environmental and sustainability standards in line with the wider Olympic Park; • Contributes to the creation of local employment opportunities; • Offers commercial opportunities for local businesses; • Is consistent with the long term development strategy for the Olympic Park; • Effectively integrates its operational arrangements with wider Olympic Park activities.
<p>To allow flexible usage of the stadium, for example, accommodating a vibrant programme of events such as allowing year round access for schools, the community, the wider public and elite sport.</p> <ul style="list-style-type: none"> • Supports the intent of the London 2012 bid commitments for athletics or proposes credible alternative solutions; • Incorporates significant public and community access to the facilities; • Has the physical infrastructure to accommodate a range of sports, from community through to elite sport; • Is capable of hosting a programme of events and sports which span the majority of the calendar year; • Incorporates a varied programme of cultural events; • Maximises the use of the undercroft space in the Stadium to support a range of uses

